



**Dental Board of California Meeting
April 22, 2009
San Diego, California
Meeting Minutes**

Members Present:

Suzanne McCormick, DDS, President
John Bettinger, DDS, Vice President
William Baker, Public Member
Stephen Casagrande, DDS
Luis Dominicis, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Huong Le, DDS
Thomas Olinger, DDS
Bruce Witcher, DDS

Members Absent:

None

Staff Present:

Cathleen Poncabare, Executive Officer
Richard DeCuir, Assistant Executive Officer
Nancy Butler, Interim Enforcement Chief
Nick Scinocca, Supervising Investigator
Dawn Dill, Licensing & Exam Unit Manager
Lori Reis, Complaints & Compliance Unit Manager
Sarah Wallace, Administrative Analyst
Donna Kantner, Legislative & Regulatory Analyst
Jessica Olney, Exam Analyst
Eric Rivera, Exam Analyst
Jocelyn Campos, Enforcement Coordinator
LaVonne Powell, Legal Counsel
Gregory Salute, Deputy Attorney General

President McCormick called the meeting to order at 8:02 a.m. and established a quorum.

Agenda Item 1: Election of Board Officers

M/S/C (Bettinger/Casagrande) to elect Dr. Suzanne McCormick, DDS, to the position of President of the Dental Board of California. The motion passed unanimously.

M/S/C (Dominicis/Casagrande) to elect Dr. John Bettinger, DDS, to the position of Vice President of the Dental Board of California. The motion passed unanimously.

M/S/C (Dominicis/Bettinger) to elect Dr. Stephen Casagrande, DDS, to the position of Secretary of the Dental Board of California. The motion passed unanimously.

Agenda Item 2: Appointment of Committee Members

President McCormick appointed Dr. Bruce Witcher, Rebecca Downing, Dr. Thomas Olinger, Dr. Stephen Casagrande, and Dr. Suzanne McCormick to the Exam Appeals Committee. President McCormick appointed Dr. Stephen Casagrande as Chair of the Exam Appeals Committee.

President McCormick appointed Dr. Stephen Casagrande, Dr. John Bettinger, Dr. Huong Le, Dr. Luis Dominicis, Judith Forsythe, RDH, and William Baker to the Licensing Committee. President McCormick appointed Dr. Stephen Casagrande as Chair of the Licensing Committee.

Agenda Item 3: Approval of November 20-21, 2008 and March 24, 2009 Meeting Minutes

M/S/C (Casagrande/Witcher) to approve the November 20-21, 2008 and the March 24, 2009 meeting minutes. The motion passed unanimously.

Public Comment:

Dr. Ken Horowitz sought help and guidance from the Dental Board regarding a licensing situation. He has worked at Foothill College Dental Hygiene Program for thirty-two years as a clinical teacher and was approached by a Dental Board Enforcement Officer regarding practicing without a California dental license. Dr. Horowitz reported that he graduated from dental school in 1967 from Tufts University. He then received a periodontal specialty degree from New York University and practiced for three years in New York. While attending an American Academy of Periodontology meeting, he attended a workshop where they were recruiting dentists to teach at UC San Francisco School (UCSF) of Dentistry. The only qualification requirement was to have a dental license within a United States jurisdiction. He began to teach at UCSF in 1974 and had a Special Permit for three years, at which time he was hired by Foothill College Dental Hygiene Program. Dr. Horowitz informed the Board that he had been hired under a different set of requirements, and was not informed of changes in the law or a difference in the interpretation of the law.

Dr. Horowitz stated that he is reaching the end of his career and is not intending to take a California Clinical Exam. He stated that he has not been practicing dentistry; he is only an instructor at a dental hygiene school. Dr. Horowitz requested that the Dental Board grant him a restricted California dental license to continue teaching at Foothill College Dental Hygiene Program and that he would surrender the license once his teaching career was complete. Dr. Casagrande directed staff to place Dr. Horowitz's concerns on the agenda for the next meeting.

Dr. Stephen Morrow, Loma Linda School of Dentistry, congratulated all of the recent appointees and he stated that he admired them for their courage and was looking forward to their terms as Board members.

Agenda Item 4: President's Report

Dr. McCormick, Board President, welcomed all of the new Dental Board members to the first meeting. She reported that many things have changed since the last meeting of the Dental Board. The economic impact of the last six months is an item that the Dental Board will keep in the fore mind and will incorporate with public safety while doing future outreach.

Dr. McCormick reported that she had the opportunity to attend the Department of Consumer Affairs' Healing Arts Leadership Roundtable on April 15th. Dr. Bettinger was asked to speak at the Roundtable regarding "Impaired Health Professionals and Self-Care". She stated that Richard DeCuir and Dr. Bettinger presented the Dental Board's Diversion Program to other Boards. Dr. McCormick commented that the Dental Board may begin looking at preventative enforcement and mandatory continuing education and training regarding alcohol and drug abuse. The Roundtable provided an opportunity for Boards to continue the discussion of workforce development.

Dr. McCormick commented that the Board is considering using a new format to conduct meeting business. Traditionally, the Board has met in committees and then has met as a full Board. The Board is exploring the possibility of conducting business as a whole Board and mainstreaming business into a one-day meeting format.

Cathleen J. Poncabare was appointed to the position of Executive Officer by unanimous consent of the Dental Board. The appointment is subject to approval by the Director of the Department of Consumer Affairs.

Agenda Item 5: Executive Officer's Report

Cathleen Poncabare, Executive Officer, thanked the Dental Board officers and members for their support. She stated that it was an honor and a privilege to work with all of the members and that the Governor's Office did an outstanding job on the appointments. Ms. Poncabare introduced the Dental Board staff in attendance at the meeting.

Ms. Poncabare reported that the AB 269 mandated healthcare professional survey was implemented by January 1, 2009. She stated that Continuing Education random audits were implemented on January 1, 2009. The General Anesthesia and Conscious Sedation evaluation scheduling has been resumed by Dental Board staff. There were two General Anesthesia/Conscious Sedation Evaluator Calibration courses held in March and April 2009, and there was great attendance at both courses.

Ms. Poncabare asked Richard DeCuir, Assistant Executive Officer, to report on the status of the California Dental Corp Loan Repayment Program. Mr. DeCuir reported that the Loan Repayment Program was introduced in 2003 and provided a three-year program and \$3 million for individuals that worked in underserved areas to receive \$105,000 in loan repayments. When the three-year program concluded, the program had only spent \$1.4 million. Mr. DeCuir received a telephone call from the Senate Business and Professions Committee regarding the California Dental Corp Loan Repayment Program and was informed that a continuation of the program would be introduced into legislative bill SB 599 to spend the remainder of the funds.

Agenda Item 6(a): Presentation by L-1 Identity Solutions on advantages of Pocket License ID cards

Cathy Novak, L-1 Identity Solutions, gave a presentation to the Board regarding the services her company offers. L-1 Identity Solutions was present at the Department of Consumer Affairs Professionals Achieving Consumer Trust (PACT) Summit in Los Angeles in November 2008. The company contracts with the Department of Motor Vehicles for California driver's licenses. Ms. Novak reported that L-1 Identity Solutions can provide identification services, pocket credentials, and leverage secure enrollment sites across the State. The Board expressed interest in moving towards the use of pocket licenses similar to the products offered by L-1 Identity Solutions. The licenses could be useful in tracking continuing education credits and fingerprinting.

Agenda Item 6(b): "Optimizing Patient Outcomes Through Enhanced Decision Making & Communication" - presentation by Dr. Jonathan Rudin, DDS, MS, MPH

Dr. Jonathan Rudin presented information regarding the optimization of patient outcomes with the use of enhanced decision making and communication as a dental healthcare professional.

Agenda Item 6(c): "Status Report on SB 1441" - presentation by Julianne D'Angelo Fellmeth, Administrative Director, Center for Public Interest Law, University of San Diego School of Law

Julianne D'Angelo Fellmeth, Center for Public Interest Law, presented a status report regarding Senate Bill 1441 regarding substance abuse diversion and recovery programs. The bill was chaptered into law on September 28, 2008. Ms. Fellmeth reviewed the importance of diversion program oversight by the Boards.

Agenda Item 7: Budget Report

Richard DeCuir, Assistant Executive Officer, gave an overview of the Dental Board's Budget for FY 2008-2009. The Dental Board has a budget of \$10 million per year and is based on two categories. The first category, Personal Services, is comprised of salaries, wages, and benefits. The second category is Operating Expenses and Equipment. The

Board pays pro-rata fees to the Department of Consumer Affairs and other Statewide collective agencies. Mr. DeCuir reported that the biggest single-item expenditure is the Attorney General. Mr. DeCuir also reported that this budget is based on a report provided by CalStars and is typically a month delayed in reporting the Personal Services budgets, and three months delayed in reporting the Operating Expense and Equipment budgets. Mr. DeCuir reported that the Dental Board projects reverting \$1,322,636 at the end of the fiscal year.

Agenda Item 8(a): Committee on Dental Auxiliaries' Report

The Committee on Dental Auxiliaries (COMDA) held a teleconference on Thursday, March 12th. Lori Hubble, COMDA's Executive Officer, reported on COMDA's recommendations to the Dental Board. Ms. Hubble stated that there was a correction under COMDA's Agenda Item 5(c) (xxi) "Kaplan College – Roseville" was to be corrected to "Kaplan College – Riverside".

M/S/C (Dominicis/Casagrande) to fully approve the following RDA program:
Western Career College – Citrus Heights

The motion passed unanimously.

M/S/C (Dominicis/Casagrande) to approve the following Radiation Safety Courses:

- i. San Jose City College – San Jose
- ii. Downey Adult School – Downey

The motion passed unanimously.

M/S/C (Dominicis/Casagrande) to approve the following Pit and Fissure Sealant Courses:

- i. San Joaquin Valley College – Bakersfield
- ii. College of Alameda – Alameda
- iv. Kaplan College – Sacramento
- v. Kaplan College – Palm Springs
- vi. San Joaquin Valley College – Visalia
- vii. San Joaquin Valley College – Fresno
- x. San Joaquin Valley College – Monterey
- xii. San Joaquin Valley College – Rancho Cordova
- xiv. Kaplan College – Fresno
- xv. Heald College – Stockton
- xvi. Heald College – Hayward
- xvii. Heald College – Concord
- xviii. Kaplan College – Modesto
- xix. Kaplan College – Stockton
- xx. Eden Area ROP – Hayward
- xxi. Kaplan College – Riverside
- xxii. Kaplan College – San Diego

The motion passed unanimously.

M/S/C (Dominicis/Casagrande) to approve the following Coronal Polishing Course:
Downey Adult School – Downey
The motion passed unanimously.

M/S/C (Dominicis/Casagrande) to approve the following Ultrasonic Scaling Course:
Downey Adult School – Downey
The motion passed unanimously.

LaVonne Powell, Legal Counsel, explained that COMDA could not make an official recommendation to the Dental Board regarding Pacific Dental Services Courses because the COMDA Chair was an employee of Pacific Dental Services and had to recuse herself which caused COMDA to lose quorum. Since COMDA will be abolished on July 1st and there will not be a quorum of COMDA, Ms. Powell suggested that the Board review COMDA's recommendation as if it was a sub-committee and vote to approve or deny the Pacific Dental Services Pit and Fissure Sealant Courses.

M/S/C (Casagrande/Baker) to approve the following Pacific Dental Services Pit and Fissure Sealant Courses:

- iii. Pacific Dental Services – Northridge
- vii. Pacific Dental Services – Riverside
- ix. Pacific Dental Services – San Marcos
- xi. Pacific Dental Services – River City
- xxii. Pacific Dental Services – Tustin

The motion passed unanimously.

M/S/C (Casagrande/Forsythe) to adopt the proposed text and direct staff to set a hearing date on the proposed amendments to CCR Sections 1070.2, 1070.6 and 1070.7 regarding teaching methodology, and in the meantime defer the 30-hour course requirement for faculty until such regulations are in place. The motion passed unanimously.

Lori Hubble presented COMDA's recommendations regarding infection control course requirements for RDA Programs and Specialty Category Programs effective January 1, 2010. LaVonne Powell, Legal Counsel, stated that the recommendation is only a clarification of the law and not a new requirement. Ms. Powell clarified that this the motion should state that the Board is in agreement with COMDA's interpretation of the law.

M/S/C (Casagrande/Forsythe) to approve COMDA's interpretation of the law to require each of the existing RDA programs, as well as new programs, be required to apply separately for approval to teach the 8-hour Infection Control Course to their students. The motion passed unanimously.

Lori Hubble reported that COMDA is requesting that the Dental Board grant COMDA the authority to delegate program approval of mandated Infection Control and Pit and Fissure Sealant Courses to COMDA staff. Judith Forsythe, RDA, commented that COMDA has a lot

of course applications to be reviewed and approved prior to July 1, 2009 and felt that it would be best for COMDA to be granted program approval authority. LaVonne Powell, Legal Counsel, stated that the Dental Board retains the authority give final approval to grant or deny any course. Ms. Powell suggested that the Board could delegate the authority to COMDA staff to grant tentative approval to programs and then COMDA's tentative approvals would need to be ratified by the Dental Board at their next meeting.

M/S/C (Forsythe/Bettinger) to delegate authority to COMDA staff to grant tentative program approval to applicants for mandated Infection Control and Pit and Fissure Sealant Courses and have the tentative approvals ratified by the Dental Board at their next meeting in July. The motion passed unanimously.

M/S/C (Casagrande/Bettinger) to approve Susan Porrazzo's appointment as RDA Chief Examiner and to approve Francesca Moore Miller's appointment as RDA Assistant Chief Examiner. The motion passed unanimously.

M/S/C (Casagrande/Dominicis) to approve the appointments of Cynthia Nelson as Chief Examiner, Kerri Brumbaugh as First Assistant Chief Examiner, Paulina Attebery as the Second Assistant Chief Examiner, and Deborah Landis and Theresa Smith-Gonzales as Examiners. The motion passed unanimously.

M/S/C (Baker/Casagrande) to establish by resolution the renewal fee of \$80.00 for the RDH, RDHAP, RDHEF, and the RDHAP FNP permit and the RDHAP FNP ½ fee of \$40.00. The motion passed unanimously.

M/S/C (Forsythe/Bettinger) to adopt the proposed language and forms to CCR Section 1072.2 regarding governing approval of RDH courses relating to the administration of local anesthetic agenda and periodontal soft tissue curettage and direct staff to notice for a public meeting. The motion passed unanimously.

M/S/C (Olinger/Forsythe) to approve the following RDAEF Programs:

1. Sacramento City College – Sacramento
2. J. Productions – Sacramento
3. Expanded Functions Dental Assistant Association – Sacramento

The motion passed unanimously.

Agenda Item 8(b): Report on Transition of RDA Program to the DBC

Lori Hubble, COMDA's Executive Officer, thanked Cathleen Poncabare for allowing Dental Board staff member Donna Kantner to help work on the implementation of AB 2637. Donna Kantner, Legislative and Regulatory Analyst, reported that Assembly Bill 2637 not only placed the Registered Dental Assistants under the jurisdiction of the Dental Board, but also set categories for dental assisting duties under statute. Staff has accomplished many tasks over the last six months and all aspects are on track to meet the statutory requirements for implementation of the bill. Information regarding the transition has been

placed on COMDA's website and staff has performed outreach. New applications have been developed for the RDA and RDAEF programs, Orthodontic Assisting Permit course, and the Dental Sedation Assistant Permit course.

Ms. Kantner reported that there have been two meetings of the RDAEF exam subcommittee and a field test will be conducted on May 2, 2009. Two meetings of the RDA exam subcommittee have concluded and a field test was held on April 19, 2009. The subcommittee's recommendations will be reported at the next Board meeting. Frequently Asked Questions have been added to the COMDA website and are continually updated. Ms. Kantner reported that COMDA has been working with the Department of Consumer Affairs' Office of Professional Exam Services to develop the required exams for the Orthodontic Assistant permit, Dental Sedation Assistant permit, the RDA Law & Ethics exam, and the RDAEF written exam. Richard DeCuir has secured a contract for the reconstruction of the RDA written examination to include the new duties.

Ms. Kantner stated that Lori Hubble, COMDA's Executive Officer, has selected the staff that will be remaining with the Dental Hygiene Committee. Her staff will consist of one Staff Services Analyst, one Management Services Technician, and one Office Technician. The remaining eight staff members will become employees of the Dental Board of California. Building plans have been completed for the expansion of the Dental Board and consequentially the reduction of space for the Dental Hygiene Committee. Project completion has been requested for July 1, 2009. Weekly meetings have been taking place since November to discuss the transition of phone and computer systems. A system-wide test is scheduled for May 9, 2009.

Agenda Item 9(a): Licensure Statistics

Dawn Dill, Licensing and Examination Unit Manager, reported that the statistics reported were as of March 1, 2009. Dr. McCormick asked if the statistics presented were different from those reported at previous Board meetings. Ms. Dill stated that there have not been any large deviations.

Agenda Item 9(b): Justification and Process to Raise License Verification Fee from \$2.00 to \$25.00

LaVonne Powell, Legal Counsel, reported the license verification fee is set in statute. Ms. Powell suggested that the Board direct the Executive Officer to request that the Department of Consumer Affairs include a fee increase in the omnibus bill as authorized by the Business and Professions Code.

M/S/C (Casagrande/Bettigner) to direct the Executive Officer to request that the Department of Consumer Affairs request the license certification fee be raised from \$2 to \$25 through the omnibus bill as authorized by the Business & Professions Code.

Agenda Item 9(c): Licensing Committee Report re Cancelled Licenses

Dr. Casagrande reported that the Board reviewed four applications for new licenses to replace cancelled licenses. The Board issued the approval of three applications of new licenses to replace cancelled licenses and denied one application for a new license to replace a cancelled license.

M/S/C (Baker/Olinger) to approve the Licensing Committee's report.

Agenda Item 10(a): Consideration of comments received at the regulatory hearing held on March 4, 2009 relative to amendments to CCR Sections 1016 and 1017

Donna Kantner, Legislative and Regulatory Analyst, reported the Board had a regulatory hearing on March 4, 2009 and received a two comments. One comment suggested that each participant be issued a test of the course content to substitute for the currently required written course evaluation. The second comment suggested the addition of "Electronic transmission and storage of the course evaluations or test results and course certificates as permissible."

Dr. Casagrande commented that the requirement for course evaluations does not facilitate public protection and that it should not be included in the proposed regulatory package. He contended that the Board should focus concern on licensees receiving their continuing education certificates showing that they been to the course and that they stayed for the duration of the course. Dr. Casagrande suggested striking sections relating to course evaluations.

Katie Dawson, California Dental Hygiene Association, commented that evaluations help the continuing education providers to determine if course speakers are relevant and valued to be brought back for future courses. Dr. Casagrande commented that course evaluations should be conducted because they do provide valuable information to the course providers, however it is not necessary to include the requirement for course evaluations in regulations. Dr. Dominicis agreed with Dr. Casagrande and commented that the requirement could have the potential to become an obstacle.

Dr. Witcher maintained the idea that every certifying body involved with continuing education should require an evaluation. William Baker stated that the course evaluations do have a legitimate purpose in serving public protection because they help to determine if the licensee is gaining knowledge from the courses provided. Mr. Baker commented that the course evaluations allow the Board to study if the delivered information is consistent, concurrent, and compatible with the existing requirements.

LaVonne Powell, Legal Counsel, commented that other boards have received complaints regarding providers and the course evaluations provided an enforcement tool when investigating.

Rebecca Downing commented that there is value in the Board requiring evaluations, however the regulations require that the providers collect the evaluations before the certificates are distributed. Ms. Downing suggested that the requirement be amended to only require evaluations to be provided at the courses, as opposed to being collected before distributing certificates.

Ms. Kantner reported that any changes to the text would need to be noticed to the public for 15 days and any negative comments would need to be brought back to the next Board meeting. If the current language was adopted then the package would move forward to OAL.

Rodney Stine, OSHA Review Inc., stated that he wrote the comments to the Board in an effort to find an alternative to the vagueness of course evaluations.

M/S/C (Dominicis/Olinger) to strike CCR Section 1016 (ed)(4) "Each participant shall be issued and shall complete a written evaluation form assessing the quality of the course. Course evaluations shall be collected at the completion of the course and prior to issuance of a continuing education certification." from the proposed language and to make conforming text changes throughout the regulation. The motion passed with a vote of 8 to 2.

M/S/C (Dominicis/Whitcher) to reject the comment that CCR Section 1016(ed)(4) be amended to add: "Electronic transmission and storage of the course evaluations or test results and course certificates is permissible." The motion passed unanimously. The Board rejected the comment because it is overly specific and electronic transmission and storage of any materials is permissible and does not need to be specified in regulation.

M/S/C (Bettinger/Casagrande) to delegate authority to the Executive Officer to adopt and modify changes to the proposed Continuing Education regulations provided no adverse comments are received. The motion passed unanimously.

Agenda Item 10(b): Continuing Education Random Audit Report

Dawn Dill, Licensing and Exam Unit Manager, reported that effective January 1, 2009 the Dental Board began performing random audits of continuing education credits. Ms. Dill explained that the Board runs a report that pulls a list of licensees based on a specific expiration date. The list is placed in an Excel format and the random selection function is used to select approximately 10% of the licensees on the list. Letters are sent to the selected licensees requesting copies of their continuing education certificates. Staff verifies the completion of the continuing education requirements. Ms. Dill reported that there has been 82% compliance for the month of January and 89% compliance for the month of February. The Board has received requests from four licensees to be placed on inactive status. There have been four licensees that have not responded to the audit. Cite and fine letters will be sent to the licensees that have failed to comply.

Dr. McCormick suggested having outreach to licensees explaining the process and requested that information be posted on the Dental Board web site. Dean Chalios, California Dental Association, commented that it would be prudent for the Board to conduct outreach and post information on the web site.

Dr. McCormick requested that mandatory continuing education and training regarding alcohol and drug abuse be placed on the agenda at the next meeting.

Agenda Item 11(a): Examination Statistics

Eric Rivera, Exam Analyst, reported that there were twenty three examinees that took the clinical exam at the University of the Pacific in March 2009. The results were not available at the time the statistics were generated.

Mr. Rivera reported that there have been 178 examinees that have taken the Law and Ethic Exam in 2009. There has been a pass rate of 97% and a fail rate of 3%.

Agenda Item 11(b): New Developments in the WREB Examination

Dr. McCormick reported that the Western Regional Examination Board (WREB) meeting was held on January 10th in Austin, Texas. WREB is interested in advancing their hygiene clinical examination and requested that the idea be brought back to the Board and the Committee on Dental Auxiliaries to consider utilizing.

Katie Dawson, California Dental Hygiene Association, commented that her organization sponsored a bill that was introduced to the legislature on February 23rd regarding clinical hygiene examination. Ms. Dawson stated that she would comment on the bill during the legislative portion of the meeting.

Dr. McCormick reported that WREB is not interested in pursuing curriculum integrating patient crown preparation in their testing program, and WREB is not pursuing crown preparation using a typodont format. There are some States that are no longer utilizing WREB because their statutes require patient crown preparation. WREB will be required to go through a seven year review cycle and the Dental Board will have to report to the legislature regarding WREB's standing.

The next WREB meeting will be held on July 16th in San Diego, California.

Agenda Item 11(c): 2009 Examination Dates

Eric Rivera, Exam Analyst, reported that the next clinical examination is scheduled for June 25-28, 2009 at the University of California, Los Angeles. Board members raised concern regarding the limited number of applicants for the clinical examinations in correlation with the expense of having another clinical exam in 2009.

The Board discussed the possibility of limiting the number of clinical examinations administered in 2009 to two and limiting the number of clinical examinations administered in 2010 to one in an effort to minimize expenses. Dean Chalios, California Dental Association, suggested that the Board not limit the number of examinations offered in 2010 since it is mandated by statute that there is at least one exam administered per year.

M/S/C (Casagrande/Bettinger) to limit the availability of the Dental Board Clinical Examination to two exams in 2009. The motion passed unanimously.

Agenda Item 11(d): Recommendation of New Examiner(s) Appointment

There were no new applications for approval.

Agenda Item 11(e): Examination Appeals Committee Report re Exam Appeals

Dr. Casagrande reported that the Board reviewed five restorative technique exam appeals. The Board approved three appeals and denied two appeals.

M/S/C (Baker/Olinger) to approve the Examination Appeals Committee report.

Agenda Item 12(a): Structure and Purpose of the DBC Diversion Program

Dr. Bettinger reported that the Dental Board's Diversion Program was created in 1982 by statute, which includes a legislative mandate which directs the Board to identify and rehabilitate licentiates whose competency may be impaired due to abuse of dangerous drugs or alcohol and returned to the practice of dentistry in a manner that will not endanger the public health and safety as an alternative to traditional disciplinary action. He reported that the Dental Board's program has been very successful and is structured differently from the failed Medical Diversion Program. Dr. Bettinger stated that the Dental Board controls the program using a Diversion Program Manager who oversees the Northern and Southern Diversion Evaluation Committees. Participants are evaluated with a thorough intake by a private contractor, Maximus, and if needed for public safety, the candidate is removed from practice and placed in an inpatient facility for an extended period of time, usually 30 to 90 days. The participant then meets with the Diversion Evaluation Committee and information is reviewed, the candidate interviewed, and a treatment contract is developed. The program requires full compliance with the treatment contract. Included in the contract is acceptance of random body fluid testing, attendance at 12 step meetings, health support group meetings, a work-site manager if allowed back to work on a part time or full time basis, monthly self reports and other requirements. The successful completion of the program, which usually takes between 4 and 5 years results in "graduation" from the program.

Agenda Item 12(b): Report on AB 456 – Diversion Program Legislation

Dr. Bettinger reported that AB 456 (Emmerson) Dentistry: diversion program is a bill that will toll the statute of limitations and will permit the Diversion Evaluation Committees to share participant non-compliance with the Dental Board Enforcement office.

Agenda Item 12(c): Report on DCA’s Healing Arts Boards Leadership Roundtable held on April 15th

Dr. Bettinger reported that he attended and spoke at the DCA Roundtable discussion with the Presidents, Vice-Presidents and Program Managers of several other Boards. Members of the Substance Abuse Committee created by SB 1441 were present. The Round-table was the first public forum where the opportunity for the Dental Diversion Program structure was shared with other Boards and questions and answers were many. In the end, the meeting was successful in defining the differences in the Dental Diversion Program and other programs and how the Dental Diversion Program protects the public. There was positive feedback from many of the round-table participants.

Agenda Item 12(d): Diversion Program Statistics

Richard DeCuir, Assistant Executive Officer, reported on the Diversion Program Statistics derived from the Maximus reports. The numbers reported were approximate. The statistics were reported for informational purposes only.

Agenda Item 12(e): Recommendation for Appointment/Reappointment of Diversion Evaluation Committee Members

Ricard DeCuir, Assistant Executive Officer, reported that there is one vacancy on the Southern Diversion Evaluation Committee. Two applications have been submitted and are being reviewed. A recommendation to fill the position will be presented at the next Board meeting.

Agenda Item 13(a): Report on General Anesthesia and Conscious Sedation Northern and Southern California Introductory and Refresher Calibration Courses held on March 25th and April 1st

Dr. Whitcher reported that the Dental Board administered two General Anesthesia/Conscious Sedation Evaluator Calibration Courses in 2009. The first course was given on Wednesday, March 25th at the Department of Consumer Affairs’ Hearing Room in Sacramento. The second course was held at the Radisson Hotel in Culver City on Wednesday, April 1st. Dr. Whitcher commented that outreach to parties of interest generated attendance from general anesthesia permit holders, conscious sedation permit holders, and medical general anesthesia permit holders.

Dr. Whitcher reported that there were approximately 65 attendees at the course held on March 25th and approximately 110 attendees at the course held on April 1st. Course

evaluations were favorable, however it was suggested that the course be held separately for general anesthesia permit holders and conscious sedation permit holders and to provide only one course as opposed to an introductory course and a refresher course.

Dr. Whitcher thanked Dr. McCormick and Board staff for their assistance in preparing for the courses.

Agenda Item 13(b): Update on Sim-Man

Dr. McCormick reported that the Dental Board is considering the use of Sim-Man as part of the general anesthesia and conscious sedation evaluation process. She had the opportunity to visit a Sim-Man center at UC San Diego and was able to see how the sophisticated equipment worked. The Board is considering assembling a work group, consisting of parties-of-interest, to evaluate the possibility of using Sim-Man. The possibility of using Sim-Man was mentioned at the Dental Board's General Anesthesia/Conscious Sedation Evaluator Calibration Course and a list interested parties is being assembled. Dr. McCormick stated that the next step is to establish a work group and visit a center to evaluate the capabilities of Sim-Man.

Todd Indrasano, California Association of Oral and Maxillofacial Surgeons, commented that his organization is very interested in helping with the process and would like to participate.

Agenda Item 14: Hybrid Portfolio Pathway Examination to Qualify for a California Dental License - Report on "Alternative Pathways for Initial Licensure for General Dentists" by Norman Hertz, Ph.D., COMIRA

Dr. Norm Hertz, COMIRA, reported that the feasibility study for the Hybrid Portfolio Pathway Examination to Qualify for a California Dental License was complete. Dr. Hertz has worked with COMIRA completing studies in the past 20 years regarding occupational analysis of Registered Dental Assistants, RDAEF's, RDH's, Oral and Maxillofacial to perform cosmetic surgery, as well as studies about WREB and the Dental Board of California's clinical examination. His experience with the dental profession along with his experience of test and measurement assisted Dr. Hertz and his partner to conduct this study for the Dental Board.

Dr. Hertz stated that the feasibility study process was two-fold, the first step was to visit the dental schools and the second step was to conduct research. Dr. Hertz and his colleague were able to visit all of the dental schools in California, with the exception of USC due to poor weather. All of the schools were very accommodating and welcoming.

Dr. Hertz reported that there are specific criteria that will need to be met in order for the Hybrid Portfolio Pathway Examination to be successful. This criteria includes: oversight by the Dental Board of California, a built-in auditing system, additional resources from the students and schools cannot be required, the examination must be instituted within the current systems of evaluation, the pathway must be considered and examination and

meet professional testing standards, the pathway must meet psychometric standards relative to current practice and designed for minimum competence, it must be designed to cover the full continuum of competence, the evaluation of competence must be within the course of treatment plan for patients of record, evaluators must be calibrated regularly to ensure consistency, and policies and procedures must be in place to ensure candidates are treated fairly and professionally.

Dr. Hertz reported that several conclusions can be drawn from the studies of the dental schools. He concluded that the hybrid portfolio examination model satisfies the criteria that were identified by the Dental Board of California; however the traditional portfolio plan was not feasible as originally described by the Board. The program will be feasible as long as the process is integrated into the curriculum. Dr. Hertz stated that psychometric issues can still be addressed through calibration and careful inspection. Dr. Hertz concluded that the OSCE and the CIF are suited for preclinical training but not as a licensure examination.

Dr. Hertz found that the most noticeable strength of the dental schools was the thoroughness of training and the faculty's commitment to the students. All of the training programs that were visited had training programs that calibrated examiners. During the study, Dr. Hertz found that there is a need to standardize the rating system of a competency examination. Dr. Hertz concluded the report by stating that there are important advantages in using human patients of record within the school as opposed to simulated patients.

Agenda Item 15: Legislation

AB 171 (Jones) Dental services: credit is a bill that prohibits a dentist or the agent of a dentist, from charging treatment or costs to an open-end third-party line of credit before treatment is rendered or costs are incurred, and without providing the patient a list of treatment and services to be performed, including estimated costs, and which treatment and services will be charged in advance. The bill requires that a dentist must refund to the lender any payment received for treatment not rendered or costs not incurred, within 15 business days of the patient's request. The bill requires that the dentist, or employee or agent of a dentist, provide in at least 14-point type, and obtain the patient's signature on a specifically worded disclosure statement to this effect, before the arrangement or establishment of credit by a third party. The bill requires that if a patient is covered by either a private or governmental dental benefit plan or dental insurance, the written treatment plan provided to the patient shall indicate that the treatment may or may not be covered by the patient's benefit plan, and that the patient has the right to confirm the information before beginning treatment. Discussion regarding this bill was tabled and will be placed on the agenda for the next Dental Board meeting.

AB 667 (Block) Topical fluoride application is a bill that would provide that fluoride varnish be specifically added to this section of law and allows the application by any person,

including a dental assistant. Existing law requires that public and private elementary and secondary school students, except community college students, be offered the application of topical fluoride or other decay-inhibiting agents under the direction of a dentist. Under existing law, a dental assistant may only perform topical fluoride application under the direct supervision of a licensed dentist. Dean Chalios, California Dental Association (CDA) Vice President of Public Policy, stated that CDA is the sponsor of AB 667 with the intention of having topical fluoride application on children available in more public health settings and would appreciate the Dental Board's support of this bill. Katie Dawson, California Dental Hygiene Association (CDHA) stated that the term "other decay inhibiting agents" is vague in the sense that it does not include sealants. Dean Chalios, CDA, stated that that was not the intention of the bill and he would work with Ms. Dawson to make a correction. Lisa Hopkins, a dental hygiene educator at Southwestern College, stated that it seemed dental assistants would make the final decision and apply the fluoride to patients. She stated that she did not believe dental assistants had the appropriate educational background to make that type of decision. Dean Chalios responded that the dentist still has to prescribe the treatment, and the bill only broadens who may apply the treatment. Paul Reggiardo, California Society of Pediatric Dentistry, stated that his organization closely reviewed the language and took a position of support and has registered their position with the legislature. M/S/C (Whitcher/Le) for the Dental Board to take a position of support on AB 667 for the purpose of consumer protection. The motion passed unanimously.

AB 684 (Ma) Claim reimbursement: late payments is a bill would require that the interest rate rise to 20% for an uncontested claim after 60 working days, and to 25% if the uncontested claim is not reimbursed within 90 working days. Existing law requires a health care service plan, including a specialized plan, to reimburse claims no later than 30 or 45 days as specified, and that interest shall accrue at the rate of 15% for health care service plans and 10% for health insurers. Willful violation is a crime. Dean Chalios stated that CDA is the sponsor of the bill with the intention of increasing the penalty for late payment on part of the dental plan providers. He reported that the bill was heard by the Assembly Health Committee and passed 14-1 bi-partisan vote. Most of the opposition for the bill came from the dental plans for the reason that they were paying promptly. Mr. Chalios requested the Board's support for this bill. M/S/C (Bettinger/Dominicis) for the Dental Board to take a position of support on AB 684 for the purpose of fairness of reimbursement. The motion passed with one abstention by Ms. Rebecca Downing, Public Member.

AB 745 (Coto) Self-funded dental benefit plans: administrators is a bill that would require an administrator that provides administrative services for a self-funded dental benefit plan which is otherwise subject to the jurisdiction of the federal government to include specific language in explanation of benefits documents and in forms sent to claimants in response to claims for benefits. Existing law provides for the regulation of insurers by the Department of Insurance, and requires third-party administrators of insurance in California to register with the Insurance Commissioner. Dean Chalios reported that the California Dental Association is the bill's sponsor. M/S/C (Dominicis/Olinger) for the Dental Board to take a position of support on AB 745 for the purpose of informing the public. The motion passed unanimously.

AB 1116 (Carter) Cosmetic surgery is a bill, the Donda West law, that would require that before any elective facial cosmetic surgery is performed, the patient must be physically examined and receive a written clearance for the procedure by a licensed physician and surgeon, or by the licensee permitted to perform elective facial cosmetic surgery, and must include a complete medical history. The bill would require that before a cosmetic surgery procedure is performed, the patient must be physically examined and receive a written clearance for the procedure from a physician and surgeon, or a certified nurse practitioner or a licensed physician assistant as specified, and must include a complete medical history. LaVonne Powell, Legal Counsel, raised a question regarding standard of care for a full physical examination for Botox injections. Ms. Powell stated that bill amendments were anticipated as more questions were being raised from other boards. M/S/C (Whitcher/Olinger) for the Dental Board to take a watch position on AB 1116. The motion passed unanimously.

AB 1310 (Hernandez) Healing arts: database is a bill requiring applicants and licensees to list their full name, last 4 digits of social security number, complete mailing address, specified educational background and training information, birthdate and birthplace, sex, race and ethnicity, location of high school, and, if applicable, the mailing address, description, number of hours spent per week, location, county and zip code of primary practice and any additional practice location. This information must be collected by the department and submitted to the Health Care Workforce Clearinghouse annually on January 1, who shall prepare and submit a written report annually to the Legislature no later than March 1, beginning March 1, 2012. M/S/C (Bettinger/Olinger) for the Dental Board to take a position of opposition on AB 1310 for the purpose of the repeating information already being collected as a result of AB 269. The motion passed unanimously.

AB 1524 (Hayashi) Dentistry: examination requirements is a bill that would abolish the clinical and written examination currently administered by the board and replace it with a comprehensive assessment process that would take place while a student is enrolled at a California dental school. This bill requires that the assessment would utilize uniform standards of minimal clinical experiences and competencies and include a final assessment that the applicant must pass at the end of his or her dental school program. Dean Chalios stated that CDA is very excited about the prospects of this bill. M/S/C (Casagrande/McCormick) for the Dental Board to take a position of support on AB 1524. The motion passed unanimously.

AB 456 (Emmerson) Dentistry: diversion program is a bill that was introduced as it was adopted by the prior Board. There is a hearing on April 28, 2009. M/S/C (Bettinger/Olinger) for the Dental Board to take a position of support on AB 456 in the interest of consumer protection. The motion passed unanimously.

SB 43 (Alquist) Health professions is a bill that would allow information currently collected by the Dental Board and COMDA to be used by OSHPD to obtain labor market, workforce, and earnings data for the purpose of collecting health care workforce data for the Health Care Workforce Clearinghouse. Discussion regarding this bill was tabled and will be placed on the agenda for the next Dental Board meeting.

SB 389 (Negrete McCloud) Professions and vocations is legislation that was pursued by the Department of Consumer Affairs (DCA) as a result of information that certain boards' licensees had unreported criminal convictions, either due to the lack of a subsequent arrest record service or to the licensee obtaining a license prior to the requirement for fingerprinting. This bill enhances consumer protection by providing criminal history and subsequent arrest information for all licensees of California boards, and assist enforcement staff in their investigations. M/S/C (Dominicis/Casagrande) for the Dental Board to take a position of support on SB 389 in the interest of consumer protection. The motion passed unanimously.

SB 630 (Steinberg) Health care coverage: dental and orthodontic services is a bill that would expand healthcare coverage by allowing dental or orthodontic services, that are medically necessary as part of reconstructive services, to be covered by a health care service plan's contract. M/S/C (Casagrande/Whitcher) for the Dental Board to take a position of support on SB 630 in the interest of consumer protection. The motion passed with one abstention by Ms. Rebecca Downing, Public Member.

SB 638 (Negrete McCloud) Regulatory Boards: operations is a bill that essentially removes the existing sunset review process from the Joint Committee on Boards, Commissions, and Consumer Protection and places the function within the responsibility of the board or bureau's appropriate Legislative policy committee. Discussion regarding this bill was tabled and will be placed on the agenda for the next Dental Board meeting.

SB 674 (Negrete McCloud) Healing arts: outpatient settings is a bill that would change the requirements that a health care practitioner wear a name tag with their license status to allow the information be disclosed verbally. Discussion regarding this bill was tabled and will be placed on the agenda for the next Dental Board meeting.

SB 700 (Negrete McCloud) Healing arts: peer review is a bill that would define the term peer review as "a process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, and professional conduct of licentiates to determine whether the licentiate may practice or continue to practice" and revises the definition of peer review body. The bill would require the board to maintain the report electronically and authorizes a board to inspect any minutes or reports within the peer review records. Discussion regarding this bill was tabled and will be placed on the agenda for the next Dental Board meeting.

AB 403 (Fuller) is a bill sponsored by the California Dental Hygiene Association. The purpose of the bill is to recognize the WREB examination as one of the exams a dental hygienist may take on their path to licensure in the State of California. Dean Chalios, California Dental Association, stated that they are in support of this bill. M/S/C (Casagrande/McCormick) for the Dental Board to support the concept of AB 403. The motion passed unanimously.

Agenda Item 16: Discussion and possible action regarding proposed regulatory amendments to CCR Sections 1007, 1008, and 1017.2 relating to retroactive fingerprinting.

M/S/C (Dominicis/Olinger) to adopt the proposed regulatory amendments to CCR Sections 1007, 1008, and 1017.2 relating to retroactive fingerprinting and directed staff to move forward with the regulatory process.

Agenda Item 17: Elective Facial Cosmetic Surgery Permit Credentialing Committee

Dr. McCormick reported that the Credentialing Committee met twice this year to discuss permit applications and proposed regulations. Dr. Hardesty resigned from the Credentialing Committee in January 2009. Staff has solicited recommendations for a new appointment from organizations across California.

Dr. McCormick suggested that the applications that had been reviewed by the Credentialing Committee be sent back to be reviewed again by the Committee due to a qualification of the members at the meeting.

M/S/C (McCormick/Bettinger) to send the Elective Facial Cosmetic Surgery permit applications back to be reviewed for recommendation by qualified committee members. The motion passed unanimously.

Agenda Item 18(a): Enforcement Statistics

Nancy Butler, Interim Enforcement Chief, reported that between November 1, 2008 and April 13, 2009 the Dental Board received 1,320 complaints; 2,111 complaints were closed in the complaint unit; 411 complaints were sent to investigation. During that period of time 463 investigations were assigned to investigators; 471 investigations were closed; and there are 679 investigations pending. During the same period of time there were 85 inspections opened; 84 inspections completed; and 73 inspections pending.

Cathleen Poncabare, Executive Officer, reported that additional staff has been hired to help reduce the number of pending cases.

Agenda Item 18(b): Discussion regarding Interim Suspension Orders and Penal Code Section 23 Orders

Gregory Salute, Deputy Attorney General, reported that Penal Code Section 23 Orders are used in criminal courts during arraignments. It provides an opportunity to request the suspension of a dental license from a criminal court judge pending criminal proceedings. It has been an effective enforcement tool; however it can be difficult for judges to understand because it is not dealt with everyday.

Mr. Salute reported that Interim Suspension Orders can be requested by the use of declarations to the administrative court to request a license suspension. If an Interim Suspension Order is used to suspend a license, the Board legally needs to move forward with filing an accusation. This can pose a problem if the criminal case is still pending.

Agenda Item 18(c): Consideration of comments received at the regulatory hearing held on March 25, 2009 relative to amendments to CCR Section 1018 (Disciplinary Guidelines regulations)

Donna Kantner, Legislative and Regulatory Analyst, reported that the Board held a regulatory hearing on March 25th and received comments from the California Dental Association. Board staff drafted a response to the comments; however they were still under legal review.

M/S/C (McCormick/Casagrande) to table this agenda item and place it on the agenda for the next Dental Board meeting.

Agenda Item 18(d): Consider revising DBC regulations to purge and remove Cite and Fine Records after 5-years (currently indefinite)

This item was tabled and will be placed on the agenda for the next Dental Board meeting.

Agenda Item 19: "Teeth Whitening Kiosks" Issue

This item was tabled and will be placed on the agenda for the next Dental Board meeting.

Agenda Item 20: Revisions to the Board Member Administrative Procedure Manual

This item was tabled and will be placed on the agenda for the next Dental Board meeting.

Agenda Item 21: Future Meeting Dates

M/S/C (Baker/Le) to schedule the next Dental Board of California meeting for June 24-25, 2009 in San Francisco, California. The motion passed unanimously.