



## **LEGISLATIVE AND REGULATORY SUBCOMMITTEE MEETING MINUTES**

**Saturday, May 2, 2015**  
**Embassy Suites Anaheim - Orange**  
**400 N. State College Blvd.**  
**Orange, CA 92868**

### **LEG 1 – Roll Call**

Susan Good, Chair of the Legislative and Regulatory Subcommittee, called the meeting to order with a roll call at: 10:03 a.m. With all four (4) subcommittee members present, a quorum was established.

#### Legislative and Regulatory Subcommittee members present:

Susan Good, Chair  
Michelle Hurlbutt, RDH Educator  
Noel Kelsch, RDHAP  
Nicolette Moultrie, RDH

### **LEG 2 – Public Comment for Items Not on the Agenda**

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

### **LEG 3 – Chairperson's Report**

Chair Susan Good informed the subcommittee members that there was a teleconference meeting on March 2, 2015 to discuss Assembly Bill (AB) 502 (Chau) where there was discussion on the amendments and one specifically regarding the incorporation of the Registered Dental Hygienist in Alternative Practice (RDHAP) and that the sponsor of the bill integrated most of the concerns expressed. However, some amendments regarding disciplinary and regulatory comments were not yet incorporated.

### **LEG 4 – Approval of the December 5, 2014 Legislative and Regulatory Subcommittee Meeting Minutes**

- **Motion: Nicolette Moultrie moved to approve the minutes from the December 5, 2014 Legislative and Regulatory Subcommittee Meeting.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

**LEG 5 – Discuss and Possible Action Including Recommendations to the Full Committee on the Following Legislation:**

a. Assembly Bill (AB) 12 (Cooley) State Government: Administrative Regulations: review

Guadalupe Castillo reported that this bill was amended on April 22, 2015, and most of the amendments further clarify the language. The bill requires every state agency including boards and bureaus to eliminate any regulations that are overlapping, duplicative, inconsistent, or no longer in effect and she anticipates that it would not have any significant impact to the Committee. She stated that the bill would require the Committee to work closely with the Dental Board of California (DBC) on some issues since there are many issues that affect RDH and RDHAPs that are contained in DBC's regulations. She continued that some programs would need to start this process immediately due to the strict timelines included in the language; however, it would not impact the Committee because we are currently working on regulations, but do not have many already in place. She recommended a watch or support position for the bill.

- **Motion: Nicolette Moultrie moved to recommend to the full committee to take a watch position on AB 12.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

b. AB 41 (Chau) – Healthcare Coverage: discrimination

Ms. Castillo said that this bill caudifies Federal law protection that prohibits health plans to discriminate against any professional category as long as they are acting within their scope of practice. This bill was included because the subcommittee and full committee had previously expressed an interest in the reimbursement issue for RDHAPs. She

explained that the bill should provide a tool for RDHAPs to obtain reimbursement from health insurance companies. Noel Kelsch stated that hopefully, this bill will help, as RDHAPs are not currently recognized at the Federal level as a provider of dental services. Ms. Castillo recommended a support position for the bill.

- **Motion: Michelle Hurlbutt moved to make recommendation to the Full Committee to support AB 41.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

c. AB 85 (Wilk) – Open Meetings

Ms. Castillo reported that the bill changes the definition of a state body in Government Code defining that every 2 person meeting conducted by a state entity would be required to be noticed to the public. She explained that all state programs would be affected as they would be required to notice any 2 person meeting and that there would be a significant fiscal impact from the bill, as additional costs would be incurred for meeting locations, travel expenses, and staff workload and time. She stated other DCA boards and bureaus have expressed a significant fiscal impact from the bill as well. She said that similar language was presented in the last legislative session in AB 2058 which was vetoed by the Governor. She recommended a watch or oppose position for the bill.

- **Motion: Michelle Hurlbutt moved to make recommendation to the Full Committee to oppose AB 85.**

**Nicolette Moultrie seconded the motion.**

**Vote: The motion passed 4-0 .**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

d. AB 179 (Assembly Committee on Business and Professions) – Dentistry

Ms. Castillo reported that the bill was amended on April 27, 2015 and a copy of the amended version was presented to the subcommittee members and the public. She stated that the bill is the Dental Board's sunset legislation for this year and that the latest amended version included some cleanup provisions for the Dental Practice Act. She reviewed all of the latest amendments to the bill which included:

- 1) Business and Professions Code (BPC) section 726 impacts the general provisions of the BPC which would affect the healing arts boards that the Committee is a part of. This section exempts sexual contact between a doctor and his or her spouse when providing nonpsychotherapeutic medical treatment and would extend this exemption to all healing arts licensees. She noted that other than this amendment, there were no other amendments to the bill that impact the Committee.
- 2) Other bill amendments that did not impact the Committee:
  - modified the fee structure of the DBC by increasing the DBC's statutory maximum for several fees;
  - requires the DBC to work with the DCA Office of Professional Examination Services to determine whether a practical examination for Registered Dental Assistants (RDA) is necessary by January 1, 2017; and
  - add the Board for Vocational Nursing and Psychiatric Technicians sunset to the bill's language.

Ms. Castillo recommended a watch position.

- **Motion: Nicolette Moultrie moved to make recommendation to the Full Committee to support AB 179 in its current amended version (4/27/2015 version).**

**Michelle Hurlbutt seconded the motion.**

Public Comment: Karen Fischer, Executive Officer of the Dental Board of California, stated that AB 179 is also linked to AB 178 (Bonilla) and the author has placed a moratorium on the RDA practical exam for one year and was placed as an urgency clause. If the AB 178 is signed by the Governor, the 1-year moratorium would become effective immediately where RDA candidates would not need to pass a practical examination. She indicated that this would not prohibit a candidate from applying for licensure, as they would still be required to pass the written and Law and Ethics examinations and fulfilled the fingerprint requirements. She explained that in order for the DBC to stop the RDA practical exam, the DBC would need data to do so, so the DBC will be conducting a full occupational analysis (OA) of RDAs and RDAEFs to determine whether a practical examination is necessary since they are supervised. She stated that the trend within DCA for those professions that are supervised that a practical exam may not be the best method to test their skills, abilities, and knowledge. She continued that if this is the case and stemming from the results of the OA, the written

examination would be revised to include areas that would have been tested on the practical. She said that the language was submitted at the last minute and the DBC did not see the language until it was introduced recently. She added that if the language in AB 178 does not pass, it is anticipated that the RDA language would be moved into an amended AB 179 so it would move forward with the Governor's signature and the 1-year moratorium would be effective as of January 1, 2016. She anticipates that there may be a flood of RDA applicants received once the information spreads that there is no practical exam needed to obtain the license.

Jo Anne Galliano believed that the language in BPC section 726 does not define the relationship enough and that there are a number of dental hygiene licensees that will be having relationships that are against the law. She stated that a watch position over a support position of the bill is more appropriate.

Gail Mathe, California Dental Association, stated that licensees do provide professional services to their spouses or significant other and thus, breaking the law. She indicated that since the exemption has been in law for 20 years for physicians and surgeons, the Business and Professions Committee determined that the level of exemption as stated in the language was at a level that is appropriate for the remaining health care providing fields and any other situation (i.e., dating or other situation) should be a referral to another professional practitioner.

**Vote: The motion failed (split vote 2-2)**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good		X	
Michelle Hurlbutt	X		
Noel Kelsch		X	
Nicolette Moultrie	X		

With a split vote, Chair Good asked for another motion on the bill.

- **Motion: Noel Kelsch moved to make recommendation to the Full Committee to take a watch position on AB 179.**

**Susan Good seconded the motion.**

**Vote: The motion failed (split vote 2-2).**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt		X	
Noel Kelsch	X		
Nicolette Moultrie		X	

Because the subcommittee was unable to reach a position on a recommendation to the Full Committee on this legislation and under DCA Legal's advice, the subcommittee will present the issue to the Full Committee at tomorrow's (May 3, 2015) meeting for consideration.

e. AB 351 (Jones-Sawyer) – Public Contracts: small business participation

Ms. Castillo reported that this bill would require all state agencies to establish an annual goal of 25% small business participation for contracts. She stated that DCA already complies with this level of small business participation for contracts and the bill would not have a significant impact to the Committee.

- **Motion: Nicolette Moultrie moved to make recommendation to the Full Committee to take a watch position on AB 351.**

**Michelle Hurlbutt seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

f. AB 366 (Bonta) – Medi-Cal Reimbursement Rates

Ms. Castillo reported that the bill would increase the rates at which Denti-Cal providers are reimbursed by an equivalent rate of increase with other Medi-Cal providers and due to the Committee's interest in provider reimbursements for RDHAPs, she believed the Committee would want to track the bill's progression. She recommended a watch or support position.

- **Motion: Noel Kelsch moved to make recommendation to the Full Committee take a watch position on AB 366.**

**Michelle Hurlbutt seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

g. AB 483 (Patterson) – Healing Arts: initial license fees: proration

Ms. Castillo reported that the bill was amended on April 9, 2015, and the language is almost identical to last years' legislation, AB 1758 to require to prorate a program's initial licensing fee. She stated that the impact from the legislation would affect the Original Licensure Fee, as the fee would need to be prorated on a monthly basis. The programs that are affect are listed in the legislation. The amended version only had changes that did not affect the Committee.

- **Motion: Nicolette Moultrie moved to make recommendation to the Full Committee to oppose AB 483.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

h. AB 502 (Chau) – Dental Hygiene

Ms. Castillo reported that the bill was amended on April 30, 2015, but staff were unable to provide copies of the bill since the amendment just occurred prior to the meetings.

Ms. Hurlbutt stated that the bill's content addresses some of the issues that was brought forth within the Committee's Sunset Review.

- **Motion: Noel Kelsch moved to make recommendation to the Full Committee to support if amended to include technical amendments related to the include RDHAPs in Business and Professions Code regarding the incorporation of RDHAPs.**

**Michelle Hurlbutt seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

i. AB 611 (Dahle) – Controlled Substances: prescriptions: reported

Ms. Castillo stated that this bill does not apply directly to the Committee, but would allow the Committee’s enforcement staff access to the CURES database, which is the database created to track substance abuse licensees and listing the prescription medications that are being used by medical doctors, pharmacists, and dentists. She explained that the Committee’s access would help the enforcement staff to identify any license with substance abuse issues. She recommended a support or watch position on the bill.

Chair Good commented that she believed that the Committee should have access to CURES to do all it could to promote consumer protection. She stated that cost for access to the CURES system should not be a reason not to support the bill because, depending upon the charge for the system, it is more important to protect the public. Nancy Gaytan, Enforcement Analyst, stated that she has had to have access to the CURES system in the past and the DBC’s investigators have helped with gaining access for her cases. However, she believes that she would benefit from direct access to CURES for some enforcement cases and is currently working to gain access.

Ms. Fischer stated that dentists are charged \$12 dollars in addition to their licensing fees to pay for the CURES system. She said that not only do dentists pay for CURES, but medical doctors and three other licensing board’s licensees also pay for the system. She stated that there is question as to whether any regulatory board will have access to CURES due to a current lawsuit that was filed that may prohibit licensing boards to have access to CURES. She explained that only the DBC’s investigators have access to CURES and no other staff. She clarified that the CURES system only tracks dispensers and prescribers of medications for the tracking of controlled substances.

- **Motion: Michelle Hurlbutt moved to make recommendation to the Full Committee to take a watch position on AB 611.**

**Nicolette Moultrie seconded the motion.**

**Vote: The motion failed (split vote 2-2).**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good		X	
Michelle Hurlbutt	X		
Noel Kelsch		X	
Nicolette Moultrie	X		

j. AB 648 (Low) – Community-Based Services: Virtual Dental Home Program

Ms. Castillo reported that this legislation would provide the infrastructure funding for the Virtual Dental Home Program that was caudified by AB 1174 (Ch. 662, Statutes of 2014). The program would reside under the Department of Public Health’s Office of Oral Health. She reported that there would be no direct fiscal impact to the Committee since the funding originates from the State’s General Fund. She stated that the stakeholders (The Children’s Partnership and the California Dental Association) of the bill are present for any questions and that she recommends a support position for the bill.

Ms. Hurlbutt inquired as to what the \$4 million from the General Fund as contained in the bill will be used for. Gayle Mathe, CDA, stated that the funds will be used to help move the program forward and will be used for the creation of technical assistance, additional programs to fund the operations, and create collaboratives for support to continue the system build beyond what Dr. Paul Glassman has already implemented beyond the Health Workforce Pilot Project (HWPP) 172 program. She estimated that the funds would pay for about 20 new programs over a 3 year time span.

- **Motion: Noel Kelsch moved to make recommendation to the Full Committee to take a support position on AB 648.**

**Michelle Hurlbutt seconded the motion.**

**Vote: The motion failed (split vote 2-2).**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt		X	
Noel Kelsch	X		
Nicolette Moultrie		X	

k. AB 728 (Hadley) – State Government: financial reporting

Ms. Castillo reported that the bill would require all state agencies to post biannually internal accounting on their websites within 5 days of finalizing the accounting reports. She said that it would primarily affect the umbrella agency, Business, Consumer Services, and Housing Agency, who would be required to post the reports on their website, not the Committee’s website. She stated that the bill could affect Committee staff with an increase in workload should the department request multiple reports on the Committee’s programs.

- **Motion: Michelle Hurlbutt moved to make recommendation to the Full Committee to take a watch position on AB 728.**

**Nicolette Moultrie seconded the motion.**

**Vote: The motion passed 3-1 (Susan Good opposed).**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good		X	
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

l. AB 750 (Low) – Business and Professions: licenses

Ms. Castillo reported that the bill would allow all licensing boards to create a retired status license category and a fee for the status by regulation. She explained that if the bill passes, it would create a large expense for the department, as it would create a new license category which would delay the implementation of the new BreEZe computer system by having to create a new licensure category and cause the department to renegotiate its contract with the computer system vendor. She explained that the projected additional cost would be \$1.2 million per month in project delays and \$500,000 per month delay costs to the contracted vendor. She clarified that the bill mandates to create a retired licensing category, but does not need to be created immediately. Ms. Hubble stated that this is an issue the Committee has been reviewing and decided to pursue after the BreEZe computer system was implemented due to the high cost of doing so prior to implementation. She said that the retired status allowed a licensee to maintain their license, but show to the board or committee that they are no longer practicing and possibly pay a reduced fee.

- **Motion: Nicolette Moultrie moved to make recommendation to the Full Committee to support AB 750.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

m. AB 797 (Steinorth) – Regulations: effective dates and legislative review

Ms. Castillo requires that all proposed regulations that would cost over \$50 million be returned to the Legislature for final approval after being vetted and approved through the Office of Administrative Law and the State Controller's Office. She explained that the bill is not likely to impact the Committee; however, it should be considered that if the bill passes, any regulations that fit this category will need additional time for review since it will be returned to the Legislature for final approval. She continued that if the bill passes, it would go into effect as of January 1, 2016.

- **Motion: Michelle Hurlbutt moved to make recommendation to the Full Committee to take a watch position on AB 797.**

**Nicolette Moultrie seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

n. AB 880 (Ridley-Thomas) – Dentistry

Ms. Castillo reported that this bill would affect dental students in their final year of school and would exempt them from licensure and allow them to provide dental care services at specific events as detailed in the bill under supervision as unpaid volunteers at sponsored events. She explained that the bill would not have any direct impact to the Committee.

- **Motion: Michelle Hurlbutt moved to make recommendation to the Full Committee to support AB 880 in its April 28, 2015 version of the bill.**

**Nicolette Moultrie seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

o. AB 1060 (Bonilla) – Professions and Vocations: licensure

Ms. Castillo said the bill will require the Committee to provide specified information through first-class mail and email to an ex-licensee when their license is suspended or revoked. She stated that the Committee already inform an ex-license through Certified Mail and that this would simply add the requirement to email and send the information first class mail as well. She explained that there may be an additional workload to the Committee's enforcement staff and a minor, but absorbable fiscal impact due to additional mailing costs. She said that there was also a departmental concern regarding email storage and record keeping, too.

- **Motion: Nicolette Moultrie moved to make recommendation to the Full Committee to take a watch position on AB 1060.**

**Michelle Hurlbutt seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

p. SB 351 (Committee on Banking and Financial Institutions) – Corporations: management

Ms. Castillo reported that the bill is the cleanup language for the omnibus bill. She said that the amendment to the bill is supported by CDHA and allows the incorporation of RDHAPs in the Corporations Code. She said that there is a similar provision in AB 502 which will probably be struck to allow this language to progress the change to the Corporations Code. She explained that RDHAPs already have the authority to incorporate as per Business and Professions Code section 1962 and this bill would also allow them to incorporate under the

Corporations Code which was an issue in the Committee’s Sunset Report.

- **Motion: Noel Kelsch moved to make recommendation to the Full Committee to support SB 351.**

**Nicolette Moultrie seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

- q. SB 800 (Committee on Business, Professions and Economic Development) – Healing Arts

Ms. Castillo stated that this bill is the Committee on Business, Professions and Economic Development’s omnibus bill for non-substantive changes for the department’s healing arts programs. She stated that there were only sections of the bill in the meeting packet that affected the Committee rather than the entire bill as it is lengthy and reviewed the four non-substantive changes with the subcommittee members.

- **Motion: Michelle Hurlbutt moved to make recommendation to the Full Committee to support SB 800.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed 4-0.**

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Nicolette Moultrie	X		

- r. Any Other Legislation of Interest to the Subcommittee

AB 178 (Bonilla) - Ms. Hurlbutt stated that she would like staff to monitor AB 178 and apprise the subcommittee of any changes that could affect AB 179.

SB 467 (Hill) – Ms. Castillo stated that this bill has two subjects that impact the Committee. She said the first part pertains to Departmental Pro Rata that state agencies pay for services that are provided by the department for a fee. She continued that the second subject was for the Attorney General’s Office to provide performance measures in the future. The subcommittee directed staff to monitor and apprise them of any changes to the bill.

**LEG 6 – Future Agenda Items**

Chair Good suggested that the Committee review a points system to determine the acceptance of applicants to dental hygiene programs.

Public Comment: Jo Ann Galliano asked that the subcommittee reach out for any legislation that affects the health of the public (i.e., labeling of sugar content in beverages – sugar warning labels (SB 203) and tobacco free ballparks (AB 768).

**LEG 7 – Adjournment**

The Legislative and Regulatory Subcommittee meeting adjourned at: 12:20 p.m.