



LEGISLATIVE AND REGULATORY COMMITTEE
Meeting Minutes
Monday, December 3, 2012
Embassy Suites LAX/South
1440 East Imperial Avenue, El Segundo, CA 90245

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

Members Absent

Staff Present

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
April Alameda, Investigative Analysis Unit Manager
Jocelyn Campos, Enforcement Coordinator
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Special Assistant to the Executive Officer
Linda Byers, Executive Assistant
Spencer Walker, DCA Senior Staff Counsel

ROLL CALL AND ESTABLISHMENT OF QUORUM

Fran Burton, Committee Chair, called the meeting to order at 2:13 p.m. Roll was called and a quorum established.

LEG 1 - Approval of the August 16, 2012 Legislative and Regulatory Committee Meeting Minutes

M/S/C (Afriat/Morrow) to approve the minutes of the August 16, 2012 meeting of the Legislative and Regulatory Committee of the Dental Board of California (Board). The motion passed with one abstention.

LEG 2 - 2013 Tentative Legislative Calendar – Information Only

Sarah Wallace, Legislative and Regulatory Analyst, reported that she has been checking the Assembly, Senate and Legislative Information websites daily but as of this date the 2013 tentative Legislative calendar is not yet available.

LEG 3 – End of 2-Year Legislative Session Summary

Ms. Wallace reported that throughout 2011 and 2012, the Legislative and Regulatory Committee and the Board have been tracking several bills impacting the Dental Board of California, the Administrative Procedure Act, government accountability, and military licensing. Board members and staff have actively partaken in the 2011-12 Legislative Session by attending hearings, communicating with Legislators and their staff, and taking positions on proposed bills. Ms. Wallace stated that she is preparing a summary of these bills that will be posted on the Board's website. Ms. Burton noted that the past 2 years have been very busy and she thanked Ms. Wallace for the overwhelming amount of work that she accomplished to get so much done for the Board.

LEG 4 – Discussion and Possible Action Regarding Omnibus Bill Proposals for 2013

Ms. Wallace reported that the Senate Business, Professions and Economic Development Committee contacted all of the Healing Arts Board's and non-Healing Arts Boards regarding Omnibus Bill proposals for 2013. One bill will be designated for health care board and bureau legislation and the other will be for non-health care board and bureau legislation. The Committee plans to introduce the bills in early January 2013 and has requested that board and bureau proposals be submitted to the Committee on or before December 10th for inclusion in the introduced version of the bill. Omnibus bill proposals should be non-controversial and are intended to be used for clean up.

Ms. Wallace stated that after consultation with Board managers, current Legal Counsel, and past Legal Counsel, staff determined that Business and Professions Code (Code) Section 1613 regarding the Board's Seal should be amended. Currently the provision refers to the "Board of Dental Examiners" when it should refer to the "Dental Board of California". Additionally, the Board may consider amendments that address persons who use the Board's logo without consent. Staff prepared the following amendment options for the Board's consideration:

Code Section 1613 Current Language:

§ 1613. Seal

The board shall have and use a seal bearing the name "Board of Dental Examiners of California."

Proposed Revision Option 1:

§ 1613. Seal

The board shall have and use a seal bearing the name "~~Board of Dental Examiners~~ Dental Board of California."

Proposed Revision Option 2:

§ 1613. Seal

The board shall have and use a seal bearing the name "~~Board of Dental Examiners~~ Dental Board of California." It is unlawful for any person, firm, corporation, or association that is a nongovernmental entity to solicit information, or to solicit the purchase of or payment for a product or service, or to solicit the contribution of funds or membership fees, by means of any solicitation, including a mailing, electronic message, or Internet Web site that contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying a connection, approval, or endorsement by the Dental Board of California unless the following requirement has been met: the nongovernmental entity has an expressed

connection with, or the approval or endorsement of, the Dental Board of California, if permitted by other provisions of law.

There was discussion regarding option 2 and its correlation to advertising.

Ms. Wallace explained that Option 2 speaks to using the Dental Board name, a provision that other Boards already have. Dr. Casagrande stated that we need to put this provision into place by going with Option 2.

Spencer Wallace, Senior Legal Counsel recommended that it be broadened to “any seal” under the Department of Consumer Affairs.

Richard DeCuir, Executive Officer, gave some history surrounding the misuse of the name and logo by former Dental Board Examiners.

Ms. Burton recommended the Committee accept Option 1 and have further discussion about Option 2. M/S/C (Burton/Olinger) accept Option 1, direct staff to prepare the proposal for submission to the Committee for inclusion in the 2013 healing arts board omnibus bill and direct the Executive Officer to talk with the Business and Professions Committee about Option 2 and whether or not it is something that fits in an Omnibus bill or should be done separately.

Bill Lewis, California Dental Association (CDA), commented that he is concerned that the term “implying a connection” is too vague and broad in Option 2.

The motion passed unanimously.

LEG 5 – Discussion and Possible Action Regarding the Need for Revision of the Mobile Dental Clinic Registration Form as it Pertains to Mobile Clinics Operated by Dental Schools

Sarah Wallace reported that at the August 2012 meeting, the Board reviewed a proposal from the California Dental Association relative to amending the current regulations regarding mobile dental clinics. At the conclusion of the discussion, Dr. Morrow commented that there was another section within the Board’s regulations relating to mobile dental clinics that may require amendments.

California Code of Regulations, Title 16, Section 1026 provides for the registration of mobile dental clinics operated by an approved dental school for instruction in dentistry. Currently, the Board does not have a unique form used for the purposes of registering mobile dental clinics operated by dental schools. Dental schools must register their mobile dental clinics by submitting an application.

The application does not clearly provide a mechanism for dental schools to register mobile dental clinics with the Board. In the past, staff had required the dental schools to register their mobile dental clinics under the name of a faculty member who holds a valid and active license in the State of California. This created a potential problem in the event the designated faculty member ceased employment with the dental school. Additionally, the designated faculty member would be liable for the mobile dental clinic should the Board need to seek disciplinary action.

Staff recommended that the Board seek regulatory action to clarify the registration requirements for mobile dental clinics operated by approved dental schools and develop a new form, as part of the regulatory action, which is unique for this purpose.

Staff requested that the Board direct staff to add this issue to the list of needed regulatory actions for the Board's consideration when determining the regulatory priorities for fiscal year 2013/2014.

M/S/C (Morrow/Olinger) to direct staff to add this issue to the list of needed regulatory actions for the Board's consideration when determining the regulatory priorities for fiscal year 2013/2014.

There was discussion surrounding satellite clinics and extra mural sites and their registration processes. Dr. Morrow asked staff to bring back a report on how many mobile dental clinics are registered to schools as applicable in §1026, how they are registered i.e. whose name, and is the named registrant still affiliated with the school.

The motion was tabled to be brought back at a future meeting. The Board directed staff to conduct further research.

LEG 6 - Discussion of Prospective Legislative Proposals:
Stakeholders Are Encouraged to Submit Proposals in Writing to the Board Before or During the Meeting for Possible Consideration by the Board at a Future Meeting

Bill Lewis, CDA, commented on mobile/portable dental clinic issues. He stated that CDA will be discussing the possibility of introducing legislation to clarify the Board's role related to mobile/portable dentistry at their January 2013 meeting. Dr. Morrow mentioned the change coming, no sooner than 2017, to the National Board Dental Examination and asked that we keep this on our list of prospective proposals. Mr. DeCuir stated that Dr. Morrow's suggestion of changing the language related to this examination from "must pass parts one and two..." to "must pass the National Board's written examination(s)" would be appropriate for inclusion in an omnibus bill but is premature at this time.

There was no further public comment.

The committee adjourned at 3:09 p.m.