



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

August 15-16, 2019

DoubleTree by Hilton Hotel San Francisco Airport
835 Airport Blvd.
Burlingame, CA, 94010

Members Present:

Fran Burton, MSW, Public Member, President
Steven Morrow, DDS, MS, Vice President
Steven Chan, DDS, Secretary
Yvette Chappell-Ingram, MPA, Public Member **(Absent August 15-16, 2019)**
Ross Lai, DDS
Lilia Larin, DDS
Huong Le, DDS, MA
Meredith McKenzie, Public Member
Abigail Medina, Public Member **(Absent August 15-16, 2019)**
Rosalinda Olague, RDA, BA
Joanne Pacheco, RDH, MAOB **(Absent August 15-16, 2019)**
Thomas Stewart, DDS
Bruce Whitcher, DDS
James Yu, DDS, MS

Staff Present:

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

Thursday, August 15, 2019

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

The meeting was called to order by President Fran Burton at 9:07 a.m. Dr. Steve Chan, Board Secretary, called the roll and a quorum was established.

Agenda Item 2: Approval of May 15-16, 2019 and July 23, 2019 Board Meeting Minutes

M/S/C (Morrow/Whitcher) to approve the May 15-16, 2019 meeting minutes with the following changes: last paragraph on page 16, replace the word requirement with the word registration; middle paragraph on page 19, replace the word adhesive protective

restorations to interim therapeutic restorations; bottom paragraph on page 19, replace M/S/C to M/S.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed and the minutes are approved with changes. There was no public comment.

M/S/C (Burton/Whitcher) to approve the July 26, 2019 meeting minutes with no changes.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan			✓		
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed and the minutes are approved with no changes. There was no public comment.

Agenda Item 3: Board President Welcome and Report

President Burton welcomed all attendees. She mentioned that the board is still focused on the sunset review, legislation, regulations, enforcement, examinations, and other emerging issues as they present themselves. She reminded members that the highest priority of the board is protection of the public. Ms. Burton reported on the following meetings she attended after the May meeting: Senate Business Professions and

Economic Development Committee meeting in support of AB 613; Executive Officer Salary Study Meeting, (Department of Consumer Affairs engaged a firm to study executive officer salaries in other states. Ms. Burton expressed her frustration that this wasn't brought up during the previous sunset review process four (4) years ago and has not been resolved. The department has indicated it would be setting up individual meetings with board presidents and executive officer to discuss the findings. Ms. Burton will report back if there is any progress); July 23, 2019, Board Teleconference meeting; meeting with Assembly Business and Professions Committee Chair, Evan Low to discuss the Sunset Report. Ms. Burton reported that 10.5 million dollars was allocated from the Dental Board's oral health partners at Department of Health Care Services (DHCS) to pay off student loans for forty (40) dentists who agree to take on thirty (30) percent of Medi-Cal patients for their dental caseloads.

Ms. Burton congratulated Board member, Dr. Huong Le, on her successful dedication of the new Oakland Health and Wellness Clinic. Ms. Burton acknowledged the Dental Board's new Legal Counsel, Michael Kanotz. There was no public comment.

Agenda Item 4: Report of the Dental Hygiene Board of California (DHBC) Activities
Susan Good, DHBC President, provided a verbal report on their activities: reviewing the dental hygiene educational programs found minor deficiencies at school visits which was easily corrected to comply with the law; approval of DHBC budget change proposal on July 1, 2019 allowing the Board to hire additional staff; and regulatory packages update. Anthony Lum, Executive Officer of DHBC, provided an update of the ITR regulatory proposal presented at the May 2019 DBC meeting. The language was changed to mirror the pilot project language.

President Burton asked how many staff work at DHBC. Mr. Lum responded that there will be a total of thirteen (13) staff members at DHBC after the approval of the budget change proposal. There was no public comment.

Agenda Item 5: Budget Report:

Administrative Services Manager, Wilbert Rumbaoa, provided a report on two separate funds that the Board manages: State Dentistry Fund and Dental Assisting Fund. A documented expenditures report was provided for July 1, 2018 to June 30, 2019. The board spent approximately \$12.4 million dollars or 88% of its total Dentistry Fund appropriation for fiscal year 18/19. The Dental Assisting Fund spent approximately 1.9 million dollars or 78% of its total dental assisting fund appropriation for fiscal year 18/19.

President Burton questioned the *scheduled reimbursements for Fingerprints* and its impact on the budget for the Board. Mr. Rumbaoa responded that the Board is working with the budget's office on reimbursement items as the issue occurred five years prior. Dr. Whitcher commented on the downward trend in *months in reserve* from both fund reports. Dr. Lai questioned if more money was spent for the current quarter. Mr. Rumbaoa responded that the budget report provided is for the fiscal year 18/19. Board staff will provide a quarterly breakdown of the budget report at a future meeting. There was no public comment.

RECESSED TO CONVENE THE DENTAL ASSISTING COUNCIL (DAC) MEETING – SEE DAC Meeting Minutes.

RETURNED TO FULL BOARD OPEN SESSION

Agenda Item 6: Dental Assisting Council Meeting Report

Jennifer Rodriguez, Chair Dental Assisting Council, provided a verbal report of the meeting. There was no public comment.

Agenda Item 7: Discussion and Possible Action Regarding Appointment of Dental Assisting Council (DAC) Member

Ms. Rosalinda Olague, RDA and Dr. Whitcher, DAC Subcommittee, provided a verbal report and recommendation to the Board. Five candidates were interviewed by telephone: Elizabeth Balboa-Brooks, RDA, Melinda Cazares, RDA, Paige Drahn, RDA, Belinda Irlanda, RDA, and Christina Joyce, RDA.

M/S/C: (Morrow/Lai) to accept the Subcommittees recommendation to appoint Melinda Cazares, RDA to the Dental Assisting Council.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed. There was no public comment.

Agenda Item 8: Discussion and Possible Action Regarding Appointment of New Elective Facial Cosmetic Surgery (EFCS) Permit Credentialing Committee

Dr. Whitcher, EFCS Permit Credentialing Committee Liaison, provided a verbal report and recommendation to the Board. Two highly qualified candidates were considered for the position. Both were interviewed via telephone by Dr. Whitcher.

M/S/C: (Burton/Larin) to accept Dr. Whitcher’s recommendation to appoint Andre V. Guerrero Fernandes, MD, DDS to the Elective Facial Cosmetic Surgery Permit Credentialing Committee.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed. There was no public comment.

Agenda Item 9: Discussion and Possible Action Regarding AB 1519 (Low) – Sunset Review

Mr. Rumbaoa provided a report regarding AB 1519 (Low) as amended July 2, 2019. The Board discussed twenty-five (25) items of the current legislation and four (4) proposed amendments. This information is available in the meeting materials published on the Board's web site.

Dr. Morrow commented on item nine (9) relating to the competencies that must be examined for California licensees. Some states do not require all the competencies listed in AB 1519. He asked if an applicant will still be licensed in California if he or she options out of certain components. Ms. Fischer confirmed if an applicant options out then they will not be licensed. Dr. Larin commented on item fourteen (14) relating to approval of foreign dental schools. She was concerned with students who are currently enrolled in school when the bill takes effect in January 2020. Ms. Fischer responded that those who are currently enrolled in the program will graduate. However, the schools will be notified to stop accepting students into their program as soon as the governor signs the bill as their educational requirements will no longer be approved. Dr. Chan questioned item twenty-one (21) and the meaning of teledentistry. Teledentistry has been a diagnostic component. Does it now include delivery of product? Ms. Fischer responded that teledentistry will be a discussion for a future meeting as it has not been defined yet. The jurisdiction is that every California patient should only be treated by a California dentist. Staff requested a support position on Assembly Bill 1519.

Public Comment:

Dr. Alan Felsenfeld, DDS representing California Dental Association, commented on his support of amendments in AB 1519. Missy Johnson, Nielsen Merksamer representing De La Salle University, commented that the school is disappointed that it will no longer be approved by the Board. She stated that she enjoyed a good working relationship with the Board. The school is concerned about the transition process and she is working with Assembly Member Low to clarify the language. Claudia Pohl, CDAA, stated her support

of AB 1519 and would like to see the amendments to BPC section 1742 (h) remain in the bill.

M/S/C: (Morrow/Le) to support amendment to Assembly Bill 1519.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed.

Agenda Item 10(a): Review of Enforcement Statistics and Trends

Carlos Alvarez, Enforcement Chief, provided a report of the enforcement statistics and trends. There was no public comment.

Dr. Lai asked if fines are issued for disciplinary action for continuing education. Ms. Fischer responded that fines are not disciplinary actions. Dr. Lai asked if the information on citations and fines relating to continuing education and providing dental records upon request of the Boards is on the website. Chief Alvarez responded no. Dr. Lai would like staff to work with CDA to get the word out about compliance. Dr. Larin asked if the Board is required to pay for cases with no sufficient evidence. Ms. Fischer responded that the licensing fee pays for enforcement. President Burton questioned the process for adjudicated criminal cases that have been referred to the Office of Attorney General (OAG). Chief Alvarez responded that criminal cases that have adjudicated from the court system will be sent to OAG for disciplinary action.

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 material published on the Board's website.

Public Comment:

Dr. Guy Acheson, California Academy of General Dentistry (CAGD), commented that there are 24,633 dentists with DEA permits who are licensed to prescribe, however only 15,033 are registered through CURES. He questioned who enforces this requirement; and is there an attempt to enforce. Ms. Fischer commented that there is no way to know

who has a DEA license and to monitor if people have registered. Chief Alvarez commented that DEA will not provide the current and up to date numbers of dentists with DEA permits who are licensed to prescribe when requesting, which ultimately affects the statistics shown in the meeting materials. Ms. Fischer stated that the only way to enforce it is if a complaint is submitted to the Board. Investigators will then look to see if a dentist is licensed and registered with the DEA.

RECESSED FOR A BREAK

Agenda Item 11(a): Diversion Program Report and Statistics

Chief Alvarez provided the report which is available in the meeting materials published on the Board's website. There was no public comment.

Dr. Lai asked what the budget is for the Diversion Program. Ms. Fischer responded that the participants pay one hundred dollars which goes towards the program; however, the Board does subsidize the participants. She added that the contract with Maximus is ending at the end of the year and the DCA Executive Office is working on a request for proposal. Ms. Fischer commented that the Dental Board started the program with eighty-nine (89) participants which now has an average of fourteen (14) participants. President Burton questioned California Dental Association's (CDA) number of participants. Mary McCune, CDA, stated that there is an average of thirty (30) participants a year with an average of five (5) graduates per year from data gathered in 2017. Dr. Morrow questioned how the Diversion Program and CDA's Wellness Program interface with each other. Ms. Fischer responded that the programs are structured differently and CDA does not communicate or refer any members to the Board's Diversion Program. There is no interface between programs.

Agenda Item 11(b): Update Regarding the June 11, 2019 Statewide Opioid Safety Workgroup Meeting

Chief Alvarez provided the report which is available in the meeting materials published on the Board's website. There was no public comment.

Dr. Chan questioned if the workgroup distinguished the difference between unsupervised use of Fentanyl versus the supervised use of Fentanyl. Chief Alvarez responded that there are indicators that separate prescription Fentanyl and Fentanyl that was not prescribed. Information on other drug components combined with Fentanyl can be accessed through dashboard – which gives a breakdown of what is in the drug and what causes overdose. Dr. Chan questioned if that includes counterfeit Fentanyl. Chief Alvarez is aware of the manufactured drug, but it has not been discussed.

Agenda Item 12: Discussion of Venipuncture

Chief Alvarez provided the report which is available in the meeting materials published on the Board's website. There was no public comment.

Executive Officer Fischer commented that staff believes that Business Professions Code 1625 was written broadly to allow blood draws for dental procedures. Dr. Whitcher commented that if a disciplinary case was to arise, they would be looking into what the

practicing dentist is licensed to perform. Dr. Larin questioned if dentistry schools have any formal training for the venipuncture procedure. Dr. Morrow responded that he is not aware of any formal education in drawing blood for dentistry school. He added that every dentist should be competent in the procedure they are performing. Dr. Larin questioned if the Board staff will confirm if the procedure is allowed. Ms. Fischer responded that Board staff does *not* advise or confirm the interpretation of statutes for dentistry. There was no public comment.

Agenda Item 13: Overview of Disciplinary Process

Executive Officer, Karen Fischer, provided the report which is available in the meeting materials published on the Board's website. There was no public comment.

Dr. Morrow asked how the Board decided on the two (2) votes necessary to hold for discussion for a disciplinary case. Ms. Fischer responded that she will look into it. Ms. McKenzie commented that she is not in favor of raising the number of votes to hold for discussion. President Burton commented that she agreed with Ms. McKenzie. Dr. Lai questioned if there is a governing body that calibrates ALJs when it comes to dental cases. Michael Kanotz, legal counsel, responded that he is not aware of ALJ calibration/training. Ms. Fischer responded that administrative law judges rule based on the Dental Board's disciplinary guidelines. Dr. Larin requested clarification of when a member should/may abstain from a vote on discipline. Mr. Kanotz responded that it is up to each member to decide.

RECESS TO CLOSED SESSION

Recess Until Friday, August 16, 2019

Friday, August 16, 2019

Agenda Item 14: Call to Order/Roll Call/Establishment of a Quorum

The meeting was called to order by President Fran Burton at 9:10 a.m. Dr. Steve Chan, Board Secretary, called the roll and a quorum was established.

Agenda Item 15: Executive Officer's Report

Executive Officer, Karen Fischer, reported on:

- **New Website** – Board Members were notified June 26 that its website had been redesigned and launched. We hope that the website is easier to navigate. Early feedback from those people who have visited the website since launched is good.
- **General Anesthesia/Conscious Sedation Calibration Courses** – The Board conducted two GA/CS Calibration Courses – the first on May 22 in Oakland and the second on May 29 in Van Nuys. Attendance was good.

- **Directors Quarterly Meeting** – Chief Deputy Director Chris Shultz hosted the DCA Director’s Quarterly Meeting on June 3rd. During this meeting, he communicated his commitment to ensure a smooth transition as the Governor’s Office continues to search for a new DCA director. During the interim period, he encouraged executive officers and bureau chiefs to send ideas regarding cross-cutting projects where new leadership and the Administration can focus.
- **Executive Officers Salary Study** The Department retained KH Consulting to conduct the executive officer salary study. The study aims to provide an in-depth analysis of programmatic and operational complexities of DCA Boards, as well as a salary comparison survey from other states. On July 8, 2019, the executive officer salary study was distributed to executive officers and board presidents. In addition, the executive office hosted a meeting to discuss the findings of the study on July 12th. DCA will be reaching out to each of the programs to set up one-on-one meetings with the executive officer and board president to discuss program-specific findings.
- **Sunset Hearings** – AB 1519 with amendments was published July 2. On July 8, the bill was heard in the Senate Business, Professions and Economic Development Committee. It passed out of Committee and was heard in Senate Appropriations Committee on August 12 – after the Legislative Summary Recess. The bill was put on suspense and should move to the Senate Floor in the coming weeks. After passing the Senate, it will be referred back to the Assembly for concurrence. The Legislative Session ends on September 13. October 13 is the last day for the Governor to sign or veto the bill.
- **Special Teleconference** – July 23. Thank you to those board members who were able to participate in this meeting. The transcripts have been ordered and it is expected that the issue will be discussed at the November meeting.
- **Dental Assisting Council Meeting** – July 26 in Sacramento. The Dental Assisting Council (Council) of the Dental Board of California (Board) has held several stakeholder workshops since between 2015-2018 to develop its comprehensive rulemaking proposal relative to dental assisting. The last workshop took place in March 2018. During each workshop, Board staff received comments from Council members, interested parties, and members of the public regarding needed changes in the current regulatory language relating to dental assisting education, application and examination requirements, and licensure.

Board staff drafted proposed language for the Council’s review and comment. This is the staff’s first attempt at addressing all comments and feedback received over the last few years from the Council and stakeholders and compile it into one working document with actual regulatory language.

Board staff reorganized the regulatory requirements to provide consistency, clarity, and tried to avoid duplication. Additionally, staff attempted to mesh Board requirements with CODA standards where applicable in an effort to streamline Board requirements with CODA for the approval process; this was done in an effort to eliminate the potential burden for some programs to produce different information for the Board than what is provided to CODA.

The Council reviewed the proposed language and provided feedback and direction to aid staff in the further development of the comprehensive rulemaking proposal.

- **Attorney General Cost Increases** – On July 3, the Board received an email from the Department’s Chief Fiscal Officer that DCA was notified on July 1, 2019, that the Department of Justice (DOJ), Attorney General (AG) Office hourly rates increased effective July 1, 2019.

DCA was not consulted about this increase and only learned of the new fees on July 1st. The DCA budget office is currently analyzing the impact to each program. If programs have a sufficient fund balance, Budget Act of 2019, section 5.0 provides a process for the Department of Finance to augment your AG line items to reflect this base adjustment. Some programs have expressed concern that a statutory fee increase may be necessary in order to generate sufficient funds to pay for the increased AG costs. DCA has reached out to the Legislature to consider and weigh options for potential solutions.

DCA is committed to working with each program to increase budget authority so that enforcement is not diminished. July 15, the board was notified that the rate increase will go into effect September 1, 2019.

- **Dental Hygiene Board Meeting** – Teleconference, August 6. There was a legislative and regulatory update. The Board adopted by resolution the registration and renewal fees for mobile dental hygiene clinic \$100/\$160; and a fee for the application and review of new RDHAB educational programs. The language brought before the Dental Board in May was submitted to DCA legal without reference to “interim” adhesives.
- **Lease Agreement** – The lease agreement has been approved by all parties and will start March 1, 2020. The term is 4 years, with an option for additional 4 years. As previously mentioned, the board will be expanding its office space to accommodate the increase in staff positions.
- **Qingdao China** – Application Review. At the end of June I received a revised application for Board approval from the School. On or around July 12 I forwarded the information to the subcommittee for review and comment. It is the Board’s responsibility to determine if the application is complete. The subcommittee will be meeting at the end of August to review the documents submitted by the school to

determine if a recommendation can be made to the Board to accept the complete application.

- **Board Training – Sexual Harassment Prevention Training** There are still nine members that need to complete this training by year end. Please do so sooner rather than later.
- **Board/Council Elections – November meeting.** The Board's Policy and Procedure Manual indicates that members seeking office should contact the Board's EO thirty days prior to the meeting date at which the elections will occur. Please send me notification of your intention to run for office by October 14.

Agenda Item 16: Report of the Department of Consumer Affairs Staffing and Activities

Department of Consumer Affairs provided a written report which is available in the meeting materials published on the Board's website. The report covers the Director Quarterly Meeting, the Executive Officer Salary Study, DCA's open data portal, and future leadership development program. There was no public comment.

Agenda Item 17(a): Update on the Portfolio Pathway to Licensure

Tina Vallery, Dental Assisting Licensing Manager, provided this report. Refer to the board meeting materials on the Board's website. There was no public comment.

Dr. Lai questioned if the Board has direct contact with school faculty on a normal basis for feedback on the Portfolio Pathway to Licensure. Ms. Vallery responded that the Board does reach out and contact all the schools who are participating in the Portfolio Pathway to Licensure. Dr. Whitcher commented there was a list of problems which was identified when the Portfolio Pathway to Licensure was being implemented. Dr. Morrow commented that Dr. Le and himself previously met with deans of the six (6) dental schools to discuss issues related to the examination. Dr. Morrow asked the deans to provide a list of issues to improve the process. So far, the deans have not provided any feedback to him. Dr. Le commented that she is concerned there might not be any more applications and the program will go away if the Board does not receive feedback from the schools.

Public Comment:

Dr. Alan Felsenfeld suggested that the Board send a blast email with the Portfolio Pathway to Licensure brochure to freshman entering the university.

Agenda Item 17(b): Western Regional Examination Board Report

Huong Le, DDS, MA, reported that there are no updates for the Western Regional Examination Board (WREB) since the last meeting.

Dr. Norm Magnuson, WREB representative, provided a verbal update of the WREB examination. Dr. Magnuson reported that changes are being implemented for next year which include the prosthetic exam being offered to third year students. The WREB

exam will be reviewed by Office of Professional Examination Services (OPES) next year.

Dr. Chan questioned how many of the candidates are from the school conducting the exam, how many candidates from California, how many candidates are not from California, and how many candidates that are not within the WREB states who are taking the exam. Dr. Magnuson responded that he can provide more information in the future. Most schools will prioritize their students before filling spots for the exam. Dr. Lai questioned what the cost of the exam is for students in state and out of state. Dr. Magnuson responded there are no out-of-state fees and the exam cost roughly \$2,400 not including school fees. Ms. Burton questioned when the next DERB meeting is. Dr. Magnuson responded that the next meeting is November 8, 2019 in Denver, CO. There was no public comment.

Agenda Item 17(c): Presentation by the American Board of Dental Examiners (ADEX)
Representatives from ADEX provided the presentation: President, Dr. Jeffery Hartsog, Vice President, Dr. Guy Champaine, former President, Dr. William Pappas, and Executive Director Kathleen Kelly. Refer to the webcast on the Board's website for details on the presentation

Dr. Whitcher asked how many schools offer CIF compared to traditional. Dr. Champaine stated about forty (40) to fifty (50) percent of the schools have adopted all the components of the PCCIF. Dr. Morrow asked if the faculty with the examiner roles will be conducting the exam for the students at their school or if they will be conducting the exams at other locations. Dr. Champaine stated that they would conduct the exams at different locations to avoid conflict of interest. Dr. Morrow questioned the process of faculty members assessing the outcome of the completed restoration competency examination to meet requirements for CODA and ADEX for licensure. In addition, has ADEX conducted a comparison of the faculty review of the procedure for CODA examiner review of the procedure for the ADEX exam? Dr. Champaine responded that there is little difference, however one can pass the ADEX examination but not pass competency examination. Dr. Whitcher questioned how ADEX controls consistency of implementation of the exam. Dr. Pappas responded that all of the exams are consistent with no variance. Dr. Morrow asked if there will be a CIF version of the endodontic assessment. Dr. Champaine responded that ADEX does not have a simulation for the endodontic assessment.

Public Comment:

Allison Yochim, consumer and Registered Dental Hygienist, commented that the WREB and ADEX only conduct tests with prosthetic teeth and was concerned about students who will go on to graduate to work on real natural teeth. She stated she is in support of the Sunset Bill.

Agenda Item 17(d): Discussion and Possible Action Regarding ADEX Examination Review by Office of Professional Examination Services

Office of Professional Examination Services (OPES) found that the procedures used to establish and support the validity and defensibility of the ADEX dental examination series meet professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing (2014) (Standards)* and California Business and Professions Code (B&P) section 139. However, OPES offered a few recommendations for ADEX to consider should the Board adopt the ADEX dental examination series for California licensure. Refer to the board meeting materials on the Board’s website. Drs. Heidi Lincer and Tracy Montez were available to answer general questions regarding the report. There was no public comment.

Dr. Whitcher commented that the OPES review does not address the administration of the clinical competency portion in the dental field and the test site variability which was an issue with the RDA practical exam.

M/S/C: (Morrow/Le) to accept the OPES report regarding ADEX examination review.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed.

Agenda Item 18(a) Review of Dental Licensure and Permit Statistics

Ms. Vallery provided this report which is available in the meeting materials published on the Board’s website.

Dr. Lai commented that the first page of the memorandum was very informative. President Burton asked about the progress of cleaning up delinquent licenses since switching over to the online licensing and enforcement system Breeze. Ms. Wallace responded that licensees receive two notices: initial notice for renewal and another notice thirty (30) days after failure to renew. Staff continues to reach out to licensees to avoid delinquent status. There was no public comment.

Agenda Item 18(b): General Anesthesia and Conscious Sedation Permit Evaluation Statistics

Ms. Vallery provided this report which is available in the meeting materials published on the Board's website.

Dr. Lai expressed his concern with future general anesthesia and conscious sedation questions that may arise after Dr. Whitcher's term ends with the Board as he is the subject matter expert. There was no public comment.

Agenda Item 19(a): 2019 Tentative Legislative Calendar – Information Only

There was no public comment.

Agenda Item 19(b): Discussion and Possible Action Regarding Legislation

Mr. Rumbaoa provided a summary of legislation the Board is currently tracking. Refer to the Board meeting material for additional information and the specific bill language. The Board discussed the bills.

M/S/C (Whitcher/Lai) to take: No Position on AB 528 (Low) Controlled Substances: CURES Database; to Watch AB 1622 (Carillo) Family Physicians

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed. There was no public comment.

Agenda Item 19(c): Discussion of Prospective Legislative Proposals

Stakeholders were encouraged to submit proposals in writing to the Board before or during the meeting for possible consideration by the Board at a future meeting. There was no public comment.

Agenda Item 20(a): Discussion and Possible Action to Modify the Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

Sarah Wallace, Assistant Executive Officer, provided this report. This item is the result of legislation, AB 2138. The attached language includes two versions of Section 1020 of Article 16 of the California Code of Regulations to reflect Option 1, which only applies the new AB 2138 rehabilitation criteria to denials, and Option 2, that also extends those

criteria to suspensions and revocations. The new criteria create a two-step process. Refer to the board meeting materials on the Board's website. There was no public comment.

Pursuant to Business and Professions Code sections 141 and 480, under existing law, boards may deny or discipline a license based upon discipline imposed by another state, an agency of the federal government, or another country for any act substantially related to the licensed profession. Effective July 1, 2020, Assembly Bill 2138 (Chapter 995, Statutes of 2018) will require boards to amend their existing regulations governing substantially-related crimes or acts, and rehabilitation criteria.

Business and Professions Code section 480 presently authorizes boards to deny an application for licensure based on a conviction for a crime or act substantially related to the licensed business or profession. Likewise, section 490 authorizes boards to suspend or revoke a license on the basis that the licensee was convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession.

AB 2138 also specified three criteria that boards must consider when evaluating whether a crime is "substantially related" to the regulated business or profession. The criteria shall include: (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 the profession in which the applicant seeks licensure or in which the licensee is licensed.

The Department of Consumer Affairs sent an all agency memorandum to assist the boards in crafting amendments to their regulations for consistency purposes.

Board staff worked with its Legal Counsel to draft proposed language for the Board's consideration to amend its substantial relationship criteria and rehabilitation criteria. Proposed language was presented to the Board at its February 2019 meeting. At that meeting, the Board took action to approve the proposed language and initiate the rulemaking.

Upon submission of the proposed rulemaking to the Department of Consumer Affairs for pre-notice review, Board staff was made aware of an issue with the proposed language relating to rehabilitation criteria. The proposed language was brought back to the Board for discussion and consideration.

Staff requested the Board determine whether the new AB 2138 rehabilitation criteria will be strictly applied to denials of initial applications or if those criteria will also be extended to suspensions and revocations.

Staff presented proposed language which included two versions of Section 1020 of Article 16 of the California Code of Regulations to reflect: Option 1, which only applies the new AB 2138 rehabilitation criteria to denials, and Option 2, that also extends those criteria to suspensions and revocations. The new criteria create a two-step process

M/S/C: (Morrow/Whitcher) to accept Option 2 of the proposed language of Section 1020 of Article 16 of the California Code of Regulations to apply AB 2138's rehabilitation criteria to denials, suspensions and revocations of licensure.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed. There was no public comment.

M/S/C: (Burton/Morrow) to approve the proposed regulatory language relative to substantial relationship criteria and criteria for evaluating rehabilitation, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and delegating authority to the Executive Officer to make any technical or non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations before completing the rulemaking process and adopt the proposed amendments to California Code of Regulations, Title 16, Section 1019 and 1020 as noticed in the proposed text.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed. There was no public comment.

Agenda Item 20(b): Update on Pending Regulatory Packages

Wilbert Rumbaoa, Administrative Services Manager, provided this report which is available in the meeting materials published on the Board's website. Regulatory packages are in the process of being reviewed by legal counsel. The following packages that are in the process of resubmission to the legal counsel include: Basic Life Support Equivalency Standards, Continuing Education Requirements, Determination of Radiographs and Placement of Interim Therapeutic Restorations, Diversion Committee Membership, Elective Facial Cosmetic Surgery Permit Application Requirements and Renewal Requirements, Dentistry Law and Ethics Exam Score, Mobile Dental Clinic and Portable Dental Unit Registration Requirements, and Minimum Standards for Infection Control. The Dental Assisting Comprehensive Rulemaking regulatory package is currently in the process of submission after changes have been applied. The Site and Fine Regulation is currently being reviewed by executive staff at Department of Consumer Affairs (DCA). No additional proposals were submitted. There was no public comment.

Agenda Item 21: Licensing, Certifications, and Permits 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 CS Permits as it relates to an onsite inspection and evaluation failure. Dr. Lai request that the Board accept the recommendations of the LCP Committee.

Dr. Lai reported the LCP committee recommends issuance of a new dental license to replace a cancelled dental license with the condition of successfully passing of the California Dentistry Law and Ethics Written Examination and the WREB clinical exam for the following candidates:

1. GYA
2. MM

Dr. Lai reported the LCP committee recommends issuance of a new dental license to replace a cancelled dental license with the condition of successfully passing of the California Dentistry Law and Ethics Written Examination, basic life support certification, and a written verification of continuous practice since moving out of California on business letterhead for the following candidate:

1. ER

Dr. Lai reported the LCP Committee recommends issuance of a new dental license to replace a cancelled dental license with the condition of successfully passing of the California Dentistry Law and Ethics Written Examination Permit for the following candidates:

1. MGS
2. JMS

Dr. Lai reported the LCP Committee recommends denial of conscious sedation (CS) Permit for Dr. MS.

Ms. Olague reported the LCP committee recommends issuance of a new RDA license to replace a cancelled RDA license with the condition of successfully passing of the Combined California Registered Dental Assistant Law and Ethics/ Written Examination for the following candidates:

1. AB
2. RB
3. NG
4. AR
5. CL
6. LP
7. KT
8. LW

Ms. Olague reported the LCP committee recommends issuance of a new RDAEF license to replace a cancelled RDAEF license with the condition of successfully passing of the RDAEF Clinical, Practical, Written, and Combined California Registered Dental Assistant Law and Ethics/ Written Examination for the following candidates:

1. SA

M/S/C (Whitcher/Morrow) to accept issuance of a new dental license to replace a cancelled dental license for GYA, MM, ER, MGS, JMS; denial of CS Permit for Dr. MS; issuance of a new RDA license to replace a cancelled RDA license for AB, RB, NG, AR, CL, LP, KT, LW; issuance of a new RDAEF license to replace a cancelled RDAEF license for SA.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram				✓	
Lai	✓				
Larin	✓				
Le	✓				
McKenzie	✓				
Medina				✓	
Morrow	✓				
Olague	✓				
Pacheco				✓	
Stewart	✓				
Whitcher	✓				
Yu	✓				

The motion passed. There was no public comment.

Agenda Item 22: Public Comment on Items Not on the Agenda

None.

Agenda Item 23: Board Member Comments on Items Not on the Agenda

None.

Agenda Item 24: Adjournment

The meeting adjourned at 11:51 a.m.