



LEGISLATIVE AND REGULATORY SUBCOMMITTEE MEETING MINUTES

Tuesday, April 16, 2012
Embassy Suites – San Diego Bay Downtown
Topeka Room
601 Pacific Highway
San Diego, CA 94101

LEG - 1 Roll Call

The Legislative and Regulatory Subcommittee Chair Michelle Hurlbutt called the meeting to order with roll call at 9:50 a.m. With all four subcommittee members present, a quorum was established.

Subcommittee members present: Michelle Hurlbutt, RDH Educator, William Langstaff, DDS, Evangeline Ward, RDH, and Andrew Wong, Public Member.

Subcommittee members absent: None.

Staff present: Lori Hubble, Executive Officer, Anthony Lum, Administration Analyst, and Traci Napper, Legislation and Regulatory Analyst.

Department of Consumer Affairs' (DCA) legal representative present: Claire Yazigi.

LEG - 2 Public Comment for Items Not Listed on the Agenda

Ms. Hurlbutt asked for any public comment for items not listed on the Legislative and Regulatory Subcommittee's agenda.

There was no public comment.

LEG - 3 Approval of December 12, 2011 Minutes

Ms. Hurlbutt asked for a motion to approve the December 12, 2011 Legislative and Regulatory Subcommittee meeting minutes.

- **William Langstaff moved to approve the December 12, 2011 Legislative and Regulatory Subcommittee meeting minutes.**

Michelle Hurlbutt seconded the motion.

Ms. Hurlbutt asked for any comments from the public, staff, and subcommittee members on the December 12, 2011 subcommittee meeting minutes. There were no comments from the public, staff, or subcommittee members.

Ms. Hurlbutt called for the vote to approve the December 12, 2011 Legislative and Regulatory Subcommittee meeting minutes.

Vote: The motion passed unanimously (1- 0; Ms. Hurlbutt was the only member remaining on the subcommittee from December 2011).

Leg - 4 Chairperson's Report

Ms. Hurlbutt stated that she had a brief report since this was her first subcommittee meeting as Chair. She indicated that she had reviewed the subcommittee meeting materials packet and that she and Mr. Calero continue to assist staff with the creation and implementation of legislation and regulations.

LEG - 5 Statutory Update

Ms. Hurlbutt deferred to Ms. Napper for the statutory update. Ms. Napper reported that at the December 2010 meeting, members of the Committee reviewed all of the Dental Hygiene Committee of California's (Committee) statutes where they recommended changes that required either an author for new legislation or inclusion in the DCA's Omnibus Bill [Senate Bill (SB) 1575]. She referred members to a tracking chart she developed for the ease of tracking the recommended changes. Ms. Napper stated that all of the highlighted areas of the chart are those items included in SB 1202. The non-highlighted areas of the chart are those recommended changes that are not in any legislative bill.

Ms. Hurlbutt asked whether there was any comment from the public or subcommittee members regarding the statutory update.

Bill Lewis, California Dental Association (CDA) inquired as to the timeline for the items on the chart that were not highlighted and whether they would be dealt with legislatively this year or 2013. Ms. Napper said that some of the issues are controversial and may be pursued during the Committee's sunset review in 2015. Ms. Hurlbutt indicated that one strategy the Committee discussed was to deal with the remaining items during the Committee's Sunset Review in 2015.

Ms. Hurlbutt asked whether there was any further public comment on the agenda item. There was no further public comment.

LEG - 6 Discussion and Possible Actions on the Following Legislation: Assembly Bill (AB) 1588, SB 694, SB 1202, and SB 1575

Ms. Hurlbutt stated that this agenda item is where the Committee reviews parts of legislation that may impact the licensing of dental hygienists. She explained that during this session, the subcommittee normally takes a position or no position on current legislation and have a choice of support, neutral, oppose, or watch and will be discussing the direction the subcommittee chooses on four bills.

AB 1588

Ms. Hurlbutt indicated that the first item of legislation is AB 1588 and explained that there are several bills during this session that contain military information proposed to the Legislature. She explained that AB 1588 allows a licensee that is called to active military service to not be penalized for their license expiration or not completing their continuing education (CE) hours for their license renewal during the service time if they are not practicing dental hygiene while in the military.

Ms. Hurlbutt inquired about a section of the bill, page two, lines 13, 14, and 15 that state that the renewal fees and CE requirements are waived only for the period in which the reservist is on active duty. She cited an example of when a reservist is called to active duty and are three quarters of the way through their renewal period, and are away on active duty for three months when their license expires, does the bill intend that the Committee will not penalize the individual to pay their license renewal fee even though they have had an active license for one and three quarter years. Ms. Napper indicated that they will still need to pay their license renewal fee however, if the active military person is renewing after their license expired, they will not be required to pay the delinquency fee, as that is waived under the bill due to their active military service. She stated that the delinquency fee is waived under AB 1588 for individuals serving in the military.

Ms. Hurlbutt inquired to clarify the issue about the required CE for a license renewal for an active military person. She stated that licensees should be completing their CE on an ongoing basis whether they are planning to be active in the military or not for the next license renewal. Ms. Napper stated that a licensee is still responsible for the CE hours and can complete the required CE hours whenever they choose throughout the two-year license period.

Ms. Hurlbutt asked for any public comment on AB 1588.

JoAnne Galliano, California Dental Hygiene Association (CDHA), stated that she is also concerned with the contents of AB 1588, as there is no definition of what "active military duty" consists of. She continued that there are reservists that are called to "active duty" one weekend a month and is concerned with how the Committee will enforce this issue without a clear definition of length of time an individual is on active duty and if the active duty occurs at the end of a licensing cycle when it is required to renew the license. She also stated that her other concern is that the bill language states that the individual would not be allowed to use their license and inquired as to the duration of this requirement. She cited an example of an individual who is away on active military duty for three or four months and upon their return, would need to use their license quickly although they have not paid their renewal fees or completed an adequate amount of CE for their renewal. She stated that she is concerned that the Committee, as a consumer protection agency, is not really serving the public by allowing the gaps in licensure and CE. She recommended that the Committee take a watch position on AB 1588.

Ms. Hurlbutt asked for any comments from the subcommittee members or staff prior to voting on a position for AB 1588. Ms. Hubble stated that if AB 1588 were to pass into law, the Committee would need to propose regulations to define the parameters on how the process is structured. Ms. Yazigi stated that any definition(s) of "active military duty" are located in federal law.

- **William Langstaff moved to recommend that the Legislative and Regulation Subcommittee take a watch position on AB 1588.**

Andrew Wong seconded the motion.

Ms. Hurlbutt asked for the vote to take a watch position on AB 1588.

Vote: The motion for a watch position passed unanimously (4-0).

SB 694

Ms. Hurlbutt stated that the second item of legislation for the Legislative and Regulation Subcommittee is SB 694 (Padilla, Emmerson, and Price).

Mr. Langstaff stated that he has been involved with SB 694 for the past two years and has met with Senator Padilla and his staff twice and was included in the stakeholders meeting with Senator Padilla in regard to the bill. He continued that in January 2012, he testified at the California Senate Health Committee about the bill. He clarified that his involvement with the bill was as a part of the California Academy of General Dentistry and not as a member of the Committee. He stated that it would be appropriate to recuse himself from any discussion of the bill because of his prior involvement with it and any discussion with the term “mid-level provider” during these proceedings.

Ms. Hurlbutt explained that SB 694 is sponsored by the Children’s Partnership and would require two items. She stated that the first item is that the bill establishes a state dental director which is a long standing health policy issue and the second item is that it requires a “white paper” or analysis completed on workforce issues regarding the possibility of expanding the scope of practice for a mid-level provider. She indicated that the bill is currently in the Assembly.

Ms. Hurlbutt asked whether there were any questions from the subcommittee members. She indicated that she has concerns about the bill, specifically that the dental director is required to be a licensed dentist. She stated that there are other individuals besides a licensed dentist that would qualify for the position of dental director and opined that she would rather have the most qualified person fill the position rather than restricting the candidates to only licensed dentists. She indicated that if a licensed dentist is the most qualified individual for the position, then they should be appointed to it.

Ms. Hurlbutt stated that a second concern she has with the bill is that the dental director position will not occur unless there is funding from both public and private sectors of the population. She inquired as to whether the Committee would be asked to support the position by contributing public funds (i.e., the Committee’s licensing fees or other) to pay for the position. She stated that she is unclear whether the Committee funds will be requested to pay for the dental director position, how much it will cost, and once the position is established, how it will be sustained financially.

Ms. Hurlbutt indicated that her last concern with the bill is in regard to a scientific study that is to be conducted after the dental director position is established. She stated that the study would only be conducted if there was funding available, but is concerned that it will only be about children even though there are many other areas of the population that are underserved. She continued that there would be more of a benefit from the study if the scope was expanded to include other underserved populations in addition to children. She inquired as to the reason the study was only directed at children when there are other underserved populations.

Mr. Wong stated that he also has similar concerns as Ms. Hurlbutt with the bill. He explained that the bill creates the dental director position if there is funding, but there is no clear funding source identified in the bill. He continued that a

second issue with the bill that is unclear is the relationship between the dental director and all of the other boards, committees, or agencies that currently exist and what is the role of the new position. He indicated that there are many unclear issues to be clarified from the bill prior to the Committee taking a position on it.

Ms. Hubble stated that the bill has already been amended several times and that it is highly likely that it will be amended again. She indicated that she is also concerned about the funding language in the bill, as the Committee cannot afford to use its resources to fund the dental director position. She recommended that the Committee take a watch position on the bill.

Ms. Hurlbutt asked for any public comment.

Katie Dawson from CDHA stated that when she reviewed the bill, it requires a licensed dentist to take the position of the dental director; however, when she reviewed the title of the department, she noticed that it was the Department of Oral Health which she opined that the position is intended for an individual with a public health background. She indicated that in review of the directors of the oral health departments, half are licensed dentists and the remaining are dental hygienists and others with public health backgrounds. She is concerned that by requiring a licensed dentist to fulfill the position, it would restrict other qualified candidates from being selected.

Ms. Dawson responded to the earlier question as to why the study in the bill only pertained to children as opposed to other underserved populations and she indicated that the sponsor, Children's Partnership, is only interested in children's issues.

Mr. Lewis from CDA stated that he concurred with Ms. Hubble's statement in that the bill will probably be amended in the future and is far from complete. He indicated that many of the provisions in the current bill were placed there for expediency through the Senate due to fiscal concerns. He explained that the language indicating to fund the position through public or private funds was to broaden potential funding sources as they needed to be identified for the position. He stated that the CDA has been heavily involved with the bill and revised its policy related to issues in the bill, particularly to the workforce study. He continued that the author (Senator Padilla) of the bill is currently taking all of the information he has received under advisement and making assessments in working with the sponsor to make a decision as to the direction of the legislation. He stated that although Children's Partnership is the sponsor of the bill, the author will make the decision as to the direction of the bill and is interested in finding a comprehensive solution to all of the issues identified in the bill.

Mr. Lewis stated that on the issue of public versus private funding, the Dental Board (DBC) expressed the same concerns as the Committee with inquiry about what public funding means. He indicated that from CDA's perspective, they are not interested in redirecting public resources from the Dental Board or the Committee to pay for the study. He stated that there are many issues in the bill to be addressed and it is not certain that the author will continue with the bill this year, but may wait until next year after he receives more clarifying information to pursue the legislation. He recommended that the Committee take a watch position for the bill.

Ms. Galliano stated that CDHA is opposed to the current bill due to the requirement to put a licensed dentist in the position of the state dental director. She indicated that as a committee that is designed to protect the consumer, the Committee should thoroughly review a bill that dictates who the dental director would be. She recommended that the Committee oppose the bill unless amended, as the individual for the position should be the most qualified person available and not just a licensed dentist.

Ms. Ward inquired as to whether the program the bill implements for children is similar to the prior Medi-Cal dental program (referenced from page 19 of the bill). Ms. Hurlbutt stated that because of the Patient Protection and Affordable Care Act that was signed into law, the claim is that a large number (1.2 million) of children will gain dental care benefit. Mr. Lewis clarified that the Patient Protection Act includes a mandate that all health plans that are operating through the healthcare exchange set up as part of the law offer a pediatric oral healthcare benefit. He continued that the number is a combination of the mandate to increase the oral healthcare benefit plus the expansion of Medi-Cal eligibility by raising the income thresholds which would increase the number of children immensely.

Ms. Hurlbutt asked the subcommittee members for a recommendation.

- **Andrew Wong moved to recommend a watch position on SB 694.**

Evangeline Ward seconded the motion.

Ms. Hurlbutt inquired that if the subcommittee takes a watch position on the bill but has concerns of the language content (i.e., use of public funds and a dentist in the position of the dental director), can the Committee ask the author for additional information. Ms. Yazigi indicated that the subcommittee can recommend a watch position on the bill and request information from the author on the bill issues to the full committee. She stated that once the information is gathered, there can be subsequent subcommittee and committee discussions at meetings based upon the information gathered regarding the bill issues.

Ms. Ward inquired as to where the children under the insurance plan will go for dental services. She stated that most dentists will not accept the type of insurance described in the plan, so if the children must resort to dental clinics, will the services provided be at an acceptable level. She asked whether it would be better to continue to have free clinics instead of what is presented in the bill. Ms. Hurlbutt stated that there is a second section of the bill that analyzes the workforce issue and her assumption is that the author is aware for the need of additional providers of dental services which is probably the reason the bill has the white paper or analysis of the workforce. Mr. Lewis stated that the intent of the bill is to analyze all of the issues mentioned which is the reason the Children's Partnership is sponsoring the bill. He continued that there was recognition for a need to provide dental care services to children and that the debate is whether it is a subject of distribution or a lack of dental providers which are issues that are being reviewed as well.

Mr. Lewis addressed an earlier question from Mr. Wong relating to the dental director position. He stated that part of the purpose of having a state dental director is to have an individual at a high position in an agency to where they could view the big picture and be close to the decision makers to have an

influence on the reinstatement of public dental programs for both adults and children in conjunction with the Affordable Care Act. He added that this would be a means to incorporate more dental service providers to serve the additional people whether it is through an insurance based system or an expanded Medi-Cal or other public based funding system.

Ms. Hurlbutt stated that there is a motion and a second to take a watch position on the bill, but requested to amend it for staff to seek additional information for clarification in the areas discussed today (i.e. public funding and choice of a licensed dentist for the dental director position as opposed to the most qualified person). Ms. Yazigi asked for further clarification and detailed instruction as to what the subcommittee was requesting from staff. Ms. Hurlbutt indicated that the following needs to be researched for the subcommittee:

- What is the cost to create the dental director position;
- What is the source of public funding for the dental director position;
- Further clarification as to why a licensed dentist is required for the dental director position instead of the most qualified person;
- When the workforce issue is reviewed and the needs assessed, why were the services only limited to children and not applicable to other underserved populations.

Ms. Hurlbutt asked whether there were any further questions or objections for the Legislative and Regulatory Subcommittee to take a watch position on AB 694 and have staff research the items bulleted above. There were no further questions or objections.

Vote: The motion passed unanimously (4- 0) to take a watch position on AB 694 and have staff research the bulleted points.

The subcommittee will forward its recommendation to the full committee at tomorrow's full committee meeting.

SB 1202

Ms. Hurlbutt stated that SB 1202 is authored by Senator Mark Leno and sponsored by CDHA. She indicated that SB 1202 introduced the language that was approved by the Committee in December 2010 and was passed by the Senate Business, Professions and Economic Development Committee and now will go before the Senate Appropriations Committee.

Ms. Hurlbutt asked whether there were any questions from the subcommittee members and reminded them that the language in the bill contained items that were previously approved by the Committee.

Ms. Ward inquired as to what the qualifications are for a special permit. Ms. Hurlbutt explained that currently, the Committee does not have a means for an out-of-state licensee to come and teach in California because part of the qualifications to teach at a dental hygiene school is to be licensed as a dental hygienist in the state. She stated that the Dental Board has a provision for an out-of-state dentist to come to California to teach, but not practice, under a special permit. She continued that if the bill passes with the special permit language, the Committee would need to establish regulations to set the

parameters of the special permit. She stated that the bill provides the statutory authority to have a special permit, but the regulations provide the guidelines of how to implement the authority.

Ms. Hurlbutt asked for any public comment on SB 1202.

Ms. Galliano answered Ms. Ward's question by indicating that sections A – D in the bill indicate some qualifications for a special permit, but they would be further clarified and defined in proposed regulations.

Ms. Galliano stated that in a review of the bill and in light of what has recently occurred in the dental hygiene education area, there are some issues pertaining to the Commission on Dental Accreditation (CODA) approval of a dental hygiene program and the program not meeting CODA's requirements for approval, there are items in the bill that need to be amended. She indicated that she would review the proposed amendments to the bill and ask the Committee for its support to make it a stronger bill and maintain the function of consumer protection. She stated that the requested amendments to SB 1202 are:

Special Permit – She stated that the language from the Dental Practice Act that pertained to a special permit for dentists was used to amend the section for DHCC's special permit. She explained that an issue that arose in the language is that to qualify for a special permit the individual must be a fulltime professor, associate professor, or assistant professor. She continued that the requested amendment would change "fulltime" to "part time" because many dental hygiene programs do not have the ability to hire an individual full time, and add instructor or faculty member to those who would qualify for a special permit because many community colleges do not label their teachers as professors.

Ms. Hurlbutt asked the subcommittee members for any objection in concept to modify the language of the bill to broaden the nomenclature to make it more concise. There were no objections to modify the language.

Section 1905 - Ms. Galliano stated that the next request for an amendment was to Section 1905 in the first paragraph, last sentence where it states, "...any dental hygiene program accredited and in good standing..." no longer exists with CODA, as they do not have "in good standing" as a status anymore. She indicated that the request for an amendment would strike the phrase "in good standing" and state, "Any dental hygiene program accredited by the Commission on Dental Accreditation may be approved."

Ms. Hurlbutt asked the subcommittee members for any objection to modify the language of the bill. There were no objections to modify the language.

RDH Program Approval - Ms. Galliano stated that the next request for an amendment was in section two, subsection two in the last sentence of the page where it states, "...that the committee may withdraw or revoke a dental hygiene program approval if the program has been placed on probationary status by CODA." She explained that CODA no longer places programs on probation, but utilize an intent to withdraw or withdrawal. She indicated that the requested amendment to the bill's language would state, "The committee may withdraw or revoke a dental hygiene program from approval if CODA has indicated an intent to withdraw its approval or has withdrawn its approval," which is the current language CODA uses.

Ms. Hurlbutt asked the subcommittee members for any objection to modify the language of the bill. There were no objections to modify the language.

Section 1917.3 - Ms. Galliano indicated that the next issue pertained to a typographical error on page nine. She stated that in section 1917.3 of the Business and Professions Code (BPC), line 36, the word “state” in state clinical examination should be removed, as the Committee now accepts the Western Regional Examination Board’s examination.

Ms. Hurlbutt stated that she reviewed the original language the Committee approved and in those documents, the word “state” is not present. She does not know how “state” was put into the language as the original language approved by the Committee stated, “...clinical exam pursuant to section 1917.”

“Employed” Typo - Ms. Galliano stated that on page 13 pertaining to the extramural dental facility, the word “employ” is not appropriate in the sentence, as dental hygienists do not employ dental facilities, but rather contract with them, so the requested amendment would be to replace “employed” with “contracted with.”

Ms. Galliano stated that the extramural clinics have been a confusing issue for dental hygiene programs in terms of what is defining clinical instruction and there may be some future defining amendments to the bill defining clinical instruction. She indicated that some programs use clinics to rotate their students out for additional off-site experience, but there are no faculty or instructors onsite. She continued that it is an issue that is not clear whether the facility would need to register or is the specific target educational programs that are sending students and faculty to an external facility where the facility would need to meet the same requirements as the educational program’s requirements. She added that CDHA would need to work to clarify the issue.

Ms. Hurlbutt clarified that CDHA would review this section of the bill and find out what is occurring in California in regard to community colleges and universities to ensure that the language is reflective of what actually occurs. She stated that the request for the subcommittee is to accept in concept that the language will be modified with the intent of what is occurring in California with regard to community colleges and universities. Ms. Galliano agreed.

Ms. Hurlbutt asked the subcommittee members for any objection to accept in concept CDHA’s modification of the language of the bill for this issue. There were no objections to modify the language.

Extramural Fees - Ms. Galliano stated that there was an issue with the clarification of the extramural fees in that they do not specify the renewal period. Ms. Hurlbutt inquired whether it will be biennial and Ms. Hubble acknowledged that the extramural fee needs to be clarified and will be renewed on a biennial basis.

Ms. Hurlbutt asked the subcommittee members for any objection to modify the language of the bill to reflect the addition of biennial to the extramural fee. There were no objections to modify the language.

RDH Program Accreditation - Ms. Galliano indicated that CDHA is pursuing stronger language on the issue of hygiene program accreditation. She requested to have Ms. Hurlbutt and Mr. Calero work with CDHA on potential amendment language that may be placed into the bill after the author's approval and to meet with the Committee to create strong accrediting language to avoid the same recent issues at a local educational institution. Mr. Langstaff inquired as to the areas the new language would emphasize. Ms. Galliano indicated that the areas of emphasis would be the needs assessment, standard requirements to start a program, appropriate clinical facilities, and an ongoing funding source to ensure that the new program can be self-sustaining. She believed that CDHA's viewpoint on the issue is that the Committee needs more oversight on the program startup process.

Ms. Hurlbutt asked the subcommittee members for any objection to Ms. Galliano's request. There were no objections to modify the language.

Ms. Hurlbutt asked the subcommittee members for a position motion on the bill.

- **William Langstaff moved to support SB 1202.**

Evangeline Ward seconded the motion to support SB 1202.

Ms. Hurlbutt asked the subcommittee members for any objection to support SB 1202. There were no objections to supporting SB 1202.

Vote: The motion passed unanimously (4- 0) to support SB 1202.

SB 1575

Ms. Hurlbutt indicated that the bill provides authority to boards to require a local or state agency to provide any records of arrest and convictions that the board may need during a licensee investigation. She inquired as to whether this issue is already in statute. Ms. Hubble stated that the provision to collect fingerprints is already in statute; however, the provision in the bill enhances that authority to require local and state agencies to provide the Board's, Bureau and Committee's with the arrest and conviction reports.

Ms. Hurlbutt inquired to Ms. Yazigi that if the Committee is not listed in BPC section 144, does the bill affect the Committee if the subject matter is already contained in statute.

Ms. Yazigi requested the subcommittee to move onto the next agenda item so that it gave her opportunity to research and compare the statutory language to see if the Committee wants to pursue its own amendment.

Ms. Hurlbutt asked the subcommittee members for any objection to allow legal counsel the opportunity to research this issue, move forward to the next agenda item, then return to this agenda item. There were no objections to table the agenda item and return later in the meeting to allow legal counsel time to research the issue.

**(Leg – 6 is continued toward the end of the meeting)*

LEG - 7**Update on Rulemaking for Title 16, Division 11, Articles 1-12 of the California Code of Regulations (CCR)**

Ms. Hurlbutt deferred to Ms. Napper for the update. Ms. Napper stated that at the December 2011 meeting, the Committee approved the recommendation for staff to pursue regulations in three phases. She stated that the regulations to be pursued in phase one has been initiated and provided a chart that identifies the contents in the first phase. She reported that she has completed the draft Initial Statement of Reasons for phase one and it will be forwarded to the DCA Legal Affairs Unit for review. Ms. Hurlbutt stated that the items in purple on the chart will need to wait until SB 1202 is passed in order for the Committee to have statutory authority to pursue the items in regulation and the green section contains items that are controversial and will be dealt with in the future. She requested to move the item regarding section 1107 regarding local anesthesia, nitrous oxide and soft tissue curettage, to the green section (from the red) including it in phase two and for staff to modify the table.

Ms. Hurlbutt asked the subcommittee members for any objection to moving section 1107 into the green section (phase two) of the chart. There were no objections to move the item.

Ms. Hurlbutt asked whether there was any public comment for the agenda item. There was no public comment.

LEG - 8**Update on Proposed Amendment to Regulation §1132, Title 16 of the California Code of Regulations Regarding Retroactive Fingerprinting Requirements**

Ms. Hurlbutt deferred to Ms. Napper for the update. Ms. Napper stated that this agenda item was in regard to the retroactive fingerprinting regulation. She indicated that Section 1132 of the California Code of Regulations currently requires all licenses prior to January 1, 1994 and those without proof of electronic fingerprint clearances to be live scanned in the State of California for the purpose of conducting a criminal history background record check. She reported that staff is proposing an amendment to section 1132 of the CCR that would exempt an inactive license from obtaining a fingerprint live scan until the licensee practices in this state. She said that staff found that licensees who have an inactive license and those who reside outside of the state have found the requirement to be a huge financial hardship. She continued that it is reasonable to require an active licensee to comply with the requirements as they can legally treat patients in this state. She requested the subcommittee's approval of the recommendation to amend the fingerprint regulation and direct staff to initiate the rulemaking process inclusive of a 45 day public comment period, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package.

Ms. Hurlbutt inquired as to whether any other regulatory boards have the fingerprinting provision to exempt the inactive license. Ms. Hubble indicated that there are other boards that have the provision to exempt the inactive license. Ms. Hurlbutt stated that currently, an inactive license is not exempt from the fingerprint requirement in order to renew the license, so an individual that lives and practices in Washington or anywhere out of state must schedule a trip to California in order to obtain electronic fingerprints to renew their California license. She continued that by approving this amendment request, it would exempt the inactive licensee from the fingerprint requirement to renew the

license, but they would be responsible for the completion of the fingerprints and CE in order to renew on an active status. Ms. Hubble clarified that the fingerprint exemption would apply to all inactive licenses whether the licensee resided in or out of the state. Ms. Hurlbutt stated that for any individuals with an active license whether in state or out of state would still be required to provide the fingerprints to renew their license. She indicated that the out of state licensees on an active status would need to come to California in order to obtain electronic fingerprints because the departments controlling the fingerprinting do not communicate with each other. Ms. Ward inquired that if the fingerprinting departments do not communicate their results between states, what happens when a licensee from New York comes to California to practice. Ms. Napper indicated that the Committee would utilize the National Practitioner Database in order to conduct a background check on an out-of-state licensee applying for licensure in California.

Ms. Hurlbutt asked for a motion to approve the staff recommendation to amend section 1132 of the CCR.

- **Evangeline Ward moved to support staff's recommendation to amend section 1132 of the CCR.**

William Langstaff seconded the motion.

Ms. Hurlbutt asked whether there was any further discussion from the subcommittee members or any public comment. There was no further discussion or public comment.

Vote: The motion passed unanimously (4- 0) to amend section 1132 of the CCR.

LEG - 9

Update on Mandatory Report to Legislature Regarding: Licensure By Credential Pursuant to Section 1917.1(d) of the Business and Professions Code

Ms. Hurlbutt deferred to Ms. Napper for the update on the agenda item. Ms. Napper stated that legislation in 2003 created a new pathway toward licensure for dental hygienists licensed in other states, but had not taken a clinical examination in California. She indicated that in 2008, SB 853, Chapter 31, Statutes of 2008 required the Committee to prepare a report for the legislative committee regarding the impact of the new licensure pathway. She stated that the report was submitted to the legislature in December 2011 that was based upon data collected through surveys. She reported that there was an 89% response rate to the surveys and that from July 2009 to December 2011, there were 115 individuals that were Licensed by Credential (LBC).

Ms. Napper stated that with the assistance of the Office of Statewide Health Planning and Development, she was able to obtain a map that showed the distribution of medical and dental services that are available in light blue and a darker blue that represented the areas that are underserved. She stated that of the 79 LBC individuals, only three were working in the underserved areas. Ms. Hurlbutt indicated that the statistics are interesting because the LBC program was established by the Legislature to have individuals come into the state to work in the workforce shortage areas and these statistics show that for dental hygiene, the LBC program is not serving what the Legislature intended. She inquired as to whether the Committee had received any feedback from the

Legislature after submitting the report to the committee. Ms. Napper indicated that the Committee has not received any feedback in regard to the submitted report.

***LEG - 6 Discussion and Possible Actions on the Following Legislation: SB 1575**

Ms. Hurlbutt asked Ms. Yazigi what she discovered during her research of SB 1575. Ms. Yazigi stated that the reason the Committee is not mentioned in BPC section 144 is because in the Dental Practice Act, there is existing authority to request fingerprints for criminal background information. She explained that the reason why section 144.5 is significant is because prior to the bill, the boards listed in section 144 were only able to obtain conviction information on applicants, whereas with section 144.5, they will be able to obtain arrest information as well. She added that for enforcement purposes, this is significant because arrests that may have had an impact in reviewing an applicant that previously went unreported will now be reported to the boards. She stated that the bill will not impact the Committee because obtaining arrest information already exists in the Practice Act under section 1916.

Ms. Hubble stated that section 144.5 provides more authority for the boards to obtain arrest and conviction information. She explained that currently, enforcement staff request certified copies of arrest or court records and many times do not receive any response, so staff must rely on the applicant to provide the certified copies of the information. She continued that the new section of law makes it a requirement for the local or state agency to provide the arrest or conviction information upon request.

Ms. Hurlbutt inquired that in order to modify the Dental Practice Act to parallel the function of section 144.5, the Committee would need to amend section 1916 of the Dental Practice Act, wait for Sunset Review, or add an amendment to SB 1202 if CDHA believed it was an important issue. Ms. Yazigi stated that the Committee could seek a statutory change by any of these mechanisms.

Ms. Hurlbutt asked the subcommittee members whether an amendment to the Dental Practice Act, section 1916, is something the subcommittee wants to address this year. She inquired to staff the importance of having the change in the statute. Ms. Hubble indicated that a change in the statute would be a useful tool for the enforcement staff to use in order to process complaints in a timely manner. Mr. Langstaff asked if the issue could wait and be addressed at Sunset Review. Ms. Hubble indicated that it could wait until then. Ms. Yazigi inquired whether the Committee was not receiving adequate information through the normal DOJ fingerprint arrest and conviction information. Ms. Hubble indicated that she would prefer more detailed information such as the certified copies of the arrest record or court documents rather than just the rap sheet that is received from DOJ.

Ms. Ward inquired as to why dental hygiene schools do not have students obtain fingerprint clearances at the beginning of their education when they have an opportunity to clarify any possible issues prior to obtaining fingerprints for licensure. Ms. Hurlbutt indicated that the schools do ask in the application process about any reason why you would not be issued a license and at Loma Linda University, they identify students that may have an issue in their background. She stated schools may not have authority to obtain students' fingerprint clearances to enter the school. Ms. Yazigi clarified that the Committee

does not have jurisdiction over the individual until they apply or are licensed. Ms. Galliano indicated that all of the programs she has investigated have a message on their website informing students that in order to be licensed, you are required to have fingerprints done and prove that there is no criminal activity against you. She stated that California will not allow programs to use this as a criteria for acceptance or rejection of a student into the program.

Ms. Hurlbutt asked the subcommittee members for any objection to not taking any action on SB 1575. There were no objections from the subcommittee members to not take action on the bill.

Ms. Hurlbutt asked whether there were any comments from subcommittee members or the public for items to be placed on the next subcommittee agenda. There were no comments from the subcommittee members or the public.

LEG – 10

Adjournment

Time: 11:32 a.m.