

## Dental Hygiene Board of California Teleconference Meeting Minutes

**Saturday, November 20, 2021**

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-08-21, dated June 11, 2021, neither a public nor teleconference location was provided. Members of the public observed and participated by using the link that was provided in the agenda.

### **DHBC Members Present:**

President – Dr. Timothy Martinez, Public Health Dentist Member  
Secretary – Garry Shay, Public Member  
RDH Educator Member – Dr. Carmen Dones  
Registered Dental Hygienist in Alternative Practice (RDHAP) Member – Noel Kelsch  
RDH Member – Evangeline Ward  
Public Member – Susan Good  
Public Member – Erin Yee

### **DHBC Members Absent:**

Vice President – Nicolette Moultrie, Registered Dental Hygienist (RDH) Member  
Public Member – Denise Davis

### **DHBC Staff Present:**

Anthony Lum, Executive Officer  
Elizabeth Elias, Assistant Executive Officer  
Brittany Elliot, Probation Monitor  
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Educational, Legislative, and Regulatory Specialist  
Michael Kanotz, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC  
Danielle Rogers, DCA Regulatory Unit Legal Counsel for the DHBC

### **1. Roll Call and Establishment of a Quorum**

Dr. Timothy Martinez, President of the Dental Hygiene Board of California (DHBC, Board), reviewed teleconference meeting guidelines and called the meeting to order at **10:00 a.m.** Secretary Garry Shay, completed the roll call and a quorum was established with seven members present. Members Nicolette Moultrie and Denise Davis were absent and excused.

### **2. Public Comment for Items Not on the Agenda.**

No Comments.

### 3. President's Report (Informational Only).

Dr. Martinez welcomed Michael Kanotz, the Board's interim Department of Consumer Affairs (DCA) legal representation who replaced William Maguire after his departure from the department in August.

Dr. Martinez reported his activities including: participating in communications with the DCA's Director's Office and the Office of Human Resources (OHR) to initiate the Exempt Position Request to upgrade our Executive Officer's exempt level and salary for future professional and programmatic growth; providing an update to the Dental Board of California (DBC) at their November 18, 2021 Board meeting; and stated that although his work schedule has kept him very busy, his frequent communications with Executive Officer (EO) Anthony Lum has allowed him to stay informed about any potential Board situations that may arise.

Dr. Martinez stated that it has been a pleasure to serve the Board as the President and member, as he will be serving in his grace period next year, he anticipates that the Governor's office will appoint his replacement sometime in 2022. Additionally, he stated with the COVID-19 pandemic (COVID-19) situation continuing, the Board wants everyone to continue to be cautious and safe.

**Board member comment:** None.

**Public comment:** None.

### 4. Update from the Department of Consumer Affairs (DCA) Executive Staff on DCA Staffing and Activities (Informational Only).

Carrie Holmes, Deputy Director, Board and Bureau Relations Division of the Department of Consumer Affairs (DCA), updated the Board on current DCA activities:

#### a. COVID-19:

Ms. Holmes thanked the Board members for continuing their service during the coronavirus pandemic (COVID-19) and DCA, along with their boards and bureaus, are looking towards the future to identify long term policies and procedures to continue to provide consumer protection and service to the public. She stated that DCA is assembling a taskforce to develop a telework policy to provide further clarification and structure for managers and staff to use.

Ms. Holmes reported DCA has worked to implement safe COVID-19 testing procedures for state employees. She stated Board staff are required to be fully vaccinated or must undergo weekly COVID testing if unvaccinated to clear them to work in the office. She stated Board members must verify vaccination status or undergo testing and must follow safety protocols if visiting any DCA location or prior to attending any in-person Board meeting.

Ms. Holmes stated remote meetings are allowed until January 30, 2022, after which meetings must be in person or teleconference in accordance with the Open Meetings Act where board member locations must be noticed. She stated DCA encourages remote meetings to continue in accordance with the law to protect the health of Board members, staff, and the public.

**b. Board Members:**

Ms. Holmes reported the Board is currently full, but several members have served two full terms and will be in their one-year grace period beginning in January 2022. She stated that the appointment process takes time, so it is not too early to submit applications for appointment. Ms. Holmes announced that if anyone is interested in an appointment to the Board to refer to the “Board Member Resources Page” link located on DCA’s and the Board’s home pages.

**c. Scam Alert:**

DCA has been made aware of various scams affecting DCA boards and bureaus. DCA asks individuals to refer to the “Fraud Alert” link located on DCA’s and the Board’s home pages.

**d. Board Member Trainings:**

Ms. Holmes reported that 2021 is a mandatory sexual harassment prevention training year, and that all employees and Board members are required to complete this training by the end of 2021.

**Member discussion:** None.

**Public comment:** None.

**5. Discussion and Possible Action to Approve the July 17, 2021 Full Board WebEx Teleconference Meeting Minutes.**

**Motion:** Carmen Dones moved to approve the July 17, 2021 Full Board WebEx Teleconference Meeting Minutes.

**Second:** Noel Kelsch.

**Member discussion:** None.

**Public comment:** None.

**Vote: Motion to approve the July 17, 2021 Full Board WebEx Teleconference Meeting Minutes. Passed 6:0:3.**

<b>Name</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain/Absent</b>
<b>Denise Davis</b>			X Absent
<b>Carmen Dones</b>	X		
<b>Susan Good</b>	X		
<b>Noel Kelsch</b>	X		
<b>Timothy Martinez</b>	X		
<b>Nicolette Moultrie</b>			X Absent
<b>Garry Shay</b>			X Abstain
<b>Evangeline Ward</b>	X		
<b>Erin Yee</b>	X		

## 6. Executive Officer's Report (Informational Only).

EO Lum reported the following:

### a. Office Operations:

EO Lum stated the Board implemented a hybrid system where staff continue to telework on a rotational schedule. Staff are in the office at least two days per week for communications, meetings, and to provide office coverage while our public counter is open.

EO Lum reported that staff are complying with the Governor's mandate that all state employees be vaccinated or tested weekly to be in the office. He stated DCA, along with the California Department of Human Resources and California Department of Public Health (CDPH), have worked to implement safe COVID-19 testing procedures for state employees. EO Lum stated DCA and CDPH are also allowing vaccinated staff to be tested, if needed, to ensure a negative result so they can be in the office or to simply check on their health status. The testing is completed weekly at the DCA headquarters building every Thursday, from 8:00 a.m. until 12:00 p.m. He stated next week, due to the holiday, testing will be done on Wednesday.

### b. Approved Waivers:

EO Lum reported pursuant to the Governor's Executive Order N-39-20, during the State of Emergency, the DCA Director may waive any statutory or regulatory renewal requirements pertaining to individuals licensed pursuant to Division 2 of the Business and Professions Code. However, he stated that it is DCA's intent is to wind down from the use of waivers that deferred requirements and return to normal.

### 1. Continuing Education (CE) Waivers:

EO Lum stated any licensee who has a CE deficiency to renew their license at the time of expiration, they have 6 months from the effective date of the currently approved waiver (DCA 21-194) to complete the deficient CE hours unless the waiver is amended and extended. He stated the latest approved waiver was signed on September 28, 2021, which provided extension of the CE waiver to those licensees whose licenses expired at the end of October 2021. He stated this moves the deadline for licensees affected by the pandemic to complete any deficient CE hours for the last license renewal to March 31, 2022, which is six months from the signed date of the waiver. Furthermore, these make up CE hours are in addition to what is required for the next license renewal, since it's backfilling a deficiency and cannot be credited twice.

EO Lum reported the Board received numerous questions and statements that licensees thought the license renewals were waived completely during the pandemic. EO Lum stated that the statement was incorrect, the Board never stated this, as the only aspect of a license renewal that was approved by waiver was to delay the completion of the required CE hours for license renewal. He reminded licensees that the approved CE waiver is for the CE requirement only if the licensee has a deficiency at the time of the last renewal during the pandemic and those hours must be made up. He reiterated the waiver isn't used to bypass the license renewal, extend the expiration date of the license, or skip any required payment of the License Renewal Fees.

### 2. Wet Laboratories for Prerequisite Biomedical Science Courses:

EO Lum reported with the administration waning from the approved waivers, the currently approved Wet Laboratory waiver (DCA 21-186) will end permanently as of December 31, 2021. He stated in review of this section of law and obtaining DCA Legal's opinion, staff found that the law requires a wet laboratory component; however, the law does not state the methodology required to complete it. He stated in the future, if there is another pandemic or other state of emergency situation where campuses are forced to close, completing the wet lab component at home using kits with online faculty instruction is acceptable for entry into the dental hygiene educational program, so long as the institution accepts the labs for credit.

### 3. Waiver Authorizing Dental Hygienists to Administer Vaccines:

EO Lum reported waiver number DCA 21-113 authorized dental hygienists to administer the COVID-19 vaccines under the direct supervision of a dentist or licensed physician and surgeon after complying with certain conditions. The waiver lists the conditions that must be met to administer the vaccines. He stated unless there is a huge surge in COVID-19 cases back to mid-pandemic levels, He believes there probably won't be a need for dental hygienists to administer the vaccines once the state of emergency has ended.

EO Lum reported during the pandemic, staff has continually reviewed the Board's laws and regulations to find sections that possibly need revision due to a state of emergency and staff are working on those to be presented to the Board at a future meeting.

EO Lum stated all the currently approved waivers and pandemic information can be reviewed through a link on the Board's website at [www.dhbc.ca.gov](http://www.dhbc.ca.gov) or the CDPH's website at [www.cdph.ca.gov](http://www.cdph.ca.gov).

c. **Personnel:**

EO Lum reported that he continues to pursue hiring staff and currently the Board has two vacancies. He stated staff will be working with DCA's Office of Human Resources through the hiring process to fill these positions.

EO Lum stated the Board will see a drastic change in our Board member make up over the next year, as five (5) members are being termed out but will serve their grace year until a new member is appointed. He stated the five members that will be leaving the Board are: Dr. Timothy Martinez, current President and public health dentist who has served the Board since August 2012; Nicolette Moultrie, current Vice President and a past President who is one of the Board's RDH licensee members and has served since April 2012; Susan Good, a public member and past President who has served the Board since April 2013; Garry Shay, current Secretary and public member who has served since April 2013; and Evangeline Ward, an RDH licensee member who has served the Board since February 2012.

EO Lum stated these five members have served the Board with integrity and professionalism to help protect the consumer. With so many long-term members leaving, a lot of institutional knowledge will be lost, but more importantly, the relationships that were made will be missed.

d. **Budget:**

EO Lum presented the latest Budget Expenditure and Revenue Reports which shows the Board's monetary situation through fiscal month 2. He stated there are more expenses incurred since it's past fiscal month 4, but that report hasn't been released as of yet. He stated FI\$CAL is gradually improving to get real time budget reports to programs.

1. **Revenue Report:**

EO Lum stated the Revenue Report shows the amount of revenue received broken out by the individual fees we charge through fiscal month 2. He stated this amount will fluctuate throughout the year depending on the number of license renewals and applications we receive in each given month.

2. **Expenditure Projection Report**

EO Lum provided the Expenditure Projection Report and clarified the Board's forecasted expenses for the year.

### 3. Fund Condition Report:

EO Lum stated the Fund Condition Report shows how much the Board has in its “savings account” by fiscal year. He stated due to the amount of revenue projected to be received and expected expenditures, by the end of fiscal year 2023-24, the Board will only have a 1.0-month reserve for any unexpected expenses. EO Lum reported the Board’s reserve is low and should optimally maintain a 4-6-month reserve at a minimum. EO Lum reported a structural imbalance has now occurred because the overall fund is decreasing due to increased costs of program operations, as well as due to a lack of a substantial fee increases to raise revenue. He stated with the fee increases that were approved at the July 17, 2021 Board meeting, the additional revenue will help to alleviate the structural imbalance to maintain fund solvency.

#### e. Administration:

EO Lum reported on his activities: attending several Executive level meetings with the department; met with an educational program’s administrative staff and participated in the site visit to their dental hygiene program; participated in the Dental Board’s August and November 2021 meetings; reviewed draft regulatory language; and finished many reports, budget schedules, risk assessment, and legislative impact reports for the department, agency, and Department of Finance, all while continuing to oversee board operations.

Additionally, EO Lum reported the Board began to gather information and statistics for the 2022 Sunset Report, however, the Legislature and Governor’s Office extended the Board’s Sunset date to January 1, 2024 through Senate Bill 607. He stated staff will continue to gather data and information so the draft report will be ready for the Board’s review next year.

#### f. 2022 Board Meeting Schedule

EO Lum informed the Board of its 2022 meeting schedule and the previously agreed upon 2022 dates for the meetings are:

Saturday, March 19, 2022, Saturday, July 23, 2022, and Saturday, November 19, 2022. He stated the meetings may change to two-day meetings, depending upon the amount of business to be conducted. The locations and whether they’ll be in-person are still to be determined.

**Member discussion:** Discussion took place regarding the cost of in-person Board meetings versus the live, WebEx teleconferences. Additionally, discussion took place regarding mass electronic mail (email) notifications to the licensee population regarding CE information.

**Public comment:** None.

## 7. Report from the Dental Board of California (DBC) by DBC Representative on DBC Activities (Informational Only).

DBC President Joanne Pacheco updated the Board on DBC activities and reported:

### a. Board Members:

The DBC acknowledged outgoing board members Ms. Fran Burton and Dr. Thomas Stewart who completed their grace period. They were recognized for their expertise and outstanding service to the board. Ms. Pacheco was recognized for her service as DBC President this past year.

The DBC has a Public Member vacancy and asked the Board if they know anyone who may be interested, please direct them to the Governor's website.

### b. DBC Executive Officer:

The DBC EO, Karen Fischer, announced her retirement. Ms. Fischer served as DBC EO for 9 years, however worked closely with the DBC for 13 years. She stated Ms. Fischer will be greatly missed by the DBC and her superior service was recognized by DBC Board members.

Ms. Pacheco stated the Board selected two previous DBC Presidents to serve on the EO selection committee. She stated an interim executive officer was appointed and an announcement regarding who was appointed will be made after approval from DCA.

### c. Strategic Planning:

The DBC met on October 15, 2021, via a publicly noticed WebEx meeting to engage in a strategic planning session. The meeting was facilitated by representatives from the Department of Consumer Affairs, Planning Solutions Unit (SOLID). The strategic plan contains four goals 1) Licensing and Examinations; 2) Consumer Protection and Enforcement; 3) Communication and Customer Service; and 4) Administrative Services. The Board developed objectives for four goal areas. The 2022-2024 Strategic Plan was approved by the DBC.

### d. Dental Assisting Council:

The DBC received two resignations from the Dental Assisting Council members since the August meeting. A recruitment notice for these two vacancies will be posted on the DBC's website and stated interviews for these positions will be conducted early next year.

### e. RDAEF Licensure Requirements:

Senate Bill 607 was signed by Governor Newsome on September 28, 2021 and will become effective on January 1, 2022. The bill removes the clinical and/or practical examination requirements to become a California Registered Dental Assistant in Extended Functions (RDAEF). Based on findings of the occupational analysis, the Office of Professional Examination Services (OPES) developed an examination outline that is structured into four content areas weighted relative to other content areas. The



four content areas are: 1) Preliminary Patient Evaluations; 2) Treatment Procedures; 3) Health and Safety; and 4) Laws and Regulations. The new outline identifies the tasks and knowledge critical to safe and competent RDAEF practice in California at the time of license issuance. Effective January 1, 2022, Applicants for RDAEF licensure will be required to take the new RDAEF examination.

f. **Dental Assisting Council:**

The Dental Assisting Council members elected a Chair and Vice-Chair to serve in 2022, Jeri Fowler, RDAEF, OA, will serve as Chair and Traci Reed-Espinoza, RDAEF as Vice-Chair.

g. **Legislation:**

The Board adopted the draft report to the California State Legislature regarding findings relevant to inform Dental Anesthesia and Sedation Standards as required by Senate Bill 501. The report will be submitted to the Legislature before the January 1, 2022, deadline.

Ms. Pacheco stated that new Prescribing Laws take effect January 1, 2022, as Assembly Bill 2789 requires all prescriptions issued by a licensed health care practitioner to a California pharmacy be submitted electronically.

h. **Licensing Examinations:**

Representatives from the DCA Office of Professional Examination Services (OPES) provided a presentation regarding the use of dentist licensing examinations available for consideration by the DBC. The DBC was asked to prioritize the order in which examination evaluations should be conducted by OPES. The DBC chose the Dental Licensure Objective Structured Clinical Examination (DLOSCE) developed by the Joint Commission on National Dental Testing Examinations (JCNDE) and the Department of Testing Services (DTS) of the American Dental Association to be evaluated.

i. **Election of Officers:**

Election of Officers for the 2022 calendar year took place and are the following: Dr. Alan Felsenfeld, President; Dr. James Yu, Vice-President; and Dr. Sonia Molina, Secretary.

**Member discussion:** Congratulations was given to Ms. Fischer on her retirement and acknowledged her years of dedicated service. The Board hopes to continue the same collaborative relationship with the new DBC leadership.

**Public comment:** Susan McLearn, representing the California Dental Hygienists' Association (CDHA), thanked Ms. Pacheco for her service on the DBC, especially in the role of President, and stated she is proud that Ms. Pacheco is a dental hygienist and commended her for professional conduction of the DBC meetings.

## 8. Update to the Full Board from the Alternative Pathways to Licensure Taskforce.

Dr. Carmen Dones, Educator Member, reviewed the purpose of the taskforce and reviewed the results of their findings as reported at the July 17, 2021 Full Board WebEx Teleconference.

Dr. Dones reported research shows clinical licensing exams are a means to satisfy a licensing board's responsibility to protect the public, and satisfies a licensing board's obligation to ensure safety, welfare, and protection of the public. However, a significant finding is the Dental Hygiene clinical exam is one of only two required live, patient-based clinical licensing exams, and the other is audiology, which is a noninvasive exam.

Dr. Dones stated that within the allied health professions, registered dental assistants and registered dental assistants in extended functions no longer require a clinical examination for licensure. Additionally, according to the DBC regulation 16 CCR section 1032, a dental license applicant may choose to be licensed through portfolio submission. She reported most healthcare professions have moved away from live, patient-based clinical licensing exams due to the potential of preventable harm to patients and lack of exam validity, exam standardization, safety, and ethical concerns. She continued that the high pass rates of candidates indicated the students are well prepared for practice. Additionally, a study of program directors found they agreed if a candidate graduated from a CODA-approved school and passed the National Dental Hygiene Board Exam would ensure a graduate has achieved clinical competence and readiness to provide comprehensive, patient-centered care as a licensed RDH. She stated the exams are a one-time, high stake assessment influenced by inter-examiner differences in evaluation, variability with non-standardized client use in assessment, failure to fail, and the impact of stress on performance outcomes.

Dr. Dones stated according to the report by OPES provided to the Board in February 2021, the dental hygiene patient-based examinations generally measure the skills related to California dental hygiene practice. However, practical exams typically face issues with standardized procedures and materials, interrater reliability, validating scoring criteria, and setting passing scores which reflect minimum competence, which are additionally exacerbated by the use of live patients. She stated the OPES report deduced the following: an evaluation to determine whether skills-based exam remains necessary to assess competence; requiring a knowledge-based exam may be sufficient to assess minimum competence for licensure, meaning the manikin exams may not be necessary; and high clinical exam pass rates may indicate adequate training in education programs to prepare them for demonstrating minimal competence for practice. She stated significant findings were: the lack of professions requiring live, patient-based examinations; the ethical concerns and violation of live, patient-based examinations; and consensus of dental hygiene program directors that programs appropriately train students for clinical practice and alignment with the OPES report.

**Member discussion:** Noel Kelsch requested the agenda item be included in future Board meetings and be included in the Board's Strategic Plan.

**Public comment:** None.

## **9. Discussion and Possible Action on Proposal to Change and Upgrade the Executive Officer's Exempt Level Status and Salary.**

Assistant Executive Officer (AEO) Elizabeth Elias provided a request to upgrade the Executive Officer's exempt level status equivalent to a Staff Services Manager III for professional and programmatic growth and associated salary range (Range: \$8,724 – \$9,717) commensurate of the current EO oversight responsibilities through a departmental (DCA) Exempt Position Request (EPR).

AEO Elias stated in fiscal year 2009/10, the Dental Hygiene Committee (now Board) started its operations of consumer protection. The EO position was established at an exempt level and salary scale appropriate at the time to oversee the entirety of committee operations. Since that time, there has not been a change or upgrade in the EO exempt level to allow for professional and program growth. However, over the last decade, there has been significant organizational growth, programmatic changes and added staff responsibilities assigned to the EO since the Board's inception. The additional programs, in conjunction with the expansion of existing programs and additional staff to operate them, created a greater and more complex management workload added to the EO's responsibilities.

**Motion:** Carmen Dones moved for the Board to approve the moderate request to upgrade the Executive Officer's exempt level status equivalent to a Staff Services Manager III for professional and programmatic growth and associated salary range (Range: \$8,724 – \$9,717) commensurate of the current EO oversight responsibilities through a DCA Exempt Position Request (EPR) and then forward the request to the Business, Consumer Services and Housing Agency, Honorable Governor Newsom's Office, and the California Department of Human Resources for approval.

**Second:** Susan Good.

**Member discussion:** Discussion took place regarding the request to elevate and change the Board's Executive Officer's Exempt Level and Salary. Member Kelsch commended EO Lum for his exemplary dedication and service to the Board.

**Public comment:** None

**Vote:** Motion for the Board to approve the request to upgrade the Executive Officer's exempt level status equivalent to a Staff Services Manager III for professional and programmatic growth and associated salary range (Range: \$8,724 – \$9,717) commensurate of the current EO oversight responsibilities through a DCA Exempt Position Request (EPR) and then forward the request to the Business, Consumer Services and Housing Agency, Honorable Governor Newsom's Office, and the California Department of Human Resources for approval. Passed 7:0:2.

Name	Aye	Nay	Abstain/Absent
Denise Davis			X Absent
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie			X Absent
Garry Shay	X		
Evangeline Ward	X		
Erin Yee	X		

**10. Discussion and Possible Action on Board Member Statuses and New Board Officers for 2022.**

EO Lum requested nominations for new Board Officers for 2022.

**Motion:** Carmen Dones moved for the Board to approve the following Board Officers for 2022.

Office	Nominee	Moved by
President	Carmen Dones	Noel Kelsch
Vice President	Noel Kelsch	Timothy Martinez
Secretary	Denise Davis	Evangeline Ward

**Member discussion:** Discussion took place regarding nominations of 2022 Board Officers.

**Public comment:** None

**Vote: Motion for the Board to approve the following Board Officers for 2022. Passed 7:0:2.**

Name	Aye	Nay	Abstain/Absent
Denise Davis			X Absent
Carmen Dones	X		
Susan Good	X		

Name	Aye	Nay	Abstain/Absent
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie			X Absent
Garry Shay	X		
Evangeline Ward	X		
Erin Yee	X		

**11. Regulatory Update: Status of Dental Hygiene Board of California Regulatory Packages (Informational Only).**

Dr. Adina Petty reported the current status as to DHBC proposed regulatory packages in process for the Board. Additionally, she provided an overview of the regulatory process.

**Member discussion:** None.

**Public comment:** None.

**12. Discussion and Possible Action to Amend Title 16, California Code of Regulations (CCR) Section 1104.3: Reviews, Site Visits, Citation and Fine, and Probationary Status for Dental Hygiene Educational Programs.**

Dr. Adina Petty stated at the August 29, 2020 WebEx Teleconference Board meeting, the Board approved the proposed regulatory language to implement the mandates in Business and Professions Code (BPC) section 1941.5. However, during the rulemaking process, substantive changes were made to the Board-approved draft regulatory language for California Code of Regulations (CCR), Title 16, section 1104.3 to include specific factors to contest citations and regarding compliance with citations or orders of abatement. Therefore, in response to recommendations from the Board’s regulatory legal counsel, she stated Board staff developed amended draft regulatory language for 16 CCR section 1104.3 to implement the provisions of BPC section 1941.5.

**Motion:** Carmen Dones moved for the Board to direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing if necessary, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1104.3 as noticed.

**Second:** Evangeline Ward.

**Member discussion:** Discussion took place regarding the process for placing a dental hygiene educational program (DHEP) on probation.

**Public comment:** None.

**Vote:** Motion for the Board to direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing if necessary, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1104.3 as noticed. Passed 7:0:2.

Name	Aye	Nay	Abstain/Absent
Denise Davis			X Absent
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie			X Absent
Garry Shay	X		
Evangeline Ward	X		
Erin Yee	X		

**13. Consideration of and Possible Action on Comments Received and Educational Issues regarding Proposed Regulations to Adopt Title 16, CCR Section 1105: Requirements for RDH Educational Programs.**

Dr. Adina Petty stated at the Board’s November 23, 2019 meeting, this proposal was presented to the Board for its review and approval. She stated the Board approved the proposed language and delegated authority to the Board’s executive officer to make any technical, non-substantive changes, if necessary.

Dr. Petty reported in response to challenges experienced by DHEPs encountered during COVID-19, the Board approved substantive changes to the draft regulatory language for Title 16, section 1105 of the CCR at the Board’s August 29, 2020 Full Board WebEx Teleconference. Additionally, the Board directed staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public

comment, setting the proposed language for a public hearing if necessary, and authorized the Executive Officer to make any non-substantive changes to the rulemaking package.

Dr. Petty stated during the 45-day comment period, the Board received public comment on the Board's proposed regulations regarding requirements for DHEPs. She stated staff prepared a summary of the comments and proposed responses thereto for the Board's approval.

**Motion:** Susan Good moved for the Board to direct staff to take all steps necessary to complete the rulemaking process, including authorizing the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1105 as noticed.

**Second:** Noel Kelsch.

**Member discussion:** None.

**Public comment:** Tonette Steeb, Diablo Valley College DHEP Director, commented she was unsure if the language of online and in-person instruction would cause confusion and if those courses would only be accepted if there was a pandemic.

**Vote: Motion for the Board to direct staff to take all steps necessary to complete the rulemaking process, including authorizing the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1105 as noticed. Passed 7:0:2.**

Name	Aye	Nay	Abstain/Absent
Denise Davis			X Absent
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie			X Absent
Garry Shay	X		
Evangeline Ward	X		
Erin Yee	X		

#### **14. Discussion and Possible Action to Amend Title 16, CCR Section 1105.2: Required Curriculum.**

Dr. Adina Petty stated at the Board's May 29, 2020 Full Board WebEx Teleconference meeting, the regulatory proposal was presented to the Board for its review and approval to amendments to language regarding "Required Curriculum" for dental hygiene educational programs. The Board approved the proposed language and associated forms and delegated authority to the Board's executive officer to make any technical, non-substantive changes, if necessary.

Dr. Petty stated after consultation with Board counsel, further amendments were made to the proposed language and associated forms to provide additional clarity.

**Motion:** Evangeline Ward moved for the Board to approve the proposed regulatory text and associated forms for section 1105.2, direct staff to take all steps necessary to continue the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the matter for a public hearing, if requested, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, if held, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1105.2.

**Second:** Susan Good.

**Member discussion:** None.

**Public comment:** Dr. Vickie Kimbrough, Purple Pen Seminars, expressed concern as to how the Board will address oversight of out-of-state courses in soft tissue curettage, local anesthesia, and nitrous oxide-oxygen analgesia (SLN), as current California SLN providers are subject to Board site visits and oversight, whereas out-of-state providers are not subject to inspections. Dr. Kimbrough expressed concern for a precedence of two sets of standards for oversight.

**Vote: Motion for the Board to approve the proposed regulatory text and associated forms for section 1105.2, direct staff to take all steps necessary to continue the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the matter for a public hearing, if requested, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, if held, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1105.2. Passed 7:0:2.**



Name	Aye	Nay	Abstain/Absent
Denise Davis			X Absent
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie			X Absent
Garry Shay	X		
Evangeline Ward	X		
Erin Yee	X		

**15. Consideration of and Possible Action on Comments Received regarding Proposed Regulations to Adopt Title 16, CCR Section 1115: Retired Licensure.**

Dr. Adina Petty stated at the November 20, 2020 Full Board WebEx Teleconference, the Board approved proposed language relative to the implementation of retired licensure for RDHs, RDHAPs, and RDHEFs, and directed staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing if necessary, and authorized the Executive Officer to make any non-substantive changes to the rulemaking package. During the 45-day comment period, the Board received public comments on the Board’s proposed regulations regarding retired licensure. Staff has prepared the following summary of the comments and proposed responses thereto for the Board’s approval.

Additionally, Dr. Petty requested for Board to consider and approve the proposed modified text and direct staff to take all steps necessary to complete the rulemaking process.

**Motion:** Tabled

**Second:** Tabled

**Member discussion:** Discussion took place regarding the modified text and requested staff to amend the language due to public safety concerns in what retired licensees could provide in the way of accepted procedures while retired and bring back to the Board for consideration at the next Board meeting.

**Public comment:** Lisa Kamibayashi stated pit and fissure sealants are technique sensitive and if the sealants are not occluded correctly, it may affect people’s occlusion. She stated pit and fissure sealants should be excluded from allowed retired license duties.

Susan McLearn, CDHA, stated she appreciated the Board's concern for public safety but CDHA disagrees with the comments regarding public safety. She stated should an event occur, pit and fissure material used would be chosen by the event coordinators and provide instructions to those clinicians using the product. Ms. McLearn stated the clinician has been trained with regard to proper occlusion, which does not change. She does not see where retired licensees providing pit and fissure sealants would be a public safety concern and would place an unnecessary barrier to access to care. Ms. McLearn strongly suggested for the Board to allow this service to be provided by retired licensees.

JoAnn Galliano, speaking as a practicing hygienist for over 36 years and nearing retirement, stated she does not see putting barriers up for a retired licensee providing screenings is in the best interest of the public. She stated just because a licensee is retired does not mean that the retiree is not keeping abreast of current dental hygiene information. She stated that screenings are looking for abnormalities, and after practicing for 36 years does not feel she would no longer be able to recognize those abnormalities simply due to retirement. She stated all screenings provide referrals for those individuals for further, more in-depth evaluation to diagnose the specific abnormalities. She stated screenings provide a valuable service to increase access to care.

#### **16. Discussion and Possible Action on 2022 Senate Committee on Business, Professions and Economic Development Omnibus Bill Recommendations.**

EO Lum reported each year the Senate Committee on Business, Professions, and Economic Development sponsors an Omnibus Bill to address any non-substantive changes in existing statute to help clarify, define, or correct the information that's in the language. Committee staff has contacted us for any Omnibus Bill recommendations to be submitted to them by the mid-January deadline for inclusion in the bill.

EO Lum requested acceptance of the Board's non-substantive statutory changes for the Omnibus Bill and delegate authority to the Executive Officer to recommend any non-substantive changes in existing statute to be forwarded to the Committee for review. One example is the name change for the Office of Statewide Health Planning and Development (OSHPD) to Department of Healthcare Access and Information (HCAI) in the Board's statutory language.

**Motion:** Susan Good moved to for the Board to accept the Board's non-substantive statutory changes for the Omnibus Bill and delegate authority to the Executive Officer to recommend any non-substantive changes in existing statute to be forwarded to the Committee for review.

**Second:** Carmen Dones

**Member discussion:** None.

**Public comment:** None.

**Vote: Motion for the Board to accept the Board’s non-substantive statutory changes for the Omnibus Bill and delegate authority to the Executive Officer to recommend any non-substantive changes in existing statute to be forwarded to the Committee for review. Passed 7:0:2.**

<b>Name</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain/Absent</b>
<b>Denise Davis</b>			X Absent
<b>Carmen Dones</b>	X		
<b>Susan Good</b>	X		
<b>Noel Kelsch</b>	X		
<b>Timothy Martinez</b>	X		
<b>Nicolette Moultrie</b>			X Absent
<b>Garry Shay</b>	X		
<b>Evangeline Ward</b>	X		
<b>Erin Yee</b>	X		

**17. Update on Legislation of Concern to the Board (Informational Only).**

Dr. Adina Petty reported the updated status on proposed legislation of concern for the Board. Additionally, she provided an overall schedule for the legislative process.

**Member discussion:** None.

**Public comment:** None

**18. Dental Hygiene Educational Program Site Visit Update and Schedule (Informational Only).**

Dr. Adina Petty reported the current status of Dental Hygiene Educational Program (DHEP) compliance at Cypress College, Concorde Career College-San Diego, Chabot College, San Joaquin Valley College-Ontario, Santa Rosa Junior College, Southwestern College, Fresno City College, and Oxnard College. Additionally, she updated the Board on the current Site Visit schedule for upcoming program reviews.

**Member discussion:** None.

**Public comment:** None.

## 19. Enforcement Update: Statistical Report (Informational Only).

AEO Elizabeth Elias reported due to staffing changes since the last Board meeting, enforcement staff were temporarily given additional assignments from the Enforcement Analyst desk to keep the enforcement workload moving until new staff can be hired. She thanked the enforcement staff for their dedication to the Board and willingness to take on additional duties.

AEO Elias reported in Fiscal Year (FY) 2021-2022 the following occurred:

- The Board averaged opening 9 consumer complaints and 4 subsequent arrests/convictions complaints per month.
  - The Board averaged 18 Board initiated complaints. Board initiated complaints are typically opened due to address/name change violations, failed CE audits and licensees found to be working with a delinquent/expired license.
  - Desk investigations averaged 37 closures. There are 2 cases over two years old.
  - The Board's Special Investigator closed a total of 21 field investigation cases. Field investigation cases pending older than 1.5 years decreased from 10 cases to 2 cases, a decrease of 80%. There is one case over two years old.
  - The Board issued 46 citations and ordered \$30,300.00 in fines.
  - The Board's Probation Monitor addressed 9 probation violations, three of which were due to positive drug screens for a banned substance.
- Enforcement continues to work on several major projects, including disciplinary guidelines, updates to the BreEZe licensing/enforcement database and development of content for an enforcement section to be added to the Board's website.

**Member discussion:** Discussion took place regarding the statistics applicable to the growth of consumer complaints.

**Public comment:** None.

## 20. Licensing, Continuing Education Audits and Examination Update: Statistical Reports (Informational Only).

AEO Elizabeth Elias reported on current written law and ethics examination statistics from February 11, 2021 through October 18, 2021. Additionally, she provided overall DHBC Licensure Statistics as of October 19, 2021.

AEO Elias reported the Board continues to conduct continuing education (CE) audits to verify licensee's completion of the CE requirements for license renewal with the goal of consumer protection. The Board established its CE desk in August of 2020. She reported the Board completed 495 audits in FY 2020-21.

AEO Elias reported at present, the Board is on track to surpass the number of audits completed in FY 2020-21. In the new fiscal year, the Board has initiated 299 CE audits. The Board continues to see similar trends in the pass and fail rate. The majority of failed CE

audits are due to licensees not providing the Board adequate CE documentation to demonstrate they have fulfilled the renewal requirements. She stated frequently, licensees have expressed life circumstances, lost records, and destroyed records as reasons for the failed audit, but those licensees are also unable to provide proof of having completed mandatory CEs. She presented the CE data identifying the pass and fail rates of FY 2020-21 and 2021-22 in the meeting materials.

AEO Elias reported the Board's Enforcement Unit has begun to address the failed CE audits. Licensees who have failed the CE audit will be issued a citation and fine with an order of abatement to correct the CE deficiency. She stated in some egregious cases, a licensee may be subject to disciplinary action which can include but is not limited to revocation of licensure.

AEP Elias stated the Board would like to remind licensees that they are required to fulfill all the CE requirements for license renewal, to be organized in the maintaining of CE records for three license renewal periods before purging their records, and to verify approval of CE providers prior to registering for CE courses to ensure the coursework will be credited in case of an audit.

**Member discussion:** Discussion took place regarding CE audit statistics and Law and Ethics examination statistics.

**Public comment:** None.

## **21. Future Agenda Items.**

1. Email communication regarding CE requirements (Noel Kelsch).
2. Statistics applicable to the growth and trends of consumer complaints (Evangeline Ward).
3. Alternative Pathways to Licensure Taskforce agenda item be included in future Board meetings and be included in the Strategic Report (Noel Kelsch).

## **22. Closed Session**

A closed session was held for this meeting to address the executive officer's annual evaluation and an enforcement case.

## **23. Adjournment**

Meeting was adjourned at **3:58 p.m.**