

Approved

**VIRGINIA BOARD OF DENTISTRY
MINUTES OF REGULATORY-LEGISLATIVE COMMITTEE
October 24, 2014**

TIME AND PLACE: The meeting of the Regulatory-Legislative Committee of the Board of Dentistry was called to order at 1:00 p.m., on October 24, 2014, Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia.

PRESIDING: Bruce S. Wyman, D.M.D., Chair

MEMBERS PRESENT: Charles E. Gaskins, III, D.D.S.
Melanie C. Swain, R.D.H.

MEMBERS ABSENT: Evelyn M. Rolon, D.M.D.

OTHER BOARD MEMBERS: Al Rizkalla, D.D.S.
Tammy K. Swecker, R.D.H.
James D. Watkins, D.D.S

STAFF PRESENT: Sandra K. Reen, Executive Director
Kelley W. Palmatier, Deputy Executive Director
Huong Q. Vu, Operations Manager

OTHERS PRESENT: David E. Brown, D.C., Director, Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
James E. Rutkowski, Assistant Attorney General

ESTABLISHMENT OF A QUORUM: With three members present, a quorum was established.

PUBLIC COMMENT: Christopher Nolen, Senior Vice-President of McGuireWoods Consulting introduced himself as representing the Association of Dental Support Organizations (ADSO). He stated that ADSO is interested in the discussion of practice ownership and would like to participate in any Regulatory Advisory Panel formed to address practice ownership.

Martin Guy Rohling of Albers & Company introduced himself as representing Kool Smiles which operates 14 dental clinics in Virginia. He said he would like to participate in any Regulatory Advisory Panel (RAP) addressing practice ownership.

Trudy Levitin, R.D.H., stated that she recalled the Board's decision to not address charging for examinations performed by dental hygienists when practice under general supervision was permitted. She noted her experience and said billing using the CDT Code D0120 is appropriate. She questioned why the Board would choose to address this billing practice now.

David C. Sarrett, D.D.S., Dean of VCU School of Dentistry, stated that the General Practice Residency and the Advanced Education in General Dentistry

residency program are designed to provide training beyond the level of a pre-doctoral dental education program and are not remedial education programs. He provided a handout which listed the goals of these programs. He added that successful completion of an accredited post-doctoral general dentistry program, demonstrates the candidate has met, and surpassed, the entry level for licensure.

**APPROVAL OF
MINUTES:**

Dr. Wyman asked if Committee members had reviewed the May 2, 2014 minutes. Dr. Gaskins moved to accept the minutes. The motion was seconded and passed.

**STATUS REPORT ON
REGULATORY
ACTIONS:**

Ms. Yeatts reported that the Periodic Review of proposed regulations to establish four chapters is pending administrative review at the office of the Secretary of Health and Human Resources.

**BILLING FOR A PERIODIC
EXAM PERFORMED BY
RDH:**

Ms. Reen stated that the Board assigned this topic to the Committee. She added that the Committee is to consider proposing a position on the practice of billing for periodic exams performed by dental hygienists and possibly developing a guidance document on the subject.

Dr. Watkins stated that he brought this matter to the Board's attention because in a case he reviewed, the dentist billed the insurance company CDT Code D0120 for the exam performed by the hygienist under general supervision. He said clarification is needed because he cited it as a violation but was told by staff that it is permissible.

Information on current billing practices in Virginia and on the provisions in the CDT Code was discussed. Following discussion, Dr. Gaskins moved to take this as information and to take no action at this time. The motion was seconded and passed.

**CHANGING THE
EDUCATION
REQUIREMENT FOR
DENTAL LICENSURE:**

Dr. Wyman stated that there is no uniform standard for foreign trained dentists to become licensed in the United States. He noted his concern is that the 12-month post-doctoral advanced general dentistry program is not sufficient training to prove competency for licensure in Virginia.

Dr. Sarrett stated that foreign trained dentists without competitive skills are not accepted into the advanced programs. Those dentists must complete DDS or DMD programs from a CODA accredited program before being accepted in an advanced program. He added that the VCU School of Dentistry does not offer non-CODA accredited dental training programs.

Dr. Wyman moved to recommend amending the regulations to require foreign trained dentists to complete at least a 24-month post-doctoral advanced general dentistry program. The motion was seconded and failed.

**PRACTICE
OWNERSHIP:**

Ms. Reen reported that she discussed forming a Regulatory Advisory Panel (RAP) with Dr. Brown who recommended having focused conversations with the other state agencies that may have a role or interest in practice ownership before establishing a RAP. She added that Dr. Brown was facilitating these meetings and that a meeting with the Department of Medical Assistance Services' (DMAS) has taken place. Ms. Reen noted that DMAS has agreed to facilitate earlier communication about action taken against providers and DHP agreed to explore conducting joint investigations.

She said Committee discussion of the materials in the agenda package would help her explain the Board's interests and goals. The Committee took no action.

**DAII REGISTRATION
OPTIONS FOR
QUALIFYING:**

Ms. Reen stated that very few people qualified for Dental Assistant II (DAII) registration either by education or by endorsement. She explained that many of the duties classified as "expanded" in other states are duties any dental assistant can perform in Virginia. She said that she has included the Minnesota Board of Dentistry provisions for restorative functions to facilitate discussion. She added that the Minnesota Board is working with be CODA to establish standards for dental therapy programs.

Ms. Yeatts noted that the Board has not reviewed this regulation since its implementation. She suggested bringing back dental assistant educators for discussion and feedback on the requirements for registration.

Discussion followed about dental hygienists being allowed to take coursework that is similar to the coursework required by the DAII regulations and about the requirements being too strict that no one will be able to qualify for a DAII registration.

Dr. Gaskin moved to recommend to the full Board that a task force be created to look at the DAII requirements. The motion was seconded and passed.

**ADVANCED DENTAL
HYGIENE PRACTICE:**

Ms. Reen stated that the Committee was asked to consider the Joint Commission on Health Care's (JCHC) request to allow licensed dental hygienists to take continuing education classes to qualify to perform the duties delegable to DAII's.

She added that the JCHC is also interested in expanding the Remote Supervision model in use in the Virginia Department of Health (VDH) to

include community clinics. She noted that this model allows dental hygienists who are employed by the VDH to see patients who have been seen by a dentist.

It was agreed by consensus that the task force established to address the DAII requirements should also address the Joint Commission recommendations.

ELECTRONIC DENTAL RECORDS:

Dr. Wyman asked Dr. Rizkalla to address his concern. Dr. Rizkalla stated that, through an informal conference, he learned that licensees can modify electronic treatment records after their initial entry.

Dr. Brown stated that this issue transcends the Board of Dentistry and is an agency issue. He asked whether electronic record alteration is a significant enough issue to have separate policy for electronic records. He suggested looking at other states' regulations.

No action was taken following discussion.

TELEDENTISTRY:

Dr. Wyman asked Dr. Brown for guidance. Dr. Brown stated that it is an area of interest of Secretary Hazel for addressing unmet need for services. He added that the Board of Medicine convened an ad hoc committee on this and a guidance document is being drafted. He suggested the need for a broad based workgroup which includes the private sector and educational institutions to study this matter.

Dr. Wyman moved to ask the Board President to appoint an ad hoc committee to address this matter. The motion was seconded and passed.

DENTAL ROLE IN TREATING SLEEP APNEA:

Ms. Reen stated the Board requested consideration of having a policy addressing sleep apnea because it is not currently addressed in the law or regulations. She added that the position of the Board in disciplinary cases is that sleep apnea must first be diagnosed by a physician who can then make a referral to a dentist to provide treatment or a dentist may observe symptoms of sleep apnea and refer to a physician for an evaluation. She referred the Committee to the October 23, 2014 letter from the Virginia Academy of Dental Sleep Medicine (VADSM) and the American Academy of Dental Sleep Medicine (AADSM) Treatment Protocol: Oral Appliance Therapy for Sleep Disordered Breathing for review and discussion.

Discussion followed about when and how sleep apnea is taught dental programs. A member of the audience stated that doctoral level dental students at the VCU School of Dentistry are taught the basics of recognizing sleep apnea and the screening process. He added that once the diagnosis is done by a physician, it is an airway issue that can be treated by a dentist. A member of the Virginia Society of Oral & Maxillofacial Surgeons (VSOMS), suggested that the Committee review VASOMS's position paper before recommending a guidance document.

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By consensus, the Committee decided it wanted to review additional information at its next meeting.

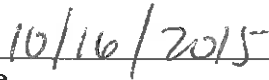
ADJOURNMENT: With all business concluded, Dr. Wyman adjourned the meeting at 2:55 p.m.



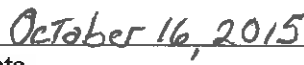
Bruce S. Wyman, D.M.D., Chair



Sandra K. Reen, Executive Director



Date



Date