



**Legislative and Regulatory Committee
Meeting Minutes
Thursday, February 23, 2012**
Holiday Inn on the Bay, 1355 North Harbor Drive
San Diego, CA 92101

Members Present:

Fran Burton, Chair
Steve Afriat, Vice Chair
Stephen Casagrande, DDS
Huong Le, DDS
Steve Morrow, DDS
Thomas Olinger, DDS

Members Absent:

Staff Present:

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
Teri Lane, Supervising Investigator I
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Associate Analyst
Linda Byers Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

CALL TO ORDER

Roll Call and Establishment of Quorum:

Chair Fran Burton called the committee meeting to order at 3:36 p.m. Roll was called and a quorum was established.

LEG 1 - Approval of the November 7, 2011 Legislative and Regulatory Committee Meeting Minutes

M/S/C (Afriat/Morrow) to accept the November 7, 2011 Legislative and Regulatory Committee meeting minutes. The motion passed unanimously.

LEG 2 - 2012 Tentative Legislative Calendar – Information Only

Ms. Burton pointed out that February 24, 2012 was the last day to introduce bills for this session.

LEG 3 - Discussion and Possible Action on the Following Legislation:

Sarah Wallace, Legislative and Regulatory Analyst, reported on the 5 bills brought before the Board;

- AB 127 (Logue) Regulations: effective date
No changes – continue to watch.
- AB 991 (Olsen) State government: licenses: California Licensing and Permit Center

No changes – continue to watch.

- SB 103 (Liu) State government: meetings
No changes – continue to watch.
- SB 544 (Price) Professions and vocations: regulatory boards
Ms. Wallace reported that she and Ms. Burton attended the January 9, 2012 hearing for this bill. Upon arrival at the hearing, the bill was pulled from the calendar. It has missed the deadline to pass out of the House rendering it essentially dead.
- SB 694 (Padilla) Dental care
Ms. Wallace reported that we have been following this bill since last year. It is sponsored by the Children’s Partnership. This bill would create the Statewide Office of Oral Health (Office) and suspends existing law authorizing the current dental program within the Department of Public Health (DPH), provided the Department of Finance (DOF) memorializes in writing, that sufficient funds have been deposited within the state to establish the Office.

The bill creates the Office within DPH and specifies that a licensed dentist shall serve as the dental director, and that the dental director and staff shall have the responsibilities of:

- Advancing and protecting the oral health of Californians,
- Developing a comprehensive and sustainable state oral health action plan to address oral health needs,
- Encourage private and public collaboration to meet the oral health needs of Californians,
- Securing funds to support infrastructure and statewide and local programs,
- Promote evidence-based approaches to increase oral health literacy, and
- Establishing a system for surveillance and oral health reporting

This bill has several provisions relating to the funding of the program. It specifies that no General Fund moneys shall be used for the purposes of implementing the Office, and would authorize the state to accept other public or private funds for the purpose of implementation of the proposed Office. This bill specifies that DOF shall make a determination regarding the funding status of the Office on January 1, 2014, and annually thereafter.

This bill also specifies that the Office shall only be established after DOF determines that public or private funds, in an amount sufficient to fully support the activities of the Office, have been deposited with the State. This bill provides that if DOF makes a determination that sufficient funding has been secured for the establishment of the Office, DOF shall file a written statement with the Secretary of the Senate, the Chief Clerk of the Assembly, and Legislative Counsel memorializing that this determination has been made.

Additionally, if the Office does become established, it will assume responsibility for identifying and securing funding to maintain its function. If DOF makes a determination that the Office has not secured sustainable funding sources to maintain the activities of the Office, DOF shall file a written statement with the Secretary of the Senate, the Chief Clerk of the Assembly, and Legislative Counsel memorializing that this determination has been made.

The bill also specifies that the provision establishing the Office shall become inoperative on January 1, 2016.

This bill finds and declares that, as part of a comprehensive integrated system of dental care, with the dentist as the head of that system, additional dental providers who provide basic preventive and restorative oral health care to underserved children, located at or near where children live or go to

school, may have the potential to reduce the oral health disease burden in the population most in need.

This bill authorizes the Office to design and implement a scientifically rigorous study to assess the safety, quality, cost-effectiveness, and patient satisfaction of expanded dental procedures for the purpose of informing future decisions about how to meet the state's unmet oral health need for the state's children. This bill requires the research parameters of the study to include public health settings, multiple models of dentist supervision, multiple pathways of education and training, and multiple dental providers. This bill requires procedures performed during the study be performed only by providers within the confines of a university based study.

This bill requires the Dental Director to convene an advisory group, as specified, on study design and implementation, provide input regarding study design and implementation, receive all study data and reports, and develop a report and recommendations to be submitted to the Legislature based on the study findings. This bill requires the Dental Director to consult with the Legislative Analyst's Office in designing the study and selecting contractors.

This bill provides that no General Fund money shall be used to implement the study, and that money to fund the study, including analysis and findings, shall be secured from other public or private sources. This bill provides that no one providers group or interest group may provide more than half the private funding for the study

This bill sunsets the study by January 1, 2014, if it is not sufficiently funded and commenced by that date.

This bill sunsets the Office and the study on January 1, 2016.

Ms. Wallace further stated that this bill is sponsored by The Children's Partnership and is intended to begin addressing the lack of dental health care access in California, especially its impact on children.

The Senate Health Committee's analysis finds that nearly a quarter of California's children ages 0 to 11 have never been to the dentist despite the recommendation by the American Academy of Pediatric Dentistry that children visit the dentist at the time of first-tooth eruption and no later than one year of age and that they have a dental check-up every six months after that.

This bill ties into the Affordable Care Act which:

- a. Requires that insurance plans include oral care for children,
- b. Expands school-based sealant programs,
- c. Authorizes \$30 million for fiscal year 2010 to train oral health workforce,
- d. Establishes five-year, \$4 million demonstration projects to test alternative dental health care providers,
- e. Establishes a public health workforce track, including funding for scholarships and loan repayment programs for dental students and grants to dental schools,
- f. Establishes three-year, \$500,000 grants to establish new primary care residency programs, including dental programs, and
- g. Provides funding for new and expanded graduate medical education, including dental education.

During the 2011 oversight hearing of the Dental Board of California, the Senate Committee on Business, Professions, and Economic Development raised concerns whether California will be able to meet the increased demand for dental services with the enactment of the Affordable Care Act.

Currently, the Oral Health Unit within DPH (formerly the Office of Oral Health), currently has one staff and among other functions, is charged with maintaining a dental program that develops a comprehensive dental health plans, coordinates federal, state, county, and city agency programs related to dental health, and encourages, supports, and augments the efforts of city and county health departments in the implementation of a dental health component. This bill eliminates this unit and will replace it with the Statewide Office of Oral Health.

Ms. Wallace reported that currently, this bill has passed out of the Senate it is in the Assembly's first reading file.

Ms. Burton stated that she would like everyone to be aware of how many times this bill has been amended and it is still in the lower house. The bill has not been set for hearing so given that it may be an entirely different product when all is said and done, she recommended a watch position at this time. Mr. Afriat stated that every bill goes through changes He would like to see the board show more support for this bill. Ms. Burton stated that she thought that the entire Board would probably like to see this go forward but it is still subject to too much change to take a more affirmative position at this time.

Dr. Morrow commented that this bill has stirred up controversy which he thinks is good because it affords opportunity for change for the better. Dr. Morrow stated that being a dental educator and this being a University based study, who has been contacted about the willingness on the part of universities, to provide a framework for such a study to be done? Katherine Scott, Children's Partnership, stated that they have approached some sites and universities in conversation only but as Ms. Burton stated, this is still a work in progress. They are working on educational requirements, university participation, funding is a big piece that they're working on. They are committed to strong participation by the dental community. Dr. Morrow asked where the money would come from for the university based studies? Ms. Scott answered through private, federal and public funding.

Dr. Casagrande stated that his personal opinion is that the role of the Dental Board is to protect the public and that will come later. He does not feel the Board has a role in access to care except not to impede access to care through regulation. He feels that the position should be to watch.

Dr. Olinger commented that Ms. Scott mentioned university or other facility and asked what was meant by other facility. Ms. Scott explained that part of their early conversations were with facilities that train hygienists that are affiliated with universities.

Mr. Afriat stated that since there have been so many amendments since the initial bill came out, how does the Author feel about the current version? Ms. Scott stated that it is a work in progress. They are very happy that the bill is still focused on access to care. Mr. Afriat asked Ms. Scott what she would like to see the Board do as far as this bill goes. Ms. Scott answered that they would like to keep the lines of communication with the Board open. The Board's expertise is very valuable and support would be much appreciated. The Children's Partnership is striving to keep the bill going in the direction of public protection.

Ms. Burton stated that authors have been known to divorce bills, the Board should be cautious. Ms. Scott stated that the author is committed to working on the bill for the next few months. It doesn't have to move out of committee until the end of June and she doesn't see it moving before then. Dr. Casagrande stated that he wouldn't support the bill unless he saw a lot more details about the study, and that there is public protection, especially for the children, what the setting is, what the parameters are, and generally more information.

Dr. Morrow stated that if these studies are to be university based they will have to pass Institutional Review Board (IRB) approval before implementation and they are very strict about the safety of

patients. That is the advantage of a university based study. University based does not mean that it has to be at the university site. It can be offsite under university control.

Richard DeCuir, Executive Officer, stated that he wanted to make it clear that the Dental Board is not in a position to help with funding.

Guy Acheson, California Academy of General Dentistry (CAGD), is against this bill unless amended. He stated that California is at the leading edge of creating many different categories of care providers to assist in access to care. CAGD is concerned that the thrust of this legislation is to create a study specifically to generate another workforce category. Dr. Acheson questioned if RDAEF's are utilizing their expanded duties now and how adding 2 new expanded duties, drilling and extraction, are going to make any kind of significant difference in access to care. Dr. Acheson feels that drilling caries and extracting teeth are not the solution, prevention is the solution. He would like to see the intent of the study amended to focus on capacity, feasibility and utilization of the resources that we already have.

Joel Berick, DDS, is dismayed that the Board is only taking a watch position on this bill. Keeping in mind that the Board mission is to protect the public, the idea that a new practitioner is going to be developed and with little training allowed to practice on the most vulnerable portion of our population does not seem to be in the best interest of public protection. The fact that it is a university based study makes it more palatable but if it does pass university consideration, these people are going to be able to go out and practice on children with significantly less training than the people who are currently available.

Dr. Morrow stated that this bill is simply asking for a study to be done to gain evidence as to the worthiness of proceeding with the development of a level of provider that Dr. Berick is opposed to. It is not establishing that level of provider it is simply asking for evidence and information. Dr. Morrow stated that in his 30 years of experience he has been involved in more studies that show that there is not a need than those that proved there was a need.

Ms. Burton commented that we should not assume an outcome of this bill. We should wait and see what it evolves into.

M/S/C (Burton/Olinger) to recommend the Board take a watch position on SB 694. The motion passed unanimously.

There was no additional legislation.

LEG 4 - Discussion of Prospective Legislative Proposals:

Dr. Morrow stated that the Joint Commission on National Dental Examinations will be changing their examinations from a 2 part exam to just one examination in 2015. He asked if it will be necessary for the Board to seek a change in Business and Professions code 1634.1(d) regarding requirements for licensure and the wording in subsection (d) that indicates multiple "examinations" to the singular "examination". Ms. Shellans stated that we will need to change the wording from multiple to singular once the change has been officially made but we don't want to jump the gun and make a change that hasn't happened yet. Ms. Burton mentioned that each year there is an omnibus bill to clean up small details like this.

Ms. Burton stated that she and Executive Officer, Richard DeCuir discussed the utilization of the remaining funds in the loan repayment program. Their discussions centered around making the program more user friendly as it is or considering restructuring the program altogether.

Dr. Morrow brought forward Business and Professions Code Section 1626(c) regarding the practice of dentistry by licensed dentists of other states or countries while operating as clinicians or instructors in dental colleges. Dr. Morrow stated that he was unaware of any requirement for a background check on

these individuals. Mr. DeCuir stated that the responsibility is on the school to do due diligence. It is an exemption to the practice of dentistry therefore we have no jurisdiction. Ms. Shellans stated that these people are exempt from the Dental Board's oversight and therefore the Board cannot impose a requirement on them. It would be up to the Board to decide whether or not they want to require some type of licensure for these individuals and thereby remove the exemption. Dr. Morrow requested that this item be placed on the Legislative and Regulatory Committee agenda for discussion at a future meeting. Ms. Burton asked for more information on what the issues and alternatives are with regard to changing this exemption. Ms. Shellans stated that in order to effectuate a legislative change there must be data to support a need for the change. Mr. Afriat supported Dr. Morrow as a co-committee member and his request to have this put on the committee's agenda for discussion at a future meeting. Ms. Burton reiterated her former statement that she would like staff to work with Dr. Morrow to gain more background and information on this subject before bringing it back to the committee as an agenda item. Mr. DeCuir agreed to have staff work with Dr. Morrow.

Bill Lewis, California Dental Association, commented that CDA would certainly be interested in exploring ways to utilize the Dental Repayment Program. He stated that CDA has approached the Senate Business & Professions committee for possible inclusion in their Omnibus bill to tweak the Special Permit Law that Dr. Ron Mito from UCLA spoke about at a previous meeting to help faculty recruitment of specialists. The current law requires "graduating" from a dental college approved by the Board. CDA would like to see that wording deleted and changed to include those specialists who acquire their specialty training through an approved residency program. Mr. Lewis also requested that the Board resume discussions regarding regulations pertaining to Mobile Dental Units. He stated that the market has evolved and the regulations do not cover the full spectrum of what's out there now. Mr. Lewis stated that the Department of Health Services has made some inquiries regarding Mobile Dental Units related to Denti-Cal and entities that are going into schools.

There was no further public comment.

The committee adjourned at 4:40 p.m.