

REVISED Item #15 ACTION CALENDAR September 17, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Councilmembers Laurie Capitelli and Linda Maio

SUBJECT: Proposed Council Resolution Regarding Dental Amalgams

RECOMMENDATION:

Adopt a Resolution that the City will:

- 1. Strongly support local, national, and worldwide efforts to reduce exposure to anthropogenic mercury;
- 2. Encourage dentists practicing in Berkeley to consider limiting the use of dental amalgam;
- 3. Request the Dental Board of California (DBC) to remind dentists that they have a legal obligation to provide the DBC fact sheet to all new patients and to existing patients of record on the initial placement of any dental restoration including and not limited to amalgams and composites;
- 4. Request dental offices to:
 - a. Post standard Proposition 65 labels or posters regardless of the number of employees
 - b. provide the Dental Board of California's Dental Materials Fact Sheet to each patient;
- 5. Direct staff to write a letter to the DBC to update Dental Material Fact Sheet;
- 6. Support continued education and advisories for Berkeley residents about potential risks associated with consuming fish caught in the Berkeley Marina and exposure to mercury from other sources;
- 7. Direct staff to provide copies of this resolution to the City's state and federal representatives and to the other cities in Alameda County with a request that they use their authority to take the necessary steps to phase-down the use of mercury in dentistry;

- 8. Write to the FDA and National Institute of Health (NIH) to evaluate the knowledge gaps in risks of dental amalgam;
- 9. Support the United Nations efforts on use of mercury products;
- 10. Write to the World Health Organization (WHO) to pledge support for the phase down of use of dental mercury; and
- 11. Insist that dentists follow applicable regulations regarding dental amalgam practices and the use of separators to prevent mercury from reaching the environment.

FISCAL IMPACTS OF RECOMMENDATION:

The fiscal impacts for the City are minimal - writing letters, distributing the Resolution and posting documents received on dental amalgam to the City web pages.

The incremental cost for dentists if they follow the City's recommendations would be the minor expense associated with preparation, administration and delivery of information leaflets and Dental Materials Fact Sheet to each patient.

BACKGROUND:

On October 12, 2012, the City Council requested that the Community Health Commission (CHC) and Community Environmental Advisory Commission (CEAC) research major sources of anthropogenic mercury in the environment and strategies used by other municipalities to reduce its use, consult with the dental community regarding mercury in dental amalgams, and return to Council with a draft resolution regarding this pollutant including recommendations for reduction of use within the City of Berkeley.

On July 16, 2013, the City Council received reports and recommendations from both commissions and City staff. As determined by staff, the Commissions' recommendations to require specific actions by local dentists are preempted by state law. Their proposed resolution incorporates key points from the Commissions' resolutions.

(Additional information can be found in the July 16, 2013 report: http://www.cityofberkeley.info/Clerk/City_Council/2013/07Jul/Documents/2013-07-16 Item 44c Reducing Exposure to Anthropogenic Mercury CM.aspx)

The City Council decided to hold over adoption of any resolution until its September 17, 2013, meeting. Councilmembers Capitelli and Maio agreed to develop a composite resolution for Council consideration. The revised resolution is attached.

CONTACT:

Councilmember Laurie Capitelli | District 5 | <u>510.981.7150</u> Councilmember Linda Maio | District 1 | <u>510.981.7110</u>

Attachment:

1. Resolution

RESOLUTION NO. ##,###-N.S. REDUCING EXPOSURE TO ANTHROPOGENIC MERCURY

WHEREAS, the City of Berkeley is charged with protecting the public health and welfare of its residents; and

WHEREAS, the City of Berkeley has adopted the precautionary principle, where threats of serious or irreversible damage to people or nature exist, lack of full scientific certainty about cause and effect shall not be viewed as sufficient reason for the City to postpone measures to prevent the degradation of the environment or protect human health; and

WHEREAS some members of the public have expressed serious concern about the safety of dental amalgam; and

WHEREAS, the U.S. Food and Drug Administration's (FDA) most recent labeling instructions to dentists on amalgam state that "very limited to no clinical information is available regarding long-term health outcomes in pregnant women and their developing fetuses, and children under the age of six, including infants who are breastfed"; and

WHEREAS, on average about 25% of cavities restored in the city of Berkeley are filled with dental amalgam containing mercury; and

WHEREAS, the scientific debate continues on whether the mercury in dental amalgam poses a risk to the population; and

WHEREAS, the Berkeley City Attorney has determined that requiring local dentists to take specific actions is preempted by state law; and

WHEREAS, the Community Health Commission (CHC) and Community Environmental Advisory Commission (CEAC) made specific recommendations, many of which have been incorporated into this resolution.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that, as recommended by the Community Health Commission, dentists practicing in Berkeley are urged to follow applicable regulations regarding dental amalgam practices and separators preventing mercury from reaching the environment.

BE IT FURTHER RESOLVED that, as recommended by the Community Environmental Advisory Commission, the City:

1. Strongly support local, national, and worldwide efforts to reduce exposure to anthropogenic mercury;

- 2. Encourage dentists practicing in Berkeley to consider limiting the use of dental amalgam;
- 3. Request the Dental Board of California (DBC) to remind dentists that they have a legal obligation to provide the DBC fact sheet to all new patients and to existing patients of record on the initial placement of any dental restoration including and not limited to amalgams and composites;
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- 9. Support the United Nations efforts on use of mercury products;
- 10. Write to the World Health Organization (WHO) to pledge support for the phase down of use of dental mercury; and
- 11. Insist that dentists follow applicable regulations regarding dental amalgam practices and the use of separators to prevent mercury from reaching the environment.