

APPROVED

**BOARD OF DENTISTRY
MINUTES OF REGULATORY-LEGISLATIVE COMMITTEE MEETING
December 7, 2005
Department of Health Professions
Richmond, Virginia**

CALL TO ORDER: A meeting of the Virginia Board of Dentistry's Regulatory – Legislative Committee was called to order at 6:05 p.m.

PRESIDING: Edward P. Snyder, DDS., Chairperson

MEMBERS PRESENT: Jacqueline Pace, RDH
James Watkins, DDS
Paul Zimmet, DDS
Harold Seigel, DDS, Ex -officio

STAFF PRESENT: Sandra K. Reen, Executive Director
Howard Casway, Senior Assistant Attorney General
Elaine Yeatts, Senior Policy Analyst
Cheri Emma-Leigh, Operations Manager

QUORUM: All members were present.

PUBLIC COMMENT: Dr. Griggs reported on a resolution adopted by the Virginia Dental Association on allowing expanded duties for dental assistants. The VDA will have a task force develop the criteria for education, certification and level of supervision. The duties to be considered include:

- a. taking impressions for restorations and casts
- b. placing, packing and removing cord
- c. condensing, contouring and adjusting direct restorations, and
- d. under general supervision, fabricate and re-cement temporary restorations.

Dr. Griggs also reported that the VDA will be submitting legislation to allow dental hygienists with training to administer local anesthesia and nitrous oxide and oxygen inhalation analgesia. He asked that the Board support this legislation.

Mr. Whitehead introduced Sheri Henry and reported that the Virginia Dental Hygiene Association supports the legislation to allow dental hygienists to administer. He also reported that the VDHA looks forward to working on the VDA task force that will address expanded duties for dental assistants.

Ms. Cox stated that there is no such treatment as supragingival scaling, that scaling must be done above and below the gum line. She questioned what the working model would be if dental assistants did the supragingival work. Then she indicated that the schools are graduating more hygienists and that the concern for a shortage should be alleviated in five years.

**APPROVAL OF
MINUTES:**

On a properly seconded motion by Dr. Zimmet, the Minutes of the Regulatory-Legislative Committee Meeting of May 20, 2005 were approved.

VDA LEGISLATION:

Drug Administration by Dental Hygienists: Dr. Snyder asked about the training on administration included in dental hygiene programs. Ms. Pace and members of the audience advised that additional training would be needed. Dr. Watkins asked Mr. Casway if this change could be made through the dentistry statute. Mr. Casway stated that the Drug Control Act would need to be amended and possibly Chapter 27.

Dr. Watkins moved that the Committee recommend Board support for the VDA and VDHA legislative proposal to amend the Drug Control Act to allow dental hygienists with appropriate training to administer local anesthesia and nitrous oxide to patients over 18 under the direction of the dentist. Ms. Yeatts advised that the Governor decides the Administration position. Dr. Seigel said there was not enough information to take a position. The motion passed.

**LETTER FROM
SISSOM:**

MS. Federal Prisons – Dr. Snyder noted that Ms. Sissom asked the Committee to pursue adding federal prisons to the federal facilities exempted from state licensure requirements in § 54.1-2701(3). Ms. Reen explained that the federal prison system changed its rules so that there is no longer a federal exemption and said there is an open case on the subject. Ms. Yeatts stated that this could be considered for the 2007 session of the General Assembly.

Number of Hygienists Supervised – Dr. Snyder noted that Ms. Sissom asked the Committee to pursue removing the limitation on the number of hygienists a dentist might supervise by amending §54.1-2724 and 18 VAC 60-20-200. She noted that there is no limit on the number of dental assistants a dentist can supervise. Dr. Watkins

stated he didn't think there was any comparison between what a dental hygienist and a dental assistant might do. The Committee agreed to take no action.

Continuing Education – Dr. Snyder then noted that Ms. Sissom asked for clarification of acceptance of CE that is product review. Ms. Reen suggested that perhaps the question stems from the policies the Board put in place when the Board was reviewing programs because there is no such restriction in the CE regulations. Dr. Watkins asked if a course meets the sponsor and content requirements is it accepted and Ms. Reen said yes. Dr. Snyder concluded that no action was needed.

**ORTHODONTIC
EMERGENCIES:**

Dental Assistants Clipping a Wire – Dr. Snyder discussed that present practice in orthodontic offices is to allow dental assistants to clip a wire or remove a band when the dentist is out. He said this is necessary because patients are being cut by the appliances. Discussion addressed the requirements for direction, the risk to the patients, and the ultimate liability of the dentist. Options discussed were adding in regulation that this limited activity does not constitute the practice of dentistry or amending the provisions for delegation to dental assistants. Dr. Watkins's moved that the Committee recommend that the Board's guidance be that this is acceptable practice without undertaking regulatory change. The motion passed.

MEDICAL HISTORIES:

Dr. Snyder explained that the Board asked the Committee to address when and how often medical histories should be updated. Requiring an update at each visit or annually was discussed. Ms. Yeatts said the updates should be written and the guidance should address patients who are treated less frequently than once a year. Dr. Zimmet moved that the Committee recommend that the Board's guidance be that medical histories should be updated at least annually or at the subsequent next visit unless the need for more frequent updates is medically evident. The motion passed.

**EXPANDED DUTIES FOR
DENTAL ASSISTANTS:**

Ms. Yeatts reported that the Joint Commission on Administrative Rules is following this regulatory process and has urged the Board to pay attention to public comment but has agreed that the Board could address

expanded duties through regulations consistent with § 54.1-2712. Dr. Seigel reviewed the mission of the Department of Health Professions and the rules for imposing licensure requirements. Ms. Pace agreed with the comments received that supragingival scaling is only partial treatment. Dr. Watkins stated that a dentist or dental hygienist would have to complete treatment but delegation of supragingival scaling would save time and allow a dentist to treat more patients. Dr. Snyder asked to put supragingival scaling aside to focus on the agreement that exists for allowing expanded duties. Ms. Yeatts objected to the discussion of a regulatory action because a scope of practice was being created. The need for post certification training was discussed. The duties being considered by the VDA were reviewed.

Ms. Yeatts advised the Committee to adopt a motion to pursue legislation like that enacted in North Carolina to establish two levels of dental assistants, one limited to chairside duties and the second to do expanded duties based on education and certification requirements. Dr. Seigel moved that the Board pursue legislation to establish two classes of dental assistants, Level I being allowed to serve as chairside assistants and Level II being allowed to perform expanded duties when qualified by education and certification. The motion passed.

**IMPLEMENTATION OF
EMERGENCY
REGULATIONS FOR
2005 LEGISLATION:**

Application Requirements – Ms. Reen reported that two issues have come up in regards to implementing licensure by credentials. The first issue came up in regards to applicants from a Katrina affected state. The issue was that the dental school was unable to provide transcripts as required by 18 VAC 60-20-100.1. Dr. Watkins moved that a provision be added to enable the Board to accept alternate documentation or to waive an application requirement when a third party is unable to produce a document. The motion passed. It was agreed this should be pursued as a fast track proposal.

Ms. Reen explained that the regulations currently only require a report from the Healthcare Integrity and Protection Data Bank but that there is a second report from the National Practitioner Data Bank which would provide information on malpractice claims. She suggested amending the regulation to require both reports. Dr.

Zimmet moved that the Board undertake fast track regulatory action to amend 18 VAC 60-20-100.3 to require a report from the National Practitioner Data Bank in addition to one from the Healthcare Integrity and Protection Data Bank. The motion passed.

CPR COURSES:

Ms. Reen explained that the Board referred this topic to the Committee following public comment that CPR courses were being offered on-line which require no testing or demonstration of skill. The question raised was should the Board accept these courses to satisfy its continuing education requirement. Dr. Watkins noted and it was agreed that the Board identified approved sponsors to address the adequacy of courses so that CPR courses given by an approved sponsor should be accepted.

ADJOURNMENT

With all business concluded, the Committee adjourned at 9:55 p.m.

Edward P. Snyder, Chairperson

Sandra K. Reen, Executive Director

Date

Date