



**Notice of Meeting and Agenda
Teleconference Public Board Meeting
Thursday, May 14, 2020**

Members of the Board:

Thomas Stewart, DDS, President
Steven Chan, DDS, Vice President
Joanne Pacheco, RDH, Secretary

Fran Burton, MSW, Public Member
Alan Felsenfeld, DDS
Ross Lai, DDS
Lilia Larin, DDS
Meredith McKenzie, Public Member

Abigail Medina, Public Member
Rosalinda Olague, RDA, BA
Steven Morrow, DDS, MS,
James Yu, DDS, MS

DATE & TIME: Thursday, May 14, 2020 at 9:30 a.m.

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

INSTRUCTIONS FOR PARTICIPATION: For all those who wish to participate or observe the meeting, please log on to this website:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=ef141fab0db2b6998f8b50812cecba65c>

Instructions to connect to the meeting are attached to this agenda. The preferred audio connection is via telephone conference and not the microphone and speakers on your computer. The phone number and access code will be provided as part of your connection to the meeting.

Important Notices to the Public: The Dental Board of California will hold this meeting via WebEx – instructions above. The meeting is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Karen M. Fischer, MPA, Executive Officer, at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, or by phone at (916) 263-2300. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

Discussion and action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the President. In the event a quorum of the Board is unable to attend the meeting, or the Board is unable to maintain

a quorum once the meeting is called to order, the members present may, at the President's discretion, continue to discuss items from the agenda and make recommendations to the full Board at a future meeting.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the President may, at his or her discretion, apportion available time among those who wish to speak. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

FULL BOARD MEETING – OPEN SESSION at 9:30 a.m.

1. Call to Order/Roll Call/Establishment of a Quorum
2. Discussion and Possible Action Regarding February 27-28, 2020 Dental Board Meeting Minutes **[5-13]**
3. President's Report **[14]**
4. Executive Officer's Report **[15]**
5. Discussion and Possible Action Regarding Dental Assisting Council Member(s) **[16]**
6. Regulations
 - a. Discussion and Possible Action Regarding Comments Received During the 45-day Comment Period for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria **[17-41]**
 - b. Discussion and Possible Action Regarding Adoption of Proposed Amendments to California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria **[42-43]**
7. Legislation
 - a. Discussion and Possible Action on the Following Legislation: **[44-58]**
 - i. Assembly Bill 2028 (Aguiar-Curry) State agencies: meetings **[59-64]**
 - ii. Assembly Bill 2185 (Patterson, Gallagher) Professions and vocations applicants licensed in other states: reciprocity **[65-67]**

- iii. Assembly Bill 2549 (Salas) Department of Consumer Affairs: temporary licenses **[68-73]**
 - iv. Assembly Bill 2631 (Cunningham Coauth: Horvath, Fong, Lackey, Mayes and Sens Jones and Wilk) License Fees: military partners and Spouses **[74-75]**
 - v. Assembly Bill 2704 (Ting, Coauthor: Rodriguez) Healing arts: licensees: data collection **[76-81]**
 - vi. Assembly Bill 3045 (Grayson) Department of Consumer Affairs: Boards: Veterans: military spouses: licenses **[82-84]**
 - vii. Assembly Bill 3315 (Assembly Members Eduardo Garcia, Gonzalez, and Reyes, Coauthors: Assembly Members Carrillo, Cooper, Gipson, Medina, Quirk-Silva, and Salas) Dentistry: foreign dental schools: applications **[85-89]**
 - viii. Senate Bill 1168 (Morrell) State Agencies Licensing Services **[90-92]**
8. Discussion and Possible Action Regarding Directing the Department of Consumer Affairs' Office of Professional Examination Services to Review the WREB Mannikin Based Examination and the ADEX CompeDont Examination **[93-107]**
9. Update Regarding Impact of COVID-19 on Licensing **[108-110]**
10. Public Comment on Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).
11. Board Member Comments on Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Board Member Comments section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).

RECESS TO CLOSED SESSION

CLOSED SESSION ITEMS – FULL BOARD

A. Deliberate and Take Action on Disciplinary Matters

The Board will meet in closed session to deliberate and take action on all disciplinary as authorized by Government Code §11126(c)(3).

B. Discussion Regarding *Sulitzer v. Tippins*, US District Court, Central District of CA, Case No. 2:19-CV-08902

The Board will meet in closed session as authorized by Government Code §11126(e).

C. Discussion Regarding *Stan v. Dental Board of CA*, Superior Court of CA, County of Los Angeles, Case No. 19STCP01480
The Board will meet in closed session as authorized by Government Code §11126(e).

RETURN TO FULL BOARD OPEN SESSION

12. Adjournment - Upon conclusion of Business

Due to technological limitations, adjournment will not be broadcast. Adjournment will immediately follow closed session, and there will be no other items of business discussed.

DENTAL BOARD OF CALIFORNIA

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**DENTAL BOARD OF CALIFORNIA
QUARTERLY BOARD MEETING MINUTES**

February 27-28, 2020

DoubleTree by Hilton San Diego

1646 Front Street

San Diego, CA, 92101

Members Present:

Thomas Stewart, DDS, President
Steven Chan, DDS, Vice President
Joanne Pacheco, RDH, MAOB, Secretary
Fran Burton, MSW, Public Member
Ross Lai, DDS
Lilia Larin, DDS
Meredith McKenzie, ESQ, Public Member
Steven Morrow, DDS, MS,
Rosalinda Olague, RDA, BA
James Yu, DDS, MS

Members Absent:

Alan Felsenfeld, DDS
Abigail Medina, Public Member

Staff Present:

Karen M. Fischer, MPA, Executive Officer
Sarah Wallace, Assistant Executive Officer
Carlos Alvarez, Enforcement Chief
Tina Vallery, Dental Assisting Unit Manager
Wilbert Rumbaoa, Administrative Services Unit Manager
Gabriel Nevin, Legislative and Regulatory Analyst
Pahoua Thao, Associate Governmental Program Analyst
Michael Kanotz, Legal Counsel
Danielle Rogers, Legal Counsel

THURSDAY, February 27, 2020

Agenda Item 1: Call to Order/Roll Call/Establishment of a Quorum

The Board President called the meeting to order at 9:07 a.m. The Board Secretary called the roll and a quorum was established.

Agenda Item 2: Approval of November 14-15, 2019, Board Meeting Minutes Motion/Second/Call (M/S/C) (Burton/Yu) to approve the November 14-15, 2019 Board meeting minutes with the following changes:

- On Agenda Item 3, add Chief Consultant of the Assembly Business and Professions Committee before Robert Sumner, add as she ends her year, before the last sentence of the paragraph, delete the 6 at the end of ending, add Ms. Before Yvette Chappell- Ingram, add the before Executive Officer;
- On Agenda Item 6, add Ms. before Rosalinda Olague;
- On Agenda Item 10(a), capitalize the word State, under agenda item 15 of page 13, add Ms. Before Yvette Chappell-Ingram, add Process after Sunset Review, and add Ms. Before Yvette Chappell-Ingram towards the bottom of the page.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: Felsenfeld, Medina.

Recusals: None.

The motion passed and the minutes were approved with the amended changes. There were no public comments.

Agenda Item 3: Board President Welcome and Report

President Stewart welcomed all attendees and acknowledged the past President, Ms. Fran Burton, the past Vice President, Dr. Steven Morrow, Executive Officer, Karen Fischer, Assistant Executive Officer, Sarah Wallace, and Enforcement Chief, Carlos Alvarez in the success of the Sunset Review process. Dr. Stewart acknowledged Board members, staff and Legal Counsel, Michael Kanotz, for their contribution in the primary purpose of improving the lives of others. President Stewart reported that a one-day meeting will be held in Sacramento on the development of the Strategic Plan to carry the Board through the next four years.

There were no public comments.

Agenda Item 4: Report of the Department of Consumer Affairs (DCA) Staffing and Activities

The Department of Consumer Affairs (DCA) provided a written report which is available in the meeting materials published on the Board's website. The report covers updates regarding the Director's Quarterly and individual program meetings, DCA's new Regulations Unit at the Office of Legal Affairs, Fi\$Cal reports, Board Member orientation training, the annual filing of the Form 700, and the DCA Organizational Improvement Office.

Dr. Lai asked a question regarding the amount of the Board's budget allocated towards the DCA. Executive Officer Fischer provided a brief explanation of the pro-rata the

Board pays to the DCA for the services it provides and stated that a more detailed report will be provided at a future meeting.

There were no public comments.

Agenda Item 5: Budget Report:

Wilbert Rumbaoa, Administrative Services Unit Manager, provided a report on the Board's funds it manages: the State Dentistry Fund and the State Dental Assisting Fund. As of January 10, 2020, the Board spent approximately \$5.6 million dollars or 36% of its total State Dentistry Fund appropriation for Fiscal Year (FY) 2019-20. Mr. Rumbaoa reported the State Dental Assisting Fund spent approximately \$671,000 or 26% of its total State Dental Assisting Fund appropriation for FY 2019-20.

Dr. Lai asked about the Board's savings. Mr. Rumbaoa responded that the savings is attributed to personnel services and pending contracts. Dr. Chan questioned if the funds in reserve roll over to the next fiscal year. Mr. Rumbaoa responded that the current year savings are transferred to funds in reserve and then gets rolled over. Dr. Larin asked for clarification on the reimbursements. Mr. Rumbaoa responded that there are some items that the Board reimburses which includes: fingerprinting and probation monitoring. Mr. Rumbaoa reported he would provide additional information at a future meeting.

There were no public comments.

Agenda Item 6: Discussion and Possible Action Regarding Appointment of New Registered Dental Assistant in Extended Functions (RDAEF) Examiners

Tina Vallery, Dental Assisting Unit Manager, reported the Board received an application from Dr. Frank Liu to serve as a RDAEF examiner. His qualifications were reviewed by Board staff and the Board's Chief RDAEF Examiner, Dr. Richard Frieden, and approval was recommended. Dr. Liu's Curriculum Vitae (CV) is available in the meeting materials.

M/S/C (McKenzie/Olague) to accept staff's recommendation to appoint Dr. Frank Liu as examiner for the RDAEF clinical and practical examinations.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: Felsenfeld, Medina.

Recusals: None.

The motion passed. There were no public comments.

Agenda Item 7: Update Regarding Dental Assisting Council (DAC) Member(s)

Ms. Fischer provided an update regarding Dental Assisting Council members. There were no public comments.

At 9:47 a.m. the Board recessed to convene the Joint Full Board and Dental Assisting Council Meeting.

At 11:03 a.m. the Board reconvened in open session.

Agenda Item 8: Presentation by Carl Sonne, Senior Assistant Deputy Attorney General, Licensing Unit – Update of Attorney General’s Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies in Compliance with Business and Professions Code Section 312.2

Senior Assistant Deputy Attorney General, Carl Sonne, provided a background and update on the Attorney General’s Annual Report.

President Stewart recognized and thanked Mr. Sonne for providing the information necessary to the Board.

There were no public comments.

Agenda Item 9(a): Review of Enforcement Statistics and Trends

Carlos Alvarez, Enforcement Chief, provided a report of the enforcement statistics and trends which is available in the meeting materials. Mr. Alvarez addressed Board Member’s questions regarding his report.

There were no public comments.

Agenda Item 10(a): Diversion Program Report and Statistics

Chief Alvarez provided the report, which is available in the meeting materials published on the Board’s website. Mr. Alvarez addressed Board Member’s questions regarding his report. Information regarding the Diversion Program costs and self-referrals will be provided at a future meeting.

There were no public comments.

Agenda Item 10(b): Update on Controlled Substance Utilization Review and Evaluation System (CURES) Report

Chief Alvarez provided the report which is available in the meeting materials published on the Board’s website.

There were no public comments.

At 1:20 p.m. the Board recessed to convene in closed session as a full Board to deliberate and take action on disciplinary matters and to discuss litigation.

At 2:30 p.m. the Board returned to open session.

At 2:32 p.m. the Licensing, Certifications, and Permit Committee convened in open session.

At 2:34 p.m. the Licensing, Certifications, and Permit Committee convened in closed session to discuss the issuance of new license(s) to replace cancelled license(s), General Anesthesia Permit Onsite Inspection and Evaluation Failure, and evaluation for Conscious Sedation Permits.

At 3:25 p.m. the Licensing, Certifications, and Permit Committee returned to open session.

At 3:27 p.m. the Licensing, Certifications, and Permit Committee adjourned.

At 3:29 p.m. the Board recessed until Friday, February 28, 2020.

Friday, February 28, 2020

Agenda Item 11: Call to Order/Roll Call/Establishment of a Quorum

The Board President called the meeting to order at 9:00 a.m. The Board Secretary called the roll and a quorum was established.

Agenda Item 12: Executive Officer's

Ms. Karen Fischer, Executive Officer, provided a report, which is available in the meeting materials.

There were no public comments.

Agenda Item 13: Report of the Dental Hygiene Board of California (DHBC) Activities

Dr. Timothy Martinez, DHBC President, and Anthony Lum, DHBC Executive Officer, provided a verbal report on their activities.

Dr. Stewart and Dr. Morrow acknowledged and thanked President Martinez for working cohesively with the Dental Board.

There were no public comments.

Agenda Item 14: Presentation by Dr. Steven Friedrichsen – Update on the American Dental Education Association (ADEA) Compendium of Clinical Competency Assessment

Dr. Steven Friedrichsen, Dean at the College of Dental Medicine at Western University of Health Sciences, provided an update and presentation on the ADEA Compendium of Clinical Competency. There was no public comment. Dr. Stewart thanked and acknowledged Dr. Friedrichsen. Dr. Friedrichsen addressed Board member questions.

There were no public comments.

Agenda Item 15(a): Update on the Portfolio Pathway to Licensure

Tina Vallery, Dental Assisting Unit Manager, provided the report which is available in the meeting materials published on the Board's website.

There were no public comments.

Agenda Item 15(b): Western Regional Examination Board (WREB) Report

Dr. Norm Magnuson, WREB representative, provided a verbal report and update regarding the WREB examination and data provided to the DCA Office of Professional Examination Services for review. Dr. Magnuson addressed Board member questions.

There were no public comments.

Agenda Item 15(c): Update Regarding Implementation of the American Board of Dental Examiners (ADEX)

Tina Vallery, Dental Assisting Unit Manager, provided the report which is available in the meeting materials published on the Board's website. Ms. Vallery addressed Board member questions.

There were no public comments.

Agenda Item 16(a) Review of Dental Licensure and Permit Statistics

Tina Vallery, Dental Assisting Unit Manager, provided the report which is available in the meeting materials published on the Board's website. Ms. Vallery addressed Board member questions.

There were no public comments.

Agenda Item 16(b): General Anesthesia and Conscious Sedation Permit Evaluation Statistics

Tina Vallery, Dental Assisting Unit Manager, provided the report which is available in the meeting materials published on the Board's website. Ms. Vallery addressed Board member questions.

There were no public comments.

Agenda Item 17: Update of the Dental Board of California 2017-2020 Strategic Plan

Executive Officer, Karen Fischer, provided an overview of the Strategic Plan, which is available in the meeting materials.

There were no public comments.

Agenda Item 18(a): 2020 Tentative Legislative Calendar – Information Only

Ms. Burton provided an overview of the 2020 Tentative Legislative Calendar.

There were no public comments.

Agenda Item 18(b): Discussion and Possible Action on Tracking Legislation

Gabriel Nevin, Legislative and Regulatory Analyst, provided an overview of the bills the Board has currently been tracking: Assembly Bill (AB) 1263, AB 1998, Senate Bill (SB) 653, SB 776, SB 878. Summary of the bills are available in the meeting materials.

M/S/C (Burton/Morrow) to take a “watch” position on AB 1263.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: Felsenfeld, Medina.

Recusals: None.

Mary McCune, California Dental Association (CDA), commented that the CDA is in support of AB 1263 as it relates to consumer safety.

The motion passed.

M/S/C (Burton/Chan) to take a “watch” position on AB 1998.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: Felsenfeld, Medina.

Recusals: None.

The motion passed. There were no public comments.

M/S/C (Burton/Chan) to take a “watch” position on SB 653.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: Felsenfeld, Medina.

Recusals: None.

Mr. Anthony Lum, DHBC Executive Officer, commented that the DHBC was watching the bill. Mary McCune, CDA, commented that the CDA is in support of the bill after months of negotiations with California Dental Hygienists' Association (CDHA).

The motion passed.

M/S/C (Burton/Morrow) to take a “watch” position on SB 776.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.
Absent: Felsenfeld, Medina.
Recusals: None.

Ms. Fran Burton commented that the process concerns her as she feels it is unfair for some students. Dr. Morrow agreed with Ms. Burton on the acceptance process and stated he believes the background check should come before the acceptance.

The motion passed.

M/S/C (Burton/Larin) to take a “watch” position on SB 878.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.
Nays: None.

Abstentions: None.
Absent: Felsenfeld, Medina.
Recusals: None.

The motion passed. There were no public comments.

Agenda Item 19: Update on Pending Regulatory Packages

Mr. Nevin provided overview of the agenda item which is available in the meeting materials on the Board’s website. Mr. Nevin addressed Board Member’s questions. Ms. Burton acknowledged Mr. Nevin’s work on moving the regulatory packages along.

There were no public comments.

Agenda Item 20: Licensing, Certifications, and Permits (LCP) Committee Report on Closed Session

Dr. Lai, Chair of the LCP Committee, reported that the Committee met in closed session regarding applications for issuance of new license(s) to replace cancelled license(s) and whether to grant, deny, or request further evaluation for a conscious sedation (CS) Permits as it relates to an onsite inspection and evaluation failure. Dr. Lai and Ms. Olague presented the recommendations of the LCP Committee.

Ms. Olague reported the LCP Committee recommended denial of the CS Permit for the following candidate:

1. MD

Ms. Olague reported the LCP Committee recommended issuance of a new Registered Dental Assistant (RDA) license to replace a cancelled RDA license with the condition of successfully passing of the Combined California RDA Law & Ethics and General Written Examination for the following candidates:

1. CG
2. CM
3. JS
4. SS

M/S/C (Lai/Olague) to accept the LCP Committee's recommendations.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: Felsenfeld, Medina.

Recusals: None.

The motion passed. There were no public comments.

Agenda Item 21: Public Comment on Items Not on the Agenda

There were no public comments for items not on the agenda.

Agenda Item 22: Board Member Comments on Items Not on the Agenda

Dr. Larin commented that the Centers for Disease Control and Prevention (CDC) issued alerts regarding the Coronavirus and asked how the Board is preparing to protect the public.

Dr. Morrow asked the Board discuss RDA educational programs be required to be approved by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) as a future agenda item.

Agenda Item 24: Adjournment

The Board President adjourned the meeting at 11:00 a.m.



MEMORANDUM

DATE	April 28, 2020
TO	Members of the Dental Board of California
FROM	Pahoua Thao, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 3: Board President Welcome and Report

Background:

The President of the Dental Board of California will provide a verbal report.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 28, 2020
TO	Members of the Dental Board of California
FROM	Karen Fischer, Executive Officer Dental Board of California
SUBJECT	Agenda Item 4: Executive Officer's Report

Background:

The Executive Officer of the Dental Board of California will provide a verbal report.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 28, 2020
TO	Members of the Dental Board of California
FROM	Karen Fischer, MPA Executive Officer
SUBJECT	Agenda Item 5: Discussion and Possible Action Regarding Dental Assisting Council Member(s)

Background:

Anne Contreras has been a member of the Dental Assisting Council (Council) since its inception. First appointed to the Council in March 2012, she served in the position designated for a registered dental assistant employed clinically in private dental practice or public safety net or dental health care clinic. In 2018, she was reappointed to hold a position designated for a faculty member. Her term is expected to expire in 2022.

Ms. Contreras notified the Board in October 2019 that she would likely not be attending the November 2019 meeting. I attempted to contact her via telephone and email numerous times with no response. She was absent for the November 2019 meeting.

After the new year I tried again to contact her regarding attendance at the February 2020 Council meeting. On February 10, 2020 I sent Ms. Contreras a “wellness check” letter via USPS, indicating that I was concerned that she had not responded to voicemail and email messages. The letter also outlined that the Council currently has two vacancies, so it was imperative that the current members attend the meetings in order to have a quorum and conduct the business relating to dental assisting issues. I asked that she give me a call or send me an email to let me know if she was still interested in serving as a member of the Council. I indicated that if I did not hear from her that I would be asking the Board to move forward with the recruitment for her replacement. I received no response and she was absent for the February 2020 meeting.

Action Requested:

Staff is requesting the Board vote to remove Ms. Contreras as a member of the Dental Assisting Council; and to direct staff to open the recruitment of a faculty member to serve as her replacement on the Council.



MEMORANDUM

DATE	May 1, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin, Legislative and Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item 6(a): Discussion and Possible Action Regarding Comments Received During the 45-day Comment Period for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

Background

At its February 7-8, 2019, and August 15-16, 2019 meetings, the Board approved regulatory language to implement AB 2138 (Chiu, Chapter 995, Statutes of 2018). Key provisions of that bill, which becomes effective on July 1, 2020, are:

1. Only permits a board to deny a license on grounds that an applicant has been convicted of a crime or has been subject to formal discipline if either of these are met (Business and Professions Code (BPC), § 480, subd. (a)):
 - a. The conviction was within 7 years of the date of the application and is substantially related to the qualifications, functions, or duties of the profession. The 7-year limit does not apply to convictions for a serious felony (defined in Penal Code, § 1192.7), or for those who must register as a sex offender as described in Penal Code section 290, subdivisions (d)(2) or (3).
 - b. The applicant has been subject to formal discipline by a licensing board within the past 7 years for professional misconduct that would have been cause for disciplinary action by the Board and is substantially related to the profession. (The prior disciplinary action cannot be used to deny if it was based on a dismissed or expunged conviction.)
2. Prohibits a board from requiring that an applicant for licensure disclose information about his or her criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation. In such a case, the applicant must be informed that the disclosure is voluntary and failure to disclose will not be a factor in a board's decision to grant or deny an application. (BPC, § 480, subd. (f)(2).)

Agenda Item 6(a): Discussion and Possible Action Regarding Comments Received During the 45-day Comment Period for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

3. Requires each board to develop criteria to determine whether a crime is substantially related to the qualifications, functions, or duties of the profession. These criteria are required to be considered when considering the denial, suspension, or revocation of a license. By law, boards are required to adopt regulations that include all of the following criteria (BPC, § 481.):

- a. The nature and gravity of the offense.
- b. The number of years elapsed since the date of the offense.
- c. The nature and duties of the profession in which the applicant seeks licensure or is licensed.

4. Prohibits a board from denying a license based on a conviction without considering evidence of rehabilitation. (BPC, § 481.)

5. Requires each board to develop criteria to evaluate rehabilitation when considering denying, suspending, or revoking a license. A showing of rehabilitation shall be considered if the applicant or licensee has been completed their criminal sentence without a violation of parole or probation, or if the board finds its criteria for rehabilitation has been met. (BPC, § 482.)

Status of the Regulation Proposal

The Board noticed the regulation proposal on March 13, 2020 and gave the public forty-five (45) days to provide public comment ending on April 28, 2020. No public hearing was requested or conducted. A public comment was received on April 28, 2020. (See **Attachment A.**)

Summary of Proposed Modifications to the Proposed Text as Recommended by DCA Legal Counsel:

Below is a description of the modifications that were made to the text.

Section 1019

1. Insertion in subdivision (a) of “,” after “141”, and deletion of “or.”

Because, Board staff recommend the addition of the Business and Professions Code (BPC) sections enumerated in 2., infra, Staff propose adding comma after “141, and eliminating “or” since the amendment outlined in 2. creates an additional list item.

Agenda Item 6(a): Discussion and Possible Action Regarding Comments Received During the 45-day Comment Period for the Board’s Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

Dental Board of California Meeting
May 14, 2020

2. Insertion in subdivision (a) of “or Sections 1670.1, 1680(e), 1681(c).”

The cited sections refer to grounds for discipline listed in the Board’s practice act for “substantially related” offenses. They are recommended to be added here so that references to substantial relationship are addressed together in one regulation. This amendment will add clarity to this subdivision.

3. Insertion in Note of Reference sections 1670.1, 1680, and 1681.

Board staff recommend adding these sections to the Reference section of the regulation because the regulation, as modified, implements, interprets, and/or makes specific these additional BPC sections.

Section 1020

1. Insertion in re-numbered subdivision (b) of “Denial of a license.”

Board staff recommend adding this category because it lends greater organization and clarity to the regulation.

2. Re-numbering of subdivision (b)(1)-(5) to subdivision (1)(A)-(E) and re-numbering of subdivision (c)(1)-(6) to subdivision (2)(A)-(F).

This re-numbering is necessitated by the creation of new subdivision (b).

3. Deletion in subdivision (b)(1) of “was” and insertion of “has been.”

Board staff propose deleting “was” and replacing it with “has been” because “has been” is used to refer to something which started in the past and is still continued in the present tense. “Was,” on the other hand, is used to refer to some action which was going on at some time in the past. Staff recommend using “has been” to include the present tense so the relevant time period for a conviction includes up to the present.

4. Deletion in subdivision (b)(1) of “and is presently eligible for a license.”

Staff recommend deleting this phrase from subdivision (b)(1) of section 1020 because “eligible” could be seen as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure. Deletion of this phrase will clarify the regulation.

5. Insertion in subdivision (b)(2) of “If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in

Agenda Item 6(a): Discussion and Possible Action Regarding Comments Received During the 45-day Comment Period for the Board’s Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

subdivision (b)(1), the denial is based on professional misconduct, or the denial is based on the ground specified in Section 1687,” deletion of “If subdivision (b) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (b),” and deletion of “The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering of the following criteria, the board finds that the applicant is rehabilitated.”

The original text of subdivision (b)(2) was unclear in specifying the circumstances when the regulation would apply. Instead of catch-all language, staff recommend deleting the former preface to the regulation and enumerating each specific instance of when subdivision (b)(1) would not apply, and proposing to include all of the specified categories.

Staff recommend citing BPC section 1687 since it is in the Board's practice act and authorizes the Board to deny a license. This would make the regulation inclusive of all of the instances in which the Board could deny a license.

Staff recommend deleting the final sentence of subdivision (b)(2) for clarity and brevity.

6. Insertion in subdivision (b)(2)(A)-(C) of “professional misconduct.”

The addition of “professional misconduct” to subdivision (b)(2)(A) through (C) is made necessary by the addition of “professional misconduct” in subdivision (b)(2).

7. Deletion in subdivision (b)(2)(B) of “under Section 480 of the Code.”

Because the Staff recommend adding “professional misconduct” to subdivision (b)(2), that necessitates the removal of this phrase because the amended subdivision now encompasses more than crimes and acts enumerated in section 480.

8. Re-numbering of (1) and (2) in subdivision (b)(2)(C) to (A) and (B).

This re-numbering is necessitated by the creation of new subdivision (b).

9. Deletion in subdivision (b)(2)(E) of “-” and insertion of “through.”

Staff recommend this amendment to lend greater clarity to the subdivision.

10. Insertion in re-numbered subdivision (c) of “Suspension or revocation of a license.”

Staff recommend adding this category because it lends greater organization and clarity

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to the regulation.

11. Deletion in subdivision (c)(1) of “and is presently eligible for a license.”

Staff recommend deleting this phrase from subdivision (c)(1) of section 1020 because “eligible” could be seen as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure. Deletion of this phrase will clarify the regulation.

12. Re-numbering of subdivision (d)(1)-(5) to subdivision (1)(A)-(E)

This re-numbering is necessitated by the creation of new subdivision (c).

13. Insertion in subdivision (c)(2) of “If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (c)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, 1687,” deletion of “If subsection (d) is inapplicable, or the board determine s that the licensee did not make the showing of rehabilitation based on the criteria in subsection (d),” and deletion of “. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated.”

The original text of subdivision (c)(2) was unclear in specifying the circumstances when the regulation would apply. Instead of catch-all language, the staff recommend deleting the former preface to the regulation and enumerating each specific instance of when subdivision (c)(1) would not apply, and now recommend including all of the specified categories.

Staff recommend citing BPC sections 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, 1687 since they are in the Board's practice act and authorize the Board to discipline a license. This would make the regulation inclusive of all of the instances in which the Board could discipline a license.

Staff recommend deleting the final sentence of subdivision (c)(2) for clarity and brevity.

14. Re-numbering of subdivision (e)(1)-(7) to subdivision (2)(A)-(G).

This re-numbering is necessitated by the creation of new subdivision (c).

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15. Insertion in subdivision (b)(2)(A) and (b)(2)(C) of “disciplinary action(s).”

The addition of “disciplinary action(s)” to subdivision (c)(2)(A) and (c)(2)(C) is made necessary by the addition of “disciplinary action” in subdivision (c)(2).

16. Deletion in subdivision (c)(2)(F) of “-” and insertion of “through.”

Staff recommend this amendment to lend greater clarity to the subdivision.

17. Re-numbering of (d)(1)-(5) in subdivision (c)(2)(F) to (c)(1)(A)-(e).

This re-numbering is necessitated by the creation of new subdivision (c).

18. Re-numbering of subdivision (f) to (d) and re-numbering of (e) to (c)(2) in re-numbered subdivision (d).

This re-numbering is necessitated by the creation of new subdivision (c).

19. Insertion in Note of Reference sections 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, and 1687.

Staff recommend adding these sections to the Reference section of the regulation because the regulation, as modified, implements, interprets, and/or makes specific these additional BPC sections.

The proposed modified text, as recommended by DCA Legal Counsel is attached for the Board’s consideration. (See **Attachment B**).

Summary of Comments Received During the 45-Day Public Comment Period and Proposed Responses

On April 28, 2020, the Board received a joint letter from A New Way of Life Reentry Project, Californians for Safety and Justice, Center for Employment Opportunities, Center for Living and Learning, Community Legal Services in East Palo Alto, Criminal Justice Clinic, UC Irvine School of Law, East Bay Community Law Center, Legal Aid at Work, Legal Services for Prisoners with Children, All of Us or None, Los Angeles Regional Reentry Project, National Association of Social Workers, California Chapter, REDF, The Record Clearance Project, San Jose State University, Root and Rebound, Rubicon Programs, and Underground Scholars Initiative on the Board’s proposed regulations implementing Assembly Bill (AB) 2138. Below are the Board’s proposed responses to the comments made therein.

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Comment 1:

Comment Summary:

This comment states that the proposed regulations leave some gaps in the regulatory scheme pursuant to the changes to Business and Professions Code (BPC) section 480, 481, 482, and 493 as modified by AB 2138. The comment states that the proposed regulations fail to meet and implement these statutes. Additionally, the comment states that the proposed regulations fall short of the intent of the bill, which includes combating discrimination against people with records who have demonstrated rehabilitation and seek to establish themselves professionally.

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 1. Comment 1 should be rejected, and no changes should be made to the regulatory language. The purpose of the proposed regulations is to clarify substantial relationship criteria and criteria for rehabilitation, as required by AB 2138. (BPC, § 481.) Consistent with the requirements enacted by AB 2138, these regulations would adopt all of the following criteria, which would assist the Board in implementing a balanced approach to evaluating an applicant's eligibility for licensure:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of a dentist or dental auxiliary.

Clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 2:

Comment Summary:

The regulations do not comply with AB 2138 because proposed section 1019(c) states that certain violations are substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of BPC section 481. AB 2138 allows the Board discretion to determine which crimes are substantially related on an individual basis.

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Section 1019(c) fails to note that criminal history that resulted in the applicant obtaining a certificate of rehabilitation, pardon, dismissal per Penal Code section 1203.4 et seq., or an arrest that resulted in a disposition other than a conviction shall not be denied a license. See Business and Professions Code section 480(b)-(d).

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 2. Comment 2 should be rejected, and no changes should be made to the regulatory language. Subdivision (c) of section 1020 provides that substantially related crimes, professional misconduct, or acts shall include:

- Any violation of Article 6, Chapter 1, Division 2 (hereinafter, "Article") of the Code except Sections 651.4, 654 or 655. (§ 1020, subd. (c)(1).)
- Any violation of the provisions of Chapter 4, Division 2 (hereinafter, "Dental Practice Act") of the Code. (§ 1020, subd. (c)(2).)

Violations of the Article and violations of the Dental Practice Act are committed by licensees in performing the functions and duties of the dental profession. (See, for example, Bus. & Prof. Code, § 652 [violations of the Article "constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed[.]"].) Accordingly, they evidence the present or potential unfitness of a person holding such a license to perform the functions authorized by the license. Furthermore, a violation of the Dental Practice Act does not become "no longer" substantially related due to the passage of time. Passage of time for such violations would be reviewed under rehabilitation criteria, section 1020.

As for the comment in the second paragraph, please see response to Comment 5.

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 3:

Comment Summary:

Section 1020 relies too heavily on law enforcement's reports and determination of the applicant's progress. Rehabilitation can and does take many forms that the current language does not fully embrace. The comment refers the reader to Comment 8 below for examples of rehabilitation to expand the regulations.

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Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 3. Comment 3 should be rejected, and no changes should be made to the regulatory language. As addressed more fully in the Board's response to Comment 8, section 1020 permits the applicant to offer evidence of rehabilitation that can encompass any of the forms of rehabilitation proposed in the letter. Accordingly, the Board believes that the proposed language is consistent with legislative intent.

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 4:

Comment Summary:

This comment requests the proposed language include a "7-year washout period" for consideration of convictions or discipline which are not statutorily considered serious felonies under Penal Code section 1192.7. (BPC, § 480, subd. (a)(1), effective July 1, 2020.)

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 4. Comment 4 should be rejected, and no changes should be made to the regulatory language. Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).)

The seven-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480(a)(1)(A) and (B), effective July 1, 2020. As this is already included in statute, adding this provision is duplicative of section 480(a)(1). Therefore, it is not necessary to repeat it in the regulations.

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 5:

Comment Summary:

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This comment states that the regulations should provide that a person with a criminal history shall not be denied a license if the applicant has obtained a certificate of rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or an arrest which led to an infraction/citation or a disposition other than a conviction, or juvenile adjudication. (BPC, § 480, subs. (b)-(d).)

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 5. Comment 5 should be rejected, and no changes should be made to the regulatory language. Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) BPC section 480(c), effective July 1, 2020, already states that a license may not be denied based on a conviction, or on the basis of the underlying acts, if it has been dismissed pursuant to Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425, or otherwise dismissed or expunged. In addition, BPC section 480(b), effective July 1, 2020, prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. BPC section 480(d), effective July 1, 2020, prohibits license denial based on an arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. Since these provisions are already specifically addressed in statute, adding them again in regulation would be duplicative.

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 6:

Comment Summary:

This comment states that the regulations fail to state that the Board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. (BPC, § 480, subd. (f)(2).)

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 6. Comment 6 should be rejected, and no changes should be made to the regulatory language. Section 480(f)(2), effective July 1, 2020, provides that a board cannot require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. As this is already provided by statute, adding this provision is duplicative of section 480(f)(2). Therefore, it is not necessary to repeat it in the regulations.

Board Action Requested:

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The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 7:

Comment Summary:

This comment states that the proposed language fails to include that the board must notify the applicant in writing if the applicant is denied a license or is disqualified from licensure. The comment states that the Board must provide procedures describing the process for an applicant to challenge a decision or request consideration, a procedure stating that the applicant has a right to appeal the Board's decision, and provide a process for requesting a complete conviction history. (BPC, § 480, subd. (f)(3).)

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 7. Comment 7 should be rejected, and no changes should be made to the regulatory language. BPC sections 480(f)(3), 485 through 487, and the Administrative Procedure Act, at Government Code section 11500, et seq., already contain these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial on the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. Restating these requirements would be duplicative of the statutes. (Gov. Code, § 11349, subd. (f).)

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 8:

Comment Summary:

This comment states that the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. The letter states that rehabilitation can and does take many forms that extend beyond law enforcement supervision. Therefore, the letter recommends that the Board consider adding the following rehabilitation criteria:

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- Volunteer service;
- Successful employment in a related field;
- A history of work experience in an employment social enterprise;
- Unpaid work in the community;
- Furthered education;
- Abstinence from controlled substances and/or alcohol;
- Stability of family life, fulfillment of parental and familial responsibilities;
- New and different social and business relationships from those which existed at the time of the underlying charges at issue;
- Change in attitude of the applicant as evidenced by:
 - Personal testimony,
 - Evidence of rehabilitation submitted by the applicant,
 - Evidence from family, friends, and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes; and
- Other markers of rehabilitation.

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 8. Comment 8 should be rejected, and no changes should be made to the regulatory language. BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated.

The final text for proposed section 1020 articulates a two-step process for evaluating rehabilitation:

1. First, the Board must determine if the completion of the criminal sentence with no violations constitutes rehabilitation. Consistent with the direction in AB 2138, to consider rehabilitation if an applicant completes the criminal sentence at issue without a violation of parole or probation, specific criteria are being added to section 1020(b) to help the Board determine whether sentence completion demonstrates rehabilitation. Criteria include the nature and gravity of the crime(s), the length(s) of the applicable parole or probation period(s), the extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified, the terms and conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation, and the extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification. If the Board finds rehabilitation, no further information needs to be provided.

2. Second, if rehabilitation is not demonstrated based on sentence completion, requires the Board consider certain other criteria to evaluate rehabilitation. A general category permitting submission of any rehabilitation evidence allows an applicant to

offer evidence relating to the proposed categories suggested above. As the Board can and already does give serious consideration to these factors when considering whether an applicant is rehabilitated, the Board believes that the proposed language is consistent with legislative intent.

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

Comment 9:

Comment Summary:

The comment states that the proposed regulations fail to state the requirements set forth in BPC section 480(g)(2), effective July 1, 2020, including, that a board retain the number of applicants with a criminal record who received notice of denial or disqualification of licensure, the number of applicants with a criminal record who provided evidence of mitigation or rehabilitation, and the final disposition and demographic information.

Staff Recommended Response to Comment:

Legal Counsel recommends the Board reject Comment 9. Comment 9 should be rejected, and no changes should be made to the regulatory language. These requirements are already set forth in statute. (BPC, § 480, subd. (g)(2), effective July 1, 2020.) Stating them in regulation would be duplicative of the statute. (Gov. Code, § 11349, subd. (f).)

Board Action Requested:

The Board may take action to accept, reject, or modify staff's recommended response to the comments. If staff recommendations are rejected or modified, staff requests that the Board provide a rationale for inclusion in the rulemaking's final statement of reasons.

ATTACHMENT

A



COMMUNITY
LEGAL SERVICES
IN EAST PALO ALTO



Center for
Employment
Opportunities

April 28, 2020

Via Email

California Department of Consumer Affairs
Dental Board of California
ATTN: Gabriel Nevin
2005 Evergreen St., Ste. 2050
Sacramento, CA 95815
Email: Gabriel.Nevin@dca.ca.gov

**RE: Comments in Response to Dept. of Consumer Affairs, Dental Board of California
Regulatory Action Concerning the Implementation of AB 2138, Proposal to Amend
Sections 1019 and 1020 of Article 5, Chapter 1 of Division 10 of Title 16, of the
California Code of Regulations**

Dear Gabriel Nevin:

Thank you for the opportunity to submit comments to the Department of Consumer Affairs (“DCA”), Dental Board of California (“Board”) regarding proposed regulations to implement AB 2138.

Assembly Bill 2138 was authored by Assemblymembers David Chiu and Evan Low to help formerly incarcerated people have a fair chance at obtaining occupational licensure. AB 2138 was sponsored by the Anti-Recidivism Coalition, East Bay Community Law Center, Legal Services for Prisoners with Children, Root & Rebound and supported by a coalition of 50 organizations. Thanks to the passage of AB 2138 in 2018, the roughly 1 in 3 or 8 million Californians with arrest or conviction records will face fewer barriers to employment and will help to fill the much needed occupational employment gaps in the State.

Formerly incarcerated workers strive to obtain permanent, stable, and living wage jobs, however around 30% of jobs require licensure, clearance, or oversight by a governing body. This oversight, while intended to protect public safety, disproportionately impacts people of color, low-income, and indigent communities of people. These communities have been disproportionately impacted by over-policing and over-criminalization resulting in contacts with law enforcement that bar these applicants from later obtaining the licensure they require to pursue employment under DCA’s regulation. Moreover, applicants have been deterred by the lengthy process, lack of clarity, and obstacles to obtaining licensure – problems that AB 2138 seeks to rectify to offer a fair chance to all people.

However, across the state of California, there are only a handful of organizations that support low-income and indigent people seeking occupational licensure. Licensure applicants look for help answering questions about general eligibility, the initial application, appeals, probationary and restricted licenses, and license revocations or suspensions. The lack of clarity in this process and lack of low-cost or free service providers, leads many people facing differing levels of adversity to give up entirely. We believe that our direct experience with clients who are undergoing this difficult process, along with our involvement in the drafting and passage of AB 2138, makes us equipped to understand the proper implementation of this bill.

The undersigned organizations commend the Board for its action to implement AB 2138 and thereby reduce discrimination against people of color in California, who are disproportionately denied job opportunities because of occupational licensing-related conviction background checks. We support amendments to Sections 1019 and 1020 of Article 5, Chapter 1 of Division 10 of Title 16, of the California Code of Regulations to reflect the passage of Assembly Bill 2138,

Chiu, but believe the proposed amendments should be clarified and go further in order to fully implement the intention and spirit of the AB 2138 text.

The proposed regulations leave some gaps in the regulatory scheme under the changes to CA Business and Professions Code sections 480, 481, 482, and 493 as modified by AB 2138. These proposed regulations fail to meet and implement CA B&P Code sections 480, 481, 482, and 493 and are not, as currently written, valid. The proposed regulations also fall short of the intent of the bill, which includes combating discrimination against people with records that have demonstrated rehabilitation and seek to establish themselves professionally.

Specifically, the proposed regulations do not comply with AB 2138 as follows:

- Section 1019(c) states that certain violations are substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of AB 2138 Business and Professions Code section 481. AB 2138 allows the Board discretion to determine which crimes are substantially related on an individual basis. Moreover, section 1019(c) fails to note that criminal history that resulted in the applicant obtaining a Certificate of Rehabilitation, pardon, dismissal per Penal Code section 1203.4 *et seq.*, or an arrest that resulted in a disposition other than a conviction **shall** not be denied a license. See Business and Professions Code section 480(b)-(d).
- Sections 1020, as written, rely too heavily on law enforcement's reports and determination of the applicant's progress. Rehabilitation can and does take many forms that the current language does not fully embrace. Please see number 5 below for examples of rehabilitation to expand the proposed regulations.

Further, we urge the Board to incorporate the full extent of AB 2138 by including the following provisions:

1. The proposed regulations should include the 7 year washout period for consideration of convictions or discipline which are not statutorily considered serious felonies under the Cal. Penal Code. 1192.7. See Cal Business and Professions Code section 480(a).
2. The proposed regulations should provide that a person with a criminal history **shall not** be denied a license if the applicant has obtained a Certificate of Rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or an arrest which led to an infraction/citation or a disposition other than a conviction, or juvenile adjudication. See Cal Business and Professions Code section 480(b)-(d).

3. The proposed regulations fail to include that the board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. See Cal Business and Professions Code section 480(f)(2).
4. The proposed regulations fail to include that the board shall notify the applicant in writing if the applicant is denied or disqualified from licensure. The Board must provide procedures describing the process for the applicant to challenge the decision or to request reconsideration, that the applicant has a right to appeal the board's decision, and the process of requesting a complete conviction history. See Cal Business and Professions Code section 480(f)(3).
5. The intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. Merely looking to law enforcement will not adequately show how an applicant would do on the job.
Rather, rehabilitation can and does take many forms that extend beyond mere law enforcement supervision. To better define rehabilitation, we recommend that the board provide examples of evidence of mitigating circumstances and rehabilitation efforts to assist both the Board and licensing applicants.

For instance, the Board should consider adding the following rehabilitation criteria:

- Volunteer service;
 - Successful employment in a related field;
 - A history of work experience in an employment social enterprise;
 - Unpaid work in the community;
 - Furthered education;
 - Abstinance from controlled substances and/or alcohol;
 - Stability of family life, fulfillment of parental and familial responsibilities;
 - New and different social and business relationships from those which existed at the time of the underlying charges at issue;
 - Change in attitude of the applicant as evidenced by:
 - Personal testimony,
 - Evidence of rehabilitation submitted by the applicant,
 - Evidence from family, friends, and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes, and;
 - Other markers of rehabilitation.
6. The proposed regulations fail to include any mention of requirements to obtain statistical information on the number of applicants with a criminal record who apply and receive notice of denial/disqualification of licensure, provided evidence of mitigation or rehabilitation, the final disposition of the application, and demographic information. See Cal Business and Professions Code section 480(g).

Adequate implementation of the changes to California Business and Professions Code sections 480, 481, 482, and 493 will go a long way toward restoring hope and opportunity for the nearly 1 in 3 or 8 million Californians who have an arrest or conviction record. Thank you for your consideration.

If you have any questions regarding the content of these comments, please contact Faride Perez-Aucar (Root and Rebound) or Vinuta Naik (Community Legal Services in East Palo Alto).

Sincerely,

/s/ Faride Perez-Aucar

/s/ Vinuta Naik

Faride Perez-Aucar

510-279-4662

fperez@rootandrebound.org

Vinuta Naik

650-326-6440

vnaik@clsepa.org

Organizations:

A New Way of Life Reentry Project
Californians for Safety and Justice
Center for Employment Opportunities
Center for Living and Learning
Community Legal Services in East Palo Alto
Criminal Justice Clinic, UC Irvine School of Law
East Bay Community Law Center
Legal Aid at Work
Legal Services for Prisoners with Children, All of Us or None
Los Angeles Regional Reentry Project
National Association of Social Workers, California Chapter
REDF
The Record Clearance Project, San Jose State University
Root and Rebound
Rubicon Programs
Underground Scholars Initiative

ATTACHMENT

B

**TITLE 16. DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

MODIFIED TEXT

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

Amend Sections 1019 and 1020 of Article 5 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations to read as follows:

Section 1019. Substantial Relationship Criteria.

(a) For the purposes of the denial, suspension or revocation of a license pursuant to section 141, ~~or~~ division 1.5 (commencing with section 475), or Sections 1670.1, 1680(e), 1681(c) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a dentist or dental auxiliary if to a substantial degree it evidences present or potential unfitness of a person holding such a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. ~~Such crimes or acts shall include, but are not limited to, the following:~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and
- (3) The nature and duties of a dentist or dental auxiliary.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

- ~~(a)~~(1) Any violation of Article 6, Chapter 1, Division 2 of the Code except Sections 651.4, 654 or 655.
- ~~(b)~~(2) Any violation of the provisions of Chapter 4, Division 2 of the Code.

Note: Authority cited: Sections 481 and 1614, Business and Professions Code.
Reference cited: Sections 7.5, 141, 480, 481, 490, and 493, 1670.1, 1680, and 1681,
Business and Professions Code.

Section 1020. Application Review and Criteria for Evaluating Rehabilitation.

(a)(1) In addition to any other requirements for licensure, when considering the approval of an application, the Board or its designee may require an applicant to be examined by one or more physicians and surgeons or psychologists designated by the Board if it appears that the applicant may be unable to safely practice due to mental illness or physical illness affecting competency. An applicant's failure to comply with the examination requirement shall render his or her application incomplete. The report of the examiners shall be made available to the applicant. The Board shall pay the full cost of such examination. If after receiving the report of evaluation, the Board determines that the applicant is unable to safely practice, the Board may deny the application, or may issue the applicant a license that is placed on probation with terms and conditions. If the Board issues a license on probation, the probationary order shall include an order that the license be revoked, stayed and placed on probation for the entire term of probation. In issuing a license on probation, the Board may consider any or all of the following terms and conditions:

(i) Requiring the licensee to obtain additional training or pass an examination upon completion of training, or both. The examination may be written, oral, or both, and may be a practical or clinical examination or both, at the option of the Board;

(ii) Requiring the licensee to submit to a mental or physical examination, or psychotherapy during the term of probation under the terms and conditions provided for in the "Dental Board of California Disciplinary Guidelines With Model Language" revised 08/30/2010, incorporated by reference at Section 1018; or,

(iii) Restricting or limiting the extent, scope or type of practice of the licensee.

(2) If the Board determines, pursuant to proceedings conducted under this subdivision, that there is insufficient evidence to bring an action against the applicant, then all Board records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential. If no further proceedings are conducted to determine the applicant's fitness to practice during a period of five years from the date of the determination by the Board of the proceedings pursuant to this subdivision, then the Board shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-

year period against the applicant by the Board, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the applicant pursuant to the provisions of Section 11507.6 of the Government Code.

(b) Denial of a license.

~~(b1)~~ When considering the denial of a license under Section 480 of the Code on the ground that the applicant ~~was~~ has been convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: ~~the Board in evaluating the rehabilitation of the applicant and his present eligibility for a license, will consider the following criteria:~~

~~(4A)~~ The nature and gravity of the crime(s).

~~(2B)~~ The length(s) of the applicable parole or probation period(s).

~~(3C)~~ The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

~~(4D)~~ The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

~~(5E)~~ The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

~~(e2)~~ If an applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (b)(1), the denial is based on professional misconduct, or the denial is based on the ground specified in Section 1687. If subsection (b) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (b), the board shall apply the following criteria in evaluating an applicant's rehabilitation. ~~The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:~~

~~(4A)~~ The nature and ~~severity~~ gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

~~(2B)~~ Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial

~~which also could be considered as grounds for denial under Section 480 of the Code.~~

~~(3C)~~ The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision paragraph (4A) or (2B).

~~(4D)~~ The extent to which Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

~~(5E)~~ The criteria in subsection (b)(1)(A) through (5E), as applicable.

~~(6F)~~ Evidence, if any, of rehabilitation submitted by the applicant.

(c) Suspension or revocation of a license.

~~(e)(d1)~~ When considering the suspension or revocation of a license on the grounds of conviction of a crime, the Board shall consider whether the licensee made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

~~(4A)~~ The nature and gravity of the crime(s).

~~(2B)~~ The length(s) of the applicable parole or probation period(s).

~~(3C)~~ The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

~~(4D)~~ The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

~~(5E)~~ The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

~~(e2)~~ If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (c)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, 1687, if subsection (d) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation

~~based on the criteria in subsection (d), the board shall apply the following criteria in evaluating the licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:~~

~~(4A)~~ (3A) The nature and ~~severity~~gravity of the act(s), disciplinary action(s) or offense~~crime~~(s);

~~(2B)~~ (3B) Total criminal record;

~~(3C)~~ (3C) The time that has elapsed since commission of the act(s), disciplinary action(s), or offense~~crime~~(s);

~~(4D)~~ (4D) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee;

~~(5E)~~ (5E) If applicable, evidence of ~~expungement~~ dismissal proceedings pursuant to Section 1203.4 of the Penal Code;

~~(6F)~~ (6F) The criteria in subsection (e)(1)(A) through (5E), as applicable.

~~(7G)~~ (7G) Evidence, if any of rehabilitation submitted by the licensee.

~~(d)(d)~~ (d) When considering a petition for reinstatement of a license, the Board shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subsection ~~(e)~~(e)(2).

Note: Authority cited: Sections 482, and 1614, Business and Professions Code.
Reference: Sections 7.5, 480, 482, and 820, 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, and 1687, Business and Professions Code; and Section 11519, Government Code.



MEMORANDUM

DATE	May 1, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin, Legislative and Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item 6(b): Discussion and Possible Action Regarding Adoption of Proposed Amendments to California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

Background:

The Board may consider comments received during the 45-day public comment period, hold discussion, and take action to adopt proposed amendments to California Code of Regulations, Title 16, Sections 1019 and 1020 relating to substantial relationship and rehabilitation criteria.

Action Requested:

The Board may hold discussion regarding staff recommendations and adverse comments received during the 45-day public comment period and may take one of the following actions:

- A. If the Board rejects the comments received during the 45-day public comment period, and does not vote to modify the text in response to comments or staff recommendations, then the Board would:

Direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law and 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 1019 and 1020 relating to substantial relationship and rehabilitation criteria as noticed in the proposed text.

- B. If the Board accepts any comments received during the 45-day public comment period, or modifies the text in response to comments or staff recommendations, then the Board would:

Agenda Item 6(b): Adoption of Substantial Relationship and Rehabilitation Criteria Proposed Rulemaking
 Dental Board of California Meeting
 May 14, 2020

Modify the text in response to the comments and staff recommendations received and direct staff to take all steps necessary to complete the rulemaking process, including preparing the modified text for a 15-day public comment period, which includes the amendments accepted by the board at this meeting. If after the 15-day public comment period, no adverse comments are received, 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 1019 and 1020 relating to substantial relationship and rehabilitation criteria as noticed in the modified text.



MEMORANDUM

DATE	April 29, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin Legislative and Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item 7(a): Discussion and Possible Action on Legislation

Background:

The Dental Board of California (Board) has been tracking bills relating to professions and vocations that impact the Board, the Department of Consumer Affairs (DCA), healing arts boards and their respective licensees, and non-healing arts licensing boards. This memorandum includes information regarding the bill's status, location, date of introduction, date of last amendment, and a summary.

At the February 2020 Board meeting, the Board considered and took “watch” positions on several pieces of legislation. Board staff continue to monitor these bills, however due to the emergency recess of the legislature, there has been no movement of, or amendments, to these bills. Because there are no updates on these bills, Board staff will not present them at this meeting.

Board staff will present the following bills for discussion at the May 14, 2020 meeting:

- 1) [AB 2028](#) (Aguiar-Curry) State Agencies: meetings.
- 2) [AB 2185](#) (Patterson, Gallagher) Professions and Vocations: applicants licensed in other states: reciprocity.
- 3) [AB 2549](#) (Salas) Department of Consumer Affairs: temporary licenses
- 4) [AB 2631](#) (Cunningham Coauthors: Horvath, Fong, Lackey, Mayes and Sens Jones and Wilk) License Fees: military partners and spouses.
- 5) [AB 2704](#) (Ting, Coauthor Rodriguez) Healing arts licensees: data collection.
- 6) [AB 3045](#) (Grayson) Department of Consumer Affairs: Boards: Veterans: Military Spouses: licenses.
- 7) [AB 3315](#) (Assembly Members Eduardo Garcia, Gonzalez, and Reyes (Coauthors: Assembly Members Carrillo, Cooper, Gipson, Medina, Quirk-Silva, and Salas)) Dentistry: Foreign Dental Schools: applications.
- 8) [SB 1168](#) (Morrell) State Agencies Licensing Services.

If you would like additional information on any of these bills, the following web sites are excellent resources for viewing proposed legislation and finding additional information:

<https://leginfo.legislature.ca.gov/>
<https://www.senate.ca.gov/>
<https://www.assembly.ca.gov/>

Board Action Requested:

The Board may take one of the following actions regarding each bill:

Support
Support if Amended
Oppose
Oppose Unless Amended
Watch
Neutral
No Action

LEGISLATIVE ANALYSES

AB 2028 (Aguiar-Curry) State agencies: Meetings.

Introduced: January 30, 2020
Last Amended: n/a
Disposition: Pending
Location: Assembly
Status: February 14, 2020: Referred to Committee on Governmental Organization.

Summary:

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body be open and public; and that all persons be permitted to attend any meeting of a state body. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Board Impact:

This bill would limit the Board's ability to provide accurate and updated information at Board meetings regarding legislation, to discuss new materials sent from stakeholders and the public and limit the Board's ability to work with outside presenters.

In a typical year, the Board analyzes and considers taking a position on roughly 15-20 bills that are identified as affecting its operations, public protection, and/or its licensees and registrants. Bill analyses are presented to the Board, which then discusses the bills and determines if there is a need to weigh in, either by taking an official position or by providing technical assistance to the author.

The legislative process moves fast, particularly in the months of March through June, when policy committees are in full swing and bills are continuously being amended to reflect stakeholder feedback and meet committee deadlines. During this time, it is very common for several bills which are on the Board's agenda to be amended during the 10-day timeframe between the time the agenda is posted, and when the Board meets. When this happens, Board staff must update the bill analysis as well as the bill version being included in the meeting materials for the discussion to remain relevant. If meeting materials can no longer be updated if there are bill amendments, then the Board cannot

discuss and consider the most recent version of the bill, and the Board's participation in the legislative process could be limited.

In addition, once the Board's meeting is posted, stakeholders will review the topics to be discussed and request to send a statement or relevant information to be included in the discussion at the Board meeting. Under this proposal, it appears this practice would no longer be allowed.

At times, the Board invites subject matter experts to present on their area of expertise. Often this includes a PowerPoint presentation or other written handouts. Under the proposal, it appears that this material would need to be submitted and posted at least 10 days prior to the meeting, which could hinder the ability of the Board to find experts willing to present.

As a general practice, the Board endeavors to post this information to the website 14 day in advance of meetings. However, the materials for the February 2020 meeting were not ready in time which would have caused the meeting to be postponed. Furthermore, the issues being discussed at the Board meeting are not static. If the Board is limited to discussing materials which are 10 days old, the Board may not be able to give timely feedback on important issues that affect the Board and its duty to protect the public. The impact of this bill is difficult to quantify but it will be a limitation on the Board's ability to provide accurate and updated materials for discussion at meetings and limit the Board's ability to receive input from outside experts and stakeholders. The fiscal impact is anticipated to be minor and absorbable.

Board Position: None taken.

[AB 2185](#) (Patterson, Gallagher) Professions and Vocations: applicants licensed in other states: reciprocity

Introduced: February 11, 2020

Last Amended: March 16, 2020

Disposition: Pending

Location: Assembly

Status: March 17, 2020 Re-referred to Committee on Business and Professions.

Summary:

This bill would require the Board to issue a license to an applicant in the discipline for which the applicant applies if the person currently holds a license in good standing in another state in the discipline, practice level and scope of practice for which the person applies and if the person meets specified requirements, including that the person is married to an active duty member of the Armed Forces of the United States, who is assigned to a duty station in this state, that the person has held the license and has practiced in the licensed field in the other state for at least 3 of the last 5 years and pays all applicable fees.

The Board already has a Licensure by Credential Pathway for dentist licensees (DDS), which allows Dentists licensed in other states to apply for licensure in California. Dentistry has more consistent national licensing standards. This makes the process of validating an out of state license labor intensive, but the standards are close enough that it is possible to offer out of state licensees a path to California licensure. However, some states offer specialty dentistry licenses whereas California does not. These specialty licenses would not have the same scope of practice, and therefore may not allow their holders to receive reciprocal licensure in California.

In addition, the current Licensure by Credential Pathway under Business and Professions Code section 1635.5(a)(3) allows an out of state practitioner to be licensed in California without examination if they have been in active clinical practice for five of the last seven consecutive years. In contrast, AB 2185 would allow reciprocal licensing for practitioners who have practiced in the licensed field for three of the last five years. Because of this distinction, implementing this legislation will require adding a new licensure pathway for dentistry based on the AB 2185 timeline.

This bill would create far more difficulty as it applies to the Registered Dental Assistants (RDAs) and Registered Dental Assistants in Extended Functions (RDAEFs) licensee population. In short, the bill would likely not be effective in increasing licensure portability for RDAs and RDAEFs. This is because the bill limits the reciprocal licenses which can be issued to those out of state licenses which have “the same scope of practice”. Whereas there are national professional standards for Dentists, the regulation and scope of practice of dental assistants varies dramatically from state to state.

Some states do not license or RDAs or RDAEFs (Florida and Wisconsin) at all. The statute would require the Board to issue the temporary license to anyone who, “holds a license in good standing in another state in the discipline and practice level and the same scope of practice.” Therefore, the Board could not issue a temporary license under this legislation for those states because there is no corresponding license let alone a license with the same scope of practice.

Many states (AL, AK, AZ, CO, CT, DE, FL, GE, HI, ID, IL, IN, KS, KY (private certification), LA, ME, MS, MT, NV, OR (private certification, no license), SC, UT, VA, WV, WI, WY) do not offer RDA licensure, therefore the Board could not offer a reciprocal RDA license at all for this level of dental assisting practitioner from these states, regardless of the scope of practice.

Most of states offer a higher level/extended function/advanced practice license (some of these are licenses, but some are closer to certifications which may or may not be administered by the licensing authority as opposed to a private entity). However, the scope of practice associated with those higher-level practitioners would have to be assessed on a state by state basis, and very few of the states appear to have the “same scope of practice”.

Some states' advanced practitioner distinctions may be akin to California's RDAEF in terms of allowable duties and required education and experience. Whereas some states' advanced practitioner distinctions may be closer to California's RDA in terms of allowable duties and required education and experience. Very few of the states come close to aligning all the allowable duties at the various practitioner levels. Depending on how strictly the term "same scope of practice" is interpreted, this could disqualify all or almost all other states.

Each state will require a careful analysis to determine whether a practitioner from that state is qualified for licensure as an RDA or RDAEF in California, and there will still be instances where the Board will have to reject all applicants from a state because they do not have the same scope of practice, creating a patchwork response that does not appear to match the author's intent of providing for true national reciprocal licensure.

Board Impact:

In addition to the uncertainty of implementing this bill across the board, this bill would require creating new licensure pathways for DDS, RDA, RDAEF, Orthodontic Assistants, and Dental Sedation Assistants. The new pathways will require assessing applicants on a state by state and license by license basis. It will require implementing new office and online processes. It will require additions to the website and new modifiers in Breeze and the drafting of new applications. It will also require creating an interface with DOJ/FBI in order to receive fingerprint clearance for the initial application transaction; and creating no longer interested (NLI) interface with DOJ/FBI for applicants who do not qualify or pursue an application for licensure. The fiscal impact of all these office processes, website and Breeze modifications is difficult to quantify, however it will be significant.

This bill will also require a rulemaking including the application forms to be drafted. In addition, this bill could interact with AB 2631 (Cunningham Coauthors: Horvath, Fong, Lackey, Mayes and Sens Jones and Wilk) which would prohibit charging application fees to applicants situated similarly to the applicants affected by this legislation (military spouses with out of state credentials). AB 2631 would increase the fiscal effect of this legislation because licensing fees normally offset the cost of processing applications.

Board Position: None Taken

[AB 2549](#) (Salas) Department of Consumer Affairs: temporary licenses

Introduced: February 19, 2020

Last Amended: March 12, 2020

Disposition: Pending

Location: Assembly

Status: March 16, 2020 Re-referred to Committee on Business and Professions

Summary:

Existing law requires a board within the DCA to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license.

This bill would expand that requirement to issue temporary licenses to include all licenses issued by the Board. The bill would require the Board to issue the temporary license within 30 days of receiving the required documentation. The bill would require that the temporary license be converted to a standard license if, within 12 months of issuance the applicant demonstrates having met all the requirements for a standard license or demonstrates that the requirements for out of state licensure were substantially equivalent to the requirements for standard California licensure as determined by the Board.

The Board already has a Licensure by Credential Pathway for Dentist licensees, which allows Dentists licensed in other states to apply for licensure in California. Dentistry has more consistent national licensing standards. This makes the process of validating an out of state license labor intensive, but the standards are close enough that it is possible to offer nearly all out of state licensees a path to California licensure. However, some states offer specialty dentistry licenses whereas California does not. These specialty dentistry licensees could potentially acquire a California dentistry license which would allow them to perform procedures which were outside the scope of practice for their out of state license. In addition, the bill imposes a 30-day limitation on processing the out of state temporary license applications which will increase the impact of this bill on the Board's workload.

This bill would substantially restrict the Board's oversight authority over the RDA and RDAEF licensee population. Furthermore, it would likely not be effective in increasing licensure portability.

Some states (Florida and Wisconsin) do not license RDAs or RDAEFs at all. The statute would require the Board to issue the temporary license to anyone who, "hold[s] a current,

active, and unrestricted license that confers upon the applicant the authority to practice ... the profession or vocation for which the applicant seeks a temporary license from the board.” Therefore, the Board could not issue a temporary license under this legislation for those states because there is no corresponding license.

Many states (AL, AK, AZ, CO, CT, DE, FL, GE, HI, ID, IL, IN, KS, KY (private certification), LA, ME, MS, MT, NV, OR (private certification), SC, UT, VA, WV, WI, WY) do not offer RDA licensure, therefore the Board could not offer a reciprocal license at all for this level of dental assisting practitioner from these states.

Most of these states offer a higher level/extended function/advanced practice license (some of these are licenses, but some are closer to certifications which may or may not be administered by the licensing authority as opposed to a private entity). However, the allowed duties associated with those higher-level practitioners would have to be assessed on a state by state basis.

Some states’ advanced practitioner distinctions may be akin to California’s RDAEF in terms of allowable duties and required education and experience. Whereas some states’ advanced practitioner distinctions may be closer to California’s RDA in terms of allowable duties and required education and experience. Very few of the states come close to aligning all the allowable duties at the various practitioner levels.

The statute would require the Board to issue the temporary license to anyone who, “hold[s] a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board.” Therefore, in the case where an out-of-state licensee applies for a California license on the basis of the higher-level practitioner license they hold in that state, the Board will have to analyze the out-of-state license the applicant holds and determine if they qualify for an RDA or RDAEF based on the authority to practice authorized by the out of state application. Implementing this will require significant analysis of each states’ practice act.

For example, Idaho allows functions such as pit and fissure sealants and coronal polishing to be performed only by “Dental Assistants board-qualified in expanded functions” however there is not a license associated with this title. Whereas, California allows these duties (pit and fissure sealants and coronal polish) to be performed by RDAs.

In Michigan RDA licenses exist, but there is a class of supervision (under assignment) which does not exist in California. Furthermore, Michigan RDAs can perform two duties which only RDAEFs may perform in California, and are not allowed to perform one duty which California RDAs can perform.

In Massachusetts the lowest level of Board registered dental auxiliary is an On the Job Trained Dental Assistant, but their allowed duties cover duties which only RDAEFs can perform in California.

In Minnesota, Licensed Dental Assistants are not authorized to perform duties which California RDAs are authorized to perform, and Licensed Dental Assistants with Collaborative Practice Authorization are not authorized to perform duties which California RDAEFs can perform.

In Nebraska, Licensed Dental Assistants are not authorized to perform ten duties which California RDAs are authorized to perform.

In Pennsylvania, unlicensed DAs may perform duties which RDAs perform in California; there is no RDA equivalent but there is an Expanded Functions Dental Assistant certification. However, Expanded Functions Dental Assistants are not allowed to perform nine duties which California RDAs are allowed to perform whereas California RDAEFs are allowed to perform duties which no PA dental assistant at any level may perform.

In South Carolina there is no RDA licensure. There is an Expanded Duty Dental Assistant designation however it is unclear that this is a license and it is possible to attain this designation by working as an unlicensed dental assistant continuously for 2 years.

In Virginia Dental Assistant 1s are unlicensed (Dental Assistant 2s are licensed), and no dental assistant at any level can administer NO2, whereas in California an unlicensed Dental Assistant may assist in the administration of NO2.

As this demonstrates each state will require a careful analysis to determine whether or not the practitioner is qualified for licensure as an RDA or RDAEF in California, and even then, it there will be instances where the Board will have to accept lower qualifications or deny a state, creating a patchwork response that does not meet the author's intent.

Board Impact:

In addition to the uncertainty of implementing this bill across the board, this bill would require creating a new licensure pathway. The new pathway will require implementing new office and online processes. It will require additions to the website and adding modifiers to Breeze as well as creating new applications. This will include at minimum creating 17 new license types, each with at least 11 transaction codes. It will also require staff to create Business Rules that would cancel the temporary license automatically if a new license is not issued within 12 months, or if the applicant does not qualify. It will also require creating an interface with DOJ/FBI in order to receive fingerprint clearance for the initial application transaction; and creating no longer interested (NLI) interface with DOJ/FBI for applicants who do not qualify or pursue an application for licensure. The fiscal impact of all these office processes, website and Breeze modifications is difficult to quantify, however it will be significant.

This bill will also require a rulemaking and accompanying forms to be drafted. In addition, this this bill could interact with AB 2631 (Cunningham Coauthors: Horvath, Fong, Lackey, Mayes and Sens Jones and Wilk) which would prohibit charging application fees to applicants situated similarly to the applicants affected by this legislation (military spouses

with out of state credentials). AB 2631 would increase the fiscal effect of this legislation because licensing fees normally offset the cost of processing applications.

Board Position: None Taken

[AB 2631](#) (Cunningham Coauthors: Horvath, Fong, Lackey, Mayes and Sens Jones and Wilk)

License Fees: military partners and spouses.

Introduced: February 20, 2020

Last Amended: n/a

Disposition: Pending

Location: Assembly

Status: March 2, 2020 Referred to Committee on Business and Professions

Summary:

Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would prohibit a board from charging an initial or original license fee to an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

Board Impact:

This legislation will have a negative impact on the Board's revenues from initial licensing fees for DDS licenses. Registered Dental Assistants are not charged an initial licensing fee per se, rather they are charged an application fee and then issued a license, without an accompanying fee when their application is approved. It is unclear if the legislation as written would apply to these RDA application fees. However, the stated intent of the bill is to reduce barriers to licensure for military spouses with out of state licenses equivalent to California professional licenses. The author's office has been made aware of the ambiguity in the bill language and staff will continue to track this legislation for any amendments. Based on the current draft of the bill the Board projects a potential high-end annual revenue loss of \$23,000 from this legislation. Any cost associated with implementing this legislation will have a minor and absorbable fiscal impact on the Board.

Board Position: None Taken

[AB 2704](#) (Ting, Coauthor: Rodriguez) Healing arts licensees: data collection.

Introduced: February 20, 2020
Last Amended: n/a
Disposition: Pending
Location: Assembly
Status: March 12, 2020 Referred to Committee on Business and Professions

Summary:

This bill would require all boards that oversee healing arts licensees to collect, at least biennially, specified demographic information, post the information on the internet websites that they each maintain, and provide the information annually to the Office of Statewide Health Planning and Development. The bill would require these boards to maintain the confidentiality of the information they receive from licensees and to only release information in aggregate form, as specified.

Board Impact:

For certain license types, the Board already collects via survey some of the demographic information required to be collected in this bill. This bill would require the Board to make updates in Breeze to survey the specified demographic information for seven license types. It would require updates to four existing dental workforce survey Record Specific Data (RSDs) and the creation of an additional dental workforce survey RSD in Breeze. In addition, it will require updates to both the online and paper renewal forms, and a collaboration with the DCA Office of Information Services to create an automated reporting process to collect the data annually. It is unknown what the impact on the Board will be to implement this bill, however Board of Registered Nursing is authorized by current law to spend \$145,000 implementing the provisions which apply to it.

Board Position: None Taken

[AB 3045](#) (Grayson) Department of Consumer Affairs: Boards: Veterans: Military Spouses: licenses

Introduced: February 21, 2020
Last Amended: n/a
Disposition: Pending
Location: Assembly
Status: April 24, 2020 Referred to Committee on Business and Professions

Summary:

AB 3045 would require the Board to issue temporary licenses to honorably discharged veterans and Military spouses who have a corresponding license in another state.

This bill raises all the same issues as AB 2549 plus it extends eligibility for the temporary license to another group of persons: honorably discharged veterans. Issuing California

licenses to persons holding out of state licensure will require a state by state analysis to determine whether the practitioner is qualified for licensure in California. There will be instances where applicants will have to accept a lower level licensure than they had in their home state, and there will be cases where states have to be denied outright, creating a patchwork response that does not meet the author's intent. For instance, Florida and Wisconsin do not offer any kind of license for dental assistants. Because applicants from these states will not have a license, they will not benefit from this legislation.

In addition to the uncertainty of implementing this bill across the board, this bill would require creating a new licensure pathway. The new pathway will require implementing new office and online processes. It will require additions to the website and to Breeze. This will include creating 17 new license types, each with at least 11 transaction codes. It will also require staff to create Business Rules that would cancel the temporary license automatically if a new license is not issued within 12 months, or if the applicant does not qualify. It will also require creating an interface with DOJ/FBI in order to receive fingerprint clearance for the initial application transaction; and creating no longer interested (NLI) interface with DOJ/FBI for applicants who do not qualify or pursue an application for licensure.

This bill will also require a rulemaking and accompanying forms be drafted. In addition, this this bill could interact with AB 2631 (Cunningham Coauthors: Horvath, Fong, Lackey, Mayes and Sens Jones and Wilk) which would prohibit charging application fees to applicants situated similarly to the applicants affected by this legislation (military spouses with out of state credentials). AB 2631 would increase the fiscal effect of this legislation because licensing fees normally offset the cost of processing applications. It is unknown how many licenses this would affect. The Board has data on licensees who report being honorably discharged veterans (41 in 6 years) to received expedited licenses. However, these are California licensees who would not need to apply for a reciprocal license. The Board has no data on Licensees who have a license in another state.

The Board does not have a way to predict how many people with out of state licenses will apply as a result of this legislation. However, based on the low volume of military expedite requests in the years since they have been available, Board staff does not predict a high volume of new applications resulting from this legislation and therefore expects the impact to be minor and absorbable, and not requiring additional positions or budget increases.

Board Position: None Taken

[AB 3315](#) (Assembly Members Eduardo Garcia, Gonzalez, and Reyes (Coauthors: Assembly Members Carrillo, Cooper, Gipson, Medina, Quirk-Silva, and Salas)) Dentistry: Foreign Dental Schools: applications

Introduced: February 21, 2020

Last Amended: n/a

Disposition: Pending

Location: Assembly

Status: April 24, 2020 Referred to Committee on Business and Professions

Summary:

Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists and dental assistants by the Board. The act, prior to January 1, 2020, required the Board to approve foreign dental schools based on specified standards, and required a foreign dental school seeking approval to submit an application to the Board, including, among other things, a finding that the educational program of the foreign dental school is equivalent to that of similar accredited institutions in the United States and adequately prepares its students for the practice of dentistry. Existing law required the foreign dental school to submit a specified registration fee and to pay the Board's reasonable costs and expenses to conduct an approval survey. Existing law also required an approved institution to submit a renewal application every 7 years and to pay a specified renewal fee.

Existing law prohibits the Board from accepting new applications for approval of foreign dental schools and instead requires foreign dental schools seeking approval to complete the accreditation process with the Commission on Dental Accreditation of the American Dental Association (CODA) or a comparable accrediting body approved by the Board. Existing law requires previously approved foreign dental schools to complete the CODA accreditation by January 1, 2024, to remain approved.

This bill would repeal the provisions that, beginning January 1, 2020, prohibit the Board from accepting new applications for the approval of foreign dental schools, and would instead require the Board to approve foreign dental schools in the same manner as prior to January 1, 2020.

Board Impact:

This bill would require the Board to reassume the responsibility for approving foreign dental schools which was shifted to CODA as part of the Board's 2019 sunset bill, AB 1519 (Low, Chapter 865 Statutes of 2019). The Board supported AB 1519 including the provision to delegate responsibility for approving foreign dental schools to CODA because CODA specializes in facilitating interstate reciprocity between dental practitioners in different jurisdictions. Whereas the Board specializes in administering and overseeing the practice of dentistry under the California Dental Practice Act (DPA).

Prior to delegating responsibility for approving foreign dental schools to CODA, the Board had approved two foreign dental schools. This involved two Board members and

staff traveling to the foreign country to review the foreign dental school campus, as well as reviewing an extensive application. Delegating this responsibility to an organization which specializes in it, allows the Board to focus on its primary duty of protecting California consumers through the administration and enforcement of the DPA.

The Board is currently planning a Section 100 rulemaking to codify the changes to BPC 1634.6 which were enacted last year by AB 1519. This bill would eliminate the need for that rulemaking.

Board Position: None Taken

[SB 1168](#) (Morrell) State Agencies Licensing Services

Introduced: February 20, 2020

Last Amended: April 17, 2020

Disposition: Pending

Location: Senate

Status: April 17, 2020 From committee with author's amendments.
Read second time and amended. Re-referred to Committee on Government Operations

Summary:

Existing law authorizes a state agency that issues any business license to establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.

This bill would require a state agency that issues any business license to establish a process for a person or business that is experiencing economic hardship as a result of an emergency caused by a virus to submit an application for deferral of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display. The bill would require the deferral period to end 60 days following the end of the emergency.

This bill would also require a state agency that issues any license to establish a process to expedite licensing services, as defined, for a person or business that meets specified criteria, including that the person or business has been displaced by, or experiences economic hardship directly resulting from an emergency declared within 365 days of the request for licensing services.

Board Impact:

The Board has a process for expediting applications, whereby expedited applications go to the front of the queue of the analyst to which they are assigned. In 2019 the Board processed an expedited non-deficient application in an average of five days, as opposed to an average processing time of 68 days for a non-expedited (non-deficient) application. However, that system is premised on a distinction between expedited and non-expedited

applications, wherein expedited applications go to the front of the line. It is not based on a different (faster) method for processing expedited applications. Considering the severity of the Covid-19 emergency it is likely that the Board's entire licensee and applicant population will suffer economic hardship and be eligible for an expedited license under this legislation. However, if all applications are expedited, the system will no longer work, and it is unlikely that any applications will actually be processed more quickly. This possible outcome is not likely because this emergency will not increase the need for expedited licensing services, even if it could make all applicants and licensees eligible. Furthermore, the legislation does not set a time period for expediting applications; it merely requires that a process be established. Therefore, Board staff anticipate that any impact from this section will be minor and absorbable.

The section which defers fees for licensing services after a declared emergency resulting from a virus, would potentially be applicable to all licensees and applicants for licensure because the current Covid-19 emergency declaration is statewide, and is and will continue to have profound and wide-reaching economic consequences. The Board is a special funded agency. Fees for license renewal and issuance make up over 95% of the Board's revenues. Assuming all licensees and applicants defer their fees through the first quarter of fiscal year 2020-2021 due to the Covid-19 emergency the Dentistry fund's reserves would allow it to operate for 3.5 months and the Dental Assistant fund's reserves would allow continued operations for 4.4 months. If the fund conditions fall into a negative balance the Board would not be able to continue operating. This would mean that the Board's enforcement activities and supervision of the licensee population would be suspended. There would be no enforcement authority protecting the public from professional misconduct and malfeasance by dental practitioners licensed or otherwise.

This section would also require the Board to conduct a rulemaking to create and implement the required forms. It would also require updates to Breeze. The Board has 16 different license types with four transactions which would be affected by this bill. A new transaction code would be necessary for the applicant/licensee to submit the fee once the deferral period is over. The bill would also require the creation of an identifier on the application or license to include the amount due. Updates to the four existing transactions for each of those 16 license types would need to be made in order to add the deferral. The Board would also need a report to be created by working with the Reports Team to identify who was granted a deferral as well as possible enforcement updates to follow-up if licensees do not pay once the deferral period is over.

This bill would have a negative impact on Board revenues from licensing services, which directly offset the cost of Board licensing operations. Although this would be recouped 60 days after the end of the declared emergency, this would have a negative fiscal impact on the Board, potentially near the end of the fiscal year, which could have a substantial impact on the Board's fund condition.

Board Position: None Taken.

ASSEMBLY BILL

No. 2028

Introduced by Assembly Member Aguiar-Curry

January 30, 2020

An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, as introduced, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item.

Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) The Bagley-Keene Open Meeting Act (Article 9
- 3 (commencing with Section 11120) of Chapter 1 of Part 1 of
- 4 Division 3 of Title 2 of the Government Code) (hereafter
- 5 “Bagley-Keene”) was intended to implement Section 3 of Article
- 6 I of the California Constitution, which states in part, “The people
- 7 have the right of access to information concerning the conduct of
- 8 the people’s business, and, therefore, the meetings of public bodies
- 9 and the writings of public officials and agencies shall be open to
- 10 public scrutiny.”
- 11 (b) Bagley-Keene was written to protect public meetings and
- 12 public notice and to ensure the transparency of actions taken by
- 13 state agencies, boards, and commissions.
- 14 (c) Californians have the right to participate in state body
- 15 deliberations. This includes the public’s ability to comment on all
- 16 agenda items discussed at a meeting of the state body, regardless
- 17 of whether an item has been discussed previously in a committee
- 18 of the state body.
- 19 (d) The purpose of public notice is so that state bodies give the
- 20 public adequate time for review of the substance of a state body
- 21 meeting and for comment.
- 22 (e) Public notice must also include any writings or materials
- 23 provided by a state body’s staff or by a member of the state body
- 24 to other members of the state body for a noticed meeting of the
- 25 body held at least 10 days prior to the meeting.

1 (f) Bagley-Keene affirms these rights by stating in Section 11120
2 of the Government Code, “The people of this state do not yield
3 their sovereignty to the agencies which serve them. The people,
4 in delegating authority, do not give their public servants the right
5 to decide what is good for the people to know and what is not good
6 for them to know. The people insist on remaining informed so that
7 they may retain control over the instruments they have created.”

8 SEC. 2. Section 11125 of the Government Code is amended
9 to read:

10 11125. (a) The state body shall provide notice of its meeting
11 to any person who requests that notice in writing. Notice shall be
12 given and also made available on the ~~Internet~~ *internet* at least 10
13 days in advance of the meeting, and shall include the name,
14 address, and telephone number of any person who can provide
15 further information prior to the meeting, but need not include a
16 list of witnesses expected to appear at the meeting. The written
17 notice shall additionally include the address of the ~~Internet~~ *internet*
18 *website* where notices required by this article are made
19 available.

20 (b) The notice of a meeting of a body that is a state body shall
21 include a specific agenda for the meeting, containing a brief
22 description of the items of business to be transacted or discussed
23 in either open or closed session. A brief general description of an
24 item generally need not exceed 20 words. A description of an item
25 to be transacted or discussed in closed session shall include a
26 citation of the specific statutory authority under which a closed
27 session is being held. No item shall be added to the agenda
28 subsequent to the provision of this notice, unless otherwise
29 permitted by this article.

30 (c) (1) *Except as otherwise provided in paragraph (4), any*
31 *notice provided pursuant to subdivision (a) shall include all*
32 *writings or materials provided for the noticed meeting to a member*
33 *of the state body by the staff of a state agency, board, or*
34 *commission, or another member of the state body, that are in*
35 *connection with a matter subject to discussion or consideration*
36 *at the meeting.*

37 (2) *The writings or materials described in paragraph (1) shall*
38 *be made available on the internet at least 10 days in advance of*
39 *the meeting, and to any person who requests that notice in writing.*

1 (3) A state body may distribute or discuss writings or materials
2 described in paragraph (1) at a meeting of the state body only if
3 it has complied with this subdivision.

4 (4) This subdivision does not apply to writings or materials
5 prepared for a matter to be discussed in a closed session of the
6 state body.

7 ~~(e)~~

8 (d) Notice of a meeting of a state body that complies with this
9 section shall also constitute notice of a meeting of an advisory
10 body of that state body, provided that the business to be discussed
11 by the advisory body is covered by the notice of the meeting of
12 the state body, provided that the specific time and place of the
13 advisory body’s meeting is announced during the open and public
14 state body’s meeting, and provided that the advisory body’s
15 meeting is conducted within a reasonable time of, and nearby, the
16 meeting of the state body.

17 ~~(e)~~

18 (e) A person may request, and shall be provided, notice pursuant
19 to subdivision (a) for all meetings of a state body or for a specific
20 meeting or meetings. In addition, at the state body’s discretion, a
21 person may request, and may be provided, notice of only those
22 meetings of a state body at which a particular subject or subjects
23 specified in the request will be discussed.

24 ~~(e)~~

25 (f) A request for notice of more than one meeting of a state body
26 shall be subject to the provisions of Section 14911.

27 ~~(f)~~

28 (g) The notice shall be made available in appropriate alternative
29 formats, as required by Section 202 of the Americans with
30 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
31 rules and regulations adopted in implementation thereof, upon
32 request by any person with a disability. The notice shall include
33 information regarding how, to whom, and by when a request for
34 any disability-related modification or accommodation, including
35 auxiliary aids or services may be made by a person with a disability
36 who requires these aids or services in order to participate in the
37 public meeting.

38 SEC. 3. Section 11125.7 of the Government Code is amended
39 to read:

1 11125.7. (a) Except as otherwise provided in this section, the
2 state body shall provide an opportunity for members of the public
3 to directly address the state body on each agenda item before or
4 during the state body's discussion or consideration of the item.
5 ~~This section is not applicable if the agenda item has already been~~
6 ~~considered by a committee composed exclusively of members of~~
7 ~~the state body at a public meeting where interested members of~~
8 ~~the public were afforded the opportunity to address the committee~~
9 ~~on the item, before or during the committee's consideration of the~~
10 ~~item, unless the item has been substantially changed since the~~
11 ~~committee heard the item, as determined by the state body.~~ Every
12 notice for a special meeting at which action is proposed to be taken
13 on an item shall provide an opportunity for members of the public
14 to directly address the state body concerning that item prior to
15 action on the item. In addition, the notice requirement of Section
16 11125 shall not preclude the acceptance of testimony at meetings,
17 other than emergency meetings, from members of the public if no
18 action is taken by the state body at the same meeting on matters
19 brought before the body by members of the public.

20 (b) The state body may adopt reasonable regulations to ensure
21 that the intent of subdivision (a) is carried out, including, but not
22 limited to, regulations limiting the total amount of time allocated
23 for public comment on particular issues and for each individual
24 speaker.

25 (c) (1) Notwithstanding subdivision (b), when a state body
26 limits time for public comment the state body shall provide at least
27 twice the allotted time to a member of the public who utilizes a
28 translator to ensure that non-English speakers receive the same
29 opportunity to directly address the state body.

30 (2) Paragraph (1) shall not apply if the state body utilizes
31 simultaneous translation equipment in a manner that allows the
32 state body to hear the translated public testimony simultaneously.

33 (d) The state body shall not prohibit public criticism of the
34 policies, programs, or services of the state body, or of the acts or
35 omissions of the state body. Nothing in this subdivision shall confer
36 any privilege or protection for expression beyond that otherwise
37 provided by law.

38 (e) This section is not applicable to ~~closed~~ *any of the following*:

39 (1) *Closed* sessions held pursuant to Section 11126.

40 (f) ~~This section is not applicable to decisions~~

1 (2) *Decisions* regarding proceedings held pursuant to Chapter
2 5 (commencing with Section 11500), relating to administrative
3 adjudication, or to the conduct of those proceedings.
4 ~~(g) This section is not applicable to hearings~~
5 (3) *Hearings* conducted by the California Victim Compensation
6 Board pursuant to Sections 13963 and 13963.1.
7 ~~(h) This section is not applicable to agenda~~
8 (4) *Agenda* items that involve decisions of the Public Utilities
9 Commission regarding adjudicatory hearings held pursuant to
10 Chapter 9 (commencing with Section 1701) of Part 1 of Division
11 1 of the Public Utilities Code. For all other agenda items, the
12 commission shall provide members of the public, other than those
13 who have already participated in the proceedings underlying the
14 agenda item, an opportunity to directly address the commission
15 before or during the commission’s consideration of the item.

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AMENDED IN ASSEMBLY MARCH 16, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2185

Introduced by Assembly Members Patterson and Gallagher

February 11, 2020

An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2185, as amended, Patterson. Professions and vocations: applicants licensed in other states: reciprocity.

Existing law establishes the Department of Consumer Affairs, which is composed of boards that license and regulate various professions and vocations to ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law makes a violation of some of those licensure provisions a crime.

Existing law authorizes certain boards, for purposes of reciprocity, to waive examination or other requirements and issue a license to an applicant who holds a valid license in another state and meets specified other requirements, including, among others, a license to practice veterinary medicine.

~~This bill~~ *bill, with exceptions*, would require each board within the department to issue a license to an applicant in the discipline for which the applicant applies if the person *meets certain requirements, including, but not limited to, that the person is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, who is assigned to a duty station in this state, the person* currently holds a license in good standing in

another state in the discipline and practice level *and with the same scope of practice* for which the person ~~applies and if applies~~, the person ~~meets specified requirements, including that the person~~ has held the license and has practiced in the licensed field in the other state for at least 3 of the last ~~5 years~~ years, and *the person* pays all applicable fees *and complies with any applicable surety bond and insurance requirements*. By expanding the applicants who are authorized to be licensed and *who* may be prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 117 is added to the Business and
 2 Professions Code, to read:

3 117. (a) Notwithstanding any law, each board within the
 4 department shall issue a license in the discipline for which the
 5 applicant applies if the applicant meets all of the following
 6 requirements:

7 (1) The person ~~is a resident in this state or is~~ married to, or is
 8 in a domestic partnership or other legal union with, an active duty
 9 member of the Armed Forces of the United States who is assigned
 10 to a duty station in this state under official active duty military
 11 orders.

12 (2) The person currently holds a license in good standing in
 13 another state in the discipline and practice level *and with the same*
 14 *scope of practice* for which the person is applying.

15 (3) The person has held the license and has practiced in the
 16 licensed field in the other state for at least three of the last five
 17 years.

18 (4) The person has not had any disciplinary actions imposed
 19 against their license and has not had a license in the discipline for
 20 which the person is applying revoked or suspended in any other
 21 state.

1 (5) The person submits verification that they have satisfied all
2 education, work, examination, and other requirements for licensure
3 in the other state in which the person holds a license in good
4 ~~standing~~. *standing and those requirements are similar to the*
5 *standards required for licensure in this state.*

6 (6) The person would not be denied licensure under any other
7 provision of this code, including, but not limited to, disqualification
8 for criminal history relating to the license sought.

9 (7) The person pays all applicable fees for ~~licensure~~. *licensure*
10 *and complies with any applicable surety bond and insurance*
11 *requirements.*

12 (8) If required by the board, the person has passed a California
13 jurisprudence and ethics examination or other examination
14 otherwise required for applicants by the board on the statutes and
15 regulations relating to the license.

16 (b) This section shall not supersede any other reciprocity
17 agreement, compact membership, or statute that provides
18 reciprocity for a person who holds a valid license in another state.

19 (c) *This section shall not apply to the Board of Registered*
20 *Nursing, any board that has a mandatory license portability*
21 *requirement in statute, and any board that currently authorizes*
22 *license portability as a component of qualifying for licensure in*
23 *this state.*

24 (e)

25 (d) Notwithstanding any law, the fees, fines, penalties, or other
26 money received by a board pursuant to this section shall not be
27 continuously appropriated and shall be available only upon
28 appropriation by the legislature.

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

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AMENDED IN ASSEMBLY MARCH 12, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2549

Introduced by Assembly Member Salas

February 19, 2020

An act to amend Sections 115.6 and 5132 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2549, as amended, Salas. Department of Consumer Affairs: temporary licenses.

Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. *Existing law authorizes a board to adopt regulations necessary to administer these provisions.*

This bill would expand that requirement to issue temporary licenses to include licenses issued by *the Veterinary Medical Board, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the State Board of Barbering and Cosmetology, the Board of Psychology, the California Board of Occupational Therapy, the Physical Therapy Board of California, and the California Board of Accountancy, and certain registered dental assistant licenses issued by the Dental Board of California. Accountancy.* *The bill would require a board to issue a temporary license within 30 days of receiving the required documentation.* The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund, a continuously appropriated fund. By establishing a new source of revenue for a continuously appropriated fund, the bill would make an appropriation. *The bill would require a temporary license to be converted to a standard license if, within 12 months of issuance, the applicant demonstrates having met all of the requirements for a standard license or submits documents demonstrating that the requirements to obtain the out-of-state license were substantially equivalent to the requirements for a standard license as determined by the board in order to protect the public. The bill would require a board to adopt regulations necessary to administer these provisions and to publish regulations on its internet website and in application materials by January 1, 2022.*

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) A board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary
- 5 licenses to an applicant ~~if the applicant meets the~~ *within 30 days*
- 6 *of receiving the required documentation pursuant to meeting the*
- 7 requirements set forth in subdivision (c):
- 8 (1) Registered nurse license by the Board of Registered Nursing.
- 9 (2) Vocational nurse license issued by the Board of Vocational
- 10 Nursing and Psychiatric Technicians of the State of California.

1 (3) Psychiatric technician license issued by the Board of
2 Vocational Nursing and Psychiatric Technicians of the State of
3 California.

4 (4) Speech-language pathologist license issued by the
5 Speech-Language Pathology and Audiology and Hearing Aid
6 Dispensers Board.

7 (5) Audiologist license issued by the Speech-Language
8 Pathology and Audiology and Hearing Aid Dispensers Board.

9 ~~(6) Veterinarian license~~ *All licenses* issued by the Veterinary
10 Medical Board.

11 (7) All licenses issued by the Board for Professional Engineers,
12 Land Surveyors, and Geologists.

13 (8) All licenses issued by the Medical Board of California.

14 (9) All licenses issued by the Podiatric Medical Board of
15 California.

16 ~~(10) Registered dental assistant license or registered dental
17 assistant in extended functions license~~ *All licenses* issued by the
18 Dental Board of California.

19 (11) All licenses issued by the Dental Hygiene Board of
20 California.

21 (12) All licenses issued by the California State Board of
22 Pharmacy.

23 *(13) All licenses issued by the State Board of Barbering and
24 Cosmetology.*

25 *(14) All licenses issued by the Board of Psychology.*

26 *(15) All licenses issued by the California Board of Occupational
27 Therapy.*

28 *(16) All licenses issued by the Physical Therapy Board of
29 California.*

30 ~~(13)~~

31 *(17) All licenses issued by the California Board of Accountancy.*
32 Revenues from fees for temporary licenses issued under this
33 paragraph shall be credited to the Accountancy Fund in accordance
34 with Section 5132.

35 (b) The board may conduct an investigation of an applicant for
36 purposes of denying or revoking a temporary license issued
37 pursuant to this section. This investigation may include a criminal
38 background check.

39 (c) An applicant seeking a temporary license pursuant to this
40 section shall meet the following requirements:

1 (1) The applicant shall supply evidence satisfactory to the board
2 that the applicant is married to, or in a domestic partnership or
3 other legal union with, an active duty member of the Armed Forces
4 of the United States who is assigned to a duty station in this state
5 under official active duty military orders.

6 (2) The applicant shall hold a current, active, and unrestricted
7 license that confers upon the applicant the authority to practice,
8 in another state, district, or territory of the United States, the
9 profession or vocation for which the applicant seeks a temporary
10 license from the board.

11 (3) The applicant shall submit an application to the board that
12 shall include a signed affidavit attesting to the fact that the
13 applicant meets all of the requirements for the temporary license
14 and that the information submitted in the application is accurate,
15 to the best of the applicant’s knowledge. The application shall also
16 include written verification from the applicant’s original licensing
17 jurisdiction stating that the applicant’s license is in good standing
18 in that jurisdiction.

19 (4) The applicant shall not have committed an act in any
20 jurisdiction that would have constituted grounds for denial,
21 suspension, or revocation of the license under this code at the time
22 the act was committed. A violation of this paragraph may be
23 grounds for the denial or revocation of a temporary license issued
24 by the board.

25 (5) The applicant shall not have been disciplined by a licensing
26 entity in another jurisdiction and shall not be the subject of an
27 unresolved complaint, review procedure, or disciplinary proceeding
28 conducted by a licensing entity in another jurisdiction.

29 (6) The applicant shall, upon request by a board, furnish a full
30 set of fingerprints for purposes of conducting a criminal
31 background check.

32 ~~(d) A board may adopt regulations necessary to administer this~~
33 ~~section.~~

34 ~~(e)~~

35 (d) A temporary license issued pursuant to this section may be
36 immediately terminated upon a finding that the temporary
37 licenseholder failed to meet any of the requirements described in
38 subdivision (c) or provided substantively inaccurate information
39 that would affect the person’s eligibility for temporary licensure.
40 Upon termination of the temporary license, the board shall issue

1 a notice of termination that shall require the temporary
2 licenseholder to immediately cease the practice of the licensed
3 profession upon receipt.

4 ~~(f)~~

5 (e) An applicant seeking a temporary license as a civil engineer,
6 geotechnical engineer, structural engineer, land surveyor,
7 professional geologist, professional geophysicist, certified
8 engineering geologist, or certified hydrogeologist pursuant to this
9 section shall successfully pass the appropriate California-specific
10 examination or examinations required for licensure in those
11 respective professions by the Board for Professional Engineers,
12 Land Surveyors, and Geologists.

13 ~~(g)~~

14 (f) A temporary license issued pursuant to this section shall
15 expire 12 months after issuance, upon issuance of an expedited
16 license pursuant to Section 115.5, *a license by endorsement*, or
17 upon denial of the application for expedited licensure by the board,
18 whichever occurs first.

19 (g) *A temporary license issued pursuant to this section shall be*
20 *converted to a standard license if, within 12 months of issuance,*
21 *the applicant demonstrates having met all of the requirements for*
22 *a standard license or submits documents demonstrating that the*
23 *requirements to obtain the out-of-state license were substantially*
24 *equivalent to the requirements for a standard license as determined*
25 *by the board in order to protect the public.*

26 (h) *A board shall adopt regulations necessary to administer this*
27 *section and shall publish these regulations on its internet website*
28 *and in application materials by January 1, 2022.*

29 SEC. 2. Section 5132 of the Business and Professions Code is
30 amended to read:

31 5132. (a) All moneys received by the board under this chapter
32 from any source and for any purpose and from a temporary license
33 issued under Section 115.6 shall be accounted for and reported
34 monthly by the board to the Controller and at the same time the
35 moneys shall be remitted to the State Treasury to the credit of the
36 Accountancy Fund.

37 (b) The secretary-treasurer of the board shall, from time to time,
38 but not less than once each fiscal year, prepare or have prepared
39 on their behalf, a financial report of the Accountancy Fund that

1 contains information that the board determines is necessary for
2 the purposes for which the board was established.

3 (c) The report of the Accountancy Fund, which shall be
4 published pursuant to Section 5008, shall include the revenues and
5 the related costs from examination, initial licensing, license
6 renewal, citation and fine authority, and cost recovery from
7 enforcement actions and case settlements.

O

ASSEMBLY BILL

No. 2631

Introduced by Assembly Member Cunningham
(Coauthors: Assembly Members Boerner Horvath, Fong, Lackey,
and Mayes)
(Coauthors: Senators Jones and Wilk)

February 20, 2020

An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2631, as introduced, Cunningham. License fees: military partners and spouses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would prohibit a board from charging an initial or original license fee to an applicant who meets these expedited licensing requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 115.5 of the Business and Professions
- 2 Code is amended to read:
- 3 115.5. (a) A board within the department shall expedite the
- 4 licensure process for an applicant who meets both of the following
- 5 requirements:
- 6 (1) Supplies evidence satisfactory to the board that the applicant
- 7 is married to, or in a domestic partnership or other legal union
- 8 with, an active duty member of the Armed Forces of the United
- 9 States who is assigned to a duty station in this state under official
- 10 active duty military orders.
- 11 (2) Holds a current license in another state, district, or territory
- 12 of the United States in the profession or vocation for which the
- 13 applicant seeks a license from the board.
- 14 (b) *A board shall not charge an applicant who meets the*
- 15 *requirements in subdivision (a) an initial or original license fee.*
- 16 ~~(b)~~
- 17 (c) A board may adopt regulations necessary to administer this
- 18 section.

O

ASSEMBLY BILL

No. 2704

**Introduced by Assembly Member Ting
(Coauthor: Assembly Member Rodriguez)**

February 20, 2020

An act to add Section 502 to, and to repeal Sections 2717, 2852.5, 3518.1, 3770.1, and 4506 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2704, as introduced, Ting. Healing arts: licensees: data collection.

Existing law requires the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California to regulate and oversee the practice of healing arts within their respective jurisdictions and to, among other things, collect and report specific demographic data relating to their licensees, subject to a licensee's discretion to report their race or ethnicity, to the Office of Statewide Health Planning and Development. Existing law requires these boards to collect this data at least biennially, at the times of both issuing an initial license and issuing a renewal license. Existing law also authorizes the Board of Registered Nursing to expend \$145,000 to implement these provisions.

This bill would repeal the provisions applicable only to the licensees of those boards and, instead, would require all boards that oversee healing arts licensees to collect, at least biennially, specified demographic information, post the information on the internet websites that they each maintain, and provide the information annually to the Office of Statewide Health Planning and Development. The bill would

require these boards to maintain the confidentiality of the information they receive from licensees and to only release information in aggregate from, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 502 is added to the Business and
2 Professions Code, to read:

3 502. (a) A board that supervises healing arts licensees under
4 this division shall collect and analyze workforce data from its
5 licensees as specified in subdivision (b) for future workforce
6 planning. The data may be collected at the time of license renewal,
7 or at least biennially from a scientifically selected random sample
8 of licensees.

9 (b) (1) The workforce data collected by each board about its
10 licensees shall include, at a minimum, information concerning all
11 of the following:

- 12 (A) City, county, and ZIP Code of practice.
- 13 (B) Type of employer or classification of primary practice site
14 among the types of practice sites specified by the board, including,
15 but not limited to, clinic, hospital, managed care organization, or
16 private practice.
- 17 (C) Work hours.
- 18 (D) Titles of positions held.
- 19 (E) Time spent in direct patient care.
- 20 (F) Clinical practice area.
- 21 (G) Race or ethnicity, subject to paragraph (2).
- 22 (H) Gender.
- 23 (I) Languages spoken.
- 24 (J) Educational background.
- 25 (K) Future work intentions.
- 26 (L) Job satisfaction ratings.

1 (2) A licensee may, but is not required to, report their race or
2 ethnicity to the board.

3 (c) Each board shall maintain the confidentiality of the
4 information it receives from licensees under this section and shall
5 only release information in an aggregate form that cannot be used
6 to identify an individual.

7 (d) Each board shall produce reports containing the workforce
8 data it collects pursuant to this section, at a minimum, on a biennial
9 basis. Aggregate information collected pursuant to this section
10 shall be posted on each board's internet website.

11 (e) Each board shall annually provide the data it collects
12 pursuant to this section to the Office of Statewide Health Planning
13 and Development in a manner directed by the office that allows
14 for inclusion of the data into the annual report it produces pursuant
15 to Section 128052 of the Health and Safety Code.

16 SEC. 2. Section 2717 of the Business and Professions Code is
17 repealed.

18 ~~2717. (a) The board shall collect and analyze workforce data~~
19 ~~from its licensees for future workforce planning. The board may~~
20 ~~collect the data at the time of license renewal or from a~~
21 ~~scientifically selected random sample of its licensees. The board~~
22 ~~shall produce reports on the workforce data it collects, at a~~
23 ~~minimum, on a biennial basis. The board shall maintain the~~
24 ~~confidentiality of the information it receives from licensees under~~
25 ~~this section and shall only release information in an aggregate form~~
26 ~~that cannot be used to identify an individual. The workforce data~~
27 ~~collected by the board shall include, at a minimum, employment~~
28 ~~information such as hours of work, number of positions held, time~~
29 ~~spent in direct patient care, clinical practice area, type of employer,~~
30 ~~and work location. The data shall also include future work~~
31 ~~intentions, reasons for leaving or reentering nursing, job satisfaction~~
32 ~~ratings, and demographic data.~~

33 ~~(b) Aggregate information collected pursuant to this section~~
34 ~~shall be placed on the board's Internet Web site.~~

35 ~~(c) (1) Notwithstanding subdivision (a), the board shall collect,~~
36 ~~at least biennially, at the times of both issuing an initial license~~
37 ~~and issuing a renewal license, all of the following data on nurses~~
38 ~~licensed under this chapter:~~

39 ~~(A) Location of practice, including city, county, and ZIP Code.~~

40 ~~(B) Race or ethnicity, subject to paragraph (3).~~

- 1 ~~(C) Gender.~~
- 2 ~~(D) Languages spoken.~~
- 3 ~~(E) Educational background.~~
- 4 ~~(F) Classification of primary practice site among the types of~~
- 5 ~~practice sites specified by the board, including, but not limited to,~~
- 6 ~~clinic, hospital, managed care organization, or private practice.~~

7 ~~(2) The board shall annually provide the data collected pursuant~~
 8 ~~to paragraph (1) to the Office of Statewide Health Planning and~~
 9 ~~Development in a manner directed by the office that allows for~~
 10 ~~inclusion of the data into the annual report required by Section~~
 11 ~~128052 of the Health and Safety Code.~~

12 ~~(3) A licensee may, but is not required to, report his or her race~~
 13 ~~or ethnicity to the board.~~

14 ~~(d) The board is authorized to expend the sum of one hundred~~
 15 ~~forty-five thousand dollars (\$145,000) from the Board of~~
 16 ~~Registered Nursing Fund in the Professions and Vocations Fund~~
 17 ~~for the purpose of implementing this section.~~

18 SEC. 3. Section 2852.5 of the Business and Professions Code
 19 is repealed.

20 ~~2852.5. (a) The board shall collect, at least biennially, at the~~
 21 ~~times of both issuing an initial license and issuing a renewal~~
 22 ~~license, all of the following data on vocational nurses licensed~~
 23 ~~under this chapter:~~

- 24 ~~(1) Location of practice, including city, county, and ZIP Code.~~
- 25 ~~(2) Race or ethnicity, subject to subdivision (c).~~
- 26 ~~(3) Gender.~~
- 27 ~~(4) Languages spoken.~~
- 28 ~~(5) Educational background.~~
- 29 ~~(6) Classification of primary practice site among the types of~~
- 30 ~~practice sites specified by the board, including, but not limited to,~~
- 31 ~~clinic, hospital, managed care organization, or private practice.~~

32 ~~(b) The board shall annually provide the data collected pursuant~~
 33 ~~to subdivision (a) to the Office of Statewide Health Planning and~~
 34 ~~Development in a manner directed by the office that allows for~~
 35 ~~inclusion of the data into the annual report required by Section~~
 36 ~~128052 of the Health and Safety Code.~~

37 ~~(c) A licensee may, but is not required to, report his or her race~~
 38 ~~or ethnicity to the board.~~

39 SEC. 4. Section 3518.1 of the Business and Professions Code
 40 is repealed.

1 3518.1. ~~(a) The board shall collect, at least biennially, at the~~
2 ~~times of both issuing an initial license and issuing a renewal~~
3 ~~license, all of the following data on physician assistants licensed~~
4 ~~under this chapter:~~

- 5 ~~(1) Location of practice, including city, county, and ZIP Code.~~
- 6 ~~(2) Race or ethnicity, subject to subdivision (c).~~
- 7 ~~(3) Gender.~~
- 8 ~~(4) Languages spoken.~~
- 9 ~~(5) Educational background.~~
- 10 ~~(6) Classification of primary practice site among the types of~~
11 ~~practice sites specified by the board, including, but not limited to,~~
12 ~~clinic, hospital, managed care organization, or private practice.~~

13 ~~(b) The board shall annually provide the data collected pursuant~~
14 ~~to subdivision (a) to the Office of Statewide Health Planning and~~
15 ~~Development in a manner directed by the office that allows for~~
16 ~~inclusion of the data into the annual report required by Section~~
17 ~~128052 of the Health and Safety Code.~~

18 ~~(c) A licensee may, but is not required to, report his or her race~~
19 ~~or ethnicity to the board.~~

20 SEC. 5. Section 3770.1 of the Business and Professions Code
21 is repealed.

22 3770.1. ~~(a) The board shall collect, at least biennially, at the~~
23 ~~times of both issuing an initial license and issuing a renewal~~
24 ~~license, all of the following data on respiratory therapists licensed~~
25 ~~under this chapter:~~

- 26 ~~(1) Location of practice, including city, county, and ZIP Code.~~
- 27 ~~(2) Race or ethnicity, subject to subdivision (c).~~
- 28 ~~(3) Gender.~~
- 29 ~~(4) Languages spoken.~~
- 30 ~~(5) Educational background.~~
- 31 ~~(6) Classification of primary practice site among the types of~~
32 ~~practice sites specified by the board, including, but not limited to,~~
33 ~~clinic, hospital, managed care organization, or private practice.~~

34 ~~(b) The board shall annually provide the data collected pursuant~~
35 ~~to subdivision (a) to the Office of Statewide Health Planning and~~
36 ~~Development in a manner directed by the office that allows for~~
37 ~~inclusion of the data into the annual report required by Section~~
38 ~~128052 of the Health and Safety Code.~~

39 ~~(c) A licensee may, but is not required to, report his or her race~~
40 ~~or ethnicity to the board.~~

1 SEC. 6. Section 4506 of the Business and Professions Code is
2 repealed.

3 ~~4506. (a) The board shall collect, at least biennially, at the~~
4 ~~times of both issuing an initial license and issuing a renewal~~
5 ~~license, all of the following data on psychiatric technicians licensed~~
6 ~~under this chapter:~~

7 ~~(1) Location of practice, including city, county, and ZIP Code.~~

8 ~~(2) Race or ethnicity, subject to subdivision (c).~~

9 ~~(3) Gender.~~

10 ~~(4) Languages spoken.~~

11 ~~(5) Educational background.~~

12 ~~(6) Classification of primary practice site among the types of~~
13 ~~practice sites specified by the board, including, but not limited to,~~
14 ~~clinic, hospital, managed care organization, or private practice.~~

15 ~~(b) The board shall annually provide the data collected pursuant~~
16 ~~to subdivision (a) to the Office of Statewide Health Planning and~~
17 ~~Development in a manner directed by the office that allows for~~
18 ~~inclusion of the data into the annual report required by Section~~
19 ~~128052 of the Health and Safety Code.~~

20 ~~(c) A licensee may, but is not required to, report his or her race~~
21 ~~or ethnicity to the board.~~

22 SEC. 7. The Legislature finds and declares that Section 1 of
23 this act, which adds Section 502 of the Business and Professions
24 Code, imposes a limitation on the public's right of access to the
25 meetings of public bodies or the writings of public officials and
26 agencies within the meaning of Section 3 of Article I of the
27 California Constitution. Pursuant to that constitutional provision,
28 the Legislature makes the following findings to demonstrate the
29 interest protected by this limitation and the need for protecting
30 that interest:

31 In order to protect the privacy of licensees, while also gathering
32 useful workforce data, it is necessary that some information
33 collected from licensees only be released in aggregate form.

O

ASSEMBLY BILL

No. 3045

Introduced by Assembly Member Gray

February 21, 2020

An act to add Section 115.7 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 3045, as introduced, Gray. Department of Consumer Affairs: boards: veterans: military spouses: licenses.

Under existing law, the Department of Consumer Affairs, under the control of the Director of Consumer Affairs, is comprised of various boards that license and regulate various professions and vocations. Existing law requires an applicant seeking a license from a board within the department to meet specified requirements and to pay certain licensing fees. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law requires these temporary licenses to expire 12 months after issuance. Under existing law, some of the funds within

the jurisdiction of a board consist of revenue from fees that are continuously appropriated.

This bill would require boards not subject to the temporary licensing provisions described above to issue licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is an honorably discharged veteran of the Armed Forces of the United States or is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, as provided. The bill would require an application for a license to include a signed affidavit attesting to the fact that the applicant meets all requirements for a license. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill’s expansion of the requirement to issue licenses would result in revenues from fees for certain licenses being deposited into continuously appropriated funds. By establishing a new source of revenue for those continuously appropriated funds, the bill would make an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 115.7 is added to the Business and
- 2 Professions Code, to read:
- 3 115.7. (a) A board not specified in subdivision (a) of Section
- 4 115.6 shall, after appropriate investigation, issue a license to an
- 5 applicant if the applicant meets all of the following requirements:
- 6 (1) The applicant shall supply evidence satisfactory to the board
- 7 that the applicant is an honorably discharged veteran of the Armed
- 8 Forces of the United States or is married to, or in a domestic
- 9 partnership or other legal union with, an active duty member of
- 10 the Armed Forces of the United States who is assigned to a duty
- 11 station in this state under official active duty military orders.
- 12 (2) The applicant shall hold a current, active, and unrestricted
- 13 license that confers upon the applicant the authority to practice,

1 in another state, district, or territory of the United States, the
2 profession or vocation for which the applicant seeks a license from
3 the board.

4 (3) The applicant shall submit an application to the board that
5 shall include a signed affidavit attesting to the fact that the
6 applicant meets all of the requirements for the license and that the
7 information submitted in the application is accurate, to the best of
8 the applicant's knowledge. The application shall also include
9 written verification from the applicant's original licensing
10 jurisdiction stating that the applicant's license is in good standing
11 in that jurisdiction.

12 (4) The applicant shall not have committed an act in any
13 jurisdiction that would have constituted grounds for denial,
14 suspension, or revocation of the license under this code at the time
15 the act was committed. A violation of this paragraph may be
16 grounds for the denial or revocation of a license issued by the
17 board.

18 (5) The applicant shall not have been disciplined by a licensing
19 entity in another jurisdiction and shall not be the subject of an
20 unresolved complaint, review procedure, or disciplinary proceeding
21 conducted by a licensing entity in another jurisdiction.

22 (6) The applicant shall, upon request by a board, furnish a full
23 set of fingerprints for purposes of conducting a criminal
24 background check.

25 (b) A board may adopt regulations necessary to administer this
26 section.

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

O

ASSEMBLY BILL

No. 3315

**Introduced by Assembly Members Eduardo Garcia, Gonzalez, and
Reyes
(Coauthors: Assembly Members Carrillo, Cooper, Gipson, Medina,
Quirk-Silva, and Salas)**

February 21, 2020

An act to amend and repeal Section 1636.4 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 3315, as introduced, Eduardo Garcia. Dentistry: foreign dental schools: applications.

Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists and dental assistants by the Dental Board of California. The act, prior to January 1, 2020, required the board to approve foreign dental schools based on specified standards, and required a foreign dental school seeking approval to submit an application to the board, including, among other things, a finding that the educational program of the foreign dental school is equivalent to that of similar accredited institutions in the United States and adequately prepares its students for the practice of dentistry. Existing law required the foreign dental school to submit a specified registration fee and to pay the board's reasonable costs and expenses to conduct an approval survey. Existing law also required an approved institution to submit a renewal application every 7 years and to pay a specified renewal fee.

Existing law, beginning January 1, 2020, prohibits the board from accepting new applications for approval of foreign dental schools and instead requires foreign dental schools seeking approval to complete

the international consultative and accreditation process with the Commission on Dental Accreditation of the American Dental Association (CODA) or a comparable accrediting body approved by the board. Existing law requires previously approved foreign dental schools to complete the CODA accreditation by January 1, 2024, to remain approved.

This bill would repeal the provisions that, beginning January 1, 2020, prohibit the board from accepting new applications for the approval of foreign dental schools, and would instead require the board to approve foreign dental schools in the same manner as prior to January 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1636.4 of the Business and Professions
2 Code, as amended by Section 35 of Chapter 865 of the Statutes of
3 2019, is amended to read:

4 1636.4. (a) The Legislature recognizes the need to ensure that
5 graduates of foreign dental schools who have received an education
6 that is equivalent to that of accredited institutions in the United
7 States and that adequately prepares their students for the practice
8 of dentistry shall be subject to the same licensure requirements as
9 graduates of approved dental schools or colleges. It is the purpose
10 of this section to provide for the evaluation of foreign dental
11 schools and the approval of those foreign dental schools that
12 provide an education that is equivalent to that of similar accredited
13 institutions in the United States and that adequately prepare their
14 students for the practice of dentistry.

15 (b) The board shall be responsible for the approval of foreign
16 dental schools based on standards established pursuant to
17 subdivision (d). The board may contract with outside consultants
18 or a national professional organization to survey and evaluate
19 foreign dental schools. The consultant or organization shall report
20 to the board regarding its findings in the survey and evaluation.

21 (c) (1) The board shall establish a technical advisory group to
22 review and comment upon the survey and evaluation of a foreign
23 dental school contracted for pursuant to subdivision (b), prior to
24 any final action by the board regarding certification of the foreign
25 dental school. The technical advisory group shall be selected by

1 the board and shall consist of four dentists, two of whom shall be
2 selected from a list of five recognized United States dental
3 educators recommended by the foreign school seeking approval.
4 None of the members of the technical advisory group shall be
5 affiliated with the school seeking certification.

6 (2) If the board does not contract for the evaluation pursuant to
7 subdivision (b), no technical advisory group shall be established
8 and the evaluation team for the schoolsite shall provide its report
9 directly to the board.

10 (d) Any foreign dental school that wishes to be approved
11 pursuant to this section shall make application to the board for this
12 approval, which shall be based upon a finding that the educational
13 program of the foreign dental school is equivalent to that of similar
14 accredited institutions in the United States and adequately prepares
15 its students for the practice of dentistry. Curriculum, faculty
16 qualifications, student attendance, plant and facilities, and other
17 relevant factors shall be reviewed and evaluated. The board, with
18 the cooperation of the technical advisory group, shall identify by
19 rule the standards and review procedures and methodology to be
20 used in the approval process consistent with this subdivision. The
21 board shall not grant approval if deficiencies found are of such
22 magnitude as to prevent the students in the school from receiving
23 an educational base suitable for the practice of dentistry.

24 (e) Periodic surveys and evaluations of all approved schools
25 shall be made to ensure continued compliance with this section.
26 Approval shall include provisional and full approval. The
27 provisional form of approval shall be for a period determined by
28 the board, not to exceed three years, and shall be granted to an
29 institution, in accordance with rules established by the board, to
30 provide reasonable time for the school seeking permanent approval
31 to overcome deficiencies found by the board. Prior to the expiration
32 of a provisional approval and before the full approval is granted,
33 the school shall be required to submit evidence that deficiencies
34 noted at the time of initial application have been remedied. A
35 school granted full approval shall provide evidence of continued
36 compliance with this section. In the event that the board denies
37 approval or reapproval, the board shall give the school a specific
38 listing of the deficiencies that caused the denial and the
39 requirements for remedying the deficiencies, and shall permit the
40 school, upon request, to demonstrate by satisfactory evidence,

1 within 90 days, that it has remedied the deficiencies listed by the
2 board.

3 (f) A school shall pay a registration fee established by rule of
4 the board, not to exceed one thousand dollars (\$1,000), at the time
5 of application for approval and shall pay all reasonable costs and
6 expenses the board incurs for the conduct of the approval survey.

7 (g) The board shall renew approval upon receipt of a renewal
8 application, accompanied by a fee not to exceed five hundred
9 dollars (\$500). Each fully approved institution shall submit a
10 renewal application every seven years. Any approval that is not
11 renewed shall automatically expire.

12 ~~(h) (1) Beginning January 1, 2020, the board shall not accept~~
13 ~~new applications for schools seeking approval as a foreign dental~~
14 ~~school and shall instead require the applicant to successfully~~
15 ~~complete the international consultative and accreditation process~~
16 ~~with the Commission on Dental Accreditation of the American~~
17 ~~Dental Association or a comparable accrediting body approved by~~
18 ~~the board.~~

19 ~~(2) An application submitted under this section must be deemed~~
20 ~~a complete application pursuant to the rules promulgated by the~~
21 ~~board prior to January 1, 2020, in order to be accepted.~~

22 ~~(3) Notwithstanding any other law, a school required to submit~~
23 ~~a renewal application after January 1, 2020, shall not submit that~~
24 ~~application and shall be deemed approved until January 1, 2024,~~
25 ~~subject to the continued compliance of the school as described in~~
26 ~~subdivision (e).~~

27 ~~(i) By January 1, 2024, in order to remain an approved foreign~~
28 ~~dental school in the state, all schools previously approved by the~~
29 ~~board as a foreign dental school shall have successfully completed~~
30 ~~the international consultative and accreditation process with the~~
31 ~~Commission on Dental Accreditation of the American Dental~~
32 ~~Association or a comparable accrediting body approved by the~~
33 ~~board. Graduates of a foreign dental school whose programs were~~
34 ~~approved at the time of graduation shall be eligible for licensure~~
35 ~~pursuant to Section 1628.~~

36 ~~(j) This section shall remain in effect only until January 1, 2024,~~
37 ~~and as of that date is repealed.~~

38 SEC. 2. Section 1636.4 of the Business and Professions Code,
39 as added by Section 36 of Chapter 865 of the Statutes of 2019, is
40 repealed.

1 ~~1636.4. (a) The Legislature recognizes the need to ensure that~~
2 ~~graduates of foreign dental schools who have received an education~~
3 ~~that is equivalent to that of accredited institutions in the United~~
4 ~~States and that adequately prepares the students for the practice~~
5 ~~of dentistry shall be subject to the same licensure requirements as~~
6 ~~graduates of approved dental schools or colleges. It is the purpose~~
7 ~~of this section to provide for the evaluation of foreign dental~~
8 ~~schools and the approval of those foreign dental schools that~~
9 ~~provide an education that is equivalent to that of similar accredited~~
10 ~~institutions in the United States and that adequately prepare their~~
11 ~~students for the practice of dentistry.~~

12 ~~(b) Beginning January 1, 2024, a school seeking approval as a~~
13 ~~foreign dental school shall be required to have successfully~~
14 ~~completed the international consultative and accreditation process~~
15 ~~with the Commission on Dental Accreditation of the American~~
16 ~~Dental Association or a comparable accrediting body approved by~~
17 ~~the board. Graduates of a foreign dental school whose programs~~
18 ~~were approved at the time of graduation shall be eligible for~~
19 ~~licensure pursuant to Section 1628.~~

20 ~~(c) This section shall become operative on January 1, 2024.~~

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AMENDED IN SENATE APRIL 17, 2020
AMENDED IN SENATE MARCH 25, 2020

SENATE BILL

No. 1168

Introduced by Senator Morrell

February 20, 2020

An act to amend Section 11009.5 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as amended, Morrell. State agencies: licensing services.

Existing law authorizes a state agency that issues any business license to establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.

This bill would require a state agency that issues any business license to establish a process for a person or business that is experiencing economic hardship as a result of an emergency caused by a virus to submit an application for deferral of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display. The bill would require the deferral period to end 60 days following the end of the emergency.

This bill would *also* require a state agency that issues any business license to establish a process to expedite licensing services, as defined, for a person or business that meets specified criteria, including that the person or business has been displaced by an emergency proclaimed or declared within 365 days of the request for licensing services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11009.5 of the Government Code is
2 amended to read:
3 11009.5. (a) For purposes of this section:
4 (1) “Displaced” means a condition in which the person or
5 business is unable to return to the address of record or other address
6 associated with the license before experiencing economic hardship.
7 (2) “Economic hardship” means the inability to pay living or
8 business expenses, unless otherwise defined by a state agency
9 pursuant to subdivision (c).
10 (3) “Emergency” means an emergency as defined in Section
11 8558 or a declared federal emergency.
12 (4) “License” includes, but is not limited to, a certificate,
13 registration, or other document required to engage in business.
14 (5) “Licensing services” includes, but is not limited to, replacing
15 a physical copy of a license that is required to be displayed or
16 carried, applying for or renewing a license, and applying for a
17 waiver or reduction of licensing fees.
18 (b) (1) Notwithstanding any other law, a state agency that
19 issues any business license ~~may~~ *may, in addition to the*
20 *requirements of paragraph (2), establish a process for a person or*
21 *business that has been displaced or is experiencing economic*
22 *hardship as a result of an emergency to submit an application, that*
23 *the agency may grant, for a reduction or waiver of any fees required*
24 *by the agency to obtain a license, renew or activate a license, or*
25 *replace a physical license for display.*
26 (2) (A) *A state agency that issues any business license shall*
27 *establish a process for a person or business that is experiencing*
28 *economic hardship as a result of an emergency caused by a virus*
29 *to submit an application, that the agency shall grant, for a deferral*
30 *of any fees required by the agency to obtain a license, renew or*
31 *activate a license, or replace a physical license for display.*
32 (B) *The deferral period granted pursuant to this paragraph*
33 *shall end 60 days following the end of the emergency.*

1 (c) A fee *deferral*, *reduction*, or waiver process established
2 pursuant to subdivision (b) shall specify, at a minimum, all of the
3 following:

4 (1) The methodology used by the agency for determining
5 whether a person, as a result of an emergency, has been displaced
6 or is experiencing economic hardship.

7 (2) The procedure for applying for a ~~reduction~~ *fee deferral*,
8 *reduction*, or ~~fee~~ waiver.

9 (3) That the application shall be made within one year of the
10 date on which the emergency was proclaimed or declared.

11 (d) Notwithstanding any other law, a state agency that issues
12 any business license shall establish a process to expedite licensing
13 services for a person or business that meets either of the following
14 criteria:

15 (1) The person or business has been displaced by an emergency
16 proclaimed or declared within 365 days of the request for licensing
17 services.

18 (2) The person or business is experiencing economic hardship
19 directly resulting from an emergency proclaimed or declared within
20 365 days of the request for licensing services.

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MEMORANDUM

DATE	April 28, 2020
TO	Members of the Dental Board of California
FROM	Karen Fischer, MPA, Executive Officer Dental Board of California
SUBJECT	Agenda Item 8: Discussion and Possible Action Regarding Directing the Department of Consumer Affairs' Office of Professional Examination Services to Review the WREB Mannikin Based Examination and the ADEX CompeDont Examination

Background:

In an effort to combat the spread of the Coronavirus and in response to the Governor's stay-at home order, the six California dental schools have closed their clinics. These clinics are not only utilized to treat patients, but also for the administration of licensure examinations. Since the closures, there have been significant interruptions to the administration of licensure examinations for the 2020 dental graduates. Examinations have been postponed until the stay-at-home order is lifted and students, patients, and examiners can be assured a safe environment.

Prior to COVID-19, both the WREB and ADEX examinations utilized patients for two of their respective examinations – operative/restorative and periodontics. In an effort to respond to these challenging times, both WREB and ADEX have developed examinations that do not require patients for the operative/restorative section of the examination: WREB Mannikin Based Examination and the ADEX CompeDont Examination. However, there is no recommended change to the patient-based periodontics exam at this time.

Both WREB and ADEX are requesting State Boards to approve the non-patient-based examination, either temporarily or permanently. To assist the Board in this decision, staff recommends that the Board request OPES conduct a study to determine if the proposed non-patient format is legally defensible and psychometrically valid.

Action Options:

- Direct Staff to contact the Department of Consumer Affairs' Office of Professional Examination Services to Review the WREB Mannikin Based Examination and the ADEX CompeDont Examination
- Take no action on this issue at this time

Agenda Item 8: Discussion and Possible Action Regarding Directing the Department of Consumer Affairs' Office of Professional Examination Services to Review the WREB Mannikin Based Examination and the ADEX CompeDont Examination
 Dental Board of California Meeting
 May 14, 2020

WREB Dental and Dental Hygiene Licensing Examination COVID-19 Options for 2020

WREB is an independent testing agency that develops, administers, and reports the outcome of practical clinical examinations administered to candidates for licensing in dentistry and dental hygiene. While aware of the needs of students and dental education programs, WREB's sole purpose is to provide state boards with examinations that have high reliability and are supported by a strong validity argument—examinations state boards can rely on to inform licensing decisions. For this reason, WREB is highly responsive to the needs and wishes of state boards that recognize its examinations.

- WREB Dental Examination options are described below (pp. 1-4).
- WREB Dental Hygiene Examination options are described on pp. 5-6.

WREB Dental Licensing Examination COVID-19 Options for 2020

Following are options state boards could consider in response to COVID-19:

Dental Examination without Change

WREB's standard dental examination which includes two simulations (Endodontics and Prosthodontics) and two patient-based sections (Operative Dentistry and Periodontics) in addition to the Comprehensive Treatment Planning (CTP) section will continue to be offered as soon as test sites again are able to schedule this type of examination. This option may not address the needs of state boards attempting to respond to the concerns of dental candidates and schools who wish to complete the licensure process within the next several months. Even when re-established, examination administration may be subject to interim restrictions. States that specifically require two patient-based restorative procedures and wish to reduce the burden on licensure candidates imposed by COVID-19 could safely accept WREB's Operative Section as it is scored and validated, which has demonstrated that candidate competency can be reliably assessed with more than 40% fewer patient-based procedures.ⁱ

CTP Only

WREB's CTP (Comprehensive Treatment Planning) Sectionⁱⁱ is an ASCE (Authentic Simulated Clinical Examination) which requires the candidate to construct responses (as opposed to an OSCE in which the candidate selects responses from options, locations, or choices provided). The CTP ASCE is open-ended and graded by independent, anonymous examiners. It reveals candidate thinking and requires candidates to perform tasks that dentists perform and to make decisions that dentists make, all without choices they can select or cues of any kind. If acceptance of only an OSCE examination is being considered, then acceptance of WREB's CTP ASCE which is an even more authentic demonstration of relevant candidate knowledge, skill, and ability, should be considered.

COVID-19 Alternative Performance-based Simulation

Patient-based assessment has high fidelity. WREB is not abandoning patient-based assessment but continues to evaluate the validity and viability of assessment alternatives, including simulation. WREB has been developing simulations that soon may be able to replace patient-based assessment for Operative Dentistry and Periodontics, the last two patient-based sections of its current dental examination. These simulations are in development and undergoing review.

In the meantime, the advent of COVID-19 has placed students and their education programs in a difficult and frustrating position. Students need to graduate, move on, obtain employment, or begin their advanced dental education residencies; their education programs need them to graduate and move on in order accept a new entering class and appropriately advance the classes below them. COVID-19 associated risk and social distancing currently completely obstruct student ability to challenge the traditional, patient-based examination. While WREB understands that COVID-19 is creating a crisis for students, for dental education programs, and even for the profession, its singular purpose is to support the needs of state boards in their regulatory role and charge to protect the public.

Students and program directors recently have appealed to state boards and, not knowing exactly how long COVID-19 risk and need for social distancing might continue, state boards in a few states now have appealed to WREB for potential solutions they might consider along with suggestions they've received that include waiving clinical examination requirements altogether, waiving the patient-based sections of the clinical examination, granting a provisional license until the applicant is able to complete the full examination, acceptance of the DLOSCE in lieu of a practical demonstration of clinical skills, and variations of these.

In response and in addition, WREB has field-tested an alternative, performance-based simulation that could be required in lieu of its traditional patient-based Operative Section. This alternative included the field-testing of social distancing for both candidates and examiners.

In the simulation, each candidate is required to successfully perform both preparation and finish of a conventional Class II restoration on a molar and a Class III restoration on a central incisor. All procedures are performed, like they are for the Endodontics and Prosthodontics sections, in full simulation and with rubber-dam isolation. Results are assessed using established Operative Section criteria. Certain critical errors are preserved, and the passing cut-point remains unchanged. The simulation involves social distancing for both candidates and examiners and uses materials (simulation teeth and arches) which are readily available and with which candidates and their programs already are familiar.

This alternative for the Operative Section is intended to be a provisional solution for 2020 (COVID-19) only and is intended neither to replace WREB's patient-based Operative Section in 2020 for states that continue to require it nor to be the simulation WREB intends to offer in the future

when social distancing is not a concern and the validity of a more realistic and involved simulation can be demonstrated.

The second patient-based section of the current WREB dental examination is the Periodontics Section. This section assesses a candidate's understanding of periodontal diagnosis and ability to physically perform initial periodontal therapy (periodontal scaling and root-planing). However, this section already is elective, is not required for licensing in some states, and tests a physical skill that, increasingly, dentists do not themselves perform.ⁱⁱⁱ The Periodontics Section, while valued by many states, is, by far, the least discriminating section of the entire examination.^{iv} Also, important aspects of periodontal diagnosis and treatment decision-making (things dentists do and are expected to know how to do) already are well covered in the unique CTP Section of WREB's dental examination. State boards may decide to waive or postpone the patient-based Periodontics section until such time as it again may become available to applicants.

These are dental examination options that WREB currently is making available for state board consideration in this highly unusual year. It is assumed that any waiver or exception a state grants due to COVID-19 might be restricted to matriculated students of CODA accredited dental education programs graduating in the spring of 2020 and would not necessarily set a precedent for future years or apply to any other group of applicants. WREB recognizes that all these and related decisions reside with the state and depend on the Board or on the Board's advice to the state authority empowered to grant a variance due to current, emergent COVID-19 circumstances.

Logistic detail regarding the implementation of WREB's dental examination or any of the described alternatives depends on the capacity, limitations, and COVID-19 restrictions imposed by or on any host site where an examination is conducted.

WREB's standard dental examination which includes the fidelity associated with two simulations (Endodontics and Prosthodontics) and two patient-based sections (Operative Dentistry and Periodontics) in addition to CTP will continue to be offered as soon as test sites again are able to host this type of examination.

ⁱ Fewer patient-based procedures were required to determine 4,457 candidate pass/fail outcomes for the Operative Section in 2018 (42.0% fewer) and 2019 (41.1% fewer). No significant difference was found between first and second procedure performance for candidates who scored at or above the cut-score on the first procedure. The second procedure added no significant contribution to the assessment of these candidates. Only four of these candidates failed the section despite demonstrating competence on the first procedure; all four scored close to the cut-score and three have already passed upon retake.

ⁱⁱ The CTP Section is the most comprehensive section of the WREB Dental Examination. It tests candidate knowledge, skills and abilities that cannot be readily sampled in other ways and includes assessment of meaningful aspects of every other section of the Examination. The CTP Section is designed to integrate the disciplines of dentistry in a practical, clinical way. The construction of appropriately sequenced treatment plans and item responses requires broad understanding of diagnostic, preventive and restorative dentistry, of endodontics, periodontics, and prosthodontics, as well as oral surgical, radiological, pediatric dentistry, and patient-management procedures, and understanding of the relationships between these procedures and their clinical application under various patient conditions.

The CTP Section is open-ended; it's an authentic simulated clinical examination (ASCE)—a practical, performance-based examination. It requires candidates to construct their responses unaided by cues, choices, or locations they can select. In many instances it requires candidates to perform the very tasks dentists perform and, for this reason, has extraordinary fidelity for a computer-based examination. Rigorous examiner training and calibration contributes to high outcome reliability for the CTP examination. And the large reservoir of examination cases, frequent case modification, and the permutation of cases in the forms used every year significantly enhance test security for the CTP examination. All combine to create a strong validity argument for using results of WREB's CTP examination to inform licensing decisions.

ⁱⁱⁱ In 2013 74.6% of general practitioners in solo practice employed one or more dental hygienists. For general practitioners in nonsolo practice (including various forms of group practice, "corporate" practice, etc.) 92.2% work in situations where dental hygienists perform scaling and root-planing services. -ADA, Science and Research – Health Policy Institute, Data Center, Dental Practice.

Authors Thomas Wall, M.A., M.B.A.; Albert H. Guay, D.M.D. in their article *Very Large Dental Practices Seeing Significant Growth in Market Share*. Health Policy Institute – Research Brief. August 2015. Point out that:

- From 2002 to 2012, market share increased for dental firms with 20 employees or more, while dental firms with fewer than five employees experienced a decline in market share.
- During the same period, very large dental firms – those with 500 employees or more – also saw increases in number of establishments, number of employees and annual receipts.

The national 2018 Dental Practice Analysis conducted jointly by WREB and CRDTS suggests that dentists, themselves, now are performing very few scaling and root-planing procedures compared to dental hygienists. The 2017 Dental Hygiene Practice Analysis survey specifically asked how often certain procedures were performed by the dentist and 84.6% of respondents said the dentist performed these tasks Rarely or Never.

The average of all general dentists employing dental hygienists in 2013 was 77.2%. From 1990 to 2013 the average number of dental hygienists per dentist in the primary practice (among dentists employing dental hygienists) steadily increased. This trend has been continuing. More and more dentists are having dental hygienists perform basic periodontal services and are using more dental hygienists per capita to do this. Dentists, themselves, are doing fewer and fewer of these tasks. Assessing these skills for dentists, now, may not be supported by the practice (task) analyses that underpin the design of a valid dental licensing examination.

^{iv} Evidence in favor of non-requirement includes exceptionally high proportions of candidates performing extremely well on the Periodontics section. Most of the candidates who do fail the Periodontics section multiple times have also failed at least one other section multiple times. Only four (4) out of almost 13,000 (i.e., 0.03%) candidates from 2011 to 2016 remained unsuccessful due to Periodontics Section failure.

WREB Dental Hygiene Licensing Examination COVID-19 Options for 2020

The following are options state boards could consider in response to COVID-19:

Dental Hygiene Clinical Examination (patient-based)

WREB's standard dental hygiene examination includes the following components:

- Patient Qualification
- Extraoral/Intraoral Examination
- Calculus detection and removal
- Tissue Management
- Periodontal Assessment
- Professional judgment

Many Candidates are still faced with completing educational requirements and CODA has approved alternative methods to have students complete their didactic and clinical requirements. The COVID-19 pandemic has touched everyone; however, some dental hygiene programs are seeing more restrictive state policies being implemented than similar programs in other states. Because of these inconsistencies, the time period for completion of dental hygiene requirements will vary by state; some programs are being postponed for several weeks and others for several months.

In the interim, and at the request of educators, WREB has rescheduled all Dental Hygiene, Local Anesthesia, and Restorative examinations. Taking a clinical examination is still a viable option, as WREB anticipates Candidates will still want an examination that allows them greater portability than licensure in a single state.

WREB is acutely aware of the risks associated with COVID-19 but is well prepared and capable of adjusting our exam protocol to adhere to national and state regulations without risking the integrity of the exam or the safety of the candidates, patient, and examiners.

Comprehensive Written Dental Hygiene OSCE Component

WREB understands that for many states, the current patient-based clinical examination may not fit the current needs of state boards seeking alternative pathways for dental hygiene licensure. COVID-19 associated risks along with social distancing, impede a student's ability to challenge the traditional, patient-based examination. WREB understands that COVID-19 is creating a crisis for students, for dental hygiene education programs, and even for the profession, and is prepared to serve as a resource for our member state boards and committees during this crisis and provide alternative testing methods while still maintaining the fidelity of our examinations.

WREB is developing a dental hygiene written OSCE that includes dental hygiene components that are essential for safe practice while testing a candidate's knowledge about dental hygiene care. This examination is an accumulation of beta-tested dental hygiene items that have been used in

other WREB examinations and are psychometrically sound. The examination may serve as an alternative to a patient-based examination for licensure. WREB is prepared to administer this examination on site at each school with our own equipment utilizing social distancing protocols. Utilizing testing centers will not be necessary.

The process of treating a patient's oral health not only requires good instrumentation skills, but also possessing an aptitude for making correct treatment decisions. Critical thinking skills are important in the assessment of the patient's needs and to accurately develop a care plan that reflects a patient's individualized care. These steps form the foundation for dental hygiene treatment which ultimately leads to healthy outcomes and improvement in health.

The WREB Dental Hygiene OSCE is a multiple-choice written component that assesses these multi-faceted components of dental hygiene care. This is a comprehensive overview of dental hygiene knowledge, radiographic interpretation, AAP staging and grading, extra and intra oral assessment and risk assessment, care plan development, and assessment and treatment of the periodontium. The exam is an avenue to test the skills of an entry-level student, either replacing the current clinical examination or in conjunction with a clinical licensure exam should a state board want an additional assessment examination.



AMERICAN BOARD OF DENTAL EXAMINERS, INC.

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ADEX™ Dental Examinations to Offer CompeDont™ Perhaps as Soon as Summer 2020

2020 ADEX™ Press Release

For Release: April 7, 2020

Email Inquiries: office@adexexams.org

LAS VEGAS, NEVADA — The American Board of Dental Examiners, ADEX™, has approved the use and offering of the CompeDont™, the simulated tooth developed as an alternative option in the dental licensure examination restorative challenge. The CompeDont™, produced with support from The Commission on Dental Competency Assessments (CDCA), will be used in the anterior and posterior preparation and restoration sections of the ADEX dental clinical licensure examination. This will offer dental licensure boards/agencies the choice to accept this non-patient involved professional proficiency demonstration or continue to accept the patient required participation.

This addition to the dental examination was only possible after a 3-year development and evaluation process, which included 548 candidates taking a high stakes examination process utilizing the CompeDont™ tooth. The results confirmed that the tooth was able to be used to evaluate the clinical performance of the candidates while finding the same critical deficiencies that were found when evaluating patient care. No other currently available simulated tooth was found that could replicate these consistent findings.

The CompeDont™ tooth will be available for both the Class II and Class III procedures, preparation and restoration. The ADEX testing agencies Council of Interstate Testing Agencies (CITA) and CDCA will both be prepared to offer the examinations with the CompeDont™. Candidates can fulfill the requirements with any combination of patient/ CompeDont™ procedures. In other words, candidates that have already completed one of the restorative procedures on a patient can still perform the remaining procedure on the CompeDont™ tooth, subject to the approval of the state board of dentistry in which they are seeking licensure. Scheduling of the examinations should be done directly with CDCA and CITA.

The manufacturing of the simulated tooth at full production will begin as soon as feasible once current COVID-19 restrictions are eased and then made available to both ADEX testing agencies, CDCA and CITA. Again, as always, it will be at the discretion of state licensing boards/agencies whether to accept this additional offering in testing modality.

For any questions about the ADEX™ examination please contact: ADEX™ at office@adexexams.org For questions about the CompeDont™ please contact The Commission on Dental Competency Assessments at: www.cdcaexams.org. To schedule examinations contact CDCA (www.cdcaexams.org) or CITA (www.citaexam.com).

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AMERICAN BOARD OF DENTAL EXAMINERS, INC.

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Bruce Barrette, D.D.S., Past President

April 29, 2020

Dental Board of California
Thomas Stewart, DDS, President
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815

Dear President Stewart:

On April 2, 2020, the ADEX Dental Examination Committee evaluated the results of a mode effects study evaluating the CompeDont™ tooth as a potential restorative simulated examination platform. The research design of the mode effects study was developed in collaboration with independent psychometricians, and six dental schools throughout the United States. A mode effects study is the appropriate required methodology when proposing an alternate examination process. The tooth has been in development for over three years, and the attached report contains the results of that study. This project was not undertaken in response to the COVID-19 pandemic and was scheduled to be reported to the ADEX member dental boards this August, but since the results have been finalized, they are being provided to you. As a result of the study outcomes, representatives from 30 ADEX member dental boards voted 29-1 to allow the restorative procedures in the ADEX Dental Examination process to be completed on either a live patient or the CompeDont™ tooth.

As part of this process all of the other available typodont teeth, both with and without caries, were evaluated and found to be an inadequate examination simulation. Unlike the CompeDont™ tooth, which has enamel of the same hardness and character of a natural tooth, caries which are variable, transitioning from infected dentin to affected dentin to sclerotic dentin, and propagates along the DEJ as in a natural tooth, the other available typodont teeth were the same or similar to teeth used in D1 and D2 preclinical training and do not simulate a natural tooth. The CompeDont™ tooth allows administration of the ADEX examination, and all restorative criteria evaluated, just as with the patient.

We know many of our member dental boards are being petitioned to alter examination standards and content. In addition, graduation requirements may be reinterpreted and adjusted which might allow reduced clinical training. ADEX understands that the psychomotor performance examinations become even more important in this environment. ADEX would not consider an off-the-shelf solution which would not offer an examination that would identify the competency issues that are currently tested, or merely reproduce an exercise used in pre-clinical training in dental school. We are pleased to be able to offer for consideration a valid non-patient alternative for those dental boards that would want such an alternative. There would be no PPE requirements, no infectious aerosol, but all of the grading criteria, including preparation modification evaluation, remain in place. The CompeDont™ will provide a challenge in both preparation and restoration for the Class II and the Class III, and are available only to the ADEX testing agencies, the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies (CITA).

For the Dental Periodontal Scaling Exercise and the Dental Hygiene Clinical Examination (including periodontal probing, calculus detection and calculus removal), the psychometric analysis for a feasibility study will be presented to the ADEX Board of Directors for evaluation and possible adoption of manikin examinations to serve those needs at a properly noticed meeting on May 15, 2020. ADEX will provide you with the analysis and the results of that meeting as soon as possible after that meeting.

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If you choose to utilize the CompeDont™ for these challenging times or you would like to move to a patient free examination, the ADEX examination offers the most widely accepted, independent examination for the dental profession. Please contact the ADEX office or our testing agencies, CDCA and CITA, for more information on how to bring the CompeDont™ to your state.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read "William G. Pappas". The signature is fluid and cursive, with a long horizontal stroke at the end.

William G. Pappas, D.D.S.
President, ADEX

Attachment

WGP/kk



CDCA High Fidelity Restorative Simulation Mode Effects Study

April 20, 2020

Prepared by:
Susan Davis-Becker, Ph.D. &
Chad W. Buckendahl, Ph.D.

Introduction

In 2019, the CDCA began data collection for a study to evaluate a new type of simulated tooth – the CompeDont™ DTX High Fidelity tooth – as a possible alternative for the demonstration of skills in the ADEX dental licensure examination. Although development of the tooth had been occurring for a few years prior, this was the first larger scale effort to review the performance in a testing setting. The CDCA identified ACS Ventures, LLC (ACS) to evaluate the fidelity of this tooth through a mode effects study where use of this CompeDont™ tooth in an examination setting was compared to traditional examination results. A mode effects study is designed to evaluate examinees' performance on knowledge, skills, or abilities that are administered in more than one format or mode. Common types of mode effects studies are ones that compare a testing program that is administering a test using paper-pencil and computer-based formats. For a clinical skills demonstration, the administration modes being compared in this study are a simulated tooth in a typodont versus a natural tooth in a patient. Specifically, this evaluation compared candidate performance, types of errors, and rater agreement. This report summarizes the results of this study.

Data and Analyses

In Fall 2019, the CDCA partnered with six dental schools to conduct pilot administrations of the Anterior Restoration procedure (inclusive of preparation and restoration) of the ADEX examination using the CompeDont™ tooth. In total, 548 examinees completed the Anterior Restoration. Examinees represented a diverse group of students from schools selected from multiple geographic regions. In addition, 238 of these examinees (43%) also completed the Posterior Restoration part of the ADEX examination on a patient (i.e., standard administration conditions) as a point of comparison. Across the six administration sites, 66 trained and calibrated examiners participated in the study by evaluating the performance on CompeDont™ and/or natural teeth.

Posterior Restoration

Because this was a pilot exam set up for the mode effects study, the first focus of the analysis was on the Posterior Restoration tasks that 43% of the examinees completed using a patient as they would in the current operational examination. The purpose of including this element in the study was to determine how performance in the pilot exam compared to an operational exam environment. Specifically, the results from this administration allow for a direct comparison to the results from the 2019 and 2018 operational examination results (e.g., pass rate, types of errors). The results (see Table 1) indicate the pass rate for the pilot exam was slightly lower than the 2019 examinations (5% lower) and the 2018 examinations (3% lower). This observation may be due to variation in the sample of examinees relative to the population. In addition, this may also be somewhat influenced by the timing of the study occurring a few months earlier in the training program than when candidates generally take the examination.

Looking closer at the performance of examinees, the most frequent errors were identified from each administration mode. For the preparation part of the task, the same three errors (Caries, Gingival Contact, Adjacent Tooth Damage) were the most frequent for both the pilot exam and the operational examinations. For the restoration part of the task, there were two consistently frequent errors – interproximal contact and margin excess. Finally, the rater agreement (i.e., how often ratings were confirmed) was consistently high between the operational administrations and the mock exam. This collection of evidence suggests that examinees performed similarly in this pilot exam as they would on an operational examination with a slightly lower pass rate. Therefore, even though the new CompeDont™ tooth was tested in a pilot exam (not an operational one), the results are likely to be comparable to those from an operational exam.

Table 1. Comparison of Posterior Restoration Results – Pilot Exam vs. 2018/2019 Operational Exams

	Mock Exam	2019 Operational Exam	2018 Operational Exam
Pass Rate	90%	95%	93%
Most Frequent Errors – Preparation	Caries Gingival contact Adjacent tooth damage	Caries Gingival contact Adjacent tooth damage	Caries Gingival contact Adjacent tooth damage
Most Frequent Errors – Restoration	Interproximal Contact- open/irregular Margin Excess Centric/Excursive Contacts	Interproximal Contact – open irregular Margin Excess Margin Deficiency	Interproximal Contact – open/irregular & closed Margin Excess Margin Deficiency
Rater Agreement	98%	98%	98%

Anterior Restoration

All Anterior Restorations were performed on the CompeDont™ tooth and, given the comparability of the pilot exam results for the Posterior Restoration, the results of this administration were compared to those from the 2018 and 2019 operational administration (see Table 2). The pass rate for the CompeDont™ tooth was meaningfully lower than the 2019 and 2018 examinations (15% and 14% lower, respectively). When examining performance on the preparation task, two types of errors (Caries Remaining and Outline Extension) were the most common for both the CompeDont™ tooth and operational administrations. For the restoration task, the same three errors were common between modes: Margin Excess, Interproximal Contact, and Margin Deficiency. Finally, the rater agreement was consistently high between the operational administrations with the patient and the pilot exam with the CompeDont™ tooth. This collection of evidence suggests that the CompeDont™ tooth was a similar, but more challenging, task for the examinees. Additional analysis to understand the differences in pass rates is described in the next sections of this report.

Table 2. Comparison of Anterior Restoration Results – CompeDont™ Tooth Pilot Exam vs. 2018/2019 Operational Exams

	CompeDont™ Tooth – Pilot Exam	2019 Operational Exam	2018 Operational Exam
Pass Rate	80%	95%	94%
Most common Errors – Preparation	Caries Remaining Outline Extension Axial Walls	Caries Remaining Unrecognized Exposure Outline Extension	Caries Remaining Gingival contact Adjacent tooth damage Outline extension
Most common errors – Restoration	Margin Excess Interproximal contact – open/irregular Margin Deficiency	Interproximal Contact – open/irregular Margin Excess Margin Deficiency	Interproximal contact – open/irregular Margin Excess Margin Deficiency
Rater Agreement	97%	98%	98%

To better understand the differences observed in the pass rates, the results from the CompeDont™ tooth were further explored to determine why 20% of the examinees in the sample failed the Anterior Restoration task. Table 3 shows the specific frequency by which the most common errors were observed for the preparation and restoration tasks between the CompeDont™ tooth-mock exams and the 2018 operational exam. The most notable difference is in the frequency by which a Caries Remaining error was

observed in the preparation task – 15% with the CompeDont™ tooth compared to less than 1% in the 2018 operational exam. To ensure this was not an artifact of the pilot exam situation, the frequency of Caries Remaining was evaluated for the Posterior Restoration. The 2018 operational administration resulted in 1% of examinees having a Caries Remaining error while the pilot exam showed 2.5% having a Caries Remaining error. Therefore, the difference observed in Table 3 is not an artifact of the study but rather likely due to intended design characteristics of the tooth that are further discussed next.

Table 3. Comparison of Error Frequency – CompeDont™ Tooth Pilot Exam vs. 2018 Operational Exam

	CompeDont™ Tooth – Pilot Exam	2018 Operational Exam
Preparation		
Caries	15%	<1%
3 Sub Rule: Outline Extension, Gingival Clearance, Axial Walls	7%	<1%
Restoration		
Margin Excess	2%	<1%
Interproximal Contact	1%	<1%

An important design feature of the CompeDont™ tooth is that carious lesions are presented in a way that is more representative of how caries are observed and treated in practice within a typical patient population. Specifically, the CompeDont™ tooth was designed to have varying degrees of average or moderate levels of caries present. This design characteristic requires candidates to exercise their clinical judgment in addition to their psychomotor skills. As a result, it was expected that virtually all CompeDont™ teeth would require modification from an ideal preparation to perform the procedure because of where the caries would be observed. This is different from the current examination where candidates bring their own patients and that a much smaller percentage of these require modifications.

During the examination, candidate requests for modification from an ideal preparation are handled procedurally through a review and approval process. As part of this study, candidate performance was further evaluated based on whether they requested a modification in the pilot exam and these results were compared to the 2018 operational exam. As shown in Table 4, there were many more modifications with the CompeDont™ tooth as compared to the operational exam (74% compared to 31%). As noted above, because the goal with the simulated tooth was to be more representative of job-related practice, this was expected. In fact, an even higher percentage of modifications for the CompeDont™ tooth were expected as compared with the current examination data. In the 2018 results, the pass rates between those who had a modification and those who did not are very similar (94% and 96%). However, the pass rates for the CompeDont™ tooth were much higher for those who had a modification compared to those who did not (83% compared to 73%).

Table 4. Comparison of Exam Results by Modification (Yes/No) – CompeDont™ Tooth Pilot Exam vs. 2018 Operational Exam

	CompeDont™ Tooth – Pilot Exam	2018 Operational Exam
Modifications (any approved)		
Count (%)	408 (74%)	1018 (31%)
Pass Rate	83%	94%
No Modifications		
Count (%)	140 (26%)	2264 (69%)
Pass Rate	73%	96%

A follow up question to this finding was whether the pass rate differentiation for the CompeDont™ tooth was due to examinees not knowing when to request a modification (when one was needed) or requesting the wrong modification. The results in Table 5 include the pass rate by whether examinees had any modifications approved and/or denied. The results show that most examinees either had all their modification requests approved (group 1) or did not request any modifications (group 4). The other two smaller groups were those that had at least one modification request denied (and at least one accepted – group 2, or none accepted – group 3). These results indicate that the highest pass rate was observed for those examinees who had one or more modification requests accepted (i.e., they understood what to request and when to request). In addition, 26% of examinees did not request a modification with their pass rate being notably lower (73%).

Table 5. Comparison of Exam Results by Modification Request Status

Modification Status	Count	Pass Rate
1. One or more approved (no denials)	325 (59%)	85%
2. One or more accepted & one or more denial	52 (9%)	77%
3. One or more requested – all denied	31 (6%)	71%
4. No modifications requested	140 (26%)	73%
Total	548	80%

Results and Conclusions

The purpose of this mode effects study was to evaluate the feasibility of the CompeDont™ tooth as a possible alternative to a patient for the ADEX Dental restoration examinations. Data were collected from pilot examinations administered to over 500 dental students from six different schools evaluated by over 60 examiners. The results of this analysis suggest the feasibility of the simulated tooth administered in a typodont as comparable to the operational examination based on the comparison of the Posterior Restoration results from previous administration results. Focusing on the Anterior Restoration, the results indicate that use of the CompeDont™ tooth was sensitive to identify the same critical deficiencies identified in the patient-based examinations. An additional feature of the use of the CompeDont™ tooth is that the normal variation observed in practice by dentists can be modeled to further evaluate candidates' clinical judgment in addition to their psychomotor skills.

Although limitations of the simulation include a lack of some of the patient-based characteristics (e.g., saliva, tongue, patient anxiety), the benefit of additional standardization of the environment for candidates and better representation of job-related characteristics of the tooth may outweigh these limitations. The lower pass rate observed during the pilot examination for the simulated tooth suggests that its use does not offer an easier pathway to licensure and may currently be more challenging. The question is whether it is a fair approach to measuring the clinical judgment and psychomotor skills needed for restoration procedures. The difference in pass rates may be explained in part by the timing of the pilot exam (e.g., examinees taking the exam at an earlier date than normal). However, most of the difference can be attributable to the lack of recognition of caries and a need to modify a preparation from the ideal when it is warranted. Evidence of high examiner reliability provides a source of support. When compared with the current examination where candidates select a patient on which to perform the procedure with rates of modification being relatively low, the CompeDont™ tooth may be a better representation of the job-related environment to measure the important clinical judgments and skills that candidates will need to demonstrate in practice.



MEMORANDUM

DATE	May 1, 2020
TO	Members of the Dental Board of California
FROM	Daniel Yoon, Associate Governmental Program Analyst Jessica Olney, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 9: Update Regarding Impact of COVID-19 on Licensing

Background:

On March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, directing all residents in California to stay at home, imposing a shutdown of all non-essential business. This Order was issued in an effort to bend the curve and disrupt the spread of the COVID-19 virus.

The Dental Board of California (Board) has received correspondence from dental assisting educational programs, licensees, and applicants regarding the impact of the COVID-19 virus on Board licensees. The following are some areas in which dental and dental assistant licensing has been impacted by COVID-19:

Board-Approved Dental Assisting Educational Programs and Courses:

Board-approved dental assisting programs and courses have contacted the Board as they are facing potential campus closures and have questions regarding whether didactic instruction may be shifted to a temporary online delivery system.

According to California Code of Regulations (CCR), Title 16, Section 1070.1(b), “the faculty or instructional staff of an educational institution or approved provider may provide didactic instruction via electronic media, home study materials, or live lecture modality.” Therefore, Board-approved dental assisting programs and courses may use alternative instructional and assessment methods, such as distance learning, to continue to provide curricular content.

The Board has received inquiries from Board-approved Registered Dental Assistant (RDA) programs regarding the possibility of modifying or reducing the curriculum requirements or the program length due to the COVID-19 pandemic. These programs have specifically inquired about the number of hours required for laboratory and clinical experience for students to graduate. According to CCR, Title 16, Section 1070.2(d)(5), Board-approved RDA programs must include a minimum of 800 instructional hours, that include at least 275 hours of didactic instruction, at least 260 hours of combined laboratory or preclinical instruction conducted in the program’s facilities under the direct supervision of program

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faculty or instructional staff, and the remaining 265 hours utilized in clinical instruction in extramural dental facilities. The Board does not have the authority to grant temporary provisions or waivers regarding the modification or reduction of curriculum requirements or program length. As California statutes and regulations do not allow for alteration, the Board has advised Board-approved RDA programs to review the regulations for guidance found in CCR, Title 16, Section 1070.2.

The Board has also received inquiries from some Board-approved Registered Dental Assistant in Extended Functions (RDAEF) programs regarding delayed clinical and laboratory instruction due to the COVID-19 pandemic. It has been reported that due to the shelter in place in California, RDAEF students have been impacted in their ability to complete the required curriculum to graduate from the RDAEF program, including acquiring laboratory and clinical experiences as outlined in CCR, Title 16, Section 1071(e). Some programs are considering extending their program into the summer months to acquire the necessary experiences in order to graduate their students.

Board-approved RDA and RDAEF programs have an obligation and responsibility to ensure that any changes or modifications do not compromise educational objectives, and that each student is competent prior to graduating the program. CCR, Title 16, Section 1070(b)(2) states that any major changes to the program must be reported to the Board within 10 days of the change.

PSI Written Examinations:

On March 19, 2020, the Board was notified that Psychometrics Services Inc. (PSI) had made the difficult decision to close their owned and operated testing centers on March 20, 2020 through April 30, 2020 to help reduce the spread of COVID-19. All candidates who were previously scheduled for a test date were cancelled. The candidates could reschedule up to and including the day of testing at no penalty and no additional documentation was required.

The closure of these PSI locations impacted Board applicants eligible to take the following examinations:

- RDA General and Law & Ethics Written Examination
- RDAEF Written Examination
- Dental Sedation Assistant (DSA) Permit Written Examination
- Orthodontic Assistant (OA) Permit Written Examination
- Dental Law and Ethics Written Examination (DDS)

On April 13, 2020, the Board was notified that PSI has resumed testing for several essential Department of Consumer Affairs (DCA) professions identified by Executive Order N-39-20. PSI will offer exams on limited days and times at a select number of test sites in California. The capacity has been reduced due to PSI practicing social distancing at all sites. Candidates can begin scheduling their examinations online or through the PSI candidate support call center.

RDAEF Clinical and Practical Examinations:

The Board has scheduled two (2) RDAEF clinical and practical examinations scheduled in June of 2020. Board staff have received several inquiries from candidates who are requesting to transfer their examination date from June to the next scheduled examination in August 2020 due to the COVID-19 pandemic. The candidates have cited that the reason for the transfer request include not being able to complete the skills and hours required to obtain certification and not being able to practice, feeling unprepared.

Due to the COVID-19 pandemic, including feedback and concerns from RDAEF programs and candidates, Board staff is considering cancelling the June 2020 RDAEF clinical and practical examinations. If the examination is cancelled, all candidates who have applied and are scheduled to take the RDAEF clinical and practical examinations in June will automatically be rescheduled to August 2020.

The Board will continue to monitor the impact of COVID-19 on dental assistant licensing and continue to post alerts on the Board's website as more information becomes available.

Department of Consumer Affairs' Waivers:

Effective March 31, 2020, Pursuant to the Governor's Executive Order N-39-20, the Director of the Department of Consumer Affairs (DCA) may waive any statutory or regulatory requirements with respect to a professional license. Accordingly, the Director granted the following two temporary waivers which took effect immediately:

1. DCA Waiver DCA-20-01 Continuing Education granted a six-month temporary waiver of certain license renewal requirements for individuals whose licenses expire between March 31, 2020 to June 30, 2020. The waiver allows for licensees to complete the required continuing education courses by September 30, 2020. Licensees are still required to complete all other renewal requirements and submit the renewal forms. To date, the Board has granted 89 license renewal waivers.
2. DCA Waiver DCA-20-02 Reinstatement of Licensure temporarily waives any statutory or regulatory requirement for an individual seeking to reactivate an inactive license which has not been inactive for more than five (5) years or restore a license to an active status which has not been cancelled for more than five (5) years. The waiver includes the completion of any continuing education requirements and the waiver of any fees, including renewal and delinquency fees. Licensees who are granted this waiver will be given a temporary license, which is valid for a maximum of six-months or when the State of Emergency ceases to exist, whichever is sooner. To date, the Board has received one (1) request from an RDA licensee who holds a cancelled license. Staff has attempted to contact the licensee for additional information by telephone and email, but a response has not been received. At this time, no temporary licenses have been granted.

Action Requested:

No action requested.