



MEMORANDUM

REVISED

DATE	April 27, 2021 May 12, 2021
TO	Members of the Dental Board of California
FROM	Karen Fischer, Executive Officer Dental Board of California
SUBJECT	Agenda Item 9: Discussion and Possible Action on Board Policy and Procedure Manual

Background:

One of the Vice President's responsibilities is to periodically review the Board's administrative policies and procedures to determine if updates to the manual are necessary; and to coordinate that effort with the Board and staff. The last time this manual was reviewed was in 2016.

Staff, along with Board Legal Counsel, reviewed the "Administrative Policy and Procedure Manual" adopted August 18, 2016 and have proposed revisions for the Board to consider. Strikeout indicates deletion and underline indicates addition. Most of the recommended changes are considered non-substantive. Rosalinda Olague, Vice President, will lead the discussion.

Action Requested:

Adopt a revised Administrative Policy and Procedure Manual.

Attachment: Draft Revisions to the Dental Board of California Administrative Policy and Procedure Manual.



Dental Board of California

Board, Council, and Committee Member Administrative Policy and Procedure Manual

Adopted by the Board
August 18, 2016

Dental Board of California
2005 Evergreen Street, Ste 1550
Sacramento, CA 95815-3831
www.dbc.ca.gov

(Rev. May 2021)

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CHAPTER 1. INTRODUCTION

Overview

The Dental Board of California (DBCBoard) was created by the California State Legislature in 1885. Today, the DBCBoard is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), Business, Consumer Services, and Housing Agency. The DBCBoard's highest priority is protection of the public while exercising its licensing, regulatory, and disciplinary functions. If protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

The DBCBoard is presently comprised of 15 members. -The composition of the Board is defined in Business and Professions Code (BPC) Sections 1601 and 1603 and includes: eight dentists appointed by the Governor, one of whom must be a member of a faculty of any California dental college, and one ~~shall~~ must be a dentist practicing in a nonprofit community clinic; five public members, three appointed by the Governor, one by the Speaker of the Assembly and one by the Senate Rules Committee; one ~~licensed~~ registered dental hygienist appointed by the Governor; and one ~~licensed~~ registered dental assistant appointed by the Governor. Board members may serve up to two full four-year terms. In addition to the two full four-year terms, Board members may serve the partial term of the vacant position to which they are appointed and up to a one-year grace period after a term expires. Board members serve without a salary, but are compensated \$100 per day for each meeting day and are reimbursed for travel expenses (~~B&P Code~~ BPC § 103).

This policy and procedure manual is provided to Board, Council, and Committee members as a reference for important laws, regulations, DCA policies, and Board policies to help guide the actions of the Board, Council, and Committee members and ensure Board, Council, and Committee effectiveness and efficiency.

Definitions:

BPC	Business and Professions Code
CCR	California Code of Regulations
CLEAR	Council on Licensure Enforcement and Regulations
COUNCIL	<u>Dental Assisting Council</u>
DCA	Department of Consumer Affairs
EO	Executive Officer
SAM	State Administrative Manual
President	Where the term "President" is used in this manual, it will be assumed to include "his or her designee"

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General Rules of Conduct:

Board members shall not speak or act for the Board without proper authorization.

Board members shall maintain the confidentiality of confidential documents and information.

Board members shall commit the time necessary to prepare for Board responsibilities.

Each Board member shall recognize the equal role and responsibilities of all Board members.

Board members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the public.

Board members shall treat all applicants and licensees in a fair and impartial manner.

Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.

Board members shall not use their positions on the Board for personal, familial, or financial gain.

Board members shall refrain from working on personal and/or non-Board related business during Board meetings. If necessary, members shall leave the dais, ***being mindful of a quorum, to address personal and/or non-Board related business.***

CHAPTER 2. BOARD, COUNCIL, AND COMMITTEE MEETING PROCEDURES

Frequency of Meetings

~~(BPC Section 101.7)~~

Boards shall meet at least ~~three~~ two times each calendar year. (BPC § 101.7.)
Boards shall meet at least once each calendar year in Northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees. (Ibid.)

Special meetings may be held at such times as the ~~b~~Board may elect, or on the call of the Board President ~~of the board~~, or of not less than four members thereof. (BPC Section § 1608.)

Notice of each meeting and the time and place thereof shall be given in accordance with the Bagley-Keene Open Meeting Act, (Gov. Code § 11120 et seq.)-

Board, Council, and Committee Member Attendance at Board Meetings

(Board Policy)

Members shall attend each meeting. If a member is unable to attend, he or she must contact the Board President or the Executive Officer and request to be excused from the meeting.

Board, Council, and Committee Meetings

(Government Code Section 11120 et seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of the state regulatory boards and meetings of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.

Communications

~~(Bagley-Keene Open Meeting Act, Government Code Section 11122.5(b))~~

A majority of the members of the Board, a committee or Council shall not, outside of a ~~Board~~ publicly noticed meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

Council Member Participation at Board Meeting

~~(Bagley-Keene Open Meeting Act - Section II. C. Board and Committee Meetings [Restriction on Attendance at Committee Meetings])~~ Government Code Section 11122.5(c)(4); 81 Ops. Cal. Atty. Gen. 156, 158 (1998); DCA Policy)

Council members not serving as a member of the Board may only attend a Board meeting as an observer and shall not participate, which includes sitting with the Board on the dais or making any statements or asking any questions during the Board meeting, in matters under consideration by the Board during a meeting, unless there is a joint meeting of the Board and Council.

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Committees

(Board Policy, BPC Section 1601.1)

The Board shall be organized into standing committees pertaining to examinations, enforcement, and other subjects the Board deems appropriate.

Committees meet when they have issues to be considered in order to make recommendations to the full Board.

The Board President and/or Committee Chair, in consultation with the Executive Officer, may appoint a two-person subcommittee at any time as deemed necessary.

The statutory and standing committees are as follows:

- Diversion Evaluation Committees (Northern and Southern) (BPC § 1695.2)
- Elective Facial Cosmetic Surgery Permit Credentialing Committee (BPC § 1638.1)
- Enforcement Committee (BPC § 1601.1)
- Examination Committee (BPC § 1601.1)

The specific needs committees are as follows:

- Access to Care Committee
- Anesthesia Committee
- Executive Committee
- Legislative and Regulatory Committee
- Licensing, Certification, and Permits Committee
- Substance Use Awareness Committee

Dental Assisting Council

(BPC Section 1742)

The Dental Assisting Council (Council) will consider all matters relating to dental assistants in California and will make appropriate recommendations to the Board and the standing Committees of the Board. -The members of the Council shall include the registered dental assistant member of the Board, another member of the Board, and five registered dental assistants.

~~Council Member Comments During a Board meeting~~

~~(Bagley-Keene Open Meeting Act **Section II. C. Board and Committee Meetings [Restriction on Attendance at Committee Meetings]**)~~

~~Council members not serving as a member of the Board shall not participate in matters under consideration by the Board during a meeting, unless there is a joint meeting of the Board and Council.~~

Public Participation

(Government Code Section 11125.7(a); Board Policy)

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The Board, Council, and committees shall provide an opportunity for members of the public to directly address the Board, Council, or Committee on each agenda item before or during the Board's, Council's, or Committee's discussion or consideration of the item. Public participation is encouraged throughout the public portion of the meetings. The chairs of the respective committees, as well as the Board President, acknowledge comments from the audience during general discussion of agenda items. In addition, each Board agenda includes public comment as a standing item of the agenda. This standing agenda item allows the public to request items to be placed on future agendas.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Quorum

(BPC Section 1610)

Eight Board members constitute a quorum of the Board for the transaction of business; four members for the council; four members for the Diversion Evaluation Committee (DAC); and three members for the Elective Facial Cosmetic Surgery Permit Credentialing Committee (EFCS). Ad Hoc committee quorums would be a simple majority of appointed members.

- ***Members shall be mindful of the quorum before temporarily exiting the discussion.***

Agenda Items

(Board Policy)

Board meetings generally involve:

- Board policy
- Legislation that may be relevant to the practice of dentistry
- Content and administration of examinations
- Adoption or repeal of regulations
- Approval of fee schedules
- Appeals of Board actions
- Board Procedures/Operations
- Enforcement issues, such as, adoption or non-adoption of Administrative Law Judge proposed decisions, stipulated settlements, and referral of cases to the Office of Administrative Hearings
- Committee meetings
- Consideration of committee recommendations

Any Board member may submit, for consideration, items for a Board meeting agenda to the Board President and Executive Officer 30 days prior to the meeting. The Board President and Executive Officer, in consultation with legal counsel, will review and, if appropriate, approve items submitted for consideration.

Closed Session

(Government Code Sections 11126(c)(2) and 11126(e)(3))

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The Board shall meet in Closed Session to deliberate and take action on disciplinary matters, litigation, and personnel matters.

- Stipulations and Proposed Decisions will be distributed to Board members for a mail vote.
- Two Board members are required to hold a decision for discussion in Closed Session at a future Board meeting. If only two members hold for discussion and one of those members is unable to attend the meeting, the Board's action will revert to the majority vote on that decision.
- Effective July 1, 2016, Stipulated Surrenders and Revocations are automatically accepted by the Executive Officer without Board member vote per CCR, ¶title 16, Ssection 1001}.

Notice of Meetings

(Government Code Section 111250 et seq.)

~~According to the Open Meeting Act, m~~ Meeting notices must include the agenda and shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include a staff person's name, work address and work telephone number who can provide further information prior to the meeting.

Notice of Meetings to be Posted on the Internet

(Government Code Section 11125)

~~The n~~ Notice of meeting and the agenda shall also be made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices are available.

Record of Meetings

(Board Policy)

The minutes are a summary, not a transcript, of each Board, Council and Committee meeting. They shall be prepared by Board staff and submitted for review by the Board members at the next Board meeting. Board minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting.

Board meetings are webcast in real time when webcasting resources are available. Archived copies of the webcast are available on the Board's website approximately 30 days after the meeting is held.

Recording

(Board Policy; Government Code Section 11124.1(b))

Public meetings are recorded for staff purposes. Recordings may be erased upon Board approval of the minutes or 30 days after the recording. -CD copies are available, upon request, for Board members not able to attend a meeting.

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Meeting Rules

(~~16 CCR, Title 16, Section § 1002~~)

Board, Council, and Committee meetings are conducted following Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

Use of Electronic Devices During Meetings

(~~Bagley-Keene~~Government Code Section 11122.5(b)(1); 84 Ops. Cal. Atty. Gen. 30 (2001))

Board members should not text or email one another during a meeting on any matter within the Board's jurisdiction. Using electronic devices to communicate secretly in such a manner would violate the Open Meeting Act. Where laptop computers or tablets are used by the Board members at the meeting because the Board provides materials electronically, the Board President shall make an announcement at the beginning of the meeting as to the reason for the use of laptop computers or tablets.

CHAPTER 3. TRAVEL AND SALARY POLICIES AND PROCEDURES

Travel Approval

(DCA Memorandum 96-01)

Board, Council, and Committee members shall have Board President approval for all travel except for regularly scheduled Board, Council, and eCommittee meetings to which the ~~Board~~-member is assigned.

Travel Arrangements

(Board Policy)

Board, Council, and Committee members are encouraged to coordinate with the ~~Executive Assistant~~ Administrative Analyst on travel arrangements and lodging accommodations.

Out-of-State Travel

(SAM Section 700 et seq.)

For out-of-state travel, Board members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the State of California is controlled and must be approved by the Governor's Office.

Travel Claims

(SAM Section 700 et seq. and DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for Board members are consistent with rules that apply to management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The ~~Executive Assistant~~ Administrative Analyst maintains these forms and completes them as needed. It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, Board members shall follow the procedures contained in DCA Departmental Memoranda ~~which~~that are periodically disseminated by the DCA Director and are provided to Board members.

Per Diem Salary

(BPC Section 103)

~~BPC Section 103 regulates compensation in the form of~~Board, Council, and Committee members will receive per diem salary and reimbursement of travel and other related expenses for Board members. This section provides for the payment of per diem salary for Board members "for each day actually spent in the discharge of official duties," and ~~provides that the Board member~~ "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

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Per Diem Salary (~~Board Policy~~)

Per Board policy, the following general guidelines shall apply to the payment of per diem salary, or reimbursement for travel:

1. No per diem salary or reimbursement for travel-related expenses shall be paid to Board, Council, or Committee members except for attendance at official Board, Council, or ~~Committee~~ meetings. Attendance at gatherings, events, hearings, conferences or meetings other than official Board, Council or ~~Committee~~ meetings shall be approved in advance by the Board President. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President prior to ~~Board~~ member's attendance.
2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board, Council, or Committee meeting ~~or committee meeting~~ to the conclusion of that meeting.

Where it is necessary for a Board member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For specified Board, Council, or Committee-specified work, ~~Board~~ members will be compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at gatherings, events, meetings, hearings, or conferences, and committee work. That work does not include preparation time for Board, Council, or ~~Committee~~ meetings. ~~Board m~~Members cannot claim per diem salary for time spent traveling to and from a Board, Council, or ~~Committee~~ meeting.

CHAPTER 4. SELECTION OF OFFICERS AND COMMITTEE/LIAISON APPOINTMENTS

Officers of the Board (BPC Section 1606)

The Board shall elect from its members a President, a Vice President, and a Secretary.

Election of Officers (Board Policy)

It is ~~h~~Board policy to elect officers at the final meeting of the calendar year for service during the next calendar year, unless otherwise decided by the ~~h~~Board. The newly elected officers shall assume the duties of their respective offices on January 1 of the new year.

Procedure for Nomination (Board Policy)

Board Mmembers interested in running for President, Vice-President, and Secretary shall independently submit their name to the Executive Officer ***no later than 30 days before the final scheduled meeting of the calendar year.***

Election Process (Board Policy)

The Board's eExecutive eOfficer shall conduct the election of officers and shall set the general election procedure.

Officer Vacancies (Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice President shall assume the office of the President. Elected officers shall then serve the remainder of the term.

Absence of Officers (Board Policy)

If an officer is absent from two consecutive meetings, the Board may consider whether it wishes to vacate that position. If the office is that of the President, the Vice President shall assume the office of the President. If the office is that of the Vice President, the Secretary shall assume the office of the Vice President. A vacancy in the office of the Secretary shall be voted on by Board members. Officers shall then serve the remainder of the term.

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Committee/Liaison Appointments *(Board Policy)*

The Board President shall establish committees, whether standing or special, as he or she deems necessary. The composition of the committees and the appointment of the members shall be determined by the Board President in consultation with the Vice President, Secretary, and the Executive Officer. When committees include the appointment of non-Board members, all affected parties should be considered. The Board President shall strive to appoint Board members to a minimum of one standing committee.

Attendance at Committee Meetings *(Board Policy Government Code Section 11122.5(c)(6); 81 Ops. Cal. Atty. Gen. 156, 158 (1998); DCA Policy)*

If a Board member wishes to attend a meeting of a committee of which he or she is not a member, that Board member cannot participate or vote during the committee meeting, and must not sit on the Days.

Roles and Responsibilities of Board Officers/Committee Chairs/Liaisons *(Board Policy)*

President

- Acts as spokesperson for the Dental Board (attends legislative hearings and testifies on behalf of the Board, attends meetings with stakeholders and Legislators on behalf of Board, talks to the media on behalf of the Board, and signs letters on behalf of the Board).
- Meets and/or communicates with the Executive Officer (EO) on a regular basis.
- Provides oversight to the Executive Officer in performance of the EO duties.
- Approves leave requests, verifies accuracy, and approves member timesheets, approves travel, and signs travel expense claims for the Executive Officer.
- Coordinates the EO-annual Executive Officer evaluation process, including contacting the DCA Office of Human Resources to obtain a copy of the Executive Officer Performance Evaluation Form, distributes the evaluation form to members, and collates the ratings and comments for discussion.
- Authors a President's message for every Board meeting and published newsletters.
- Approves Board Meeting agendas.
- Chairs and facilitates Board Meetings.
- Chairs the Executive Committee.
- Signs specified full Board enforcement approval orders.
- Establishes Committees and appoints Chairs and members.
- Establishes 2-Person subcommittees and /or task forces to research policy questions when necessary.
- Attends Dental Hygiene Committee Board of California meetings.

Vice President

- May assume the duties above in the President's absence.

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- Is a member of Executive Committee.
- Coordinates the revision of the Board's Strategic Plan.
- Coordinates the revision of the Board's, Council, and Committee Member Administrative Policy and Procedure Manual.

Secretary

- Calls the roll at each Board meeting and reports that a quorum has been established.
- Calls the roll for each action item.
- Is a member of Executive Committee.

Council or Committee Chair

- Reviews agenda items with EO and Board President prior to Council or Committee meetings.
- Approves the Council or Committee agendas.
- Chairs and facilitates Council or Committee meetings.
- Calls the roll or appoints a member to call the roll for each action item.
- Reports the activities of the Council or Committee to the full Board.

Liaisons

Members acting as liaisons to Committees are responsible for keeping the Board informed regarding emerging issues and recommendations made at the Committee level. The Council Chair serves as the Council's liaison to the Board. (BPC § 1742(i).)

Creation of Task Forces *(Board Policy)*

It is the policy of the Board that:

- 1) task forces will be appointed sparingly as the exception rather than the rule and only when the Board finds it cannot address a specific and well defined issue through the existing committee structure;
- 2) task force members may be appointed by the Board President but must be approved by the full Board;
- 3) the charge given to the task force will be clear, specific, in writing, and presented to the Board at the time of appointment;
- 4) task forces, of three or more members, appointed by the Board are subject to the same Open Meeting laws as the Board (as required by Government Code Section 11121(c));
- 5) all task forces shall give staff at least 20 days advance notice of the time, place, and general agenda for any task force meeting;
- 6) task forces will meet and report regularly and provide the Board with minutes after every meeting;

- 7) no task force recommendation will be the basis for Board action in the absence of a formal written report from the task force to the Board.

CHAPTER 5. BOARD ADMINISTRATION AND STAFF

Board Administration

(DCA Reference Manual)

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer.

Board Budget

(Board Policy)

The Executive Officer shall serve as the Board's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. The Executive Officer, or the Executive Officer's designee, will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Strategic Planning

(Board Policy)

The Executive Committee shall have overall responsibility for the Board's Strategic Planning Process. The Vice President shall serve as the Board's strategic planning liaison with staff and shall assist staff in the monitoring and reporting of the strategic plan to the Board. The Board will conduct periodic strategic planning sessions and may utilize a facilitator to conduct the strategic planning process.

Legislation

(Board Policy)

When time constraints preclude Board action, the Board delegates the authority to the Executive Officer and the Chair of the Legislative and Regulatory Committee to take action on legislation that would change the ~~Dental Board of California's~~ Dental Practice Act, or which impacts a previously established Board policy, or affects the public's health, safety, or welfare. Prior to taking a position on legislation, the Executive Officer shall consult with the Board President and Legislative and Regulatory Committee Chair. The Board shall be notified of such action as soon as possible.

Communications with Other Organizations and Individuals

(Board Policy)

The official spokesperson for the ~~Dental Board of California~~ is the Board President. The President may designate the Executive Officer, the Chief of Enforcement, other ~~b~~Board members, or staff to speak on behalf of the Board.

It is the policy of the ~~Dental Board of California~~ to accommodate speaking requests from all organizations, schools, consumer groups, or other interested

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groups, whenever possible. If the Board representative is addressing a dental school or group of potential candidates for licensure, the program must be open to all interested parties. The President may authorize Board members to speak to schools, organizations, consumer groups, or other interested groups upon request by members or written requests from said schools, organizations or groups.

Media Inquiries (Board Policy)

If a member of the Board receives a media call, the Member should promptly refer the caller to the Department of Consumer Affairs DCA Public Information Officer who is employed to interface with all types of media on any type of inquiry. It is required that members make this referral as the power of the Board is vested in the Board itself and not with an individual Board Member. Expressing a personal opinion can be misconstrued as a Board policy or position and may be represented as a position that the Board has taken on a particular issue when it has not.

A Board Member who receives a call should politely thank the caller for the call, but state that it is the Board's policy to refer all callers to the Public Information Officer. The Board Member should then send an email to the Executive Officer indicating they received a media call and relay any information supplied by the caller.

Legal Opinions – Requests from Outside Parties

The Board does not provide legal services for persons or entities outside the Board staff. Requests for legal opinions from outside entities are to be discussed with the Board President and Legal Counsel to determine whether it is an issue over which the Board has jurisdiction and the opinion, if prepared, could be posted on the Board's Web site and benefit the general public rather than one individual. Persons making such requests would be notified that the Board will not be responding directly to their request but will post the opinion on the Internet when it is final.

Service of Lawsuits (Board Policy)

Board Members may receive service of a lawsuit against themselves and the Board pertaining to a certain issue (e.g., a disciplinary matter, a civil complaint, a legislative matter, etc.). To prevent a confrontation, the Board Member should accept service. Upon receipt, the Board Member should notify the Executive Officer of the service and indicate the name of the matter that was served and any pertinent information. The Board Member should then mail the entire package that was served to the Executive Officer as soon as possible. The Board's legal counsel will provide instructions to the Board Members on what is required of them once service has been made. The Board Members may be required to submit a request for representation to the Board to provide to the Attorney General's Office.

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Executive Officer Evaluation

(Board Policy)

The Board shall evaluate the performance of the Executive Officer annually.

Executive Officer Vacancy

(Board Policy)

In the event the Executive Officer position becomes vacant, the Board may, at its discretion, appoint the Assistant Executive Officer or another employee of the Board as the Acting Executive Officer or Interim Executive Officer. An Acting Executive Officer is only entitled to his or her current salary. If an Interim Executive Officer is appointed, the Board shall set his or her salary at an amount within the Executive Officer's salary range. ~~The DCA's Office of Human Resources Division~~ will provide assistance with the temporary appointment process and the process for the search for a new Executive Officer.

Board Staff

(DCA Reference Manual)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Consequently, the Executive Officer shall solely be responsible for all day-to-day personnel transactions.

Business Cards

(Board Policy)

Business cards will be provided to each Officer of the Board with the Board's office address, telephone and fax number, and Web site address. A Board Officer's business address, telephone and fax number, and e-mail address may be listed on the card at the member's request.

CHAPTER 6. OTHER POLICIES AND PROCEDURES

Availability

(Board Policy)

It is recommended that Board members who will be unavailable for a period longer than three consecutive days, notify the Executive Officer and the Board President.

Mandatory Training

(DCA Policy)

State law requires ~~b~~Board members within ~~DCA~~~~the Department of Consumer Affairs~~ to complete training in several important areas, including ethics, conflict of interest laws, sexual harassment prevention, and Board Member Orientation Training.

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Ethics Orientation

http://www.dcaboardmembers.ca.gov/training/ethics_orientation.shtml

(Government Code §53234 Section 11146.1)

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

The training includes important information on activities or actions that are inappropriate or illegal. For example, generally public officials cannot take part in decisions that directly affect their own economic interests. They are prohibited from misusing public funds, accepting free travel, and accepting honoraria. There are limits on gifts.

An online, interactive version of the training is available on the Attorney General's Web site at <http://oag.ca.gov/ethics>. An accessible, text-only version of the materials is also available at the Attorney General's Web site.

Conflict of Interest

http://www.dcaboardmembers.ca.gov/member_info/conflict_interest.shtml

(Government Code 81000)(California Code of Regulations, §18730)

~~The Department of Consumer Affairs will make and retain a copy of the statements from members of the boards, commission, committees and subcommittees and make them available for public inspection. It will forward the original statement to the Fair Political Practices Commission.~~

~~Information on specific topics can be found at:~~

~~http://www.dcaboardmembers.ca.gov/member_info/conflict_interest.shtml~~

Sexual Harassment Harassment Prevention

http://www.dcaboardmembers.ca.gov/training/harassment_prevention.shtml

(Government Code §Section 12950.1)

All new board members are required to attend at least two hours of classroom or other interactive training and education regarding sexual harassment prevention within six months of their appointment. The Equal Employment Opportunity (EEO) Office is responsible for ensuring that all board members complete their required training. A copy of your certificate of proof of training must be sent to the EEO Office. Please identify which Board/Committee/Commission you serve on.

For information on how to receive Sexual Harassment Prevention Training contact:

Equal Employment Opportunity Office
1625 N. Market Blvd, Ste N330
Sacramento, CA 95834
(916) 574-8280 (916) 574-8604 Fax

Board Member Orientation

(BPC Section 453)

Every newly appointed and reappointed board member is required to

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complete a training and orientation program offered by the ~~Department of Consumer Affairs (DCA)~~ within one year of assuming office. The training covers the functions, responsibilities, and obligations that come with being a member of a DCA board.

For more information and assistance with scheduling training, please contact:

SOLID Training Solutions
1747 North Market Blvd, Ste. 270
Sacramento, CA 95834
(916) 574-8316
SOLID@dca.ca.gov

Board Member Disciplinary Actions

(Board Policy)

The Board may censure a member if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The President of the Board shall sit as President of the hearing unless the censure involves the President's own actions, in which case the Vice President of the Board shall sit as President. In accordance with the Bagley-Keene Open Meeting Act, the censure hearing shall be conducted in open session.

Removal of Board Members

(BPC Sections 106, 106.5, 1605)

The Governor has the power to remove from office at any time any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor also may ~~also~~ remove from office a Board member whom directly or indirectly discloses examination questions to an applicant for examination for licensure. Those proceedings would be conducted in accordance with the Bagley-Keene Open Meeting Act, and tThat member would ~~also~~ be subject to a misdemeanor violation (~~B&P Code~~BPC § 123).

Resignation of Board Members

(Government Code Section 1750)

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. State law requires written notification. A copy of this letter shall also be sent to the DCA D~~irector of the Department~~, the Board President, and the Executive Officer.

Form 700 – Statement of Economic Interests

(Government Code Section 87203; CCR, Title 2, Section 18730)

Board, Council, and Committee members are public officials required to annually report their investments, interests in real property, and income to the Fair Political Practices Commission using the Form 700, Statement of

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Economic Interests, which is a publicly disclosable record. Each member must submit their Form 700 using the online submission process.

Information on the Form 700 and other conflicts of interest topics can be found at: https://www.dca.ca.gov/about_us/board_members/required_training.shtml

Conflict of Interest

(Government Code Section 87100; Common Law; BPC Section 450; DCA Policy)

No Board, Council, or Committee member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any ~~Board~~ member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. ~~Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.~~

Conflicts of interest or disqualification issues mainly arise from four general sources: (1) financial conflicts arising under the Political Reform Act of 1974 (Gov. Code § 87100 et seq.); (2) common law conflicts of interest arising from personal interest or bias, or even the potential appearance of a bias or personal interest in a matter even in the absence of a financial conflict of interest; (3) the general provisions of BPC section 450 et seq. that detail the qualifications and restrictions on public members of a board; and (4) conflicts arising under the DCA Incompatible Work Activities policy.

Any member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Honoraria Prohibition

(Government Code Section 89502)

As a general rule, Board, Council, and Committee members ~~of the Board~~ should decline honoraria for speaking at, or otherwise participating in, professional association conferences and meetings. A member of a state ~~B~~board is precluded from accepting an honorarium from any source, if the ~~B~~board member would be required to report the receipt of income or gifts from that source on his or her statement of economic interest.

There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances: (1) when an an honorarium is returned to the donor (unused) within 30 days; (2) when an honorarium is delivered to the State Controller within thirty days for donation to the General Fund (for which a tax deduction is not claimed); and (3) when an honorarium is not delivered to the ~~Board~~ member, but is donated directly to a bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization.

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In light of this prohibition, ~~Board~~ members should report all offers of honoraria to the Board President, so that he or she, in consultation with the ~~EO~~ Executive Officer and ~~staff~~ legal counsel, may determine whether the potential for conflict of interest exists.

Paid Travel to Attend Meeting Unrelated to Board Business (*Government Code Section 89506*)

In general, payments by a third party for a public official's travel are considered a gift, subject to the per year gift limit, and must be reported by the official on his or her statement of economic interests; however, there are exceptions to this rule. ~~Pursuant to Government Code Section 89506, p~~ Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited and are not subject to the per year gift limit if either of the following apply:

- (1) The travel is in connection with a speech given by the ~~elected state officer, local elected officeholder, candidate for elected state office, or local elected office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency,~~ the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.
- (2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

Keep in mind that the rules regarding financial conflicts of interest are complex, and, therefore, Board members should contact the DCA Ethics Officer at (916) 574-8220 for assistance.

Contact with Candidates (*Board Policy*)

Board, Council, and Committee members shall not intervene on behalf of a candidate for licensure for any reason as this may create a conflict of interest. ~~They~~ Members should forward all contacts or inquiries to the Executive Officer or Board staff.

Gifts from Candidates (*Board Policy*)

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Gifts of any kind to Board members or the staff from candidates for licensure with the Board shall not be permitted.

Request for Records Access

(Board Policy)

No Board, Council, or Committee member may access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the DBC Board's office.

Ex Parte Communications

(Government Code Section 11430.10 et seq.)

The Government Code contains provisions prohibiting Administrative Procedure Act prohibits *ex parte* communications.

An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in ~~subdivision (a) of~~ Government Code section 11430.10, subdivision (a), which states:

"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board members are prohibited from an *ex parte* communication with Board enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Chief of Enforcement.

If a Board member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter. If the person insists on discussing the case, he or she should be told that the Board member would be required to excuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board member believes that he or she has received an unlawful *ex parte* communication, he or she should contact the Board's legal counsel.