

Summary of the Meeting of the Dental Board of California

November 14-15, 2006

Prepared for the California Society of Pediatric Dentistry

The Dental Board of California met November 14-15, 2006, in Sacramento. The following summarizes actions and issues coming before the Board pertinent to pediatric oral health

Enforcement Activities

When a dentist holding a California License is found guilty by the Board of violating sections of the Dental Practice Act, the Board may either revoke or suspend the dental license and impose certain remediation as a condition of licensure reinstatement. According to the Deputy Attorney General assigned to the Board, what that remediation entails is determined “on a case by case basis, in conjunction with a consultant from the Dental Board, depending on the allegations.” In this regard, the Board’s Enforcement Committee directed that more consistent remediation guidelines be developed and brought back for the Committee’s consideration.

In other action, the Committee considered a request from the Investigative Section that the Board sponsor legislation that would make certain misdemeanor penal code violations eligible for prosecution as either misdemeanors or felonies (so-called wobblers) depending on the severity of the infraction. The Committee will consider this request at its next meeting in February.

Comment: CSPD supports the establishment of readily-available and more consistent remediation guidelines and will monitor the recommendations of the Enforcement Committee. In regards to the proposal to seek legislation that would make certain current misdemeanor penal code violations eligible for prosecution as felonies, depending on the severity of the offense, CSPD will withhold judgment until specifics are presented to the Committee in February. In general, the types of infractions under consideration are in areas such as practicing dentistry without a license or allowing and abetting the unlicensed practice of dentistry, which continue to occupy a great deal of the Enforcement Program’s efforts. Currently, 128 such cases are under indictment and awaiting prosecution.

Lastly, the Enforcement Committee took note of the ongoing difficulty of the Investigative Section in the recruitment of expert witnesses to provide advice and testimony in cases involving specialty areas of practice. Through cooperative initiatives with CDA, including recruitment efforts at the Spring Scientific Session, the Board has been able to enroll sufficient numbers of general dentists to assist in disciplinary matters involving general practice issues. Recruitment efforts will now be focused on specialty providers.

Comment: CSPD recognizes the value to the public, and the obligation to the profession, in providing knowledgeable and competent specialty advisors to the Investigative Section of the Dental Board of California. In this regard, CSPD will cooperate with the DBC in the recruitment of appropriate experts through announcements in our quarterly Bulletin, and offering, if requested, the Board the opportunity to enlist pediatric dental specialist advisors at our annual session.

Continuing Education Requirements

Last year the Board rejected a proposal to require completion of a stand-alone continuing education course related to the dentist’s obligation under the penal code to identify and report suspected cases of domestic violence as a condition for license renewal. The Board did, however, in January approve language requiring instruction in mandated-reporting as part of the compulsory biannual course on the California Dental Practice Act. In conjunction with this modification, additional “clean-up” changes to the continuing education requirements were considered in April and referred to the Continuing Education Committee for recommendation. Meeting in August, the Continuing Education Committee considered these changes, including modification as to what content qualifies as Category I or Category II credit.

During these deliberations, CSPD brought to the attention of the Committee that although the Dental Practice Act directs that no less than 80% of the required hours of continuing education be in Category I, it is silent on the responsibility of the Board or the course provider to make a determination as to whether a particular course meets

the regulatory definition of either category. The result is that the license holder is held responsible for making a determination as to the category of credit for a particular course --- a decision with which the Board may later disagree in a disciplinary proceeding. After listening to CSPD's argument on the matter, the Committee voted to revise the continuing education regulations so that course providers must assume responsibility for certifying courses as meeting the regulatory definitions of either Category I or Category II credit. The Board subsequently voted to accept the recommendations of the committee, but to delay moving forward until further consideration could be given to the proportion of required Category I to Category II credit.

At the November meeting a staff-developed regulatory language package was presented for the consideration of the Committee, which maintained the current ratio of Category I to Category II required hours and made numerous modifications to the content that would qualify a course under either category. The Committee proposed several additional modifications and directed staff to bring a revised regulatory package back in February 2007.

Comment: The decision to maintain the current 80% minimum Category I continuing education requirement in each biannual licensure renewal period is strongly supported by CSPD. The Society believes that ongoing competency in core areas of clinical practice is the cornerstone of professional continuing education.

Dental Licensure

The path to dental licensure in California, which until recently depended exclusively on passage of the California Dental Licensure Examination, has changed dramatically. California dental licensure is now obtainable through multiple routes of Licensure by Credential (LBC), by passage of the examination of the Western Regional Examination Board (WREB), and, beginning this year, by completion of an additional year of post-graduate dental education (PGY-1). As a result, the number of dentists challenging the California examination has fallen dramatically, placing into question the future viability of the California exam. In recognition, at the recommendation of the Examination Committee, the Board voted to appoint a Task Force charged with evaluating the future of the dental licensure pathway in California.

Comment: Under SB 683 signed by the Governor in September, the Board must begin accepting applications for licensure under PGY-1 January 1, 2007. Before it can process these applications or grant licensure, however, it must adopt a number of regulations under the authorizing legislation. In order to avoid the type of delays that prevented granting of the California license under passage of the WREB examination for over 16 months, the Board voted to file an immediate request with the Office of Administrative Law (OAL) for approval of emergency regulations to implement AB 683 and to extend the current emergency regulations governing the WREB examination until 1/108. The Board will develop and submit for approval of the OAL a final regulatory package during 2007.

Dental Assistant Training and Licensure

Under SB 1541 (Ducheny), passed by the legislature and signed by the Governor in the closing days of the 2006 legislative session, a work experience pathway as an alternative to formal educational training to the various categories of registered dental assisting was maintained in law. Specifically, an applicant must complete 12-18 months work experience, pass the Dental Assisting National Board (DANB) examination, and successfully complete a practical examination. The law also imposes certain requirements on the certifying dentist providing on-the-job training, including completion of a six-hour course in teaching methodology (unless exempt), filing of an application to train a particular employee and payment of a fee, and ensuring that patients treated by a student are verbally informed of the student's status. The law also specifies that candidates qualifying for licensure through formal education are required to pass a DBC-approved written and practical examination.

The overlying legislation that created the new dental assisting categories, now modified by AB 1541, specifies an implementation date of 1/1/08 to begin granting the new licenses. Before this can be done, the Board must develop, through the Committee on Dental Auxiliaries (COMDA), regulations governing the many aspects of the law. Issues to be addressed include:

- Infection control, California law, and CPR training that will be required for unlicensed dental assistants within 120 days of employment.
- Changes to the requirements for RDA licensure. Changes to the functions that Extended Function (EF) licensees will be allowed to perform.
- Coursework that will allow current RDAs to perform the additional RDA duties established under AB 1546 by completing a Board approved course or courses.

- Coursework that will allow current EFs to perform additional EF duties established under AB 1546 by completing a Board approved course or courses.
- Delineation of the “curriculum” or training plan requirements for on-the-job specialty category training.
- Procedures for qualification and approval of dentists who wish to conduct OJT training in the offices or clinic facilities.
- Development and implementation of the written and practical examinations for the RDA specialty licenses.

Educational programs will then have to be developed that meet the Board’s regulations and these programs must subsequently be approved by the Board before they can accept applicants and begin granting licenses. COMDA has stated that regulations can be in place by 1/1/08, but that implementation to develop the courses and enroll students will necessitate additional time.

Comment: In light of this realization, CDA, in conjunction with the Board, will likely introduce “clean-up” legislation in 2007 that will make some amendments to the law and extend the implementation date.

Infection Control Regulations

The Business and Professions Code requires the Board to review, and revise as necessary, Section 1005 (Minimum Standards of Infection Control) annually. The last update became effective April 1, 2005. In January 2006 the Board requested that the Infection Control Subcommittee perform this review, and to report back with any recommendations for modification. In January, and again in April, the California Association of Orthodontists (CAO) requested that the issue of requiring pre-sterilization bagging of critical and semi-critical orthodontic instruments be revisited in this review. Meeting August 3, the subcommittee reported that their review was complete, with no recommendation for change. This was brought back to the Board the next day, August 4. A representative from the CAO protested approval of the subcommittee report, saying members had failed to consider the bagging issue. The Board agreed, and directed that the Infection Control Subcommittee meet again in November to consider the issue raised by the CAO before re-submitting its final report and recommendations.

Meeting in November, the Committee considered and rejected the CAO proposed modification. The Board the next day accepted the Committee’s report and voted to approve the current regulations without revision.

Comment: The Business and Professions Code requires annual review of the Minimum Standards. The issue will likely be revisited in 2007.

Automatic External Defibrillators (AEDs)

The Board in the past has given consideration to requiring Automatic External Defibrillators (AEDs) as necessary emergency equipment in the administration of conscious sedation or general anesthesia in the dental office. As a separate issue, the Board in August 2006 directed staff to investigate and report back in November on the issue of whether AED’s should be required in all dental facilities for the benefits of patients, staff and the public. In November, the Licensure, Certification and Permits Committee voted to table the issue until February 2007.

Comment: Florida reportedly has in place a law supported by the Florida Dental Association requiring AEDs in dental facilities. Existing law (Section 1797.196 of the California Health and Safety Code) places certain training and maintenance requirements (including testing of the devices at no greater than 30-day intervals and involving a physician in the development of a compliance program) on anyone acquiring or installing the devices in a place of public access. Discussion of the merit of requiring the installation of AEDs in dental facilities will need to consider these and other “uniform standards” and liability issues.

Respectfully Submitted,

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