



**TELECONFERENCE MEETING OF
THE ELECTIVE FACIAL COSMETIC SURGERY PERMIT
CREDENTIALING COMMITTEE
MEETING MINUTES**

Wednesday, October 3, 2012

For more information, please contact (916) 263-2300

Members Present:

Robert Gramins, DDS – Chair
Louis Gallia, DMD, MD
Anil Punjabi, MD, DDS
Peter Scheer, DDS
Brian J. Wong, MD

Members Absent:

Also Present:

Bruce Whitcher, DDS, Board President & Liaison to Committee
Nellie Forgét, EFCS Program Coordinator
Karen Fischer, Associate Analyst
Sarah Wallace, Legislative and Regulatory Analyst
Spencer Walker, DCA Legal Counsel

Teleconference Locations with Public Access:

Dental Board of California Office and Teleconference Location:

2005 Evergreen Street, Ste 1550 - Conference Room
Sacramento, CA 95815
(916) 263-2300

Other Teleconference Locations:

12630 Monte Vista Road, Ste 205, Poway, CA 92064, (858) 485-1290
295 Terracina Blvd, Redlands, CA 92373, (909) 798-9950
39935 Vista Del Sol, Ste 100, Rancho Mirage, CA 92270, (760) 837-1515
87 Scripps Drive, Sacramento, CA 95825, (916) 570-3089
UC Irvine, 101 The City Drive, Irvine, CA 92868 (714) 456-7017

Dr. Peter Scheer, Committee member, volunteered to call the Committee meeting to order in the absence of Dr. Robert Gramins. Nellie Forgét, EFCS Program Coordinator, called the roll by teleconference location and established a quorum at 2:15 P.M. Dr. Robert Gramins and Dr. Anil Punjabi joined the meeting at 2:25 P.M. No public was in attendance at any location.

AGENDA ITEM 1 – Approval of July 11, 2012 Meeting Minutes

M/S (Scheer/Wong) to accept the minutes of the July 11, 2012 meeting. By roll call vote the minutes were approved unanimously.

AGENDA ITEM 2 - Staff Report – Information Only

Mrs. Nellie Forgét reported that at the last Elective Facial Cosmetic Surgery (EFCS) permit meeting, the Committee suggested a staff report be included at future meetings. She reported that Staff have been working on a revised EFCS Permit application and regulatory language which will be discussed. Additionally she reported that two permit applications will be reviewed; and that one application with provisional status is pending until active status is reached. Mrs. Forgét concluded by reporting that there were currently 21 EFCS Permit holders.

There was discussion about the content of future staff reports and how often to give the reports. The consensus was that a staff report will be given at each meeting.

AGENDA ITEM 3 - Report on Website Information for the Elective Facial Cosmetic Surgery (EFCS) Permit Program

Dr. Gramins asked that Staff review what is currently available on the website. Each item that is currently available on the website is included in the packet: the permit application and instructions that were developed using the language straight from statute, a list of EFCS permit holders, and the information regarding the Committee and the purpose of the Committee. There were no other comments regarding this agenda item.

AGENDA ITEM 4- Future Meeting Dates

Dr. Wong suggested using Doodle.com as a tool to determine future meeting dates. Mrs. Forgét stated she will look into Doodle and get an email out to confirm future meeting dates.

AGENDA ITEM 5- Elective Facial Cosmetic Surgery (EFCS) Permit Application Review and Proposed Regulatory Language

Mrs. Sarah Wallace shared the background of the EFCS Permit and how it was established. Specifically she reported that on September 30, 2006, Governor Arnold Schwarzenegger signed Senate Bill 438 (Chapter 909, Statutes of 2006), enacting Business and Professions Code (Code) Section 1638.1, which took effect on January 1, 2007. Code Section 1638.1 authorizes Oral and Maxillofacial Surgeons licensed by the Dental Board of California (Board), who are not also licensed as physicians and surgeons by the Medical Board of California, to perform elective facial cosmetic surgery. Additionally, Code Section 1638.1 specifies the application requirements for an Elective Facial Cosmetic Surgery (EFCS) permit and establishes a Credentialing Committee (Committee) to review the qualifications of each applicant for a permit.

Mrs. Wallace went on to say that the Committee is responsible for (1) the review of the qualifications of each applicant, and (2) making recommendations to the Board on whether to issue a permit to an applicant. In addition to application review, the Committee may make recommendations to the Board regarding the need for proposed regulatory

requirements to clarify the application process for the EFCS permit. At this point, Mrs. Wallace described the formal rule making process.

Staff requested the Committee discuss and consider the following:

- Item #1 - Elective Facial Cosmetic Surgery (EFCS) application for Initial Permit or Permit to Add Allowable Procedures
- Item #2 – Application Recommendations or Requirements
- Item #3 – Hospital Privileges
- Item #4 – Defining Proctored Procedures.

The determination made by the Committee at this meeting will assist staff in further developing proposed regulatory language for Committee consideration.

The Committee reviewed the draft application part by part.

Following is a summary of the comments:

Part 1 – APPLICATION INSTRUCTIONS: There were no comments.

Part 2 – NAME, CONTACT, AND LICENSURE INFORMATION: There were no comments.

Part 3 – REQUIREMENTS (GENERAL) - (1) Proof of successful completion of an oral and maxillofacial surgery residency program accredited by the Commission on Dental Accreditation of the American Dental Association: There were no additional comments.

Part 3 – REQUIREMENTS (GENERAL) - (2) Operative Report Requirements: Mrs. Wallace explained that these would be addressed when Staff discussed Item #2 – Application Recommendations or Requirements.

Part 3 – REQUIREMENTS (GENERAL) - (3): Active Staff Status of an Acute Care Hospital: There were no additional comments.

Part 3 – REQUIREMENTS (PATHWAY A) - (4): Proof that you are certified, or a candidate for certification, by the American Board of Oral and Maxillofacial Surgery. There were no additional comments.

Part 3 – REQUIREMENTS (PATHWAY A) - (5): Submits to the board a letter from the program director of the accredited residency program, or from the director of a post-residency fellowship program accredited by the Commission on Dental Accreditation of the American Dental Association, stating that the licensee has the education, training, and competence necessary to perform the surgical procedures that the licensee has notified the board he or she intends to perform: Dr. Gramins inquired about applicants who want to reapply to upgrade their privileges. Will the applicant still need to resubmit a letter from the program director since the Dental Board already has a letter from the original application? It was discussed that if an applicant goes back to get training in certain procedures, but does not have privileges for these procedures at the

hospital, the applicant will not be able to get the permit upgrade. Likewise, if the applicant chooses Pathway A, the residency director cannot comment on recent proctoring because the applicant did the training after residency. Mrs. Wallace stated that staff will note all these comments and will bring them back at a future meeting after Staff and Legal Counsel have an opportunity to do more research and bring forward more options or answers for the Committee to review. Mr. Walker added that Staff and Legal Counsel may be able to resolve some of these issues by way of regulation.

Part 3 – REQUIREMENTS (PATHWAY A) - (6): Submits documentation to the board showing the surgical privileges the applicant possesses at any licensed general acute care hospital and any licensed outpatient surgical facility in this state: There were no additional comments.

Part 3 – REQUIREMENTS (PATHWAY B) - (7): Submit documentation showing proof that you have been granted privileges by the medical staff at a licensed general acute care hospital to perform the surgical procedures that you intend to perform: Dr. Gramins brought up the issue with applying through Pathway B which requires hospital privileges. He stated that it is hard to get privileges at a hospital if the applicant does not have the permit. However, if the applicant does not have the privileges they cannot get the permit. Dr. Scheer suggested the Board figure out a mechanism to properly train people in California and recognize it. It was concluded that unless the Committee put forth a statutory change it would be impossible for applicants to obtain hospital privileges to apply through Pathway B.

Part Four (4) – Acknowledgment/Certification of Application: The only comment made to this section was the abandonment clause.

There were no other comments on the application.

Mrs. Wallace directed the discussion to **Item #2 – Application Recommendation or Requirements** located on page 3 of 4 in the memo under Agenda Item 5. Statute places a minimum requirement for submittal of operative reports but no maximum. The Committee would like requirements placed in order to keep the submittal of operative reports to a limit. It was questioned that if a limit of no more than 30 operative reports was placed then would an applicant be rejected if they submitted 31 operative reports. Dr. Gramins stated that if an applicant turns in more than 30 operative reports then they would not reject the application, they would simply select 30 operative reports to review. Dr. Scheer stated that another problem with the application is that it says in the recommendation “operative reports should reflect what the applicant intends to perform”. Many times applicants have submitted 50 operative reports which constitute the definition of osteocartilaginous but in the end has nothing to with what the applicant would like to do. He believes the important issue here is that applicants submit operative reports reflective of what the applicant wishes to perform. Therefore, Dr. Scheer stressed that Staff needs to somehow emphasize that the applicant indicate what procedures they intend to perform in the application.

Mr. Walker quoted statute that an applicant must “submit documents to the board of at least 10 operative reports”. However, statute does not state a maximum. Therefore, if

an applicant submits more than 30 operative reports, then the Committee may not consider all the operative reports, some of which might be helpful to the Committee in rendering a decision. Mr. Walker asked the Committee if they want to set a maximum or leave it as a recommendation that they not submit more than 30. Dr. Scheer suggests that there should be a requirement to submit 10 most reflective operative reports that the applicant intends to perform. Mr. Walker stated that would have to be incorporated into the regulation. Mr. Walker asked if the Committee would like to go over the language at this time. Dr. Gramins suggested phrasing this requirement “applicants should submit at least 10 but no more than 30 operative reports that are reflective of the procedures the applicant intends to perform”. Mr. Walker clarified the verbiage “applicants shall submit at least 10 and no more than 30 operative reports that reflect the procedures the applicant intends to perform”.

The Committee unanimously agreed that the following items be built into requirements as part of the regulatory package:

- Operative reports should indicate the hospital or surgery facility where the operations were performed.
- Operative reports should reflect the procedures that the applicant intends to perform.
- Operative reports should indicate the applicant’s position in the procedure; for example, surgeon or assistant.
- Operative reports should be clear and dark enough to reproduce.
- Operative reports index form should be filled out to assist the Committee with application review.

Mr. Walker brought up the discussion of rejecting an application if the applicant does not submit the required operative reports. In the past Staff has contacted the applicant and requested additional operative reports to get full approval. Mrs. Forgét explained that Legal Counsel is trying to establish a procedure where the Committee can reject these applications instead of going back and forth with the applicant like we have done with previous applicants. Mrs. Fischer referred back to Dr. Punjabi’s past comment about how many times we should allow an applicant the opportunity to submit a complete application. It was agreed that if guidelines are not met then the application should be rejected. Dr. Gramins asked if we could give the applicant notice why it was rejected that way they could correct their deficiency. Mrs. Wallace explained that this would be included as part of the abandonment process. The applicant would receive their application back accompanied with a dated letter that would specify the requirements that still needed to be met. The applicant would have one year from that date to resubmit that application. If the applicant does not resubmit the application within one year then the application process would need to start over again and they would have to reapply and pay the five hundred dollar application fee.

Mrs. Wallace directed the discussion to Item #3 – Hospital Privileges located on page 4 of 4 in the memo under Agenda Item 5. The Committee was asked if they would like to require that hospital privileges be signed by approving parties and if so who the approving parties would be. Dr. Gallia suggested it should be the parties who approve the privileges at the hospital. At a past meeting the three approving party’s signatures for hospital privileges that were mentioned included the Specialty Chair, the

Department of Surgery Chair, and the Hospital Chief of Staff. Dr. Gramins noted that not every hospital has a dental department or an oral and maxillofacial surgery department. However they will have a department of surgery so if they do not have a subcommittee for oral and maxillofacial then all there will be is a signature from the department of surgery chairman and the medical staff chairman. Mrs. Wallace summarized that staff agreed it will be required to have signatures of approving parties on hospital privileges but the signatures will be determined on a case by case basis.

Mrs. Wallace directed the discussion to Item #4 – Defining Proctored Procedures located on page 4 of 4 in the memo under Agenda Item 5. At its November 3, 2009 meeting, the Committee discussed whether to require the proctors, who are physicians/surgeons holding a current, valid and unrestricted license, to be licensed in California. The Committee agreed that they did not want to limit the applicant from seeking and receiving training from qualified proctors outside of California. Prior Legal Counsel cautioned the Committee that with regard to ensuring public safety, the Dental Board has jurisdiction only over California licensed dentists. Additionally, the Committee discussed how to verify the credentials of an out-of-state proctor. The Committee concluded that the applicant could self-certify that the procedures were proctored by either an oral and maxillofacial surgeon in California who holds a current, valid and unrestricted EFCS permit, or a physician and surgeon who holds a current, valid and unrestricted license to practice medicine issued by either the state of California or by another state.

Dr. Gramins explained that the discussion on proctored procedures was brought up because licensees may want to go outside California to proctor in a different state. They should have the opportunity to do so since California is not the only state who teaches cosmetic surgery. Discussion developed whether the applicant getting proctored outside California would need to obtain a license in that state. Dr. Gramins mentioned there are different ways someone can get around getting a license in another state, for example, a University teaching center or one day teaching credential. Mrs. Wallace suggested the Chair appoint a subcommittee to assist Staff in listing out the different options that could be available to bring back to the Committee at another meeting so the Committee has written options to look at to help facilitate the conversation. Dr. Gramins and Dr. Scheer volunteered to be a part of the subcommittee.

Mrs. Wallace concluded the regulatory language conversation and informed the Committee that Staff will work on the various issues that were brought up today and prepare for the next meeting so we can have a more conclusive document to bring back to the Committee at the next meeting.

CLOSED SESSION – Consideration of Elective Facial Cosmetic Surgery Permit Applications

Closed Session began at 3:35 P.M. and returned to open session at 4:07 P.M.

RETURN TO OPEN SESSION - Recommendations to the Dental Board of California Regarding Elective Facial Cosmetic Surgery Permit Applications

Dr. Gramins reported that the Credentialing Committee reviewed two applications.

Applicant Dr. AA: The Committee determined to recommend to the Board to issue Dr. AA a permit for Category I (cosmetic contouring of the osteocartilaginous facial structure, which may include, but not limited to, rhinoplasty and otoplasty) and Category II (cosmetic soft tissue contouring or rejuvenation, which may include, but not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation).

Applicant Dr. SR: The Committee determined to reject Dr. SR's application and ask that Staff contact the applicant for clarification on the intended procedures his wishes to perform.

There was further discussion on the terminology of rejecting the application verses tabling the application. Mr. Walker explained that by tabling the application it would remain before the Committee. Since the application was not denied, which is the counter part of approved, using the term rejection is fine. What rejection implies is that the Committee is not going to approve or deny the application, rather leave it up to the applicant to respond. Dr. Scheer commented that the word reject sounds harsh and suggested that Staff add a comment in the rejection letter asking for further clarification. Staff agreed that language would be added to the letter so it would not sound harsh.

The discussion was returned back to agenda item #5 regarding additional language being added to the application regarding intent of the applicant. Dr. Scheer suggested adding language in which the applicant states his or her name and lists the intended procedures for which (s)he is applying. As Staff continues to work on the application language and regulatory changes they will come up with language to emphasize the applicant's intent.

Mrs. Forgét directed the discussion to an inquiry from a licensed dentist who was looking to apply for an EFCS Permit and wanted to get proctored by a dentist outside of California at an accredited surgery center. The Committee agreed that if it is legal for a licensed California dentist to be proctored in another state then it seems acceptable to the Committee. Legal confirmed that statute only requires proctoring to be done at an accredited surgery center only in California so out of state facilities do not need to be accredited. Currently the Committee is doing case by case review of applications but the Committee and Staff may want the subcommittee to look at this further and come up with requirements.

Mrs. Forgét asked if there were any proposed future agenda items. Dr. Punjabi requested that the Committee have a face to face meeting at least once next year. Karen mentioned the Board's new technology as an option to do video conferencing if everyone met at the Orange office. It was agreed that at one point we should meet for a face to face meeting. Mrs. Forgét confirmed she would work on future meeting dates and look into arranging a face to face meeting for the April EFCS Permit meeting.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

The meeting was adjourned at 4:25 P.M.