California Dental Hygienists’ Association  

Government Relations Council (GRC) Members: Co-Chairs Lisa Okamoto and Maureen Titus, Susan Lopez, Susan McLearan, Lin Sarfaraz, Vickie Kimbrough Walls, Megan Carr, Brian Pepperill, Legislative Consultant JoAnn Galliano. Ex-officio members: CDHA Executive officers Karine Strickland, Lygia Jolley and Nadine Lavell along with CalHyPAC Chair Carole Ryan. Legislative Advocates: Aaron Read & Associates. For questions or more information, contact GRC Co-Chairs: Lisa Okamoto lisokamoto@aol.com or Maureen Titus naseema6@sbcglobal.net

Goals: Advancing the profession of dental hygiene while improving the oral health of the public and increasing access to care

For a quick and fun tutorial on the legislative process watch this Schoolhouse Rock video. It is just as applicable in Sacramento as in Washington DC. https://search.yahoo.com/search?fr=mcafee&type=B211US679D20140731&p=schoolhouse+rock+I+am+a+bill

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2015 Legislative Session

Happy New Year! The 2015 California Legislative Session has begun.

CDHA is sponsoring legislation to enact the proposed Business and Professions (B&P) code, Corporations Code, Health and Safety Code, and Insurance Code amendments raised in the Sunset Review Reports of the Dental Hygiene Committee of California (DHCC) and/or CDHA. These amendments will improve RDH and RDHAP service to the public as well as increase access to care. The Assembly and Senate Business and Professions Joint Sunset Review Sub-Committee (JLSRC) staff report commented favorably on some of those recommendations and the DHCC has moved to support the CDHA proposed amendments in concept pending their review of the official legislative language. Language with input from the Legislative Counsel has been developed for two bills, a general dental hygiene bill and one focused on RDHAP issues. Legislative
authors are being secured and the deadline to introduce the bills this year is February 27. Proposed amendments would:

• Allow an RDHAP office, established in a certified dental health professional shortage area, to continue regardless of change in certification;
• Delete the written verification and prescription for dental hygiene services requirement for RDHAPs;
• Adds RDHAP corporations to the list of professional corporations recognized under the Moscone-Knox Professional Corporation Act;
• Require insurance companies to reimburse RDHAP for performing dental hygiene services that are reimbursable under those insurance company contracts or policies when performed by an RDH in traditional settings;
• Remove the language that places the DHCC within the jurisdiction of the Dental Board, and more accurately state that the DHCC is created within the Department of Consumer Affairs;
• Places direct supervision duties of local anesthesia, nitrous oxide administration and soft tissue curettage under general supervision in the B&P code for RDH, and also authorizes those duties for RDHAP; dentist employers will have the discretion of deciding on an individual basis whether their employees require direct or general supervision in their offices;
• Authorizes RDH under general supervision to prescribe, administer and dispense, topically applied fluoride and antimicrobial agents, and also authorizes those duties for RDHAP.

Assembly Bill (AB) 41 (Chau) – Sponsored by Assemblyman Ed Chau, this bill will put into California law the "non-discrimination" section of the Affordable Care Act and would prohibit health insurers from preventing any health care professional (i.e. RDH or RDHAP) from delivering services within their scope of practice by denying reimbursement for services that are supposed to be covered. CDHA will be watching this bill carefully and at first glance will most likely take a support stance.

Title 22 of the California Code of Regulations
In recent years, Skilled Nursing Facilities (SNF) have barred independent RDHAP from serving their patients in SNF and are citing Title 22 as the reason. Title 22 regulates amongst other things, oral health provisions to patients in nursing facilities. Federal Title 22 regulations have accepted the work of dental hygienists for decades, and yet Title 22 of the California Code of Regulations has not been updated to include RDHAP. On behalf of CDHA, Aaron Read & Associates (ARA) sent a letter to the Department of Health Care Services (DHCS) requesting changes to Title 22 of the CA Code of Regulations to enable RDHAPs to fulfill the Title 22 provider requirement for dental programs in nursing homes. DHCS has referred the matter to the CA Department of Public Health (CDPH) and ARA has contacted the CDPH. A response is expected shortly.

2014 Senate Bill (SB) 850) Community College Baccalaureate Pilot Programs
Breaking news! The California Community Colleges Board of Governors has tentatively approved the list of community college campuses to provide pilot baccalaureate degrees. Foothill College in Los Altos Hills and West Los Angeles Community College have been selected to provide bachelor’s degrees in dental hygiene! The Board of Governors will vote to finalize this list in March. SB 850 (Block/Hill) was supported by CDHA and CDHA followed up with a letter to the Board of Governors during the selection process.
• Chaptered September 28, 2014 (Signed by the Governor)
• Commencing January 1, 2015, authorizes the Board of Governors, in consultation with the California State University and the University of California, to establish a statewide baccalaureate degree pilot program at not more than 15 community college districts
  o Limit one pilot program per participating district to be determined by the Chancellor and approved by the Board of Governors
  o Pilot programs to commence by the beginning of the 2017-18 academic year
  o Specifies pilot programs cannot duplicate baccalaureates already offered by the CA State University or UC systems, and must be in subjects with unmet workforce needs
  o No more than one pilot program will be permitted per community college campus per district, to be determined by the Chancellor and approved by the Board of Governors

Dental Hygiene Committee of California (DHCC)

Nicolette Moultrie, RDHAP was elected as the new President of the DHCC for 2015, with Noel Kelsch, RDHAP as Vice President, and public member Susan Goode as secretary. For more information on the DHCC, go to www.dhcc.ca.gov.

The DHCC was very busy in 2014 successfully navigating its first sunset review as well as promulgating necessary regulations. The regulatory rulemaking process can take 12 to 18 months to complete, with a multitude of steps including required public hearings and various department reviews (i.e. DCA Legal, Budget, Finance, etc). Final review is by the Office of Administrative Law (OAL) which ensures that agency regulations are clear, necessary, legally valid, and available to the public

Title 16 California Code of Regulations – Regulatory Hearings

❖ Proposed Regulations for Definitions, Administration and Examinations, CCR 1100, 1101, 1121, 1122, 1124, 1126, 1127, 1133
  • Status – At their Dec 2014 meeting, the DHCC moved to again notice the DBC for input on any perceived scope of practice issues, while concurrently submitting the two split regulatory packages to the Office of Administrative Law.
  • History – A public hearing was held on January 15, 2014 with comments received from CDA legal. In response, the regulatory package was split separating the contested CCR 1100 definitions from the administration and examinations regulations.

❖ Proposed Regulations for Educational Programs (Curriculum) – CCR 1103, 1105, 1105.1, 1105.2, 1105.3, 1105.4, 1106
  • Status – The rulemaking relative to RDH Educational Programs has been sent to the Department of Consumer Affairs (DCA) and is making its way through the regulatory process.
  • History - To fulfill its duty of approving dental hygiene programs in California, proposed curriculum definitions and regulations were developed by the DHCC in 2012-2013. A presentation was made to the California Dental Hygiene Educators Association (CDHEA) in February 2014. A public hearing was held on April 28, 2014 and amendments were taken at that hearing.

❖ Proposed Regulations for Remedial Education, CCR 1108
  • Status – The rulemaking relative to these regulations is in progress.
  • History - Public hearing March 25, 2014
Proposed Regulations for Approval of new RDH Educational Programs and Continuation of Approval, CCR 1104

- Status – Written comments regarding the posted Modified Text and Forms may be submitted between December 31, 2014 and ending January 15, 2015
- History – Public Hearing on September 10, with subsequent posting of Modified Text and Forms.

Proposed Regulations for New DH Program Feasibility Study

- Status – The rulemaking relative to these regulations is in progress.
- History - Proposed regulations have been developed and were on the agenda at the DHCC May 2-3, 2014 Meeting. A 45 day public comment period ensued.

For more Information on DHCC proposed regulations, go to www.dhcc.ca.gov and the link “Regulatory Hearings”

California Dentists Licensure by Portfolio

Final rulemaking was completed in November 2014, and dental schools in California may now offer licensure by portfolio as a pathway to licensure for their students. Note that Licensure by Portfolio does not eliminate the live patient exam, but rather provides a 3rd pathway to licensure for California dentists, along with Licensure by Residency and the Western Regional Exam Board (WREB) clinical exam. In 2008, the Dental Board of California (DBC) began considering alternative pathways to initial licensure for dentists in California. The California clinical and written exams for dentists were eliminated by Assembly Bill 1524 in 2010, and replaced with a portfolio examination pathway, which was developed over the past 4 years.

This pathway will continue to be monitored by the DHCC as well as CDHA, as we too consider alternative pathways to the live patient exam for initial licensure of dental hygienists.

Recent History

The 2014 Legislative Session concluded with the Governor signing several bills important to the education and practice of the profession of dental hygiene in California. For the complete, final text of any bill, go to www.leginfo.ca.gov/bilinfo.html.

- AB 1174 (Bocanegra/Logue) – Scope Expansion and Teledentistry
  - Chaptered September 27, 2014 (Signed by the Governor)
  - Revises the B&P Code effective January 1, 2015. Access to care for underserved populations will be improved with the expanded scope of practice, in designated settings, for all dental hygienists (RDH, RDHAP and RDHEF), as well as RDAEF (licensed after January 2010), without a dentist on site, under general supervision, utilizing telehealth technology, and with additional education.
    - Allows RDAEF and all hygienists to determine and take radiographs on a patient, who has not had an initial exam by a dentist, for the purpose of securing a dental diagnosis, treatment plan and instructions to perform an Interim Therapeutic Restoration (ITR).
    - Allows RDAEF and hygienists to remove “soft material” with hand instruments (no rotary devices) and place an ITR (defined as a direct provisional
restoration placed to stabilize the tooth until a dentist diagnoses the need for further definitive treatment) with the diagnosis and authorization of a dentist

- Allowable settings for the new duties for RDAEF and RDH include the dental office; and public health settings such as schools, head start, pre-school programs, and community clinics, utilizing telehealth.

- Additional allowable settings for RDHAP include the residences of the homebound, schools, and residential facilities and institutions.

- Defines telehealth as a means of communication with an authorizing dentist and allows for Medi-Cal billing of teledentistry

- Stipulates that is the dentists’ responsibility to provide a written patient of record notification for care provided at the direction of a dentist. Also clarified that this patient notification is not required for dental hygiene preventive services and care provided by public health hygienists and RDHAP.

- The DHCC has until January 1, 2018 to promulgate curriculum regulations for RDH and RDHAP relative to these new procedures, with the regulations for ITR matching those developed and adopted by the DBC for the RDAEF. Until such regulations are adopted, the protocols established by Health Workforce Pilot Project (HWPP) 172 (Virtual Dental Homes) will be used to approve programs;

- Participants in HWPP 172 will be considered to have fulfilled the educational requirement.

Assembly (AB) 1522 (Gonzalez) Healthy Workplaces, Healthy Families Act of 2014

- Chaptered September 10, 2014 (Signed by the Governor)
- Mandates employers provide paid sick leave, as specified
  - Applies to an employee who, on or after July 1, 2015, works in California for 30 or more days within a year, from commencement of employment, for prescribed purposes.
  - A minimum of 1 hour paid leave is accrued for every 30 hours worked, beginning at commencement of employment or July 1, 2015, whichever is later, up to a maximum required 3 days per year.
  - Employee is entitled to use accrued leave beginning the 90th day of employment
  - Accrued leave shall carry over to the following year of employment, but the employer may limit the use of paid sick days to 24 hours or 3 days in each year of employment. (24 hours is equal to three 8 hr days)
  - Employer is not obligated to allow employee’s total accrual of paid sick leave to exceed 48 hours or six days (48 hours is equal to six 8 hr days)
  - Employee may determine the amount of leave needed for use, but employer may set a reasonable minimum increment for use, not to exceed 2 hours
  - Establishes a specified methodology for determining the hourly rate for paid sick leave for employees with a different wage basis (i.e. commission, salary)
  - Employee can not be required to search for or find a replacement worker
  - Provides against discrimination or retaliation.
  - Employer is not required to provide compensation for accrued and unused paid sick days upon separation from employment, except that amount accrued is reinstated if rehired within one year.
  - Exclusions include providers of in-home supportive service.
This new law will benefit the many dental hygienists, working part time and/or for multiple employers, who do not otherwise receive paid sick leave benefits.

❖ Senate Bill (SB) 1245 (Lieu/Bonilla) - DHCC Sunset Extension
   • Chaptered September 2014 (Signed by the Governor)
   • The DHCC successfully completed its first sunset review and will continue to administer the laws regulating the practice of dental hygiene in California for another four years. DHCC “sunset” has been extended to January 1, 2019, when the DHCC operations, existence and benefit to California consumers must once again be reviewed and validated.

❖ Effective January 1, 2014, the DHCC accepts Central Regional Dental Testing Services (CRDTS) as an approved testing site for initial California DH licensure. This provides California dental hygiene students a third option for initial licensure, along with the California and Western Regional (WREB) clinical exams. Note that fewer candidates are taking the California Dental Hygiene Exam which will eventually make it fiscally unsound to continue offering this exam.

❖ SB 1202, a bipartisan bill sponsored by CDHA and authored by Senators Leno (D) and Wyland (R), became law on January 1, 2013. Key features of the bill included “clean up language” to legislation that created the Dental Hygiene Committee of California (DHCC) and provided California with some control over dental hygiene educational programs in our state. The bill achieved the following goals:
   • Special Permit language allows an RDH licensed in another state to teach in a dental hygiene program without a California license with a Special Permit
   • Allows DHCC the discretion of requiring a needs assessment for applications of new dental hygiene programs before they apply to CODA. New programs must now provide proof that they have adequate facilities, adequate faculty and adequate employment opportunities for graduating students. It should be noted that in February, 2012, the ADA Commission on Dental Accreditation accepted the ADHA recommendation to require needs assessment to determine the feasibility of new dental hygiene programs.
   • Changed statutory language so that, once a new dental hygiene program is approved by CODA, the DHCC may approve the program. The previous mandate stated the DHCC “must” approve.
   • Requires completion of an extended functions course for initial dental hygiene licensure
   • Clarifies requirement that education hours used towards licensure be in the immediately preceding five years
   • Requires applicants failing the clinical exam three times or causing gross trauma to provide proof of remediation prior to retaking the clinical exam
   • Allows RDHAPs to establish mobile clinics
   • Requires RDHAPs to register additional sites with the DHCC. This provision applies to “brick and mortar” sites owned by RDHAPs, not settings where RDHAPs practice.
   • Providers of CE courses approved by the Dental Board of California may also be approved by the DHCC