



LEGISLATIVE AND REGULATORY COMMITTEE

Meeting Minutes

Thursday, May 17, 2012

Embassy Suites SFO Airport Waterfront
150 Anza Blvd., Burlingame, CA 94010

Members Present

Chair – Fran Burton, Public Member
Vice Chair – Steve Afriat, Public Member
Stephen Casagrande, DDS
Huong Le, DDS
Steve Morrow, DDS
Thomas Olinger, DDS

Staff Present

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Associate Analyst
Linda Byers, Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

ROLL CALL AND ESTABLISHMENT OF QUORUM

Fran Burton, Chair, called the meeting to order at 4:56 p.m. Roll was called and a quorum established.

LEG 1 - Approval of the February 23, 2012 Legislative and Regulatory Committee Meeting Minutes

M/S/C (Casagrande/Le) to approve the minutes of the February 23, 2012 Legislative and Regulatory Committee meeting. The motion passed unanimously.

LEG 2 - 2012 Tentative Legislative Calendar – Information Only

Ms. Burton reviewed pertinent items on the Legislative calendar.

LEG 3 - Discussion and Possible Action on the Following Legislation:

Sarah Wallace, Legislative and Regulatory Analyst, reported that Board staff is currently tracking thirty-six (36) bills, the majority of which pertain to the Administrative Procedure Act, government accountability, and military licensing. The only two bills that amend provisions of the Dental Practice Act are Senate Bill 1202 (Leno) and Senate Bill 1575 (Senate Business, Professions and Economic Development Committee), both of which contain amendments to provisions governing the licensing of dental hygienists. Ms. Wallace commented that in the interest of time 7 of the Bills would be

discussed, including an additional Bill, SB 1186 (Steinberg/Dutton) pertaining to disability access and liability, requested by Dr. Bettinger.

Ms. Wallace reported that AB 1588 (Atkins) would require boards, commissions, or bureaus within the Department of Consumer Affairs to waive renewal fees and continuing education requirements of any licensee or registrant who is a reservist called to active duty as a member of the Military Reserve or the California National Guard if certain requirements are met. Dr. Olinger stated that based on his former military background, this would be applicable to a very small number of reservists. Ms. Shellans suggested that the Board seek clarification on what is meant by "...in good standing". She suggested changing the wording to "...current, active and unrestricted license". Ms. Shellans also suggested that the Board needs to have the authority to adopt regulations so that they can clarify some of the provisions such as how it would be implemented and when the waiver would expire. Ms. Burton suggested a phone call to the author's office to clarify concerns. M/S/C (Olinger/Casagrande) to support AB 1588. Dr. Earl Johnson asked how long the waiver would last. Ms. Wallace stated that the waiver only applies to licenses that expire while a service person is on active duty. Ms. Wallace stated that she will seek further clarification regarding the length of time a waiver would last, and the other issues pointed out by Ms. Shellans. The motion passed unanimously.

AB 1932 (Gorell/Cook) requires every healing arts board to issue a written report to the Department of Veterans Affairs and the Legislature that details methods of evaluating the education, training, and experience obtained in military service and whether such education, training and experience is applicable to the Board's requirements for licensure. Ms. Wallace stated that the Board's existing licensure requirements, B & P Code §710, would allow most, if not all military officers who serve as Dentists to become licensed in the State of California. Enlisted soldiers trained as "Dental Specialists" would qualify for licensure as Registered Dental Assistants with the work experience gained during military service. Dr. Olinger stated that he is opposed to this bill because he feels that the military has no bearing on how we conduct licensure in the state of California. He stated that you can have a license from any state and practice dentistry in the military. Dr. Olinger commented that he does not think that military training equates to the kinds of things we do to prepare our candidates for licensure as RDA's or Hygienists. Mr. DeCuir commented that there are a number of Bills relating to the military and the transferring of military personnel back into the civilian workforce. These Bills are written broadly to encompass all Healing Arts Boards so keep in mind that there is a broader based intent by the Legislature to encompass that purpose. Ms. Shellans pointed out that one of the requirements was to report how many service people use their military experience to gain licensure. She stated that there is no legal requirement for people to disclose that information. She feels that if they want this information tracked then they should give the Boards the authority to collect the data. M/S/C (Morrow/Olinger) to watch AB 1932. Lori Hubble, Executive Officer of the Dental Hygiene Committee of California commented that DHCC did not take a position on this bill they are watching it. She stated that she met with staff from the authors' office and explained that in order to be licensed as a Dental Hygienist in California you must graduate from an approved school program. There is no on-the-job training pathway to Hygiene licensure. The motion passed unanimously.

AB 1976 (Logue) requires a healing arts board within the Department of Consumer Affairs, upon the presentation of qualifying evidence by an applicant for licensure, to accept military service related education, training, and practical experience towards licensure or certification qualifications. This bill requires schools seeking accreditation or approval to have procedures in place to accept that same information toward completion of education to qualify a person to apply for licensure. This bill would require healing arts boards and the State Department of Public Health to adopt regulations to implement the provisions of this bill. M/S/C (Olinger/Morrow) to watch AB 1976. The motion passed unanimously.

SB 694 (Padilla) makes provisions of existing law regarding the maintenance of a state dental program inoperative for a specified period of time upon the creation of an Office of Oral Health within the Department of Public Health. This bill provides that no General Fund moneys will be used to implement the provisions creating the office. This bill authorizes other public and private funds. This bill authorizes the office to conduct a specified study under described circumstances. Ms. Wallace reported that at the February Board meeting, the Board took a watch position on this bill. As of this date there have been no amendments to this bill. Ms. Burton commented that we have been invited to a stakeholders meeting on Monday, May 21, 2012. Ms. Burton will attend on behalf of the Board. There was no further comment, continue to watch.

SB 1186 (Steinberg/Dutton) would require an attorney to provide a written advisory to a building owner or tenant with each complaint or settlement demand for any construction-related accessibility claim. The requirement to provide the written advisory would apply where the attorney or party has filed a complaint in state or federal court on the basis of one or more construction-related accessibility claims. This bill would prohibit an attorney or other person from issuing a demand for money to a building owner or tenant, or an agent or employee of a building owner or tenant, or from receiving any payment, settlement, compensation, or other remuneration pursuant to a demand for money that is provided or issued without or prior to the filing of a complaint on the basis of one or more construction-related accessibility violations. The bill would require an attorney to provide to a building owner or tenant, or an agent or employee of a building owner or tenant, a document that notifies the recipient of any alleged construction-related accessibility violation that may be the basis for a damages claim at least 30-days prior to filing any claim for damages based on an alleged construction-related accessibility violation or violations, except in a case solely seeking injunctive relief. The bill would provide that a violation of these requirements may subject the attorney to disciplinary action. This bill would require a commercial property owner to state on a lease form or rental agreement if the property being leased or rented has been inspected by a certified access specialist. Ms. Wallace commented that this bill is in response to serial lawsuits involving non-compliance with the Americans with Disabilities Act (ADA). This bill strives to promote compliance with the ADA rather than paying for litigation. M/S/C (Casagrande/Olinger) to support SB 1186. The motion passed unanimously.

SB 1202 (Leno) authorizes dental hygiene programs to be approved by the Dental Hygiene Committee. This bill requires an applicant for licensure as a registered dental hygienist to satisfactorily complete committee-approved instruction in gingival soft tissue curettage, nitrous oxide-oxygen analgesia, and local anesthesia. This bill authorizes special permits to teach in a dental hygiene program. Dr. Casagrande stated that it appears that Section 1926.1 and 1926.2 would allow an RDHAP to operate a mobile dental hygiene clinic. Ms. Shellans stated that is correct. Katie Dawson, representing CDHA, commented that currently, RDHAP's are only allowed to operate a fixed site, with portable equipment in a federally designated shortage area. What this bill would establish is the ability for RDHAP's to have a mobile van, equipped as an office, with the necessary tools to care for patients in the van. Dr. Morrow stated that there are many other provisions in this bill. Lori Hubble, Executive Officer of the Dental Hygiene Committee of California (DHCC), commented that this bill is intended to clean-up, add and amend provisions of the original bill that were inadvertently left out and to give them the authority to do the work they need to do. Ms. Burton stated that there is a lot to discuss regarding this bill. M/S/C (Burton/Le) to watch SB 1202. The motion passed unanimously.

SB 1575 (Senate Committee on Business, Professions and Economic Development) makes several changes to various provisions of the Business and Professions Code pertaining to the Medical Practice Act, the Dental Practice Act, the Board of Podiatric Medicine, the Licensed Midwifery Practice Act, the Psychology Licensing Law, the Respiratory Care Practice Act, the Board of Behavioral Sciences, the Marriage and Family Therapist Act, and the Licensed Professional Clinical Counselor Act, the Pharmacy Law, and the Massage Therapy Council. Specifically, this bill makes changes to the provisions within the Dental Practice Act as it relates to the licensure and regulation of dental

hygienists by the Dental Hygiene Committee of California (DHCC). There was discussion regarding a portion of this bill that would amend Code Section 1950.5 relating to unprofessional conduct. Specifically, that this bill would add language to the provisions relating to unprofessional conduct to specify infection control guideline requirements. The proposed language would emulate the Board's statutory language contained in Section 1680(ad) of the Code, except all references to "board" would be replaced with "committee". The proposed language would imply that the DHCC is the responsible agency for the review of the infection control guidelines and that the Board should submit recommended changes to the DHCC, rather than vice versa as provided in Code Section 1680(ad). This proposed language would be in conflict with existing law and creates ambiguity regarding the responsible agency for the promulgation of infection control guideline regulations. It is unclear as to the necessity of having two separate agency regulations governing the infection control guidelines for dental offices. Dr. Le commented that the way this language reads, the Dental Board would have to submit changes to the DHCC instead of vice versa and this is not acceptable. M/S/C (Burton/Le) to oppose unless 1715.5 and 1950.5 are amended. Tom Baker, CSP, commented that it is vitally important to have one clear voice on Infection Control. Lisa Okamoto, CDHA, commented that there seems to be deterioration in collaboration between the Dental Board and DHCC. She would like to see the vacant RDH seat on the Board filled to help facilitate discussions on these issues. Ms. Burton stated that is up to the Governor, he makes the appointments. The motion passed unanimously.

LEG 4 – Discussion and Possible Action Regarding the California Dental Association's Legislative Proposal to Amend *Business and Professions Code §1640* Relative to Special Permits

Bill Lewis, California Dental Association (CDA), stated that this proposal is intended to clarify whether or not individuals who graduated and received their dental degree from a foreign school, but completed a CODA approved residency are qualified under the original, uncapped side, of the special permit law or the newer statute that was enacted about 10 years ago that was intended to pertain to general and non-CODA accredited specialists. The language that CDA has drafted would add clarity to the existing language. Mr. Lewis is asking, on behalf of CDA, for the Board's approval of this amended language. Mr. DeCuir explained that this language would be included in SB 1575. Board Staff, along with Legal Counsel and CDA representatives got together to compromise on the language at the request of the Business and Professions Committee staff. Dr. Morrow pointed out that §1027 of Title 16, California Code of Regulations provides definitions including what "graduated from a dental college approved by the board" means. Ms. Shellans stated that she would like more time to review this before she makes a recommendation. She stated that this amended language was an attempt to clarify whether the Dental Board programs should accept candidates who didn't graduate with a doctorate, from a dental college approved by the Board. Mr. Lewis stated that at first glance the language in §1027 still seems too ambiguous. Dr. Morrow commented that in his conversation with Senator Emerson, the senator's understanding of the intent was that it would include graduates from non-CODA approved dental schools that had graduated from an advanced education program that was CODA approved. Ms. Shellans pointed out that the language says "Approved by the Board" not CODA. She stated that if the Committee is comfortable with the concept, a statutory amendment isn't going to hurt. Ms. Shellans explained that it would change the law from the current cap of 5 permits per dental school to no cap if they went to a CODA approved program. Mr. DeCuir offered that the cap of 5 permits per school, or more if needed, could be added to the language. Mr. Lewis stated that it was the intent of this language to clarify what had always been the interpretation of §1640. M/S/C (Casagrande/Burton) to support CDA's proposal to amend Business and Professions Code §1640 relative to special permits. The motion passed unanimously.

LEG 5 - Discussion of Prospective Legislative Proposals:

There were no other proposals.

There was no further public comment. The committee adjourned at 6:59 p.m.