



**Dental Board of California Meeting
June 24, 2009
Teleconference
Meeting Minutes**

Members Present:

Suzanne McCormick, DDS, President
John Bettinger, DDS, Vice President
William Baker, Public Member
Fran Burton, 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
Dawn Dill, Licensing & Exam Unit Manager
Lori Reis, Complaints & Compliance Unit Manager
Sarah Wallace, Administrative Analyst
Donna Kantner, Legislative & Regulatory Analyst
Jocelyn Campos, Enforcement Coordinator
LaVonne Powell, DCA Senior Staff Counsel
Kristy Shieldge, DCA Senior Staff Counsel
Gregory Salute, Deputy Attorney General

President McCormick called the meeting to order at 12:35 p.m. and established a quorum.

Public Comment

Mr. Ken Phillips addressed the Dental Board by reading the following letter:

“Good afternoon. My name is Ken Phillips an American citizen born in Santa Monica, California. I am here this afternoon to express my total and complete disappointment in the Dental Board of California and any perceived notion that the public is being protected by the existence or actions of this Board or its’ off site investigative unit. The public is not being protected with a priority and based on the human suffering and grave situations I have personally witnessed, this is not only an opinion. I believe the decisions and actions of certain dentists are placing the public in harms way each and every time a patient sits in their chair, and yet this Board’s actions will allow such dangerous situations to persist. The Board deceives consumers who then invest in a probationer-dentist that consumers would otherwise avoid if their actual concealed and punishable harmful conduct was provided. Punishable conduct by a dentist is not adequately disciplined by continued education or reforms the harmful patterns of non compliant or incompetent dentists with any guarantee. The likelihood of harmful conduct repeating by non compliant licensees is great and

forcing un-informed patients to suffer by the freedom the Board has to reinstate licensees by these risky measures is inhumane. The Dental Board's unconscionable practice to conceal harmful conduct and its licensee's below base standard performance is a practice the public decides is not acceptable behavior by a protection agency charged with a duty to protect the public.

No Probationer-dentist should ever be allowed to practice without a current and valid insurance policy in effect. I cannot drive in the state of California without valid proof of liability insurance. Yet, the Board reinstates uninsured Probationer-dentists while acknowledging an unknown magnitude of harm exists. "Unfortunate errors" and mistakes in dentistry render too many victims irreparably damaged without a meaningful remedy or proper restitution. The Dental Board is charged with a duty to prevent repeated gross negligence after it risks public safety by reinstating dentists who display incompetence. Dentists' trust funds are better protected and untouchable than the patients who become victims of reckless endangerment and repeated harmful conduct after investing in a reinstated dentist that only appears competent on a website. Consumers are misled by Board Certification. The Board will offer a weightless apology and a statement of being understaffed to a victim putting profits before protection. Reinstating the license of an incompetent and non-compliant dentist is a flagrant disregard for public safety, as is concealing any history of their harmful conduct. The primary duty the board is charged with is to license only competent dentists. The current reckless and negligent manner in which the Board conceals a Probationer-dentist's punishable conduct increases the risk and likelihood of harm repeating in severity and volume.

The Board takes exorbitant risks of the public's safety by reinstating a Probationer-dentist and should change the mission statement. The Dental Board and its licensees cannot allow any lapse of insurance coverage to prepare for the anticipated damages and injuries patients and consumers are repeatedly exposed to. In a digital age, The DBC, DCA staff should be notified immediately if a dentist can no longer obtain insurance coverage due to their unacceptable conduct and below base standard performances that do not meet the requirements to be "Board Certified". Until dentists can obtain an insurance policy an immediate revocation of the dentist's license is due. All liabilities for any lapse of insurance coverage by the Board or its Probationer-dentists should fall on the Board whose primary concern and priority is to protect the public. Current insurance policies should be boldly displayed alongside a dentist's Board Certificate License for patients to easily recognize upon entering any dentist's office.

I am appalled that this makeshift board has not made it a priority to have more public members. Board Member-Dentists too often make decisions that are not in the public interest but rather in the interest of securing dentists' profits. It is common knowledge that some Board Certified dentists should not be practicing dentistry at all. Dentists who have been suspended even practice on patients after their license is revoked for harming patients. Members of the California Dental Board have been deviating from the consumer interest by licensing dentists with a record that has members working overtime to conceal their actual conduct. These actions by the Board flagrantly disregard the consumer interest and public safety.

I witnessed what devastating consequences occur after the Dental Board has concealed the records of a non compliant licensee and how the Board actively obstructs the path victims are forced to take seeking a rightful retribution or any meaningful remedy. A refund or settlement of the damages seems to be encouraged as a way to avoid revocation of a license and is used as a method to silence the victims. There is no meaningful remedy, refund or settlement for victims of repeated gross negligence perpetrated by either this Board or a dentist who should have his or her license revoked. There needs to be full public disclosure and the victims need to be aware of actions taken by this Board. This Board needs to act to protect the public – not the American Dental Association.

Why does this Board choose to fool the public into thinking we are being protected? Members deviate from the consumer interest to hide harmful conduct of dentists; it is the consequences of your decisions that permanently damages victims by bad dentists. The Dentist and Board act in concert to abandon its victims. You avoid your duty to permanently revoke the licenses of those dentists that you acknowledge harm patients. When was the last time you revoked a license? A person who is physically assaulted has more rights than a person who is unable to eat or perform other normal functions with their mouth as a result of negligence by a California dentist. The public is being deceived into a false sense of security that a California Board certified dentist is in compliance with laws and fully competent. It is because dentists know that they can avoid being punished, that they are now desensitized to experiment without any deterrent. As a Board, you publicly claimed to be broke to the injured victims as a result of the troubled state budget. You sent BACK \$1.8 million dollars to the state because you failed your duty to staff enough enforcement officers you desperately need for the manner in which you expose consumer to harm's way. You avoid investigating all claims of negligence. The public deserves more merits of a "public protection agency" from you. Consumers and victims are owed a special duty of protection as long as the Board is willing to secretly expose us to the increased risk and the likelihood of harm repeating by the special circumstances reinstated licensees are provided with. An INJURED PATIENT/VICTIM FUND needs to be established. The investigative and monitoring fees you charge dentists to reinstate their licenses and/or any unused funds for enforcement officers should be put towards this fund.

Patients end up paying more money for lower quality dental services; victims and their families go further into debt forced to repair shoddy dental work. The dental business continues to profit from these dangerous practices of imposed compromises. By the time a patient can discover the Board and dentist's "disguise" the patient has become a victim. Profit is being honored by the Dental Board of California before public protection.

Thank you for your time."

Dr. McCormick thanked Mr. Phillips for his public comment.

Agenda Item 1: President's Report

Dr. McCormick, Board President, thanked everyone for attending the teleconference meeting and welcomed Fran Burton, Public Member, to the Dental Board of California. She reported that the next meeting will be held on Wednesday, July 22nd and Thursday, July 23rd in San Francisco, California. Dr. McCormick stated that the meeting format would be changed for the upcoming meetings and would return back to the committee format. She asked the Board members to consider which committees they would like to serve.

Agenda Item 2: Executive Officer's Report

Cathleen Poncabare, Executive Officer, welcomed Kristy Schieldge, DCA Senior Staff Counsel, to the Dental Board to serve as legal counsel. Ms. Poncabare thanked LaVonne Powell, DCA Senior Staff Counsel, for her remarkable service to the Dental Board.

Ms. Poncabare reported that the Sacramento suite reconfiguration was nearly complete and the RDA staff would be moving into the suite in the next week. The RDA program will be under the jurisdiction of the Dental Board by July 1, 2009. She reported that the Tustin field office is in the process of looking for a new office site and they are working with the Department of General Services to choose a final location.

Ms. Poncabare stated that letters were sent to delinquent licensees in May and have been receiving calls from dentists that have not renewed their licenses. Dawn Dill, Licensing & Examination Manager, reported that the majority of the licensees that received the letter have been appreciative of the Board and are moving forward with renewals.

Ms. Poncabare reported that she received a letter from Dr. James J. Koelbl, the Dean of the Western University of Heal Sciences, College of Dental Medicine. Dr. Koelbl requested information regarding what the school needs to do in accordance with the law to become an approved dental school. The school applied for accreditation through the American Dental Association's Committee on Dental Accreditation (CODA) and the school was approved. The Dental Board legal counsel recommended that the Board send one or two representatives to the school to conduct a site visit and a comprehensive look at the report submitted to CODA.

Agenda Item 3: Recommendation for Appointment of Diversion Evaluation Committee members

Dr. Bettinger reported that the Dental Board's Southern Diversion Evaluation Committee will have a vacancy as of August 1, 2009 because a Committee member's term expires on July 31st. Dr. Thomas C. Specht applied to the Board to be a member of the Southern Diversion Evaluation Committee.

M/S/C (Dominicis/Baker) to appoint Dr. Thomas C. Specht to the Diversion Evaluation Committee effective August 1, 2009. The motion passed unanimously.

Agenda Item 4: Committee on Dental Auxiliaries' Report

M/S/C (Casagrande/Bettinger) to ratify the approval of the following pit and fissure sealant courses:

- i. Butte County ROP - Chico
- ii. Everest College - Alhambra
- iii. Everest College - Anaheim
- iv. Everest College - City of Industry
- v. Everest College - Los Angeles
- vi. Everest College - Ontario
- vii. Everest College - Reseda
- viii. Everest College - San Bernardino
- ix. Everest College - San Francisco
- x. Everest College - San Jose
- xi. Everest College - W. Los Angeles
- xii. Expanded Functions Dental Assistant Association - Palm Desert
- xiii. Modesto Junior College - Modesto
- xiv. My Dentist, School for DA - Huntington Park
- xv. Pima Medical Institute - Chula Vista
- xvi. Reedley College - Reedley
- xvii. Sacramento City College - Sacramento
- xviii. San Diego Mesa College - San Diego
- xix. San Jose City College - San Jose
- xx. Santa Rosa Junior College - Santa Rosa
- xxi. Southern Cal Regional Occ - Torrance
- xxii. Tri Cities ROP - Whittier

- xxiii. Valley Career College - El Cajon
- xxiv. Western Career College – Stockton

The motion passed unanimously.

M/S/C (Casagrande/Bettinger) to ratify the approval of the following infection control courses:

- i. Downey Adult School – Downey
- ii. Expanded Functions Dental Assistant Association - Palm Desert
- iii. J Productions - Sacramento
- iv. Sacramento City College – Sacramento

The motion passed unanimously.

M/S/C (Casagrande/Bettinger) to grant full approval to the following Registered Dental Assistant Program:

- i. California College of Vocational Careers – Bakersfield

The motion passed unanimously.

M/S/C (Casagrande/Bettinger) to approve the following radiation safety course:

- i. Career Express Dental Assisting School – Modesto

The motion passed unanimously.

M/S/C (Casagrande/Bettinger) to approve the following ultrasonic scaling course:

- i. Orange Coast College – Costa Mesa

The motion passed unanimously.

M/S/C (Dominicis/Forsythe) to approve the following orthodontic assistant courses:

- i. Extended Functions Dental Assisting Association - Palm Desert
- ii. J Productions – Sacramento
- iii. Sacramento City College – Sacramento

The motion passed unanimously.

Lori Hubble, COMDA Executive Officer, reported that 81% of the applicants passed the RDA Practical Examination in February 2009. She reported that 82% of the applicants passed the RDA Practical Examination in April 2009. Ms. Hubble reported that 49% of the applicants passed the RDA Written Examination from January 1, 2009 to June 15, 2009. The Board members questioned why there was such a low passing rate for the RDA Written Examination. Ms. Hubble reported that some of the contributing factors to the pass/fail rate is that many of the candidates speak English as a second language and the majority of the applicants are qualified by work experience and do not have formal training. Dr. Casagrande requested that the RDA Written Examination pass/fail rate be agendaized for the next meeting. Dr. Dominicis requested that RDA Licensure by Credential be agendaized for the next meeting.

The RDA Practical Examination Subcommittee met to review the RDA Practical examination and discuss any changes to the examination that might be necessary. Due to the requirements of statute set into place by the passage of AB 2637, after January 1, 2010 the RDA Practical Examination that examines candidates for RDA licensure must contain three, rather than the currently tested two, of the four procedures specified in Section 1752.3 of the Business and Professions Code. After meetings to discuss which procedures might be added, and a field test on April 19th was conducted, and the Subcommittee recommended that the 2010 RDA Examination consist of the following three procedures:

- (1) Fabricate a temporary crown on tooth #8

(2) Cementation of tooth #8

(3) Place, adjust and finish a direct provisional restoration on either tooth #19DO or tooth #30MOD, to be assigned at the examination

M/S/C (Forsythe/Le) to adopt the Subcommittee's recommendations for the 2010 RDA Practical Examination. The motion passed unanimously.

Section 1756 of the Business and Professions Code, requires all RDA programs to contain specific hours and instruction in infection control and Section 1757 requires that programs must contain a pit and fissure sealant course that meets the requirements of CCR Section 1070.3 no later than July 1, 2009 for existing programs, or upon application for new programs. At its April 22 meeting, the Dental Board voted to delegate the approval of required courses in Infection Control and Pit and Fissure Sealants to COMDA staff, with ratification of such approval to take place at the Board's next meeting. This function will be transferred to the Dental Board as of July 1, 2009, so the Board needs to delegate this function to Dental Board staff, as COMDA will no longer exist as of that date. M/S/C (Bettinger/Forsythe) to delegate the tentative approval of the required courses in Infection Control and Pit and Fissure Sealants to Dental Board staff, to be ratified by the Board at its next meeting. The motion passed unanimously.

Agenda Item 5: Creation of a Dental Assisting Forum

Dr. McCormick reported that the Dental Board received a letter from the Dental Assisting Alliance with regards to the elimination of the Committee on Dental Auxiliaries as of July 1, 2009 and the creation of a Dental Assisting Forum.

Karen Wyant, from the Dental Assisting Alliance, stated that SB 853 eliminated the Committee on Dental Auxiliaries and strongly believes that RDA membership on the board should have been increased. She stated that there is a brief directive in SB 853 that mandates the Board create a dental assisting forum to advise the Board. The Dental Assisting Alliance recommended that there be three RDA advisors appointed to the forum to advise the Board and the Executive Officer to provide expertise on issues COMDA has been involved in and in the implementation of AB 2637. The Dental Assisting Alliance also asked the Board to reconsider the mandate in one year to ensure that the forum is the most effective in meeting the intent of Business and Professions Code 1742.

Dr. McCormick suggested tabling the agenda item in the interest of the Board creating a forum that is effective and protects the public. The Board will need to take the time to look at different models to make sure that the forum is comprised effectively. The Board unanimously agreed to table the agenda item until the next meeting to consider options and conduct a more extensive discussion.

Dr. Earl Johnson, California Association of Orthodontists, suggested considering having dentist on the Dental Assisting Forum.

Joan Greenfield, Dental Assisting Alliance, commented that there is already representation of dentists on the Board and the forum would be working with the board.

Agenda Item 6: Elective Facial Cosmetic Surgery Permit Credentialing Committee Discussion of Candidates Recommended for Appointment to the Credentialing Committee (Two OMFS vacancies/One Plastic Surgeon vacancy)

Dr. Whitcher reported that there were three vacancies on the Elective Facial Cosmetic Surgery Permit Credentialing Committee. Dental Board staff sent letters to various organizations soliciting input and recommendations to fill the vacancies on the Credentialing Committee.

M/S/C (Whitcher/Bettinger) to appoint Dr. Peter Scheer, Dr. Robert Gramins, and Dr. Anil Punjabi to the Elective Facial Cosmetic Surgery Permit Credentialing Committee. The motion passed unanimously.

Agenda Item 7: Licensing Committee Report: Cancelled Licenses

Dr. Casagrande reported that the Licensing Committee reviewed three applications from licensees whose licenses were cancelled and who are now asking the Board for a new license without having to take the clinical examination. The Committee granted two requests and denied one. M/S/C (Bettinger/Dominicis) to accept the Licensing Committee's report. The motion passed unanimously.

There was no additional public comment.

The meeting adjourned at 2:48 p.m.