



**Legislative and Regulatory Committee Meeting Minutes
Monday, November 9, 2009
Los Angeles, CA**

Members Present:

Fran Burton, Public Member, Chair
William Baker, Public Member
John Bettinger, DDS
Rebecca Downing, Public Member
Huong Le, DDS
Thomas Olinger, DDS

Members Absent:

Stephen Casagrande, DDS

Staff Present:

Richard DeCuir, Interim Executive Officer
Nancy Butler, Acting Enforcement Chief
Lori Reis, Complaint & Compliance Unit Manager
Dawn Dill, Licensing & Exam Unit Manager
Sarah Wallace, Administrative Analyst
Donna Kantner, Legislative & Regulatory Analyst
Jocelyn Campos, Enforcement Coordinator
Jessica Olney, Examination & Licensing Analyst
Karen Fischer, Licensing Analyst
LaVonne Powell, DCA Senior Staff Counsel
Kristy Schieldge, DCA Senior Staff Counsel

Ms. Burton, Chair, called the committee meeting to order at 6:11 p.m.

LEG 1: Approval of the July 22, 2009 Legislative and Regulatory Committee Meeting Minutes

M/S/C (Le/Downing) to approve the July 22, 2009 Legislative and Regulatory Committee meeting minutes as corrected to reflect that Dr. Olinger was absent. The motion passed unanimously.

LEG 2: End-of-Year Legislative Update

Interim Executive Officer DeCuir reported that this item is informational only, and is a demonstration of two vendors sample bill tracking reports.

LEG 3: Discussion and Possible Action to make Recommendations to the Board Regarding Proposed Statutory Amendments Requested by the Department of Corrections to Exempt Correctional Health Facilities from Business and Professions Code Section 1684.5 relative to Patient of Record Requirements

Legal Counsel Powell noted that this item is informational. Department of Corrections would like to implement a new process for processing inmates at a reception center. She reported that she and Ms. Schieldge had met with the Deputy Attorney General to discuss this issue, noting that Ms. Schieldge will follow up with a written response. Dean Chalios, California Dental Association, noted that they have no position at this time.

LEG 4 : Proposed Regulatory Revisions – Limit Inactive Patient Record Keeping to 7 Years

Ms. Burton noted that this item had been deferred at the board’s last meeting. Ms. Kantner reported that there is nothing currently in statute or regulation that states how long patient records must be kept, adding that it is a very common question directed to Dental Board staff. Dr. Olinger noted that his attorney recommended that records be retained indefinitely. Legal Counsel clarified that any regulation would only clarify any requirement of the Dental Board relative to records retention, not that the dentist would be immune from any other lawsuit or private action. Enforcement Chief Nancy Butler noted that this impacts enforcement staff, because if the dentist has no records, such as X-rays, there is no proof of patient harm. Legal Counsel Schieldge stated that the board has the burden of proof in an enforcement action.

LaDonna Drury-Klein, California Association of Dental Assisting Teachers (CADAT), noted that insurance carriers have different recommendations depending on policy standards. She agreed with Dr. Olinger that a regulation would be insufficient, recommending a statutory change.

Dr. Earl Johnson asked how this harms consumers. Legal Counsel noted that consumers cannot get their records because they have been destroyed. Dr. Bettinger felt that for patient protection records should be retained for at least 10 years. Ms. Downing felt that education is needed, as various agencies have different requirements for retention of records. Dean Chalios, California Dental Association, noted that their insurance carrier recommends 10 years, advised care in making any specific recommendation.

Ms. Burton suggested tabling this item and request that staff poll other boards and check with insurance carriers and bring this information back to the board.

LEG 5: Review and Possible Action to make Recommendations Regarding the Board’s Publication and Retention of Cite and Fine Records

Ms. Kantner reported that Dr. Casagrande had asked for this item. Department of Consumer Affairs requires that all licensing boards publish any disciplinary actions, including citations, on the board’s website. She noted that Dr. Casagrande suggested placing an expiration date on this information after a licensee had complied with the requirements of the action. Legal Counsel Schieldge noted that there are two issues, publication and retention, noting a statutory amendment would be required for this change. She felt it could be a problem to purge all of this information, from a practical perspective. This item was tabled.

LEG 6: Presentation Regarding the Legislative Process

Ms. Burton presented the Legislative calendar and summarized the handout she provided regarding the legislative process. She then outlined the steps that a bill travels to become law.

LEG 7: Discussion Regarding Committee Direction

Ms. Burton suggested that someone on the Legislative Committee be notified when a bill is being tracked, and that a subcommittee of the board President and the Legislative Committee chair be formed to take immediate action as necessary on bills and to keep abreast of issues of concern.

PUBLIC COMMENT

None.

ADJOURNMENT

The committee meeting adjourned at 6:59 p.m.