

Summary of the Meeting of the Dental Bureau Advisory Committee

August 28, 2008

Prepared for the California Society of Pediatric Dentistry

The Dental Bureau of California Advisory Committee met August 28, 2008, in Sacramento. The following summarizes actions and issues coming before the Advisory Committee pertinent to pediatric oral health

Dental Bureau Advisory Committee

With the Governor's veto last year of SB 534, which would have created a new Dental Hygiene Committee of California, the sunset date of the Dental Board was not extended and the Board ceased to exist July 1, 2008. Subsequent legislation signed by the Governor in June will establish a new Dental Board of California effective January 1, 2009. In the meantime the licensing and disciplinary functions of the Board have been assumed by a bureau of the Department of Consumer Affairs. The Director of the Department, Carrie Lopez, is empowered to make all decisions regarding the Bureau's operations, including regulatory development. She is assisted in these efforts, insofar as she chooses to accept its recommendations, by a Dental Bureau Advisory Committee, which she appoints. In the interest of continuity, Ms. Lopez has chosen to appoint the professional and public members of the "old board" to the Advisory Committee, which met August 28.

Comment: Six of the eight dentist members, the dental hygiene member, and two of the four public members accepted this appointment. One additional public member has since resigned. When a new board is convened next year, the Governor will have the option filling the eight dentist positions, one hygienist position, one registered dental assistant position, and two for the four public member positions with those members previously serving or new appointments. The two other public member positions are appointed one each by the Speaker of the Assembly and the Senate Rules Committee.

Implementation of AB 269 (2007)

AB 269, signed by the Governor last year, requires dentists and licensed dental auxiliaries at the time of initial licensure or renewal beginning January 1, 2009, to report to the Dental Board information regarding ADA-recognized specialty training, practice status and practice location. It authorizes the Board to post this individual identifier information on its website. In addition, it authorizes the Board to request, but not require, that the dentist and licensed auxiliaries report information on their ethnic background and foreign language proficiencies and requires this aggregate information be compiled and posted on the Dental Board of California website annually.

The Bureau's Executive Officer reported that a draft survey has been developed and licensees will receive written notice from the Bureau late this year advising them of this new licensure renewal obligation.

Comment: Although the draft was not circulated at the meeting, I subsequently obtained a copy from the Bureau. It is, in my opinion, poorly crafted and will need considerable revision. In addition, the law requires that the survey instrument be "tested" on dental students prior to adoption, an odd cohort for the intended audience. I will have opportunity to raise these points with the Advisory Committee prior to their November 20-21 meeting in Los Angeles where adoption of the survey instrument should be on the agenda, but I would not be surprised to see "clean up legislation" early next year extending the implementation date.

Dental Bureau Budget

The state budget analyst reported that for the last fiscal year (July 1, 2007 – June 30, 2008) the Dental Bureau "reverted" approximately \$1.8 million (close to 20% of its budget) of unspent revenue back into the Bureau's reserve fund.

Comment: The reversion occurred because of enforcement position vacancies and a decrease in various expenditures. Beginning July 1, 2009, income and expenses related to licensing and regulation of dental hygienists will be assumed by the Dental Hygiene Committee of California and income and expenses related to licensing and regulation of all dental assistant categories previously assumed by COMDA will transfer to the Dental Board.

Disciplinary Guidelines Revisions

The current disciplinary guidelines used by the Board's Enforcement Division were last revised in 1996. Revisions to the Guidelines by a subcommittee of the Board's Enforcement Committee were initiated last year and a first draft submitted to the Bureau's Advisory Committee at this meeting. The Committee reviewed the 64-page document, before directing staff to incorporate numerous changes in a draft to be set for public hearing.

Comment: Disciplinary guidelines are used by the Board and by administrative law judges acting on behalf of the Board in reaching a decision on the appropriate sanctions when a licensee is found guilty or agrees to submit a plea of guilty/no contest to a violation or violations of the California Dental Practice Act. The sanctions are essentially revocation of the license or revocation of the license with a stay of that revocation for a certain period of time (i.e. probation). The Board may also impose certain other restrictions (such as an immediate suspension of the license to correct deficiencies in skills, education or rehabilitation) and conditions (such as supervised or restricted practice, community service, restitution, or successful participation in a diversion program) as a condition of practice. Deviation from the sentencing guidelines and orders, including the terms of probation, is still appropriate where the Board in its sole discretion determines that the facts and mitigating factors (such as age of the case or evidentiary problems) of a particular case warrant such deviation.

Continuing Education

In January 2006, the Board approved amendments to the Business and Professions Code to add the mandatory reporter obligations of dental professionals to the biannually-required California Dental Practice Act course. In November, 2006, the Board authorized additional changes regarding auditing and enforcement of continuing education requirements and modified the definition of courses qualifying for Class I and Class II credits. At its February 2007 meeting, the Board voted to add drug abuse and dependency issue to Class I credit and to move courses on dependency from Category II to Category I. Language was developed and regulatory hearings were conducted in June. At its August meeting the Board adopted additional modifications to the regulations and in November approved other changes including, at the urging of CSPD, placing all courses related to behavior guidance and anxiety management of the child and adult patient into Category I and directed staff to proceed with rulemaking.

In December 2007, CSPD requested that the Board reconsider the requirement included in the rulemaking file that providers place the licensee's name and license number on the course certificate prior to the distribution of that certificate. At its January 2008 meeting, the Board adopted modified language to accommodate this request and made other changes requested by CDA and Board staff. At its March meeting, after hearing presentations by representatives of the ADA-CERP and the AGD-PACE programs, the Board directed staff to draft for its consideration in May regulations that would recognize courses given by providers approved by CERP or PACE as qualifying for California continuing education credit. In the meantime, the rulemaking file expired before it could be approved by the Office of Administrative Law.

Failure of Board staff to provide draft language concerning recognition of CERP and PACE approved providers and expiration of the rulemaking file led to the development by staff and presentation to the Advisory Committee at this meeting of new draft language encompassing all that had been approved since January 2006, including PACE / CERP recognition and elimination of formal Category I or II subject matter. Instead, the new regulations simply list subject areas considered to be primarily of benefit to the licensee (rather than direct patient care), which are limited to no more than 20% of a licensee's total required course unit credits or each license or permit renewal period. These courses include:

- (A) Courses to improve recall and scheduling systems, production flow, communication systems and data management
- (B) Courses in organization and management of the dental practice, including office computerization and design, ergonomics, and the improvement of practice administration and office operations
- (C) Courses in leadership development and team development
- (D) Coursework in teaching methodology and curricula development
- (E) Coursework in peer evaluation and case studies that include reviewing clinical evaluation procedures, reviewing diagnostic methods, studying radiographic data, study models and treatment planning procedures.

The Advisory Committee directed staff to make slight revisions and notice the revised continuing education regulations for public hearing.

Comment: The proposed elimination of Category I and II course designation is necessary to accommodate CERP and PACE approved providers for California dental licensure continuing education credit. The decision, however, to retain certain course content as eligible for no more than 20% of required hours places a vaguely-defined responsibility on the licensee to determine if the course content falls within this framework.

Respectfully Submitted,

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