STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

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

DHCC RESPONSES TO 2018 SUNSET BACKGROUND PAPER ISSUES

Issue #1 – DHCC is completely comprised of Gubernatorial appointees.

Staff Recommendation: *The Committees may wish to amend BPC § 1903 to designate appointing authority for two of the public members to the Legislature, similar to that of other healing arts boards.*

DHCC Response:

We have never experienced any issue with all of our members being Gubernatorial appointees; however, we are open to discuss the addition of members who represent the Legislature. We would ask that there be one public member and one professional member added if this is pursued because our current and unique blend of public to professional members is close to a 50:50 ratio that provide different perspectives on the issues.

Issue #2 – DHCC is struggling to meet statutory mandates because of staffing shortages.

Staff Recommendation: *DHCC should work with the DCA to determine appropriate staffing levels in each division, ensure its budget can support additional staff, and develop and submit necessary BCPs. DHCC should report to the Legislature on the results of these efforts.*

DHCC Response:

We have submitted additional staff requests in the past that were not successful. Going forward, we will work closely with DCA and use available resources to improve the data and justifications required to improve the success of any future requests.

Because we have experienced staff shortages since our inception in 2009, we would like to request 3 positions to catch up on the mandates we have not been able to address and in preparation for succession planning, as we have at least 2 longtime staff that are of retirement age. We could benefit from more staff; however, our modest budget will not allow us to afford more positions than this without a fee increase.

Please see the chart below that compares our program with other similarly size DCA programs by licensee population and their staffing levels at our inception in 2009 and today. Granted, they have had an opportunity to grow their staff as the licensee

population and mandates grew over the years; however, upon inception, we had an established licensee population equivalent to a medium-sized board, but not the number of staff required to address them.

DCA Program Staff Comparisons to DHCC					
Program Name	#of Staff in 2009* (DHCC Inception)	2009 Licensee Population*	#of Staff in 2017*	2017 Licensee Population*	Staff Percent Difference in 2017
Architects Board	26	21,000	25	21,000	150% more
Dental Hygiene Committee	7	24,000	10	23,000	N/A
Occupational Therapy Board	Data Unavailable	Data Unavailable	17	15,500	70% more
Optometry Board	12	19,500	12	17,000	20% more
Psychology Board	13	23,000	23	22,500	130% more
Respiratory Care Board	16.5	19,000	18	23,500	80% more

*Data from DCA 2009 & 2017 Annual Reports

If the DHCC's staffing levels were comparable or even slightly less, there would be no staffing issue to address because we would be able to meet all of our current mandates. However, the combination of beginning with an insufficient number of staff at inception, the long process to obtain additional positions that can be afforded with a small budget, and unsuccessful requests for additional positions has created this current staffing shortage situation.

Issue #3 – There may be more effective means to test clinical skills than the traditional hygiene clinical exam.

Staff Recommendation: *The DHCC should explore these alternative testing platforms and investigate their advantages and disadvantages. It would be helpful for DHCC to present these results to the Committees in order to determine whether statutory changes are appropriate and necessary at this time.*

DHCC Response:

We initiated the research of possible alternative pathways to licensure in the past and created a task force to review alternatives to the traditional pathway to licensure. Unfortunately, due to staffing shortages, this project has been delayed until additional staff are obtained to address the workload. Once completed, we would gladly share our findings with the Committees and request statutory changes as needed.

<u>Issue #4</u> – DHCC want to be renamed as an independent board under the DCA and sever its remaining ties to DBC (Dental Board of California).

<u>Staff Recommendation:</u> *The Committee may wish to consider whether statutes should be amended to establish DHCC as the independent Hygiene Board of California.*

<u>DHCC Response:</u>

We appreciate the recommendation of the Committee's staff to amend statutes to remove the Dental Board's jurisdiction and rename us as the Dental Hygiene Board of California. We hope that SB 1482 can be amended to do just that. As background, the original legislation establishing us included jurisdiction language to provide a legal basis for us to utilize the Dental Board as needed during our formative years. This was because there was an element of the unknown in 2008 when the legislative language was drafted and we wanted to ensure a successful launch. The current language continues to cause confusion among stakeholders both in and out-of-state because it creates the impression that the Dental Board has active oversight of us when they do not. This is important to note for transparency. With us being titled a committee, it allows the perception that we are a subcategory of another agency when in reality that is not the case. The DHCC is a self-regulating body to oversee the dental hygiene profession and educational programs in the interest of consumer protection. We work closely and with the Dental Board; however, we are not a part of them or under their purview.

Also, within existing law, there is language that describes and lists the purpose and powers of boards. We are currently performing all of these functions as described and request to change our name to align it with the functions we complete.

(References: BPC sections 101.6 & 108)

<u>Issue #5</u> – According to the DHCC, RDHAPs are authorized to unsupervised dental hygiene services only in specified areas which create barriers to practice in other dental care settings.

<u>Staff Recommendation:</u> *DHCC should examine whether it is in the best interest of the public health and safety to authorize RDHAPs to practice unsupervised in any setting, which may include all settings authorized to employ an RDHAP. DHCC should include the DBC (Dental Board of California) in discussions in order to determine the original intent of the restrictions.*

<u>DHCC Response:</u>

RDHAPs are allowed to provide dental hygiene services in schools, residences of the homebound, residential facilities and other institutions, and dental health professional shortage areas as certified by the Office of Statewide Health Planning and Development. The law provides the authority that an RDHAP can provide all of the

dental hygiene services that an RDH can perform, but is restricted to these specific settings. The RDHAP licensure category was established to provide the dental hygiene services as prescribed by law for underserved populations of the community. If they are allowed to practice in any setting, it would be counterproductive to what the license category was established for and many RDHAPs could potentially move away from underserved areas to practice in settings where they are directly competing with RDHs and dentists for patients and jobs. The DHCC appreciates the idea of expanding the settings where RDHAPs can provide their services, but recommends to continue RDHAPs in their current practice settings with the removal of the restrictions stated in Issues #s 6 and 7 so they can bill for the services they provide and continue to see their patients on an ongoing basis without the prescription requirement.

Many RDHAPs also maintain their RDH license for portability because the RDHAP license is not recognized in other states and jurisdictions outside of California. Because many RDHAPs have their RDH license, they can choose to work in other areas of the profession that are not designated specifically for RDHAPs, but they have to maintain both licenses to do so.

Issue #6 – RDHAPs report difficulty in receiving payment from insurers based outside of California due to insurer's unfamiliarity with the title.

Staff Recommendation: *The DHCC should provide the Committees with information and justification that this proposed language is sufficient to resolve reimbursement issues. The Committees may wish to amend the Act to ensure that necessary clarifications are made in order to better allow RDHAPs to receive the payment for services they provide.*

DHCC Response:

The language suggested by us in the 2018 DHCC Sunset Review Report was written after much discussion and in reviewing other existing statutory language that allowed dental hygienists to receive payment for services rendered in other states. We believe the language that we recommended in our report to the Committee would lend to clarification that RDHAPs are entitled to payment for services rendered with their scope of practice. Also, we encourage the RDHAP practitioners to open lines of communication to insurers based outside of California to educate them about the RDHAP license category and the dental hygiene services they provide to make them aware when determining reimbursement issues.

Issue #7: RDHAPs are required to receive a prescription from a dentist or physician prior to providing prolonged patient treatment.

Staff Recommendation: *The DHCC should survey RDHAPs, as well as consulting physicians and dentists, to evaluate the utility of prescriptions for ongoing care. DHCC should also consider whether referral language should clarify that a prescription does not legally bind a dentist or physician and surgeon to oversight. It would be helpful for the Committees to understand the average amount of time RDHAPs treat patients and how often a prescription is required of patients.*

DHCC Response:

RDHAPs continually report difficulty in obtaining prescriptions for treatment from a dentist or physician every 18 months because the doctors are not providing the treatment and do not want to have an implied legal obligation to oversee the dental care provided by an RDHAP. The intent of the prescription was to ensure that patients received care from a dentist or physician every 18 months. An RDHAP is required to have a dentist relationship with whom they can refer patients to should further dental care be needed. By removing the prescription restriction, it would not negate the need for patients to have a dentist for needed dental care or to be under the continued care of a physician. It would allow RDHAPs to provide dental services to an underserved population on an ongoing basis and refer to a dentist, when needed. Since their inception, RDHAPs have rendered dental hygiene services in Public Health settings without a single complaint.

Issue #8: According to the DHCC, a RDH (Registered Dental Hygienist) can only perform dental hygiene preventative services in public health settings.

Staff Recommendation: *The DHCC should engage in stakeholder groups to explore whether it would be in the best interest of public health and safety to expand the unsupervised hygiene practices of an RDH. DHCC should determine what specifically about public health programs make them ideal settings for the current practice restrictions.*

DHCC Response:

Current law only allows a dental hygienist to provide unsupervised preventative services in public health programs created by federal, state, or local law or administered by a federal, state, county, or local government. To provide additional access to care, we are requesting that the settings be expanded to include foundations and other non-profit charity entities. This would enable dental hygienists to provide preventative services to areas of the community that cannot afford and are in severe need of proper dental care.

We also request to amend current law [BPC § 1911(a)] to allow a dental hygienist to provide fluoride varnish to patients without the supervision of a dentist in any setting.

Issue #9: DHCC does not have the authority to place dental hygiene educational programs on probation or have the ability to cite and fine programs in violation of the law.

Staff Recommendation: *The Committees may wish to authorize DHCC to place dental hygiene programs on probation and issue citations and fines for minor violations.*

DHCC Response:

We currently only have one option of action against an educational program that is not compliant with the law or accreditation standards. That is to withdraw the Committee's approval where their students would not be eligible to obtain a California dental hygiene license because the school is no longer approved. We do not want to penalize the students due to the school's non-compliance; however, that is our only option at this time. We are requesting that the intermediary action steps of probation and citation and fine be approved for schools that have infractions of the law until they are corrected with the continued option to withdraw the Committee's approval, if warranted and egregious deficiencies of the law are discovered.

Issue #10: DHCC does not use its authority to support a diversion program.

Staff Recommendation: *The Committees may wish to remove the requirement for DHCC to establish a diversion program.*

DHCC Response:

We would like to request to table this issue until we have an opportunity to further discuss and review it now that there are new cannabis laws in place that were not when the decision to remove the diversion language was decided. We are aware of the current climate with opioid and alcohol overuse and because we do not know the full effect of these laws on the dental hygiene profession, we have determined that it is not the time to address the removal of the diversion program language. If we decide to continue to maintain a diversion program, the contract with the diversion vendor will probably need to be amended so that we do not subsidize participants, as the DHCC cannot afford to do so with its modest budget.

Issue #11: DHCC could help spread awareness about screening for domestic abuse.

Staff Recommendation: *DHCC should include information about this and similar programs in its newsletter to licensees.*

DHCC Response:

The dental hygiene profession already has mandatory reporting requirements for licensees in place. We concur with the Committees Staff Recommendation and will include this type of information in our newsletter to remind our licensee population of their mandated reporter status.

Issue #12: Dental Hygiene Practice Act updates.

Staff Recommendations: *The Committees may wish to amend the Act according to DHCC's suggestions.*

- 5-year limitation on the window available to submit for licensure after taking the clinical examination.
- Establish fees commensurate with DHCC's expenses to conduct site visits to educational programs.
- Establish a retired fee.
- Allow an out-of-state applicant or licensee residing out of state to submit hard copy fingerprints if LiveScan is unavailable.
- Add DHCC to the list of DCA programs that require fingerprinting.
- Add DHCC to the list of DCA program funds.

DHCC Response:

We concur with the Committees Staff Recommendations, but ask to add the following:

1) Eliminate Dental Board Jurisdictional language from statute to allow the DHCC to be an independent board.

2) The first bulleted point for the 5-year limitation on the window to submit for licensure after completing a clinical examination may be amended to reflect a shorter time period of acceptance once the DHCC has further discussions on the issue.

We thank the Committee's staff for their collaboration and efforts to help us add these new sections to the code.

Issue #13: (CONTINUED REGULATION BY THE DHCC) Should the licensing and regulation of the hygiene profession be continued and be regulated by the current DHCC membership?

Staff Recommendation: *The licensing and regulation of the dental hygiene profession should continue to be regulated by the current members of the DHCC. DHCC should be reviewed again in four years.*

DHCC Response:

We concur with the Committees Staff Recommendation and thank them for all of their time and effort to review and work with our program.