



DENTAL HYGIENE COMMITTEE MEETING MINUTES

Sunday, May 3, 2015
Embassy Suites Anaheim - Orange
400 N. State College Blvd.
Orange, CA 92868

Roll Call – Nicolette Moultrie, the Dental Hygiene Committee of California (Committee) President, called the meeting to order with roll call at: 9:05 a.m. With six (6) DHCC members present, a quorum was established.

DHCC Members present:

Susan Good, Secretary, Public Member
Michelle Hurlbutt, Registered Dental Hygienist (RDH) Educator
Noel Kelsch, Vice President, Registered Dental Hygienist in Alternative Practice (RDHAP),
Timothy Martinez, DMD
Nicolette Moultrie, President, RDH
Evangeline Ward, RDH

DHCC Members absent:

Garry Shay, Public Member

DHCC Staff present:

Lori Hubble, Executive Officer (EO)
Anthony Lum, Assistant Executive Officer
Guadalupe Castillo, Legislative and Regulatory Analyst
Nancy Gaytan, Enforcement Analyst
Donna Kantner, Retired Annuitant
Kurt Heppler, Department of Consumer Affairs (DCA) Legal Counsel
Kelsey Pruden, DCA Legal Counsel

Public present:

Karen Andrews, West Coast University
Fran Burton, President, Dental Board of California (DBC)
Karen Fischer, Executive Officer, DBC
JoAnn Galliano, Chabot College
Lygia Jolley, California Dental Hygienists' Association (CDHA)
Vickie Kimbrough, Southwestern College
Shawn Leetch, Concorde College, San Bernardino campus
Gayle Mathe, California Dental Association (CDA)
Karine Strickland, President, CDHA
Maureen Titus, CDHA

President's Announcements:

President Nicolette Moultrie announced that Member Michelle Hurlbutt recently obtained her doctorate degree and congratulated her on the accomplishment.

FULL 1 – Public Comment for Items Not on the Agenda

President Moultrie asked for any public comment for items not on the agenda.

Maureen Titus, CDHA, stated that within the last 30 days, RDHAPs have received notice from Denti-Cal that policy changes would take effect as of June 1, 2015 that will affect RDHAPs. She indicated that RDHAPs provide dental services to over 500,000 consumers in the state, and that 50% of those are Denti-Cal patients. Their concern is that if the RDHAPs are restricted by Denti-Cal with these new provisions from performing certain dental hygiene services, they are decreasing the access to care for these patients.

Karine Strictland, CDHA President, stated that they are concerned with the new Denti-Cal restrictions due to a potential abandonment of patient issue if RDHAPs cannot perform certain dental services (and be reimbursed for them). She explained that Denti-Cal is implementing policy that will require RDHAPs to submit X-rays in order to authorize and continue treatment for patients. She said that for many of these patients, she cannot obtain X-rays due to either the mental or physical state of the patient with certain conditions (i.e., Alzheimer's disease, mental, physical, and/or developmental disabilities, and individuals with dementia or other similar diagnosis) that make it impossible to obtain X-rays. She stated that 99% of her practice is these types of patients and with the new Denti-Cal restrictions implemented, she would be out of business. She believed that RDHAPs will not be able to obtain the required X-rays to see these patients, so they will not receive any treatment. She continued that for the developmentally disabled individuals with cognitive impairments and lower level functioning, they are usually treated in the hospital under general anesthesia in order to obtain X-rays.

Ms. Strictland requested that the Committee assemble an ad-hoc committee or other administrative procedure to review the issue to determine whether the Committee should be involved, to show support for RDHAPs in terms of patient abandonment, and the fact that many will be out of business and losing their ability to earn a living.

FULL 2 – Update from the Dental Board of California (DBC)

Fran Burton, President of the DBC, said that the Board has been heavily involved with the sunset review process and has already had the first legislative hearing where some additional issues were presented. She indicated that the Board would also be reviewing legislation at their upcoming meetings, as there has been a lot of legislation proposed during the new legislative session. She stated that the Board has been working on legislation and that they have many rulemaking packages at various stages of review. She said that the regulatory packages they are working on are:

- Abandonment of applications;
- The delegation to the Executive Officer for stipulated settlements to revoke or surrender a license;
- Dental Assistant Education – the program and education requirements
- Elective Facial Cosmetic Surgery permit application and renewal requirements;
- Licensure By Credential – the application requirements; and
- Continuing Education requirements.

She requested that when the Committee participates in the DBC meeting in a couple of weeks that information regarding the Alternative Pathway to Licensure could be shared with the DBC particularly since they had gone through the Portfolio process and offered any assistance with the Committee's process of looking at different pathways to licensure. She stated that she fully believes in cooperation and looks forward to working with the Committee in the future on every opportunity for dental issues.

FULL 3 – Update on the BreEZe Computer System

Executive Officer Lori Hubble reported that staff has been very busy with this project. She said that Tom Jurach has been a tremendous help to assist staff and ensures that we are meeting deadlines and goals. She indicated that the tentative date to implement the new computer system is sometime around December 2015.

FULL 4 – Budget Report

Anthony Lum, Assistant Executive Officer, reviewed the expenditure projection report and clarified that it is a non-issue for line items that use the budgeted amount designated for that particular line item so long as there are other line items that have a surplus to cover the deficiency. He indicated that the current year's expenditures are below the amount budgeted, so there are no issues of overspending.

Mr. Lum proceeded to review the Committee's revenue history including the current year through March 2015 and explained that the revenue generation may exceed the amount that is projected to be received and also exceed the amount the Committee has been budgeted to spend; however, the extra revenue generated cannot be spent without approval from the Legislature and the Governor through a budget change proposal (BCP) contained in the annual Governor's Budget.

Mr. Lum then reviewed the Committee's fund condition where he said that the upper portion of the document listed the Committee's resources and the lower half showed the Committee's anticipated expenditures not only for the current year, but for the prior year actuals and projecting for the next fiscal year. He said that for the first time, the BreEZe computer system costs were indicated on the fund condition, as the numbers were approved for release toward the end of February. He reported that the cost for the BreEZe project is higher than the Committee anticipated based upon the initial \$30 million cost when the project was proposed; however, the cost has increase since that time to where it's roughly \$100 million but only through Release 2 of the project. He continued that with the increase in

the cost of the project, the cost for the Committee's share increased as well.

Ms. Hurlbutt inquired as to why there were no outlying costs associated with the BreZE project after fiscal year 2017/18 and whether the Committee has any recourse as to the cost of the project. Mr. Lum stated that the Legislature has been heavily scrutinizing the BreZE project recently with all of the cost overruns, so they are having DCA submit BCPs periodically for any increase in expenditure authority for the project as a method to monitor the project costs. Kelsey Pruden, DCA Legal Counsel, stated that she is unaware of any method for a program to resist the implementation of a system like this since it is decided at the agency and department levels.

Ms. Hurlbutt inquired as to whether a separate line item could be provided in future budget expenditure reports to show what the cost of the BreZE project is costing the Committee. Mr. Lum stated that he could add a line item to the report and will inquire with DCA to see if they can provide the BreZE cost information separately so that it could be reported to the Committee in the expenditure report on the appropriate line item.

Public Comment: Vickie Kimbrough requested that when there is a need for a licensing fee increase, she recommended the Committee to begin to educate the public, licentiates, and possibly the students through the newsletter as to the cost of operations and self-regulation so that there is a better understanding of why the fees are charged so they are prepared for the change. She believed that these entities really do not understand what the cost is to be a self-regulated profession.

FULL 5 – Discussion and Possible Action to Increase the DHCC Application and Original Licensure Fees

Mr. Lum stated that the Application Fee has been at its current level since the Committee's inception and no longer covers the cost to review applications. He stated that over time, the cost of doing business including the application review process has become more expensive, but the fee was never raised. He recommended for the Committee to approve a fee increase of \$50 to the level of \$100 to help capture more of the true costs to review applications. Noel Kelsch asked whether the proposed \$100 fee would be a more accurate reflection of how much the Committee's cost is to review an application. Mr. Lum said that the newly proposed fee would cover the expenses that are incurred by the Committee to review an application.

- **Motion: Susan Good moved to approve the increase of \$50 to the DHCC Application Fee to \$100 by Resolution to cover the increasing administrative costs to process applications effective January 1, 2016.**

Noel Kelsch seconded the motion.

Public Comment: JoAnn Galliano suggested to send the fee increase information to each of the dental hygiene program directors so that

they can share the information with their students and know why the fee is increased.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Mr. Lum stated that the Original Licensure Fee is the one that is currently in legislation to be prorated (AB 483 – Patterson) and has not passed yet. He recommended to table the agenda item of a fee increase to the Original Licensure Fee until the bill has run its course, as there may not be a need to increase it if the proration of the fee is not realized.

Ms. Hurlbutt inquired whether tabling the fee increase would impact the Committee’s revenue if the bill passes and the Committee is mandated to prorate the Original Licensure Fee. Mr. Lum stated that the Committee would lose about 6 months of revenue from the fee if it is prorated, as the Committee would not be able to vote on the issue and implement it until the earliest date of July 1, 2016, but the bill to prorate the fee would go into effect as of January 1, 2016. She also asked whether the Committee would need to raise the fee higher if the bill passes to recoup the potential loss in revenue compared to if the bill did not pass. Mr. Lum stated that the fee would need to be increased to a higher level to recoup the loss in revenue.

The Committee did not vote to table the Original Licensure Fee increase issue, but elected not to proceed on the agenda item as a choice provided by legal counsel.

Full 6 – Update on Approval of RDH Educational Programs (Feasibility Study), California Code of Regulations (CCR), Title 16, Division 11, §§1104, 1104.1, and 1104.2.

Ms. Castillo reported that the regulatory packet has been submitted to DCA for review and it is currently in the Budget Office. She stated that the file expire date is July 25, 2015, so she will monitor its progress through DCA so that it can be forwarded over to the Office of Administrative Law (OAL) in time for their review.

Ms. Hurlbutt inquired on the review process when the regulatory packet is forwarded to DCA. Ms. Castillo indicated that all of the divisions within DCA (i.e., Legislative and Regulatory Review, Budgets, Legal, and Executive) obtain a copy of the regulatory packet at the same time so they can complete their individual reviews simultaneously. However, one

division may take longer for their review than others. Ms. Hurlbutt asked whether there was a specific timeline for DCA to complete their reviews. Ms. Castillo stated that there is no specific timeline for the DCA divisions to complete their reviews; they just need to complete them so there is ample time prior to the expiration date for OAL to conduct their review.

Full 7 – Discussion and Possible Action to Amend Proposed Regulatory Language as a Result of Comments Received During the 90-day Public Comment Period for DHCC’s Rulemaking to Add CCR, Title 16, Division 11, §1100 Relevant to Definitions.

Donna Kantner reported that the Committee allowed for an extended public comment period for this regulatory packet because it was anticipated that there would be a number of comments received and to allow the DBC the ability to respond that accommodated their timeframe for review according to Business and Professions Code section 1905.2. She stated that the Committee did receive a number of comments on the regulatory proposal from individuals, dental hygiene educators, CDA, and the DBC. The comments received were reviewed as follows:

(Note: Comment numbers as listed correspond to the numbering in the meeting materials.)

1) Comments from the Dental Board of California (DBC):

- a) Comment #1 regarding CCR, Title 16, Division 11, §1100(c) defining *assessment*.
 - **Motion: Michelle Hurlbutt moved to remove BPC section 1910.5 and amend the regulatory language to end after the word *practice* in the last sentence prior to “...and pursuant to BPC section 1910.5.”**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: *Assessments* are stated as a part of dental hygiene duties in other BPC sections and not only limited to the specifics in BPC section 1910.5. The amended language should read as follows:

(c) “Assessment” means the systematic collection, analysis, and documentation of the oral and general health status and patient

needs through a variety of methods, including choice of radiographs, diagnostic tools, and instruments utilized within the scope of dental hygiene practice.

b) Comment #2 regarding CCR, Title 16, Division 11, §1100(h) defining *diagnosis*.

- **Motion: Susan Good moved to accept the DBC’s comment #2 without any definition on the word *diagnosis*, and reject staff’s recommendation.**

Timothy Martinez seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: Because the word *diagnosis* has not been clearly defined in statute, it was part of the reason the Office of Administrative Law (OAL) rejected the regulatory packet because statute [BPC section 1908(b)(1)] currently states that a dental hygienist cannot diagnose without further definition. With the second comment from the DBC suggesting additional clarity for diagnosis and recommendation from DCA Legal counsel, the Committee will pursue a statutory change in the future to further define *diagnosis* for clarity for users and the public.

c) Comment #3 regarding CCR, Title 16, Division 11, §1100(j) defining *dental hygiene therapeutic interventions*.

- **Motion: Michelle Hurlbutt moved to accept staff’s recommendation and the DBC’s comment to amend the language in this section.**

Evangeline Ward seconded the motion.

Vote: The motion passed 5-0 (Garry Shay was absent).

NAME	Minutes VOTE:		OTHER
	Aye	Nay	
Susan Good			Pass
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Evangeline Ward	X		

Rationale: The Committee approved staff’s recommendation to accept the DBC’s comment and suggestion to amend the text suggested by DBC for clarity and consistency. The amended language should read as follows:

“Dental Hygiene therapeutic interventions means specific procedure or set of procedures, provided within the scope of dental hygiene practice, designed to intervene in the disease process to produce a therapeutic benefit.”

d) Comment #4 regarding CCR, Title 16, Division 11, §1100(r) defining *refer*.

- **Motion: Noel Kelsch moved to reject the DBC’s comment and reject staff’s recommendation to accept the DBC’s comment and amend the text.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: Because the current definition for the word *refer* as presented is too limiting, the Committee has decided to accept an alternative proposed definition of *refer* for clarity to users and the public and will amend the regulatory language to reflect the change. The amended language should read as follows:

“Refer means the action taken after determining that services are needed beyond the dental hygienist’s scope of practice to provide and ensure that the patient is directed to a healthcare provider who can provide that care.”

2) Comments from Vickie Kimbrough representing CDHA & CDHEA:

a) Comment #5 regarding CCR, Title 16, Division 11, §1100(b) defining the *administration of nitrous oxide and oxygen used as an analgesic*.

- **Motion: Michelle Hurlbutt moved to reject the comment and accept staff’s recommendation.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: The comment requested to replace 'dental' with 'dental hygiene' for this function which can only be performed under the direct supervision of a dentist. By replacing the words 'dental' with 'dental hygiene,' it could prohibit the dental hygienist from assisting the dentist in the area of analgesia by limiting the allowed area of treatment to dental hygiene.

b) Comment #6 regarding CCR, Title 16, Division 11, §1100(i) defining *dental hygiene preventative services*.

- **Motion: Michelle Hurlbutt moved to accept the comment with the following amendment to the language:**

“Dental hygiene preventative services means those services provided by the dental hygienist that prevent oral disease or pathology and promote oral health and overall health.”

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: Accept comment with amendment to the language as stated above.

c) Comment #7 regarding CCR, Title 16, Division 11, §1100(j) defining *dental hygiene therapeutic interventions*.

- **Motion: Michelle Hurlbutt moved to reject the comment based upon the acceptance of the DBC's comments on the same issue (DBC Comment #3 above).**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: Because the Committee had previously discussed and accepted the comments submitted by the DBC (Comment #3) to amend the language in this section, the comment was rejected.

- d) Comment #8 regarding CCR, Title 16, Division 11, §1100(s) defining *root planing*.
- **Motion: Michelle Hurlbutt moved to accept the comment and staff's recommendation to amend the text.**

Susan Good seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: Comment and staff's recommendation to amend the text was accepted. The amended language should read as follows:

"Root planing" means the process of instrumentation which removes residual calculus and toxic materials from the root to produce a clean, smooth surface."

3) Comments from Carrie Gordon representing the California Dental Association (CDA):

- a) Comment #9 regarding CCR, Title 16, Division 11, §1100(c) defining *assessment*.
- **Motion: Michelle Hurlbutt moved to accept the comment and to amend the text as recommended by the DBC in Comment #1 and add in 'dental hygiene' prior to assessment for clarity.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: Comment and amendment to the text was approved. The amended language should read as follows:

(c) "Dental hygiene assessment" means the systematic collection, analysis, and documentation of the oral and general health status and patient needs through a variety of methods, including choice of radiographs, diagnostic tools, and instruments utilized within the scope of dental hygiene practice.

b) Comment #10 regarding CCR, Title 16, Division 11, §1100(h) defining *Dental hygiene care plan* and the use of the term *dental hygiene diagnosis*.

- **Motion: Michelle Hurlbutt moved to accept CDA's comments and amend the definition to read, "The Dental hygiene care plan means an organized presentation or list of interventions to promote health or prevent disease of the patient's oral condition; plan is designed by the dental hygienist and consists of services within the scope of dental hygiene practice."**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: CDA's comments were accepted with an amendment to the definition of the Dental Hygiene care plan. The amended language should read as follows:

“The Dental hygiene care plan means an organized presentation or list of interventions to promote health or prevent disease of the patient’s oral condition; plan is designed by the dental hygienist and consists of services within the scope of dental hygiene practice.”

c) Comment #11 regarding CCR, Title 16, Division 11, §1100(i) defining dental hygiene preventive services.

- **Motion: Michelle Hurlbutt moved to reject CDA’s comment based upon the acceptance of Comment #6 that addressed the same issue above with an amendment to the text and the limiting factor to only include BPC sections 1910(a) and 1910(b) and does not encompass the provisions as stated in BPC section 1908(a).**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

- **Rationale: Comment was rejected based upon the acceptance of Comment #6 that addressed the same issue above with an amendment to the text and the limiting factor to only include BPC sections 1910(a) and 1910(b) and does not encompass the provisions as stated in BPC section 1908(a).**

d) Comment #12 regarding CCR, Title 16, Division 11, §1100(r) defining refer.

- **Motion: Michelle Hurlbutt moved to accept CDA’s comments with an amendment to the language as follows:**

“Refer means the action taken after determining that services are needed beyond the dental hygienist’s scope of practice to provide and ensure that the patient is directed to a healthcare provider who can provide that care.”

Susan Good seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: The Committee accepted CDA's comment with an amendment to the language. The amended language should read as follows:

“Refer means the action taken after determining that services are needed beyond the dental hygienist’s scope of practice to provide and ensure that the patient is directed to a healthcare provider who can provide that care.”

The Committee acted to accept all of the actions decided upon for this regulatory packet as per Committee Action Requested and made the following motion:

- **Motion: Michelle Hurlbutt moved to direct staff to notice the proposed changes to the rulemaking file for a 15-day public comment period and delegate to the Executive Officer the authority to adopt the final text and make any nonsubstantive changes necessary to complete the rulemaking file if no adverse comments are received.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

- Full 8 – Discussion and Possible Action to Amend Proposed Regulatory Language as a Result of Comments Received During the 45-day Public Comment Period for DHCC’s Rulemaking to Add CCR, Title 16, Division 11, §§1101, 1121, 1122, 1124, 1126, 1127, and 1133 Relevant to Administration and Examinations.**

a) **Comments from Ms. Kimbrough-Walls and multiple dental hygiene educational program directors.**

1) Comment #1 regarding §1126(b).

- **Motion: Michelle Hurlbutt moved to accept the comment as presented for clarification.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: The comment was accepted to enhance clarity. Further amendments to the language were agreed upon by the Committee at this meeting for clarity [see b(2) below].

2) Comment #2 regarding §1127(a).

- **Motion: Michelle Hurlbutt moved to reject the comment because the Committee does not have the capability to notify an applicant immediately.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: The Committee does not have the capability to notify an applicant immediately of an examination failure.

3) Comment #3 regarding §1127(b).

- **Motion: Noel Kelsch moved to reject the comment because the Committee already responds to any inquiries in a timely manner and, based upon the information provided by the Executive Officer, since the Committee's inception in 2009, the Committee**

has not received any examination appeals and that there is a high probability that the California Clinical Examination will be eliminated.

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: The Committee already responds to any inquiries in a timely manner and, based upon the information provided by the Executive Officer, since the Committee's inception in 2009, the Committee has not received any examination appeals and that there is a high probability that the California Clinical Examination will be eliminated.

b) Comments from Roberta Lawrence, RDH.

1) Comment regarding BPC section 1124(d).

- **Motion: Noel Kelsch moved to reject the comment because the regulation as written is all inclusive and anyone entering the examination clinic must have an identification badge.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: The Committee already identifies anyone entering the examination clinic with an identification badge, so the comment is duplicative to what the Committee already does.

2) Comment regarding BPC section 1126(b).

- **Motion: Susan Good moved to accept the comment and staff's recommendation and to amend the language to add, "and has not been subject to discipline within the preceding 5 years," immediately after "for a minimum of 5 years."**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Rationale: The Committee accepted the comment with an amendment to the language to read as follows:

"(b) Grading examiners shall not view applicants during the performance of the examination assignments. To be considered for appointment as a grading examiner, a licensee shall be a California licensed RDH, RDHAP, or RDHEF with an active license for a minimum of five years and has not been subject to discipline within the preceding five years."

3) Comment regarding BPC section 1127(a) & 1127(b).

(Note: Comments #3 & 4 were voted upon together)

- **Motion: Michelle Hurlbutt moved to reject comments #3 & 4 because the Committee does respond to any inquiries in a timely manner and does not have the capability to notify an applicant of their examination results immediately.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

- Rationale: the Committee does respond to any inquiries in a timely manner and does not have the capability to notify an applicant of their examination results immediately.

The Committee acted to accept all of the actions decided upon for this regulatory packet as per the Committee Action Requested and made the following motion:

- **Motion: Michelle Hurlbutt moved to direct staff to notice the proposed changes to the rulemaking file for a 15-day public comment period and delegate to the Executive Officer the authority to adopt the final text and make any nonsubstantive changes necessary to complete the rulemaking file if no adverse comments are received.**

Susan Good seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Full 9 – Discussion and Possible Action to Amend Proposed Regulatory Language as a Result of the Office of Administrative Law’s (OAL) Disapproval of DHCC’s Rulemaking Relevant to Educational Program Requirements - CCR, Title 16, Division 11, §§1103, 1105, 1105.1, 1105.2, 1105.3, 1105.4, and 1106.

Ms. Kantner reviewed the listed reasons that OAL disapproved the regulatory file. She stated that OAL objected to the use of the word *diagnosis* in CCR section 1103(j) which defines the dental hygiene process of care. She said that OAL’s reason is that the language is inconsistent to the language in BPC section 1908(b)(1).

President Moultrie quoted the following from the CODA standards as the definition for a dental hygienist’s *process of care*:

2-13 - Graduates must be competent in providing the dental hygiene process of care which includes:

- a) **Comprehensive collection of patient data to identify the physical and oral health status;**
- b) **Analysis of assessment findings and use of critical thinking in order to address the patient’s dental hygiene treatment needs;**

- c) Establishment of a dental hygiene care plan that reflects the realistic goals and treatment strategies to facilitate optimal oral health;
- d) Provision of patient-centered treatment and evidence-based care in a manner minimizing risk and optimizing oral health;
- e) Measurement of the extent to which goals identified in the dental hygiene care plan are achieved;
- f) Complete and accurate recording of all documentation relevant to patient care.

Ms. Hurlbutt indicated that the entire definition for *process of care* as above (2-13: a – f) should be used with the addition of, “and will serve as the accepted professional standard for decision making.”

- **Motion: Michelle Hurlbutt moved to use the Commission on Dental Accreditation (CODA) standard language (Standard 2-13: a – f) for *process of care* and add, “and will serve as the accepted professional standard for decision making” and remove the term diagnosis to amend the regulatory language for the rulemaking file for a 15-day public comment period and delegate to the Executive Officer the authority to adopt the final text and make any nonsubstantive changes necessary to complete the rulemaking file if no adverse comments are received.**

Susan Good seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Other changes to the rulemaking file that have been made, will be scheduled for a hearing, and still need to be approved by OAL are:

- Clarity for references to “approved accreditation standards” referenced throughout this article;
- Clarity to the phrase “reasonable period of time” in BPC section 1103(z) & (ac) and needs to be changed is sections that reference semester units;
- Clarity of the written plan “required by the Commission on Dental Accreditation (CODA);”
- No explanation what constitutes a “substantive or major change” as used in section 1105.3(a)(2)(B). The text was revised to eliminate these terms.

- Section 1105.2(d)(3)E(i), (ii), (iii) to be struck from text as per DCA legal counsel suggestion, as it is duplicative since section 1107 is already addresses the issue.
- **Motion: Noel Kelsch moved to approve the amended regulatory language as presented and the rulemaking file for a 15-day public comment period and delegate to the Executive Officer the authority to adopt the final text and make any nonsubstantive changes necessary to complete the rulemaking file if no adverse comments are received.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Full 10 – Discussion and Possible Action to Amend Proposed Regulatory Language as a Result of the Office of Administrative Law’s Disapproval of DHCC’s Rulemaking Relevant to Remedial Education - CCR, Title 16, Division 11, §1108.

Ms. Kantner stated that the text was adopted, but was not posted on the DHCC website. She stated that regulatory text that omitted the requirement for an additional column on the form and the requirement that courses be in an approved dental hygiene educational program were not amended. She reported that the changes have been made to the text and the additional column on the form was added for out of state license status. She continued that there was also text adopted requiring remedial education faculty to possess only California licenses without any disciplinary action against them, but was unclear as to whether this language was omitted. She said that there was also a clarity issue for record keeping which amendments to the text and the Application for Approval of Course in Remedial Education have been provided for the Committee’s review.

- **Motion: Noel Kelsch moved to approve the amended regulatory language as presented and the rulemaking file, direct staff to draft an addendum to the initial statement of reasons, and notice the document and proposed changes for a 15-day public comment period and delegate to the Executive Officer the authority to adopt the final text and make any nonsubstantive changes necessary to complete the rulemaking file if no adverse comments are received.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Full 11 – California State Auditor Report Regarding Children’s Access to Dental Care – Informational Only

Ms. Castillo included the audit report due to the interest in the Committee’s interest in access to care. She stated that the report was provided for the Committee’s review and would answer any questions presented.

Full 12 – Legislative and Regulatory Subcommittee Report

Subcommittee Chair Susan Good stated that the Legislative and Regulatory subcommittee reviewed 17 bills and has the following recommendations for the full committee:

- 1) Recommendation to take a watch position on the following legislation:
 - AB 12 (Cooley) – State Government: administrative regulations: review
 - AB 351 (Jones-Sawyer) – Public Contracts: small business participation
 - AB 366 (Bonta) – Medi-Cal Reimbursement Rates
 - AB 728 (Hadley) – State Government: financial report
 - AB 797 (Steinorth) – Regulations: effective dates and legislative review
 - AB 1060 (Bonilla) – Professions and Vocations: licensure
- **Motion: Michelle Hurlbutt moved to accept the Legislative and Regulatory Subcommittee’s recommendations to take a watch position on AB 12, AB 351, AB 366, AB 728, AB 797, and AB 1060.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

- 2) Recommendation to take a support and support, if amended positions on the following legislation:
- AB 41 (Chau) – Health Care Coverage: discrimination
 - AB 502 (Chau) – Dental Hygiene
 - AB 750 (Low) – Business and Professions: licenses
 - AB 880 (Ridley-Thomas) – Dentistry
 - SB 351 (Committee on Banking and Financial Institutions) – Corporations: management
 - SB 800 (Committee on Business, Professions and Economic Development) – Healing Arts
- **Motion: Michelle Hurlbutt moved to accept the Legislative and Regulatory Subcommittee’s recommendations to take a support position on AB 41, AB 750, AB 880, SB 351, SB 800, and a support, if amended position on AB 502.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

- 3) Recommendation to take an oppose position on the following legislation:
- AB 85 (Wilk) – Open Meetings
 - AB 483 (Patterson) – Healing Arts: initial license fees: proration
- **Motion: Michelle Hurlbutt moved to accept the Legislative and Regulatory Subcommittee’s recommendations to take an oppose position on AB 85 and AB 483.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Ms. Castillo indicated that AB 611 (Dahle) did not make it out of legislative committee and, as such, died in committee, but could return as a 2-year bill.

Chair Good reported that there was no recommendation on the following legislation from the subcommittee, as the subcommittee members were in a deadlock.

- AB 179 (Assembly Committee on Business and Professions) - Dentistry
- AB 648 (Low) – Community-Based Services: Virtual Dental Home Program

For AB 179, the subcommittee was deadlocked on a vote between recommending a watch or support position to the full committee. Kurt Hepler, DCA Legal Counsel, indicated that the two issues that arose in the discussion of the bill was about the moratorium on the Registered Dental Assistant clinical examination and the exemption for a licensee to provide services to a significant other or the equivalent if sexual relations are involved or whether they should be referred to another licensee. The exemption already exists for physicians and surgeons and the bill expands the exemption to other classifications of health professionals. President Moultrie also indicated that there was a discussion that if AB 178 had an affect on AB 179 and possibly changing the Committee's position, that the Committee could conduct an emergency 10-day meeting to discuss the issues and the Committee's position.

- **Motion: Michelle Hurlbutt moved to take a watch position on AB 179.**

Susan Good seconded the motion.

Vote: The motion passed 5-1 (Garry Shay was absent).

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

Chair Good reported that the other legislation where the subcommittee was deadlocked and had no recommendation was AB 648 (Low) – Virtual Dental Homes (VDH). She stated that the bill did not directly impact the Committee; however, it would impact some licensees due to their participation in the VDH program. Ms. Castillo indicated that the discussion was primarily regarding the lack of specificity as to who would be receiving the grant funding for the VDH program and the issue of the Department of Public Health appointing a dentist as the head of the Department of Oral Health which caused a deadlock in the subcommittee voting to either support or watch the bill.

- **Motion: Susan Good moved to take a support position on AB 648.**

Noel Kelsch seconded the motion.

Vote: The motion passed 4-2 (Garry Shay was absent).

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

Any other legislation of interest to the Subcommittee:

- AB 178 (Bonilla) – Board of Vocational Nursing and Psychiatric Technicians of the State of California
- SB 467 (Hill) – Professions and Vocations

Chair Good reported that the subcommittee requested that staff monitor AB 178 & AB 179 and advise the subcommittee of any changes and to monitor SB 467 on the subject of Pro Rata. She also reported that for future legislation, a member of the public suggested that the subcommittee should review legislation that protects public interests such as AB 768 –

smokeless tobacco; baseball stadiums, and SB 203 – sugar sweetened beverages: safety warnings.

- **Motion: Chair Susan Good moved that the Full Committee receive and accept the recommendations and report from the Legislative and Regulatory Subcommittee.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Full 13 – Licensing and Examination Subcommittee Report

Chair Noel Kelsch reported that in the Licensing and Examination subcommittee meeting, the following was discussed to provide recommendation to the full committee:

- 1) Approved the subcommittee meeting minutes from December 5, 2014;
- 2) Discussed that there are only 4 applicants for the July 2015 California Dental Hygiene Examination which could possibly cause the exam to move to another location to save on the Committee’s resources. The low numbers applying for the exam could also mean the elimination of it altogether if interest continues to decrease.
- 3) The recommendations from the subcommittee is for staff to research whether the examination needs to use a different location seeing that the applicant population has dwindled to conserve resources and when the elimination of the exam could occur.

- **Motion: Chair Noel Kelsch moved that the Committee receive and accept the recommendations and report from the Licensing and Education Subcommittee.**

Evangeline Ward seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Full 14 – Enforcement Subcommittee Report

Acting Chair Nicolette Moultrie substituted to oversee the Enforcement subcommittee meeting in Garry Shay's absence. She reported that the Enforcement subcommittee did the following to provide recommendation to the full committee:

- 1) Approved the December 5, 2014 subcommittee meeting minutes;
- 2) Reviewed the Committee's Enforcement Statistics; and
- 3) Reviewed the DCA Enforcement Performance Measures.

- **Motion: Acting Chair Nicolette Moultrie moved that the Committee receive and accept the recommendations and report from the Enforcement Subcommittee.**

Michelle Hurlbutt seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Full 15 – Education Subcommittee Report

Chair Michelle Hurlbutt reported that the Education Subcommittee did the following to provide recommendations to the full committee:

- 1) Approved the December 5, 2014 subcommittee meeting minutes;
- 2) Discussed possible action on approval and implementation on a course that originated from AB 1174 (Ch. 662, Statutes of 2014) and the subcommittee recommends to the full committee the approval of Dr. Glassman's course from the duties stated in AB 1174;
- 3) Discussed the Office of Statewide Health Planning and Development (OSHPD) workforce data for dental hygienists – a fact sheet. The subcommittee directed staff to obtain comments from Committee

members and the public regarding the OSHPD fact sheet and to have staff contact OSHPD for possible changes and report back to the subcommittee.

- 4) Discussed action on the Commission on Dental Accreditation (CODA) Standard 2-18 for dental hygiene programs and the subcommittee recommendation to the full committee is to direct staff to send a letter to CODA supporting the newly proposed educational standard 2-18.
 - 5) Future Agenda Items including staff to report back to the subcommittee on the OSHPD fact sheet.
- **Motion: Chair Michelle Hurlbutt moved that the Committee receive and accept the report and recommendations from the Education Subcommittee.**

Noel Kelsch seconded the motion.

Vote: The motion passed 6-0 (Garry Shay was absent).

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

Full 16 – Closed Session

Closed Session was conducted on Saturday, May 2, 2015 after the subcommittees adjourned instead of Sunday, May 3, 2015 to conserve DHCC resources.

Full 17 – Future Agenda Items

Ms. Hubble stated that the following issues could be brought to a future meeting:

- The DHCC Clinical Examination elimination;
- Pursue legislation to increase the DHCC’s License Renewal Fee maximum (statutory) cap;
- AB 178 (Bonilla);
- Inactive License and associated fees;
- Denti-Cal requiring X-Rays for RDHAPs. President Moultrie directed staff to investigate this issue and report back to the Executive Officer as soon as possible; and
- Statutory changes for clarity regarding dental hygiene diagnosis.

Full 18 – Adjournment

The May 3, 2015 Full DHCC meeting adjourned at 3:45 p.m.