



Dental Hygiene Committee of California
2005 Evergreen Street, Suite 1050, Sacramento, California 95815
P 916.263.1978 F 916.263.2688 | www.dhcc.ca.gov

ENFORCEMENT SUBCOMMITTEE MEETING MINUTES

**Department of Consumer Affairs Headquarters
El Dorado Room
1625 North Market Street, 2nd Floor North, Room 220
Sacramento, CA 95834
Monday, December 3, 2012**

ENF - 1 Roll Call

The Enforcement Subcommittee Chair, Rita Chen Fujisawa, called the meeting to order with roll call at 10:45 a.m. With four members present, the quorum was established.

Subcommittee members present

Alex Calero, Public Member
Rita Chen Fujisawa, Public Member
Noel Kelsch, RDHAP
Nicolette Moultrie, RDH

Subcommittee members absent

None.

Staff present

Lori Hubble, Executive Officer
Nancy Gaytan, Enforcement Analyst
Donna Kanter, Retired Annuitant
Anthony Lum, Administration Analyst
Traci Napper, Program Analyst
Eleonor Steiner, Examination Coordinator
Rick Wallinder, Retired Annuitant

Claire Yazigi, Department of Consumer Affairs' (DCA) Legal Representative

ENF - 2 Public Comment for Items Not on the Agenda

Chair Fujisawa asked for any public comment for items not on the agenda.

There was no public comment for items not on the agenda.

ENF - 3 Chairperson's Report

Chair Fujisawa reported that the Committee now has a full-time staff member to focus on enforcement. She welcomed and introduced Nancy Gaytan.

ENF - 4 Approval of April 16, 2012 Minutes

Chair Fujisawa asked for a motion to approve the April 16, 2012 Enforcement Subcommittee meeting minutes.

Ms. Yazigi indicated that because Mr. Calero was the only person present at the last meeting, they could move to accept the minutes as written.

- **Alex Calero moved to accept the April 16, 2012 Enforcement Subcommittee meeting minutes as presented. Noel Kelsch seconded the motion.**

Chair Fujisawa asked for any additional comments from the public or Enforcement Subcommittee members. There were no additional comments.

Chair Fujisawa called for the vote to accept approve the April 16, 2012 subcommittee meeting minutes.

Vote: The motion passed unanimously (4 – 0).

ENF - 5 Consideration and Possible Action of Statutory Language Regarding Issuance of Initial Probationary License for Applicants

Chair Fujisawa deferred to Ms. Gaytan. Ms. Gaytan explained that the proposed addition to the code would allow the Committee to issue an initial probationary license to an applicant that has broken the law. She stated that currently, the Committee can only issue a clear and unrestricted license, or not issue a license at all. She continued that when an applicant has been denied a license and requests a hearing before an Administrative Law Judge, the process can be long and time consuming; however, with the addition to the code for a probationary license, the Committee could offer a qualified applicant a three to five year probationary license with standard terms and conditions without going through the statement of issues process.

Chair Fujisawa asked if there were any comments.

Ms. Yazigi stated that because it is less than a full unrestricted license, the applicant will have the ability to appeal the initial probationary license; however, not every case will go to a hearing as with a denial. Mr. Calero stated that it could result in a cost savings and asked how many other boards or committees issue initial probationary licenses. Staff indicated that Medical Board, Speech-Language Pathology & Audiology & Hearing Aid Board, Physical Therapy Board, Structural Pest Control Board, and Physician Assistant Committee issue initial probationary licenses.

Chair Fujisawa called for a motion for recommendation to adopt this language.

- **Nicolette Moultrie moved to adopt the proposed statutory language to issue an initial probationary license to applicants. Noel Kelsch seconded the motion.**

Chair Fujisawa asked for any further public or subcommittee member comments. There were no further comments.

Vote: the motion passed unanimously (4-0).

ENF - 6 Enforcement Statistics

Chair Fujisawa deferred to Ms. Gaytan for the Enforcement Statistics. Ms. Gaytan reported that currently, the Committee has 26 open investigations and that six are from complaints submitted, four are due to working outside the scope of practice, and two pertained to fraud. She indicated that there were 20 convictions or arrests and that of those, 16 pertained to drugs and alcohol, one was a petty theft, and three were related to

corporal injury or assault. She stated that nine cases were referred to the Attorney General's office of which seven are in a preliminary status and have been assigned to a Deputy Attorney General and two have been filed and are currently pending. She continued that the Committee currently has 10 probationers of which five are active (three are drug and alcohol related, one is from unlicensed practice, and one is subversion of the exam) and the remaining five are tolling probationers.

Ms. Hubble explained that the subversion of examination was the written examination that was copied and put on a blog on the internet.

Chair Fujisawa asked if there was any public comment regarding the enforcement statistics. There were no comments.

ENF - 7 Department of Consumer Affairs Performance Measures

Chair Fujisawa stated that the next agenda item for the Enforcement Subcommittee is the DCA Performance Measures. She explained that the performance measures are based upon enforcement information data forwarded to DCA from the Committee on a quarterly basis. Ms. Fujisawa deferred to Ms. Gaytan for the agenda item.

Ms. Gaytan reported that the first performance measure indicated the total number of complaints and convictions received for the quarter. She stated that the Committee received a total of 40 complaints and/or convictions between July and September 2012 that consisted of six complaints and 34 convictions which is a monthly average of 13.

Ms. Gaytan reported that for the complaint intake, which is the average time to receive and assign a complaint to an investigator, the recommended target time is 30 days and that the Committee's average is two days.

Ms. Gaytan reported that for the intake and investigation, which is from the time the complaint is received until the closure of the investigation process, the recommended target time is 120 days and the Committee's average is 45 days.

Ms. Gaytan reported that for the formal discipline cases, which includes intake and forwarding for prosecution by the Attorney General's (AG) office, the recommended target time is 540 days and the Committee's average is 846 days. Mr. Calero asked if this average is consistent with other boards and committees. Ms. Gaytan stated that it is consistent with other boards and committees and that cases are taking longer due to the AG's heavy workload and loss of staff. Gregory Salute, Supervising Deputy Attorney General, added that the Office of Administrative Hearings is backed up and lost some staff as well. He stated that currently, there is a 4 to 5 month window to set a hearing date. Mr. Calero asked if the Committee received communication from DCA if it does not meet the recommended target of 540 days. Ms. Hubble said that typically we do not hear from DCA about meeting the recommended 540 day target time.

Chair Fujisawa asked if DCA sets the target dates for all the different boards and committees or is it specific to each one. Ms. Hubble stated that it is an equivalent recommended time frame for all boards and committees.

Chair Fujisawa asked for any public or further subcommittee member comments. There were no further comments.

ENF - 8 Future Agenda Items

Chair Fujisawa asked for any future agenda items from the public or subcommittee members. There were no future agenda items suggested.

ENF - 9 Adjournment

The Enforcement Subcommittee meeting adjourned at 11:00 a.m.