

# CALIFORNIA DENTAL ASSOCIATION®

## Report of the Meeting of the Dental Board of California November 16-18, 2005 San Diego, California

This report summarizes the significant activities of the Committee on Dental Auxiliaries (COMDA), the Dental Board of California, and its committees during the meetings of November 16-18, 2005. More information may be obtained by calling Edmund Carolan in the Public Policy Division at (916) 554-4987 or sending an e-mail to [edmund.carolan@cda.org](mailto:edmund.carolan@cda.org).



### Committee on Dental Auxiliaries (COMDA):

*Members Present:* Wallace (Chair); Biggers; Molina

*Members Absent:* Dale; Hiroto; Churchill; Gipson; Savio

A quorum was not present. The committee held the meeting as a subcommittee.

### Legislation of Interest to COMDA:

*SB 248 (Figueroa):* Signed by the Governor, extended the sunset date of the Dental Board until 2008.

*SB 1111 (Figueroa):* Signed by the governor, SB 1111 was a clean-up vehicle for SB 1546 that created new licensure categories and duties for dental assisting. SB 1111 also added several new duties for the new specialty assistants and defined the term "patient monitoring."

*RDA Educational Programs:* Staff presented the following programs/courses for approval:

- 1) Colleen M. Hanley of Anaheim Hills (coronal polishing)
- 2) Dental Advantage of Newhall and Glendale (radiation safety)
- 3) San Diego Dental Careers of San Diego (radiation safety)
- 4) California Dental Careers, Los Gatos and Sunnyvale (radiation safety)
- 5) Southeast Regional Occupational Program (radiation safety)
- 6) Pasadena City College, Pasadena (pit and fissure sealant)

COMDA accepted the staff report and voted to recommend that the Board approve all of these courses/programs.

Implementation of SB 1546: Staff informed the members of the committee that with the passage of SB 1111, COMDA was required to withdraw the proposed regulations for dental assisting that had been submitted to the Office of Administrative Law (OAL) earlier this year. SB 1111 requires that all the regulations related to the new specialty assistants, RDA's and RDAEF/RRAEF be submitted to the OAL at the same time. Staff noted that CDA and the Dental Assisting Alliance have been working on reaching an agreement on regulatory language. However, staff informed the committee that CDA has also indicated that they may introduce legislation to further define the work experience pathway to licensure.

Teaching Methodology Course: Staff reported that the regulatory package for the 60 hour teaching methodology course for all instructors in Board-approved RDA programs has been rejected by the Department of Consumer Affairs (DCA). These regulations would have defined the requirements that a course in this subject must meet. Staff noted that DCA's rejection was based on the fact that the regulatory language that requires completion of a teaching methodology course is flawed. Staff noted that they will be addressing the flawed language in regulatory proposals that will deal with the entire dental assisting profession as mentioned above for implementing SB 1546.

Proposal to Increase Auxiliary Fees/Recommendations: Staff reported that COMDA is facing the prospect of a negative budget balance in the next fiscal year unless action is taken. Staff presented several options to increase revenue since revenue generation is really the only feasible alternative because reducing cost would be limited to reducing exams. If the number of exams were reduced, a backlog of applicants would develop and the ability of people to obtain licensure would be effected. Staff recommended option "B" to the subcommittee which supported the following fee increases:

- 1) RDA practical exam from \$55 to \$60\*
  - 2) RDH clinical exam fee from \$155 to \$250\*
  - 3) Extended function clinical exam fee from \$200 to \$250\*
  - 4) RDHAP examination fee from \$80 to \$250.
  - 5) Increase the licensure renewal fee for all auxiliaries from \$35 to \$55.
- \*statutory maximum fee

Staff noted that these fee increases, if approved by the Board, would take effect January 1, 2006 with the expectation of the renewal fee which would take place on March 1, 2006. Joanne Galliano of the California Dental Hygienist Association (CDHA) stated that that proposed fee for RDHAP was not justified since it is only a written exam yet the proposed fee for this license category is equal to that of the more costly RDH clinical examination fee. CDA stated concern over the methodology used in setting the fees given that it appears that only 3<sup>rd</sup> and 4<sup>th</sup> year dental students sitting for the hygiene exam are paying the true cost to take the exam or to renew their licenses. CDA questioned how long

COMDA would continue to operate when fees do not cover the true cost of doing business.

The subcommittee voted to recommend to the Board that the dental auxiliary fees be raised as cited by option "B."

Election of Officers for 2006: This issue was postponed due to a lack of a quorum.

Establishment of Executive Officer Recruitment Subcommittee: With the pending retirement of COMDA's executive officer, Karen Wyant, in April 2006, the committee needs to begin its search for a replacement. The subcommittee agreed to have Shanda Wallace chair a subcommittee for the search and gave her the authority to select/appoint members as needed.

Public Comment: CDA gave the subcommittee an update on the negotiations between CDA and the Dental Assisting Alliance (DAA) on the dental assisting regulations. CDA noted that while CDA was hopeful in resolving the few outstanding issues, CDA will also be sponsoring legislation in January to fully define the work experience route to licensure for the specialty assistants.

Without further public comment, the meeting adjourned.

## **DENTAL BOARD COMMITTEE MEETINGS:**

### **Continuing Education Committee**

*Members Present:* Osuna (Chair), Turchi, Sahabi

*Members Absent:* None

Roll call was taken and it was established that a quorum was present. Ms. Osuna noted that Brandon Hernandez (public member) had resigned his position on the Board and therefore was no longer a member of the committee.

Proposal to Allow Continuing Education (CE) credit for GA/CS on-site Evaluations: This issue was heard at the May meeting of the C.E. committee and there was to be a meeting with the California Association of Oral and Maxillofacial Surgeons (CALAMOS) before the next meeting to discuss this issue. However, because of the change in the leadership of the committee, this meeting has not occurred and it was uncertain if there was still any interest in moving this issue forward. CDA spoke in tentative supportive of this issue and the Chair agreed to hold the issue over for the next meeting to see if stronger support for this issue could be gathered.

Consideration of a Mandatory CE Course on DPAV: During the May board meeting, Dr. Shanel-Hogan gave a presentation on the merits of improving provider awareness of domestic violence by requiring that all licensed dental providers take a mandatory course in this subject. Because the May meeting lacked a quorum, this issue was back before the committee today. CDA, DAA, and CDHA spoke in support of having the class offered as a CE subject but opposed the classification of this class as a mandatory CE subject. CDA also highlighted that at least one dental school is working to develop curriculum for teaching this subject to dental students. A majority of the committee failed to approve the proposal of establishing the DPAV as a mandatory C.E. class.

Modifying Licensure Renewal Requirements to Include the Listing of C.E. completed: A proposal was made that would require that a dental licensee, at the time of renewal, be required to indicate on the license renewal form that they had completed enough courses in each of the mandatory continuing education categories (i.e., at least 80 percent of the required C.E. units have to be done in category I). Supporters of the proposal think it could help with enforcement as the Board currently only audits the C.E. courses that a practitioner has taken if the license holder is being investigated. CDA questioned how the Board would establish an appeal process since a provider could have their license suspended without due process. DAA noted that this requirement would impose a work load on C.E. providers as students often lose or misplace their records for C.E. courses and would have to ask the C.E. provider to reproduce those records. There were also questions regarding the worth of such information for the Board staff since the license holder would only be self-certifying that they had completed the required course which is not substantially different than the process in place today. The proposal failed to gather a majority vote of the committee.

### **Examination Committee Meeting:**

*Members Present:* SooHoo (Chair), Gordon, Kaye, Seldin

*Members Absent:* none

Roll call was taken and it was established that a quorum was present.

The minutes of the previous meeting were approved with the correction that Dr. Yokoyama was not absent from the last Board meeting since he was no longer a Board member at that time.

Auxiliary Examination Statistics: Staff reported on the provided data.

Ad Hoc Committee on Grading Report: Drs. Hundley and Sahabi presented information that they believed would improve the pass rate on the dental exam. The Committee's recommendation would be to develop a four-tiered scoring

process where a student achieving an overall score of “satisfactory” or “minimally satisfactory” would pass the exam while those students receiving an overall score of “marginally substandard” or “substantially deficient” would fail the exam. The committee believes that the scoring should be weighted on the actual procedure being graded. For example, a student would be rewarded more points for correctly placing a composite filling than for correctly placing an amalgam filling because of the higher skill required in the composite procedure. Katie Dawson RDH stated that such a proposal would not ensure consumer protection because a dentist, who was graded as deficient in a select area, could be issued a license and then would be free to practice that failed procedure on the public. Ms. Dawson noted that RDHs must pass all parts of their exams in order to be licensed. The Board took no action on the ad hoc committee’s report.

Consideration of ADEX Proposal for Membership: The Board had received a letter from the American Board of Dental Examiners (ADEX) president, Dr. Houfek, asking that the DBC give consideration to officially joining ADEX and participating in the development of a national dental exam. Legal counsel noted that the Board had no authority to recognize an exam developed by ADEX and that joining such a group without such authority would be premature. Dr. SooHoo indicated he would speak with Senator Aanestad, D.D.S about legislation that would allow the Board to recognize the ADEX exam.

Dental Examination Statistics: Pass/fail data was provided for the fall exams offered at the University of Southern California and the University of the Pacific. The exam rate at USC had 162 students tested with a success rate of 65 percent and the UOP exam tested 137 students with a pass rate of 66 percent.

Consideration of Increasing Examiners’ Compensation: Staff presented a document that illustrated that examiners for four of the regional dental exams offered in the United States pay more than California currently pays its examiners. The Committee is seeking to increase the pay for the California examiners by completing a budget change proposal (BCP) so as to receive an augmentation from the State Dentistry Fund. CDA note that conditionally, they would support the Board in their quest to get an approval for the BCP. CDA noted that a stronger argument could be made if the Board provided information on what other states, such as Florida, pay their examiners rather than what regional exams pay their examiners. Dr. Bob White stated that not only is the rate paid to the California examiners low, but it also must be remembered that these dentists are away from their practices and therefore lose revenue opportunities. The committee voted, with Dr. Seldin abstaining, to recommend to the Board that they pursue a BCP which would allow the Board to raise the fee paid to examiners from the current \$125 to \$250.

Review and Discussion of the Occupational Analysis of the Dental Licensure Examination: After a brief discussion, the recommendation was made to form a

subcommittee to look at the analysis. Dr. SooHoo noted he will seek a representative to this subcommittee from CDA.

*Tentative Exam Dates:* Staff presented possible exam dates for the clinical and restorative exams. The dates presented are the dates that the dental schools could accommodate exams. However, the Board staff still needs to confirm several issues and will post the final exam scheduled on the Board's website in the immediate future.

*Public Comments:* Teresa Pichay of CDA provided a written document to the committee outlining the progress representatives from CDA and UCSF and Dr. SooHoo had made in exploring the possible pilot testing of a segmented licensure examination process at UCSF. Ms. Pichay noted that the provided document contained outstanding issues that the committee was exploring. Ms. Pichay had hoped that this issue had been included on the committee's agenda as some of the outstanding issues require Board input. Dr. SooHoo apologized for not having it on the agenda and agreed to have the committee meet on December 5<sup>th</sup> at UCSF to discuss the outstanding issues and to then have the committee make a report back to the Board on the issue.

#### **Licensing Committee:**

*Members Present:* Kaye (Chair), SooHoo, Turchi

*Members Absent:* none

Roll call was taken and it was established that a quorum was present.

The Committee approved the minutes of the August 18 meeting.

*Approval of Extramural Facilities:* The committee approved the request of the UOP Art Dugoni School of Dentistry to operate an extramural facility at the Hamilton Family Center in San Francisco.

*Licensure by Credential:* Board staff reported that for the period January 2003 through June 2005, 1227 applications have been received by dentists seeking licensure through credential (LBC). Of the 1227 received, 1107 have been approved.

For the dental hygienist LBC program, from January 2003 through July 2005, 168 applications have been received with 151 being approved and 13 pending.

*Consideration of Applications for a New License:* Committee met in closed session to deliberate on qualifications for issuing a new license.

Committee returned to open session, and after seeking public comment, adjourned.

## **General Anesthesia Committee Meeting**

*Members Present:* Kaye (Chair), Biggers, Gordon, Hundley

*Members Absent:* none

Roll call was taken and it was established that a quorum was present.

The Committee approved the minutes of the August 18 meeting with changes.

*Proposed Changes to CCR Section 1044-Adult Oral Conscious Sedation:* Staff presented proposed regulatory language for adult oral conscious sedation (OCS) using the authority granted to the Board in AB 1386 which was signed into law this year. The staff, in drafting the proposed language, decided to morph the regulations for the existing minor OCS permit program into the proposed language for the adult OCS program. CDA stated that the proposed regulatory language was not in keeping with the statutory authority. AB 1386 clearly outlined that a minor OCS permit holder did not need an adult permit and the proposed language ignored this fact. Staff agreed and would add corrective language to the proposal. Ms. Lola Swaby of Dental Organizations for Conscious Sedation (DOCS) noted that their program has a long track record of providing training in this arena and requested that the committee considering amending the proposed language in a manner that would allow DOCS existing OCS program to qualify under the proposed regulations. Dr. Gordon noted that he was not inclined to modify the language, which was developed by the Board's Blue Ribbon Panel on Anesthesia, without compelling reasons. Dr. Reggiardo, representing the California Society of Pediatric Dentistry (CSPD), noted that the DOCS proposal did not include a clinical component and that OCS airway management for children needs to be taught in a clinical environment. DOCS acknowledged that their course was not designed for teaching minor OCS. The Committee voted to make the changes noted by CDA and recommended that the Board move forward with this issue on an emergency basis.

*Bis-Phosphonate Osteonecrosis:* This issue was agendaized for the meeting because the California Association of Oral and Maxillofacial Surgeons (CALAMOS) had presented the Board with a letter at the last meeting regarding this topic. The letter noted that the Federal Drug Administration issued a "Medwatch" related to the use of Bis-Phosphonate and avascular necrosis of the mandible, maxilla or both. CALAMOS was seeking to have the Board play a role in notifying the dental community about this growing problem. Dr. Kaye noted that this problem has been recognized by UCLA Dental School and they will no longer provide dental implants to people using Bis-Phosphonate drugs. Dr. Kaye also noted that litigation on this issue has already started and said if you type "dead jaw" into Google (on the internet), you can see the number of lawyers who are looking for clients who believe they have suffered damage because of the use of bis-phosphonate drugs. There was some discussion over what the Board

could legally do to inform dentists of this issue. A decision was made to explore the possibility of issuing a letter to all dentists notifying them of this growing problem and to encourage dentists to be vigilant in identifying high risk patients by extensively looking at patient's prescription drug history.

*Appeal of Onsite Inspection:* Staff presented documentation from two separate cases where the dentist had failed the onsite inspection required for renewal of the dentist's conscious sedation permit. In the first case, the on-site inspection was the dentist's second failure and was requesting from the Board, as required by regulation, a reevaluation. The Board agreed to the request for reevaluation. In the second presented case, the dentist was present at the meeting and provided primary accounts on why she thought the evaluation given to her was unfair. The doctor noted that the one evaluator passed her with flying colors and the other evaluator failed her miserably. Dr. Hundley, after reviewing the provided documents, agreed that something was amiss because based on the records provided it looked like the evaluators were looking at different offices. The committee agreed to recommend to the Board that this dentist's evaluation be redone at no cost to the dentist and that a staff member of the Board be present.

After seeking public comment, the committee adjourned.

### **Exam Appeals Committee Meeting**

*Members Present:* Hundley (Chair), Gordon, Sahabi, SooHoo

*Members Absent:* Seldin

Roll call was taken and it was established that a quorum was present.

*Review of Appeals Re-Examination Policy:* Staff provided a copy of the letter that is sent to candidates who are granted an appeal. Staff had concern that the letter did not explicitly state that if the candidate fails the portion of the exam they are taken based on the appeal, that the student will be required to retake the entire exam. Dr. SooHoo noted that the letter should also contain some reference to the timeframe that the student has to take the exam based on a successful appeal. Board staff was directed to work on revising the form.

Committee sought public comment and then adjourned.

### **Full Dental Board Meeting**

*Members Present:* Gordon (President), SooHoo (Vice President), Barron, Biggers, Hundley, Kaye, Osuna, Sahabi, Seldin, Turchi, Vargas

*Members Absent:* none

Meeting was called to order at 8:30 A.M on Friday November 18, 2005. Roll call was taken and it was established that a quorum was present. Dr. Gordon noted that Board member Brandon Hernandez had resigned his position on the Board.

Board approved the minutes from the May 5, August 19, and August 31 meetings of the Board.

*President's Report:* Dr. Gordon thanked everyone for attending the meeting and recounted what he believed were the Board's major accomplishments over the last couple of years which included producing the Dental Material Fact Sheet, implementing the student loan repayment program, implementing the regulations for the WREB in a timely manner, and the work of the Blue Ribbon Panel on Anesthesia.

Dr. Gordon thanked Ms. Georgetta Coleman-Griffith for her work as interim executive office and introduced the new Board's new executive officer, Robert Hedrick.

Dr. Gordon also noted that as his term ends he is still concerned about the low pass rates of students sitting for any of the exams that lead to licensure in the dental profession.

*Executive Officers Report:* Bob Hedrick report that he started in his position on October 17 and for the most part, his time has been dedicated to preparing for this Board meeting. He also stated that he has done an initial inventory of the Board staff's strengths and weakness to identify the things the Board is doing well and the area's where the Board needs to need improvement. One of his most pressing concerns is to get the vacant personnel slots filled. Mr. Hedrick hopes to have the Chief Investigator position filled very quickly and he is looking to hire an executive assistant. He envisions the executive assistant would handle the day to day responsibilities for the Board meetings. Finally, Mr. Hedrick noted that he is looking to improve communications with stakeholders as a key element to improve how the Board does business.

*Visit to Manipal, India:* Mr. Hedrick noted that trip to India had occurred and that the onsite evaluation team will be presenting its findings to the TAG team in the immediate future, the TAG will then report to the Board at a future meeting.

*Budget Report:* Mr. Hedrick gave a report to the Board. It is anticipated that the Board will have a budget reversion (surplus) of \$263,000 at the end of the budget year. The budget document provided to the Board and the public contained footnotes on the hiring of new staff. CDA questioned whether the positions listed had been filled or were guaranteed to be filled by the date indicated on the form. Staff indicated that the noted positions were only done for budgeting purposes and there was no guarantee that that position could be filled by the date indicated on the document.

Board Meeting Dates: Staff reported that while the Board has been given five tentative dates and locations for next year's meetings, there is an interest in reducing the number of meetings to only four a year. In addition, some of the earlier proposed dates conflicted with other events. There was also discussion around possibly holding the meeting on other days of the week rather than just limiting the committee meeting to Thursday and the Board meetings to Fridays. Members agreed that the meetings should not be restricted to just those two days of the week. The Board tentatively agreed that the following dates and locations would be set for the Board meetings pending a final review by Board staff for any conflicts:

January 26-27, Northern California  
April 12-13, Southern California  
August 3-4, Northern California  
November 14-15, Southern California

COMDA REPORT: (For additional background information, see COMDA report above). On COMDA's recommendation, Board voted to approve all of the courses for coronal polishing, radiation safety and pit and fissure sealants.

On COMDA's recommendation, Board voted to increase examination fees for RDA, RDH, RDAEF and RDHAP and to increase the license renewal fees for all dental auxiliaries.

CDA reiterated the statement it had made to COMDA earlier in the week on the state of the negotiations surrounding the dental assisting regulations and let the Board know that CDA would be introducing legislation in January to fully define the work experience pathway to licensure for the new dental assisting categories.

Continuing Education Committee Report: (See Committee report above.) Full Board voted to move forward with regulations that would require domestic violence reporting/knowledge be added to the mandated law and ethics course.

Examination Committee Report: (See Committee report above.) Full Board voted to support the Budget Change Proposal to increase the fee for examiners.

Licensing Committee Report: (See Committee report above.) Report given. Full Board approved the committee recommendation to approve extramural facility.

General Anesthesia Committee Report: (See Committee report above.) Full Board voted to approve the modified language for oral conscious sedation (OCS) regulations and to move this proposal forward as an emergency regulation.

*Diversion Evaluation Report:* For informational purposes only, staff provided statistics on diversion program participation for the first quarter of the current fiscal year. The program currently has 30 participants.

*Remedial Education Hours:* Staff presented a letter from Dr. Dugoni, in which Dr. Dugoni questioned the wisdom of the Board in instructing a general dentist, who has provided orthodontic services at a level below the acceptable standard of care, to take a 150-hour remedial education course in orthodontics. Dr. Dugoni noted that it requires a dental school 5,000 hours to train a student in orthodontics. Dr. SooHoo stated that he thought mandating the required hours for remedial training was necessary and that enforcement should work with the dental schools to come up with appropriate hours for each case. The Board decided to look at forming an ad hoc committee to examine the issue.

*Review of WREB Regulatory Language:* Staff reported that despite earlier assurance that the board could set the pass rate for WREB, the staff is now of the opinion, confirmed by legal counsel, that the Board does not have the authority to set a pass rate that differs from the one set by WREB. Dr. Bill Wood, WREB Board Member and President of the Arizona Dental Board and a staff psychometric analyst from WREB provided information on the WREB to include how the pass rate is achieved for WREB. They noted that that none of the other states that recognized or used WREB set their own pass rates. In addition, the analyst stated that it was unclear how a state that adopted its own pass rate for WREB could make a legally defensible argument for a separate pass rate given the current methodology used to establish the WREB pass rate. CDA provided testimony that supported the adoption of emergency regulations for the WREB. CDA stated that there are students who have taken the WREB since January and are anxiously waiting to use those results to obtain licensure. The Board approved moving forward with an emergency regulations proposal that would accept the pass rate as established by WREB.

Without any public comments the Board adjourned.

*Regulatory Hearing, Friday, November 18, 2005.* A regulatory hearing was held on the proposed amendments to section 1079.2 of Division 10 of Title 16 of the California Code of Regulations. These amendments would define the term “clinical practice” for the purpose of licensure as a registered dental assistant in alternative practice (RDHAP). The definition, as proposed, would be the practice for dental hygiene duties in any setting. CDA provide written and oral testimony that supported making the RDHAP licensure category accessible to more RDHs. However, CDA could not support language that allows an RDH to practice in any setting without referencing the sections of law and regulations that govern where an RDH can practice and the level of supervision that must achieved in order for an RDH to perform select duties. COMDA, who drafted the regulatory language, agreed to make changes to the language. Those changes will reflect that the

RDH, who is seeking licensure as an RDHAP, must obtain the required prerequisite hours in a setting allowed by law. The Board agreed to modify the regulations and voted to approve them as modified and repost the new proposed language for the required 15-day comment period.