



**DENTAL BOARD OF CALIFORNIA**  
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## **DENTAL BOARD OF CALIFORNIA QUARTERLY BOARD MEETING MINUTES**

**NOVEMBER 2-3, 2017**

Courtyard by Marriott Sacramento, Cal Expo  
1782 Tribute Road, Golden State Room A & B  
Sacramento, CA 95815

### **Members Present:**

Bruce L. Witcher, DDS, President  
Thomas Stewart, DDS, Vice President  
Yvette Chappell-Ingram, Public Member,  
Secretary  
Fran Burton, MSW, Public Member  
Steven Chan, DDS  
Judith Forsythe, RDA  
Meredith McKenzie, Public Member  
Ross Lai, DDS  
Huong Le, DDS, MA  
Abigail Medina, Public Member  
Steven Morrow, DDS, MS

### **Members Absent:**

Kathleen King, Public Member

### **Staff Present:**

Karen M. Fischer, MPA, Executive Officer  
Sarah Wallace, Assistant Executive Officer  
Carlos Alvarez, Enforcement Chief  
Ryan Blonien, Supervising Investigator I  
Jocelyn Campos, Associate Governmental Program Analyst  
Zachary Raske, Associate Governmental Program Analyst  
Allison Viramontes, Associate Governmental Program Analyst  
Jessica Olney, Associate Governmental Program Analyst  
Melissa Brokken, Staff Services Analyst  
Daniel Yoon, Staff Services Analyst  
Jeri Westerfeld, Executive Assistant  
Michael Santiago, Legal Counsel

### **Agenda Item 1: Call to Order/Roll Call/Establishment of Quorum**

A regular meeting of the Dental Board of California (Board) was called to order by Dr. Bruce Witcher at 9:30 a.m. on Thursday, November 2, 2017. Ms. Yvette Chappell-Ingram called the roll and a quorum was established.

Agenda Item 2: Board President Welcome and Report

Dr. Whitcher provided a verbal report.

Dr. Whitcher reported that he attended the California Dental Association (CDA) Cares, a sponsored free health care event, in Bakersfield in October, which served over 1,500 people. He acknowledged Dr. Thomas Stewart who was a part of the local arrangements committee which provided support for the event.

Dr. Whitcher noted that the State Assembly Select Committee on Health Care Delivery Systems and Universal Coverage held a series of informational hearings. This Committee was appointed by the Speaker of the Assembly, Mr. Anthony Rendon, and is chaired by both a physician, Dr. Joaquin Arambula, and a dentist, Dr. Jim Wood. Dr. Whitcher reported that a two-day hearing for this Select Committee was held at the end of October; the first day focused on a comprehensive review of California’s current healthcare systems and the second day focused on Universal Coverage in other countries. This webcast and the information discussed are available on the State Assembly’s website.

Agenda Item 3: Approval of the August 10-11, 2017 Board Meeting Minutes

Motion/Seconded/Called the Question(M/S/C): (Chappell-Ingram/Forsythe) to approve the August 10-11, 2017, Board Meeting minutes with the following corrections: (1) Dr. Steven Morrow stated that in Agenda Item 9, the section incorrectly includes a reference to Business and Professions Code (Bus. & Prof. Code) 1021.1 and should be amended to 1024.1 and (2) Dr. Ross Lai noted that in Agenda Item 12, that section incorrectly references Dr. Huong Le and should be amended to Dr. Lai.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie			✓		
Morrow	✓				
Stewart	✓				
Whitcher	✓				

The motion passed and the minutes were accepted with the requested changes.

Dr. Whitcher explained there would be a change to the order of business and Agenda Item 8, Update on Implementation of Fee Increase, would be heard immediately following Agenda Item 4, Budget Report.

#### Agenda Item 4: Budget Report

Mr. Zachary Raske, Budget Analyst, reiterated the information available in the meeting material binder and provided the Board with handouts of the revised Fund Condition Statements for both the Dentistry and Dental Assistant Funds. Mr. Raske stated that the fee increase, which has been implemented as of October 19, 2017, in BreEZe, would provide a solvency solution to the funds.

Ms. Sarah Wallace, Assistant Executive Officer, stated the Budget Reports, included in the Board Materials, as Attachments 1 and 2, are different than what is normally provided to the Board. Ms. Wallace explained that representatives from the Department of Consumer Affairs (DCA) Budget Office would explain why Board staff was not able to provide current expenditures or expenditures for the first quarter for 2017-2018.

Ms. Marina O'Conner, Budget Manager, and Mr. Wilbert Rumbaoa, Budget Analyst, with the DCA Budget Office provided an update regarding the state's accounting system, the Financial Information System for California (FI\$Cal), and some of the challenges that the Budget Office has been experiencing regarding closing Fiscal Month (FM) transactions and expenditure posting. Mr. Rumbaoa stated the numbers reflected in FY 2017-18 will change slightly before the Governor's Budget is released on January 10, 2018 and the Budget Office will incorporate actual numbers instead of estimates.

Ms. Karen Fischer, Executive Officer, commented that she was uncomfortable that the Budget Office was not able to provide the numbers today; but was confident there would be a resolution soon as this effects all the boards in DCA.

Ms. Fran Burton asked if the Board would incur a cost for the operation of FI\$Cal itself. Ms. O'Conner responded that the Board is charged an assessment fee for FI\$Cal and has not heard if the delays due to FI\$Cal would be assessed against the Board's funds, but would make the Board aware if there was an additional increase. Dr. Lai questioned if there would be an opportunity for arbitration if the Board felt they were overcharged. Ms. O'Conner explained depending upon the issue they may be able to ask FI\$Cal how they assessed that fee.

Ms. Burton requested further clarification regarding how the FI\$Cal fee for service is distributed among the various Boards. Ms. O'Conner stated she did not know because the Budget Office was not privy to that information because it was calculated by the oversight agencies but could research how a fee was assessed if the Board was interested. Ms. Burton asked the President if the Board could have a more definitive report at the next meeting.

Dr. Whitcher inquired whether the fee for FI\$Cal would be included in the departmental services line items listed in the Budget Report. Ms. O'Conner explained that it was not part of the Board's budget and therefore is not displayed in the Budget Report but rather the Fund Condition Statement.

### Agenda Item 8: Update on Implementation of Fee Increase

Ms. Wallace provided a history regarding the purpose of the fee increase, how long the process has taken, and a status update regarding its implementation. Ms. Wallace mentioned as of October 19, 2017, BreEZe implemented the fee increase and the Board began collecting the new revenue for applications, licensures, and permits. All renewal notices that have an expiration date of January 31, 2018, were mailed out in October to inform them of the new renewal fees. Additionally, Board staff posted an alert and fee chart on the Board Web site. All forms with impacted fees were updated, including forms available on the Web site, and an informative e-mail blast was sent out.

#### Public Comment:

Ms. Mary McCune, CDA, stated that CDA would like to be more involved in any future fee increase conversation regarding the methodology for the increases. Ms. McCune noted that the Application for Licensure by Residency fee was significantly higher than the other licensure pathways and when CDA looked at the cost for administering all other pathways they were roughly the same. Dr. Witcher stated that he agreed with Ms. McCune.

Dr. Kevin Chen and Dr. David Jolkovsky from the California Society of Periodontists requested information regarding the Onsite Inspection and Evaluation for General Anesthesia/Conscious Sedation Permit fee increase. Dr. Witcher explained that a consultant evaluated the cost to staff time involved for providing this service. Dr. Witcher explained that the cost to administer this inspection and evaluation is approximately \$4,000, while the fee is only \$2,000, and it is completed every 5-6 years.

Dr. Witcher explained that the Board is a special fund agency and operates only on what is received from the licensees. The Budget Subcommittee that looked at the fee increase attempted to distribute that fairly across the licensees to prevent an undue financial hardship. Dr. Jolkovsky further inquired whether the Board had thought about how many dentists would stop providing this service because of the fee increase. Dr. Witcher stated the fee is less than the revenue of one case generated per year and that dentists would not stop providing the service because of the fee increase, but rather might stop providing the service because their practice does not use it enough to justify the cost. Dr. Jolkovsky disagreed and was concerned about public safety and access to care.

Dr. Morrow was concerned about the fee increase of the Application for Licensure for Residency because of the financial burden already put on new graduates. Dr. Morrow was also concerned about the Application for Special Permit fee increase because this cost would likely be placed on the institution that hires a faculty member seeking this permit and not the licensee. Dr. Witcher stated those concerns were taken into consideration when the Subcommittee met.

Ms. Fischer stated that any fee increase changes in the future would have to go through a regular rulemaking process, such as the previous fee increases. Ms. Fischer thanked Dr. Chen and Dr. Jolkovsky for their comments and encouraged them to continue to

participate and watch the Board meetings. Additionally, Ms. Fischer explained the Board is mindful of public protection but the comments made at this meeting were not provided by any person or organization throughout the rulemaking process.

The Board recessed at 10:20am and convened the Joint Meeting of the Dental Board of California and the Dental Assisting Council.

The Board returned to open session at 1:45pm.

Agenda Item 5A: 2018 Tentative Legislative Calendar – Information Only

Ms. Allison Viramontes, Legislative and Regulatory Analyst, gave an overview of the information provided.

Agenda Item 5B: 2017 End of Year Legislative Summary Report

Ms. Viramontes gave an overview of the information provided.

Dr. Witcher stated that the Legislature will reconvene session on January 3, 2018.

Agenda Item 5C(i): Discussion and Possible Action Regarding Legislative Proposals for 2018: Healing Arts Omnibus Bill

Ms. Viramontes gave an overview of the information provided. Additionally, Ms. Viramontes distributed an additional amendment to the Omnibus Bill proposal regarding Bus. & Prof. Code Section 1750.2. This amendment was a non-substantive change to Section 1750.2 which pertained to the Orthodontic Assistant permit that would clarify the numbering of the subdivision associated with this Section.

Ms. Wallace explained that omnibus bills are an opportunity for boards and bureaus to submit technical, non-controversial language that may help expedite their business process or provide clarification to a statute. Ms. Burton added that omnibus bills are a general way that boards and bureaus can clean up statute without requiring an individual bill process that would receive the support of both the Assembly and Senate.

Dr. Morrow inquired about the recommendation that Bus. & Prof. Code Section 1601.5 be struck from the statute. Ms. Wallace explained that Section 1601.5 defines a phrase for another Section 1601 that is now obsolete. Dr. Morrow referenced Section 1601.1 as a section that requires further clarification into whether a faculty member, that qualifies for a Board position, can be full-time or part-time. Ms. Wallace recommended that this be addressed during Sunset Review because an amendment to clarify that section for that purpose could draw controversy.

Public Comment:

Ms. McCune inquired about allowing an exception to the requirements in Bus. & Prof. Code Section 1621 for those officers or faculty members who are also portfolio examiners. Additionally, Ms. McCune inquired about changing the dental sedation assistant (DSA) permit language to more closely match the requirements (allowing a Registered Dental Assistant [RDA] license as an eligibility pathway instead of work

experience as a dental assistant) found in Bus. & Prof. Code Section 1750.2 related to Orthodontic Assistant permits. Ms. Wallace responded that both amendments could be included with the Board's permission if they approved the language in concept.

M/S/C: (Morrow/Stewart) to approve the Omnibus Bill proposal language presented with the two additional aforementioned amendments, related to Bus. & Prof. Code Sections 1621 and 1750.2, in concept to: (1) allow an exception to those officers or faculty members who are also portfolio examiners and (2) allow DSA permit language to more closely match the requirements (allowing a RDA license as an eligibility pathway instead of work experience as a dental assistant) found in Bus. & Prof. Code Section 1750.2 related to orthodontic assistant permits.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie	✓				
Morrow	✓				
Stewart	✓				
Whitcher	✓				

The motion passed unanimously.

Agenda Item 5D: Update on Pending Regulatory Packages

Ms. Viramontes gave an overview of the information provided and noted a change to the Mobile and Dental Clinic and Portable Dental Unit Registration Requirements regulatory package and explained Board staff would present language to continue the rulemaking at the February 2018 Board Meeting.

Agenda Item 5E: Discussion of Prospective Legislative Proposals

Ms. Viramontes gave an overview of the information provided.

Agenda Item 6: Initiate a Rulemaking relating to Basic Life Support Course Equivalency Requirement

Ms. Viramontes requested a motion to initiate a rulemaking to accept basic life support courses (for both the RDA licensure application and continuing education) offered by providers who are approved by the American Dental Association's Continuing Education Recognition Program (CERP), the Academy of General Dentistry's Program Approval for Continuing Education (PACE), or the American Safety and Health Institute (ASHI) and amend Sections 1016 and 1016.2 of the California Code of Regulations (Cal. Code of Regs.).

M/S/C: (Morrow/Forsythe) to accept the proposed regulatory language relative to the basic life support provider and course requirements, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to Cal. Code of Regs., Title 16, Sections 1016 and 1016.1 as noticed in the proposed text.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie	✓				
Morrow	✓				
Stewart	✓				
Whitcher	✓				

The motion passed unanimously.

Agenda Item 7: Initiation of Emergency Rulemaking regarding Minimum Standards for Infection Control in Compliance with Assembly Bill 1277

Ms. Viramontes requested a motion to initiate an emergency rulemaking to amend the Minimum Standards for Infection Control, in the Cal. Code of Regs. Section 1005 relating to water and other methods of irrigation when performing procedures on exposed dental pulp. Ms. Wallace and Ms. Viramontes explained that this rulemaking process would be a two-step process, and the Board would need to begin the emergency rulemaking process before beginning the regular rulemaking process. Ms. Wallace and Ms. Viramontes recommended that the proposed regulatory language in Section 1005 (b)(22) not be considered for the emergency rulemaking because it was a result of the Board’s Infection Control Subcommittee meeting and did not match the statutory authority. Ms. Wallace explained Board staff is proposing the language in Section 1005 (b)(18) solely for the Board’s consideration.

Dr. Morrow explained that the proposed language for Section 1005 (b)(18) could result unforeseen consequences because of the wording is currently all encompassing and a dentist may invade or expose dental pulp unintentionally. Ms. McCune offered an amendment to address the issue raised by Dr. Morrow. Mr. Michael Santiago, DCA Legal Counsel, recommended that the Board adopt the original language which was initially presented at the Board Meeting. Ms. Wallace read into the record a letter dated

November 2, 2017, addressed to Dr. Whitcher from Assemblymember Tom Daly, AB 1277's author. Ms. Wallace drew attention to a portion of the letter which read, "AB 1277 sets a standard for infection control that requires dentist to use sterile water or disinfecting or antibacterial agent when irrigating exposed dental pulp."

M/S/C: (Burton/Forsythe) to accept what was amended, and proposed by CDA in the Cal. Code of Regs., in Section 1005 (b)(18) and not move forward with the proposed regulatory language in Section 1005 (b)(22), pursuant to Government Code Section 11346.1, relative to the minimum standards for infection control and direct staff to take all steps necessary to initiate the emergency rulemaking process, including noticing the proposed language for 5-day public comment, and authorize the Executive Officer to make any non-substantive changes to the emergency rulemaking package before completing the emergency rulemaking process.

Public Comment:

Mr. Michael (Mike) Rust with ProEdge Dental Water Labs commented that having a recognized disinfectant or antibacterial property during procedure that exposes dental pulp would not stop a mycobacterium outbreak and the Board should look at their regulatory language again. Mr. Rust stated that the products used to treat dental unit water lines do not work as well as those in the profession thought. Additionally, Mr. Rust explained that to obtain clean water for regular dentistry it takes regular shocking with a chemical, proper use of an effective product, training, and frequent testing. Ms. Fischer thanked Mr. Rust for his testimony and asked if he had offered this up to CDA while the bill was going through the legislature. Mr. Rust stated that he had not.

Dr. Morrow commented that the current infection control standards, Section 1005 (b)(18), referenced language that surgical procedures on soft tissue or bone must be irrigated with sterile irrigants/solution through a sterile delivery system. Dr. Morrow stated that pulp tissue is a soft tissue and it was his understanding that there was an already an infection control standard in place.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie	✓				
Morrow		✓			
Stewart	✓				
Whitcher	✓				

The motion passed.

### Agenda Item 9: Loan Repayment Program

Ms. Melissa Brokken, Licensing Analyst, gave a brief overview of the Loan Repayment Program and the revisions pursuant to Assembly Bill (AB) 2485. AB 2485 revised the provisions of the Loan Repayment Program regarding eligibility criteria, application, applicant selection and placement.

Dr. Morrow asked about the advisability of limiting application questions to those approved by the Commission on Dental Accreditation (CODA) or recognized by American Dental Association (ADA). Dr. Morrow stated that recent court rulings found that the ADA doesn't have the power to limit who can be a specialist or what can be a specialty. Dr. Morrow was concerned that a candidate who had a specialty training that was not recognized by CODA or approved by the ADA would not be eligible for the program. Dr. Morrow stated there are CODA approved advanced dental education programs that are not classified as a specialty.

Ms. Fischer stated that DCA Legal has not reviewed the application provided in the Board's materials. Ms. Wallace stated that Board staff is currently developing regulations to coincide with AB 2485 and that once approved by the Board, staff could post a courtesy application to the website.

The Board convened in closed session at 3:00 p.m. to deliberate and take action on disciplinary matters. The closed session meeting of the Board adjourned at 5:00 p.m.

The Licensing, Certifications, and Permits Committee convened in closed session at 5:05 p.m. to deliberate on applications for issuance of new licenses to replace cancelled licenses and to deliberate on whether or not to grant, deny, or request further evaluation of a conscious sedation permit and a general anesthesia permit. The closed session meeting of the Licensing, Certifications, and Permits Committee adjourned at 5:40 p.m.

The Board recessed until Friday, November 3, 2017 at 9:30 a.m.

### Agenda Item 10: Call to Order/Roll Call/Establishment of Quorum

The second day of the regular meeting of the Board was called to order by Dr. Whitcher at 9:30 a.m. on Friday, November 3, 2017. Ms. Chappell-Ingram called the roll and a quorum was established.

Dr. Whitcher introduced the Director of the DCA, Mr. Dean Grafilo (Director Grafilo), and Assistant Deputy Director of Board and Bureau Services, Mr. Patrick Le. Director Grafilo provided a report regarding updates for DCA staff and specifically mentioned that DCA reallocated funds to increase staffing in the office of the Board and Bureau Services to expand services to address licensing and enforcement issues, intergovernmental communication, administrative and technical support for board members and their executive officers, and execute the Department's Strategic Plan across all boards.

Director Grafilo reported that the second Director's Quarterly Meeting was held in September 2017, for all DCA Executive Officers. Additionally, Director Grafilo mentioned that DCA released a new license verification search for all boards and bureaus using the BreZE platform. Director Grafilo explained that DCA has created a Pro Rata workgroup of DCA Executives to discuss potential improvements on how DCA communicates with its boards. Director Grafilo reported that DCA released their new Strategic Plan for the next year four years which is available on DCA's website ([www.dca.ca.gov/publications/strategicplan.pdf](http://www.dca.ca.gov/publications/strategicplan.pdf)).

Director Grafilo noted that 2017 was designated as a mandatory year for the Sexual Harassment Prevention Training and all employees and board members must complete this training.

#### Agenda Item 11: Executive Officer's Report Staffing Update

Ms. Fischer stated the Board's Administration Unit is fully staffed. The Dental Assisting Unit has four vacancies including a two-year Limited Term Staff Services Manager I which Board staff plans to hire for soon. The Enforcement Division's Complaint and Compliance Unit is fully staffed and are diligently working to catch up on processing consumer complaints. The Investigative Analysis Unit is also fully staffed and there is one vacancy in the Sacramento Field office and two vacancies in the Orange Field office.

Dr. Morrow and Ms. Kathleen King will begin their grace period on January 1, 2018. Both are eligible for reappointment because their first term was not a four-year term. Ms. Fischer noted that Dr. Morrow expressed an interest in serving another term; however, Ms. King has expressed she will serve out her grace period and will likely not seek reappointment.

Ms. Fischer recognized that this was Ms. Judith Forsythe's last Board meeting. Ms. Fischer mentioned that Ms. Forsythe expressed an interest in continuing to work with the Board in any capacity and will likely serve as subject matter expert for the future.

Ms. Fischer also recognized Dr. Bruce Witcher for serving as the Board President in 2017.

#### Required Board Member Training

Ms. Fischer reminded Board Members that the Sexual Harassment Prevention Training is mandatory and must be completed so that the Board can remain in compliance with DCA's mandate by the end of 2017.

#### Status of Occupational Analysis for Dentists and the Implementation of AB 2331 – American Board of Dental Examiners (ADEX) Examination as an Additional Pathway to Licensure

Ms. Fischer stated the occupational analysis workshops are scheduled for December 2017. The Office of Professional Examination Services (OPES) contacted

approximately ten dentists with a range of work experience but were primarily looking for dentists with zero to five years of experience. ADEX agreed to cover the cost for the occupational analysis and when the Board incurs any expense this will be collected from ADEX in periodic payments. Once the occupational analysis is completed (expected mid-2018), the psychometric analysis of the ADEX exam will begin.

Update Regarding Status of Two-year Provisional Approval of the State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova’s Faculty (School) of Dentistry- Schools Response to Deficiencies Outlined by The Dental Board of California

Ms. Fischer stated the school has submitted a package of documents to address deficiencies. The package is being reviewed independently by the site evaluation team and they would provide a recommendation to the Board which would be available at a future meeting.

Update Regarding Implementation of AB 2235 – Caleb’s Law

Ms. Fischer explained that the Board was granted the authority to hire an analyst with the issues surrounding anesthesia. Board staff anticipated beginning collection of data by the beginning of 2018 and will present the data in Sunset Review.

Ms. Fischer reminded everyone that the next Board Meeting will be on February 8-9, 2018, in La Jolla, California.

Agenda Item 12: Report of Dental Hygiene Committee of California (DHCC) Activities

Mr. Tony Lum, Interim DHCC Executive Officer, provided the Board with an update of DHCC activities. Mr. Lum anticipated the Sunset Review report to be finalized and approved by the DHCC by the December 1, 2017 deadline for submission to the Legislature. Additionally, Mr. Lum noted that the DHCC instituted a dental hygiene educational program review program in the last few years to ensure they are complying with the law.

On behalf of the DHCC Board President, Ms. Noel Kelsch, Mr. Lum thanked Ms. Burton and Dr. Witcher for their assistance throughout the recruitment process for the DHCC’s Executive Officer position. Mr. Lum also recognized Board staff for working with DHCC to alleviate their concerns regarding the Board’s Mobile and Portable Dental Unit regulation package.

Agenda Item 13: Licensing, Certifications, and Permits

Ms. Wallace referred to the meetings materials to provide an overview of the Dental Licensure and Permit statistics. Ms. Wallace noted that May and June are the Board’s peak period for receiving and approving applications for dental licensure. Ms. Wallace provided an update regarding the notices for the January 31, 2018, renewal period that were sent out to reflect the fee increase. Board staff were made aware of an error regarding delinquency fee so there will be corrective notices sent out. Ms. Wallace requested any questions regarding this issue be forwarded directly to her office.

#### Agenda Item 14A: Update on the Portfolio Pathway to Licensure

Mr. Daniel Yoon, Licensing Analyst, referred to the meeting materials. Mr. Yoon stated that staff along with two Board members, Dr. Le and Dr. Morrow, met with the six California Dental schools to discuss the Portfolio Pathway to Licensure Program (Portfolio Pathway). The purpose of these meetings was to determine any challenges regarding this licensure pathway, receive feedback regarding their experience with the Portfolio Pathway, and solicit input on how to increase further participation. Mr. Yoon highlighted the five major issues that the schools identified as an obstacle to utilizing the Portfolio Pathway; this information can be found in the meeting materials.

Dr. Le noted that portability was the main issue students were not choosing this licensure pathway and highlighted that only four states (including California) accept this pathway. Additionally, Dr. Le explained consistently all schools requested the forms for the Portfolio Pathway be digitized. Dr. Le stated there were areas for improvement, for both the Board and the schools, to make regarding this licensure pathway.

Dr. Morrow added that schools did not seem to understand the purpose of the Portfolio Pathway and appeared to make the process much more difficult than it was initially approved to be. Dr. Morrow suggested that the Board hold meetings with school representatives to discuss expectations and requirements regarding the Portfolio Pathway examination. These meetings would allow for schools to have a forum where their questions could be answered regarding this licensure pathway. Additionally, Dr. Morrow suggested that the Board add a link to its website for the Portfolio Pathway to allow students to receive this information and provide the candidate's manual that explains the licensure pathway. Furthermore, Dr. Morrow stated that the schools are looking at the Portfolio Pathway as an additional exam (like WREB) instead of part of a student's curriculum and would like the Board to help schools make that distinction.

Dr. Morrow expressed that it is his belief that California's Portfolio Pathway has started a debate regarding how we license dentist in the United States (U.S.). Dr. Morrow noted that all provinces of Canada accept a single examination, Objective Structured Clinical Examination (OSCE). All provinces have additional requirements but the OSCE is universally accepted as the clinical exam. Additionally, some of the bordering U.S. states have also accepted the OSCE to fulfill clinical examination. Additionally, the American Dental Association has made a resolution to start development of an OSCE exam to meet clinical exam requirement. Furthermore, the American Dental Education Association has made resolution to start development of a Portfolio examination, based on California's acceptance of Portfolio.

Dr. Le stated that the schools had requested an annual calibration meeting for the Portfolio Pathway. Dr. Witcher suggested that the concerns regarding the Portfolio Pathway be addressed by a Subcommittee or a Task Force.

Ms. Fischer suggested that the Portfolio Pathway concerns could likely be addressed further in the future by the Examination Committee. Additionally, Ms. Fischer noted that

if the six schools attended to the CDA Presents convention this would likely be the soonest all representatives could meet.

Public Comment:

Ms. McCune commented that CDA supports the Portfolio Pathway and have held meetings with the school deans since its implementation. Ms. McCune added that CDA would be happy to assist in convening meetings between the Board and school representatives in Anaheim during CDA Presents convention in May 2018.

Agenda Item 14B: Western Regional Examination Board (WREB) Report

Dr. Le reiterated the upcoming changes to the WREB examination as of January 2018, that she previously reported on during the August 2017 Board meeting. Specifically, Dr. Le stated only one operative procedure (of a Class II restoration), as opposed to two, is required for the WREB examination if the candidate passes the procedure with a three (3) or higher. Dr. Le noted that there was confusion among the candidates from California schools that want to utilize the WREB examination as a pathway for licensure.

Dr. Le introduced WREB representatives and examiners, Dr. Norm Magnuson and Dr. Bruce Horn, to elaborate on the changes to the examination Dr. Magnuson and Dr. Horn explained that WREB's decision to switch to one operative procedure was due to statistics that showed requiring candidates that complete their first procedure with a passing score (3 or higher) to complete an additional operative procedure was superfluous and redundant. Dr. Horn noted that candidates that do not pass their first operative procedure (estimated 2.5-3% of candidates) must score higher than a 3 on their second operative procedure. This is because the WREB takes the average of both procedures which must reflect a total score of at least 3 (75%) to pass. However, Dr. Horn explained that if a candidate fails the first operative procedure by committing a critical error, the candidate is not offered an immediate retake.

Dr. Magnuson clarified that the Periodontal section of the WREB examination is not optional; however, a candidate may opt out of that section. This allows for mobility and portability if the state where the candidate plans to practice does not require a certain section. California still requires the Periodontal section for the WREB examination. Dr. Magnuson and Dr. Horn stated currently WREB is accepted by a little over 40 states in the U.S.

Dr. Morrow asked if the Board would be notified if a candidate passed an examination but opted out of the Periodontal section. Dr. Magnuson and Dr. Horn explained the Board would see the applicant passed however the Board would see that the Periodontal section did not have a score. At that time, the Board would need to decide if the application is incomplete and how a candidate could go about completing that portion for licensure.

Dr. Morrow voiced his concern regarding whether the Board would be bound to accepting the applicant if our statute states the Board accepts the results of the WREB examination regardless of the components that were included. Ms. Fischer explained

that this was unknown at this time and referenced statute which requires all examinations to undergo a psychometric evaluation (Bus. & Prof. Code Section 139). Ms. Fischer noted that the Board is currently undergoing an occupational analysis of dentistry and this will need to be clarified and addressed by the Board next year during Sunset Review. Additionally, Ms. Fischer after the occupational analysis is completed a re-evaluation will be necessary of both the WREB examination and Portfolio Pathway.

Ms. Fischer, on behalf of the Board requested that status quo remain and candidates that take the WREB examination continue to take the Periodontal section moving forward. Additionally, Ms. Fischer also noted that this ties in to the issue specialty licensure.

Ms. Burton asked if a candidate passed the WREB examination, without a required section for California, (like the Periodontal section) if he or she could complete a single section later as opposed to taking the examination in its entirety. Dr. Magnuson and Dr. Horn explained that a candidate could complete a single section with approval by the state's board (if the candidate has been practicing in another state) or by the dean of the dental school (if he or she has not been practicing). Additionally, Dr. Magnuson mentioned there was no time limit on how long the results would be good for. Dr. Magnuson and Dr. Horn added that candidates should contact the Board of the state where they intend to practice and confirm what the requirements are for licensure.

Dr. Morrow inquired if the WREB examination had a time limit for the results to still be considered valid (e.g.: ADEX stated their examination results are valid for one year.). Dr. Magnuson and Dr. Horn explained that they would need to research that issue. Dr. Horn noted recommended that the state boards determine the WREB results validity. Dr. Horn explained that the WREB examination undergoes a psychometric review of every five years and could provide the Board with the results from their most recent review in May 2017.

#### Agenda Item 15C: Fictitious Enforcement Cases Step by Step Presentation

Mr. Carlos Alvarez, Enforcement Chief, referred to Board's meeting materials and provided a presentation describing the different stages of the Enforcement Process once the Board receives a consumer complaint.

Ms. Burton and Dr. Lai verbalized their concern regarding the length of time that the criminal complaints take to reach a resolution. Dr. Lai noted that some cases can take up to two and half years which is concerning for consumers because the dentist is still practicing during that time.

Dr. Witcher explained that a suspension order can be lodged against the accused for egregious cases. Mr. Alvarez stated that if there was a public safety concern a judge could issue a temporary suspension order; however, if the judge does not feel there is a harm to the public (ex: insurance fraud cases) an order may not be granted.

#### Agenda Item 15A: Enforcement Statistics and Trends

Mr. Alvarez reported the trends and statistics for the first quarter of fiscal year 2017-18 during his presentation by applying the data to the process discussed above. Mr. Alvarez noted an increase of 56 complaints compared to first quarter of FY 2016-17. Ms. Fischer noted that for the Board's Sunset Review report, the Legislature will request statistics from the last three to five years regarding the Board's enforcement statistics.

#### Agenda Item 15B: Review of FY 2016-17 Fourth Quarter Performance Measures from the DCA

Mr. Alvarez referred to the meeting materials and noted that most of the complaint allegations were coded as an "Incompetence/Negligence" because during intake the complainant refers to it as such. However, once the complaint is reviewed by a dental consultant or an expert it may be classified as something else or a reviewer may find there was no negligence and close the case.

Ms. Fischer stated she would extend an invite to Ms. Linda Schneider from the Attorney General's Office to the February 2018 Board meeting in hopes of receiving further information regarding staffing issues. Ms. Fischer noted that the Board's management is working on examining the efficiency of the current process and would evaluate whether there was a need for additional staff. Ms. Fischer explained that if there was a need this could be included of the Board's Sunset Review report.

#### Agenda Item 16A: Staff Update Regarding the Committee's Mission Statement & Webpage

Mr. Alvarez stated the webpage is now available on the Board's website ([www.dbc.ca.gov/drug\\_abuse](http://www.dbc.ca.gov/drug_abuse)) which includes the Board's Mission Statement and links to opioid web sites. Board staff will continue to post additional links as they are made available.

#### Agenda Item 16D: Update Regarding October 25, 2017 Statewide Opioid Safety (SOS) Workgroup Meeting

Mr. Alvarez explained that the workgroup is primarily focused on policy framework to educate and assist with decision making. The four main categories of this framework are as follows: Prevent, Manage, Treat, and Stop. Additionally, Mr. Alvarez outlined the ways California has addressed the opioid epidemic.

The Food and Drug Agency (FDA) has also established a new Opioid Policy Steering Committee and it was established to explore and develop additional tools to confront the opioid crises. The FDA is seeking suggestions from interested parties regarding the following: 1) What can or should the FDA do to insure all information is considered when implementing opioid regulation decisions; 2) What steps could or should the FDA take when dispensing and packaging to develop consistency and promote appropriate prescribing practice of opioids; and 3) Should the FDA require further education for those healthcare professionals that prescribe opioids. Comments can be submitted to the Committee by utilizing their website at ([www.regulations.gov](http://www.regulations.gov)).

Mr. Alvarez note that the California Opioid Policy Summit will take place on November 8-9, 2017, in San Diego.

Agenda Item 16B: Diversion Program Report and Statistics

Mr. Alvarez reported the trends and statistics for the first quarter of fiscal year 2017-18.

Mr. Alvarez stated that the Diversion Evaluation Committee (DEC) are recruiting public members: Northern DEC – one public member and one dental auxiliary position; Southern DEC – one physician/psychologist, and one dental auxiliary position. The next DEC meeting is scheduled for December 17, 2017, in Southern California.

Agenda Item 16C: Controlled Substance Utilization Review and Evaluation System (CURES) Registration and Usage Statistics and Discussion and Possible Action regarding partnering with CDA for CURES Outreach

Mr. Alvarez referred to the statistics regarding registration and usage of the CURES system. Mr. Alvarez stated he contacted the Department of Justice (DOJ) to obtain brochures to provide to the Board's licensees to comply with and increase CURES registration. Additionally, Mr. Alvarez partnered with CDA to improve CURES registration and usage.

Mr. Alvarez introduced Ms. McCune from CDA who discussed CDA's two-fold targeted approach to improve CURES registration. CDA would like to survey dentists that have registered with CURES to find out what their experience was like and how they utilize the database in their practice. Additionally, CDA would like to survey and educate dentists who have not registered for CURES.

Dr. Stewart recognized CDA for their "Clinical and Legal Considerations for Prescribing Controlled Substances" course that they provide to those within the practice of dentistry. Dr. Lai noted that he registered for CURES at a CDA meeting and suggested CDA provide this information within their newsletter for those who may be unaware that they could register at a CDA meeting.

Ms. Fischer explained that the Board does not have access to which licensees have a DEA number, so the survey would need to be disseminated to all licensees in California. The survey would also need to emphasize that if a licensee has a DEA number they are required to register for CURES and are in violation of the statute if they do not. Ms. Fischer noted that failure to register for CURES will likely become part of the Board's investigative process. Ms. Fischer also added that the requirement that dentists check CURES before prescribing a controlled substance has not been formally implemented yet because the DOJ does not currently have enough staff to support that function.

Agenda Item 17A: General Anesthesia and Conscious Sedation Evaluation Statistics

Ms. Jessica Olney, Associate Governmental Program Analyst, referred to Board's meeting materials for review and noted the September/October 2017 evaluations are tentatively scheduled.

Dr. Whitcher mentioned that the evaluator pool is decreasing and that this has always been a problem. Ms. Olney responded that the Board's evaluators are retiring or are choosing to no longer act as an evaluator. Additionally, Ms. Olney explained it is difficult to recruit new evaluators and noted that to become an evaluator a person must possess a medical degree, a dental degree, and be current a permitholder.

Ms. Olney explained that eight people are required to complete one evaluation, which encompasses the candidate (permitholder), patient, two to three support staff, and two evaluators. Ms. Olney stated if any one of those involved in the evaluation cancels due to an illness or an emergency, it can be difficult to reschedule an evaluation.

#### Agenda Item 17B: Update of 2017 Anesthesia-Related Legislation

Ms. Viramontes referred to Board's meeting materials and reported there were three bills regarding anesthesia that were followed by the Board in 2017. Ms. Viramontes commented that all three bills are designated as "two-year" bills and would be taken up again by the Legislature in 2018.

Dr. Whitcher asked for clarification regarding the legislative process for two-year bills. Ms. Burton explained it depends and they can release a new set of amendments that significantly changes but keeps the bill within the framework of the statute it was initiated in.

#### Public Comment:

Ms. Jena Scarborough, law student and intern for the Center for Public Interest Law (CPIL) at the University of San Diego, stated the CPIL will be following the anesthesia legislation along with how the Board implements Caleb's Law. CPIL is hopeful that the Board will continue to follow the anesthesia legislation and that the data collection associated with Caleb's Law will be a priority for the Board.

#### Agenda Item 18: Licensing, Certifications, and Permits Committee (LCP) Report on Closed Session

Dr. Lai reported that the LCP committee reviewed seven applications for issuance of a new license to replace a canceled license. The committee recommended issuing new licenses to:

Applicant M.A. – DDS – on the condition the applicant passes the California Dental Law and Ethics Examination.

Applicant B.B. – DDS – on the condition the applicant passes the California Dental Law and Ethics Examination.

Applicant S.L. – DDS – on the condition the applicant passes the California Dental Law and Ethics Examination.

Applicant D.M.– DDS – on the condition the applicant passes the California Dental Law and Ethics Examination.

Applicant J.B. – RDA – on the condition the applicant passes the California RDA Law and Ethics Examination.

Applicant C.E. – RDA – on the condition the applicant passes the California RDA Law and Ethics Examination.

Applicant P.M. – RDA – on the condition the applicant passes the California RDA Law and Ethics Examination.

M/S/C: (Burton/Forsythe): The recommendations of the LCP Committee were accepted.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie	✓				
Morrow	✓				
Stewart	✓				
Whitcher	✓				

The motion passed unanimously.

Agenda Item 19: Election of 2018 Dental Board of California Officers

Ms. Burton nominated Ms. Chappell-Ingram to serve as the Secretary of the Board for 2018. Ms. Chappell-Ingram accepted the nomination.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie	✓				
Morrow	✓				
Stewart	✓				
Whitcher	✓				

The motion passed unanimously. Ms. Chappell-Ingram is Secretary of the Board for 2018.

Ms. Chappell-Ingram nominated Ms. Burton to serve as the Vice President for the Board for 2018. Ms. Burton accepted the nomination.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie	✓				
Morrow	✓				
Stewart	✓				
Whitcher	✓				

The motion passed unanimously. Ms. Burton is Vice President of the Board for 2018.

Dr. Steven Chan nominated Dr. Stewart to serve as the President for the Board for 2018. Dr. Stewart accepted the nomination.

Board Member:	Aye:	Nay:	Abstain:	Absent:	Recusal:
Burton	✓				
Chan	✓				
Chappell-Ingram	✓				
Forsythe	✓				
King				✓	
Lai	✓				
Le	✓				
Medina	✓				
McKenzie	✓				
Morrow	✓				
Stewart	✓				
Whitcher	✓				

The motion passed unanimously. Dr. Stewart is President of the Board for 2018.

Ms. Fischer reminded the Board that all elected officers would take office as of January 1, 2018 and present officers would remain in office until December 31, 2017.

Agenda Item 20: Public Comment on Items Not on the Agenda

Ms. McCune stated that CDA had submitted some questions regarding the International Dental Programs and hope to see it agendized at future Board meetings.

Ms. Susan McLearn, a dental hygienist, is interested in the Mobile and Portable Dental Unit Regulations before the Board and looks forward to seeing the amended language at the next Board meeting in February 2018. Ms. McLearn is interested to see how the language addresses the oversight of large corporate entities.

Senator Richard Polanco, a State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova’s School of Dentistry representative, stated they are looking forward to addressing the deficiencies and appreciate the thoroughness of Dr. Morrow and Board staff.

Agenda Item 21: Board Member Comments on Items Not on the Agenda

Ms. Burton would like the Board to look at whether there is uniformity in the course requirements given by the various dental assisting schools with the hope of coming to some point of consistency.

Dr. Whitcher would like to place mail-order orthodontics on the agenda for the next Board meeting. Dr. Whitcher noted a concern that dentists are not physically overseeing care and patients are being mailed instructions on how to take impressions at home. Additionally, there are jurisdictional questions if a dentist, providing the instructions and impressions, is practicing in another state outside of California and mailing things across state lines.

Agenda Item 22: Adjournment

The Board adjourned on Friday, November 3, 2017 at 12:42 p.m.