Report of the Meeting of the Dental Board of California
November 21-27, 2013

Prepared for the California Society of Pediatric Dentistry

The Dental Board of California met November 21—22, 2013, in Studio City. The following report summarizes actions and issues coming before the Board pertinent to pediatric oral health

DENTAL HYGIENE COMMITTEE OF CALIFORNIA

The Dental Hygiene Committee of the Dental Board of California is undergoing its first "Sunset Review," a process required by the legislature at regular intervals of all boards and bureaus to assess the continuing need for a state agency to exist. This is accomplished by the legislature's acceptance of a strategic plan demonstrating the essentiality of the agency and how it will discharge this responsibility. In its November 1 report to the legislature, the Dental Hygiene Committee of California (DHCC) reported the following:

1. Desire and intent to seek legislation that would recognize the DHCC as an independent board of the Department of Consumer Affairs instead of a committee under the jurisdiction of the Dental Board. The DHCC maintains that it now operates similarly to a licensing board, has the statutory authority to regulate the profession of dental hygiene, and should have a status reflecting its independent programmatic operations.
2. As part of this independence, the DHCC would seek a practice act separate from the Dental Practice Act, to be known as the Dental Hygiene Practice Act.
3. Intent to seek the elimination of certain dental hygiene scope of practice restrictions, including those procedures which the dental hygienist is authorized to perform only under direct dental supervision.
4. Efforts to allow for continued competency testing for dental hygienists as a requirement for license renewal.

As an independent committee, the DHCC is the only self-regulating dental hygiene agency with similar authority in the United States. The DHCC has sole control regarding all aspects of dental hygienist licensing, disciplinary investigation and enforcement, and approval of educational programs leading to licensure.

Comment: *The DHCC maintains that it was the intent of the legislature when the Committee was established in 2008 that it be an independent board, but that the Schwartzenegger administration's opposition to the establishment of any new boards or bureaus (and the threat of the Governor's veto), resulted in the current compromise arrangement. Other observers, including this one, are of the opinion that the bill only went forward with the understanding and assurance that the DBC would retain jurisdiction over the Dental Hygiene Committee. The California legislature sunset review process is a lengthy one, and hearings will begin before the Senate Business and Professions Committee early next year. The issue of evidence of continued competency for license renewal, if adopted, would suggest that dentists be held to the same requirement in the future.*

CAPNOGRAPHY REQUIREMENTS

The American Association of Oral and Maxillofacial Surgeons (AAMOS) in 2012 adopted *Clinical Practice Guidelines for Anesthesia in Outpatient Facilities* (Parameters of Care 5th Ed) which take effect January 1, 2014. These revised guidelines state that the "use of capnography for patients under moderate sedation, deep sedation, and general anesthesia should be instituted in OMS practice …. unless precluded or invalidated by the nature of the patient, procedure, or equipment." To maintain membership in the

AAOMS, Members and Fellows are required to follow AAOMS standards and guidelines such as the Parameters of Care. If not, they may be subject to discipline or suspension of their AAOMS membership.

The Board has, not surprisingly, received inquiries as to whether these requirements will be imposed on oral and maxillofacial surgeons or on all licensees providing sedation or general anesthesia.

Clarification is provided in Section 1043.3 of Title 16 of the California Code of Regulations. Pursuant to subsection 1043.7(a)(7)(K), a capnograph and temperature measuring device are required for intubated patients receiving general anesthesia; this subsection specifically states that a capnograph and temperature measuring device are not required for conscious sedation.

Comment: *Since the California Code of Regulations has not been modified, monitoring requirements for patients undergoing conscious sedation, including oral conscious sedation, will not change in 2014.*

REVISION OF THE DENTAL PRACTICE ACT SECTIONS RELATED TO GENERAL ANESTHESIA AND CONSCIOUS SEDATION

General anesthesia, conscious sedation, and oral conscious sedation for minors and adults may be administered by dentists as regulated by the Dental Board of California. The authorizing statutes for these regulations have not been revised since they were enacted. Advances in the practice of dental anesthesia and sedation, and updated guidelines and definitions, make it necessary for the board to consider updating these statutes. In 2010 a subcommittee of the Board was appointed for the purpose of evaluating and making recommendations for any necessary update of the sedation and anesthesia laws.

In this regard, at the request of Dr. Bruce Whitcher, an oral surgeon and immediate past president of the Dental Board, the California Dental Association assembled a stakeholder workgroup in April to evaluate current statute and regulation and present proposed changes for consideration and possible action by the Board. Dr. David Rothman represented CSPD on the work group. A draft document was distributed to stakeholders in August and a finalized document presented to the Board as an informational item at the November meeting. The matter was referred to the Board's Licensing, Certification and Permits Committee for consideration at the next meeting of the Board in February.

Comment: *The document presented to the Board was reviewed by an Expert Panel (Drs. David Rothman, Richard Udin, and Joseph Renzi) appointed by the Board of CSPD, which recommended organizational approval. The Executive Committee accepted that recommendation and authorized support of the statutory language, which (1) replaced all references to "conscious sedation" with more accurate and contemporary language, (2) did not change the continuing education for renewal of the moderate enteral sedation (oral conscious sedation) certificate, and (3) did not make capnography monitoring mandatory.*

In the meantime, another stakeholder meeting will be convened in January for the purpose of considering regulatory change permissible under current statute. Dr. Rothman will continue to represent CSPD on the stakeholder group. Copies of the proposed statutory language may be obtained from CSPD Public Policy Advocate Paul Reggiardo (Reggiardo@prodigy.net).

CONSUMER NOTICE

As a result of legislation passed in 2011, the Dental Board of California adopted regulations effective November 2012 requiring dentists engaged in the practice of dentistry to provide a notice to patients in a

conspicuous location accessible to public view that contains information that the Board is the entity that regulates dentists and provides a telephone number and Internet address of the Board.

Specifically, the California Code of Regulations, Title 16, Section 1065 requires licensed dentists to post the following notice in at least 48-point type:

NOTICE TO CONSUMERS
Dentists are licensed and regulated
by the Dental Board of California
(877) 729-7789
www.dbc.ca.gov

In March of 2013, the Los Angeles Dental Society requested that the Board consider changing the notice's requirement to state "Notice to Patients" rather than "Notice to Consumers", believing the relationship between a doctor and his or her patient is very different from the relationship between a barber or a contractor and his or her consumer of services. In November the House of Delegates of the California Dental Association approved a resolution supporting this action.

Acting on the request, the Board approved a motion to change "Notice to Consumers" to "Notice". By modifying this language, the Board noted that all individuals, including parents and guardians of minor patients, or those who provide assistance to elderly patients, not themselves in direct receipt of dental services, would be notified that dentists are licensed by the Board and would have access to the Board's contact information.

Comment: *Since the modification makes no change in regulatory effect, it requires only a filing subject to approval by the Office of Administrative Law (OAL). If no objection is raised by the OAL, the change could take effect within 60 days of the filing.*

INCREASE IN DENTAL LICENSING FEES.

As related in previous reports, the Board last year acted to increase initial dental licensing and biannual renewal fee from $365 to $450, effective July 1, 2014, the maximum amount allowable under statute. Other fees were increased as well. The current increase, however, fails to eliminate the Board's future projected deficits. The Board therefore will seek authorization via legislative amendment to increase the maximum fees it may assess in order to sustain a positive fund balance.

The Budget Office of the Department of Consumer Affairs estimates that initial dental license and renewal fees should currently be set at $525 to maintain a balanced budget. Based on both historical and projected inflation rates, the Board is recommending that the statutory fee ceiling should be set at $700.

Comment: *This will require introduction of a legislative initiative, an action that the Board directed staff to begin investigating and to report back at the February meeting on the progress of securing an author for the bill.*

Respectfully submitted,
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Public Policy Advocate, California Society of Pediatric Dentistry.