

Approved

**VIRGINIA BOARD OF DENTISTRY
REGULATORY-LEGISLATIVE COMMITTEE MINUTES
May 17, 2019**

TIME AND PLACE: The meeting of the Regulatory-Legislative Committee ("Committee") was called to order at 9:00 a.m., on May 17, 2019, at the Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 3, Henrico, Virginia 23233.

PRESIDING: Augustus A. Petticolas, Jr., D.D.S., Chair

COMMITTEE MEMBERS PRESENT: Sandra J. Catchings, D.D.S.
Tammy C. Ridout, R.D.H.
James D. Watkins, D.D.S.

COMMITTEE MEMBERS ABSENT: Carol R. Russek, J.D.

OTHER BOARD MEMBERS PRESENT: Patricia B. Bonwell, R.D.H., PhD
Nathaniel C. Bryant, D.D.S.
Tonya A. Parris-Wilkins, D.D.S.
Perry E. Jones, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director for the Board
Kelley W. Palmatier, Deputy Executive Director
Donna Lee, Discipline Case Manager for the Board

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

ESTABLISHMENT OF A QUORUM: With four members of the Committee present, a quorum was established.

Ms. Reen read the emergency evacuation procedures.

PUBLIC COMMENT: Dag Zapatero, D.D.S. – Dr. Zapatero discussed the May 8, 2019 ruling issued by the United States District Court for the Northern District of Georgia; stating the ruling found that SmileDirectClub's acts of taking digital scans of a patient's mouth falls within the definition of the practice of dentistry. He then addressed a New York Post article in which orthodontists explain the consequences of do it yourself aligners. He also reported that SmileDirect and CVS Health made a deal to double SmileDirect's retail locations in North America, to include Virginia. Dr. Zapatero urged the Committee to determine why SmileDirect would not be required to have a dentist present in their retail locations.

William Graham Gardner, D.D.S. – Dr. Gardner, an orthodontist in Virginia who teaches at the VCU dental school, also said that the Georgia Court ruling found digital scanning to be a dental procedure which SmileDirect refutes. Dr. Gardner concurred with Dr. Zapatero that the Board has to look into the issues regarding SmileDirect practicing in Virginia.

**APPROVAL OF
MINUTES:**

Dr. Catchings moved to accept the minutes from October 26, 2018 as presented. The motion was seconded and passed.

**LEGISLATION AND
REGULATORY
ACTIONS:**

Ms. Reen reported the following proposed regulations are currently under review by the Secretary of Health and Human Resources:

- changing the renewal schedule;
- amending the restriction on advertising dental specialties; and
- amending the provisions for sedation and anesthesia.

The proposed regulations for education and training of Dental Assistants II is under review at the Department of Planning and Budget.

Ms. Reen informed the Committee that, in response to legislation, on June 21st, the Board will consider adoption of emergency regulations addressing:

- the Department of Behavioral Health and Developmental Services' protocol for remote supervision of hygienists; and
- a time limited waiver for meeting electronic prescribing requirements.

In addition, the Board will consider adoption of two exempt actions addressing:

- restricted volunteer practice, and
- administration of drugs by dental hygienists under remote supervision.

Ms. Reen then explained the fee schedule needs to be amended because several fees were inadvertently left out of the Regulations Governing the Practice of Dentistry when the Board's regulations were separated into three chapters in 2015. The following corrections were reviewed:

- in 18VAC60-21-40(A) the temporary dental permit fee of \$400 is added.
- in 18VAC60-21-40(B)(1) the words "active, faculty, or temporary permit" are added.
- in 18VAC60-21-40(B)(9) the mobile clinic/portable operation fee of \$150 is added.

- 18VAC60-21-40(C) the numbering is corrected and the mobile clinic/portable operation fee of \$50 is added.
- in 18VAC60-21-40(D) numbers (5), (6) are added to address the \$150 reinstatement fees for moderate sedation permits and deep sedation/general anesthesia permits.

Mr. Rutkowski advised this action should be advanced as a Fast-Track action.

Dr. Watkins moved to recommend that the Board approve the proposed corrections. The motion was seconded and passed.

Ms. Reen reviewed proposed language amendments to the dentistry, dental hygiene and dental assisting regulations to reduce the fee for reactivation of an inactive license or registration; and amending 18VAC60-21-240 to add the renewal requirement for mobile clinics and portable dental operations.

Dr. Watkins moved to recommend that the Board approve the proposed language for reactivation fees and the renewal date for mobile clinics and portable dental operations. The motion was seconded and passed.

**DEFINITION OF
DENTISTRY AND
A1C TESTING:**

Ms. Reen advised that, during its December 2018 meeting, the Board assigned discussion of the current definition of dentistry and A1C testing to the Committee. She reviewed the information provided in the agenda package. Discussion followed about the benefits of A1C testing to patients, making referrals to doctors and consequences for patients.

Following discussion, the Committee agreed by consensus to table this assignment pending receipt of more information. Staff was asked to contact the states that allow A1C testing by dentists and dental hygienists for their laws and regulations. Information from the Medical Society of Virginia for its views on A1C testing being done in dental offices was also requested. Ms. Reen said she would get more information on the endocrineweb article on A1C testing.

**NATIONAL REPORTS
ON LICENSING:**

Ms. Reen explained that she added the two reports related to licensing to the agenda because of the many changes being pursued regarding licensure requirements and testing alternatives in other states and nationally. She expressed concern about dental boards not having a national organization to rely on for information and advocacy. The Committee discussed the high pass rates for the regional clinical exams and the stake students have in the

changes being discussed. Ms. Reen asked if the Board might want to address the future of licensing in Virginia.

**DENTAL LICENSURE
COMPACT UPDATE:**

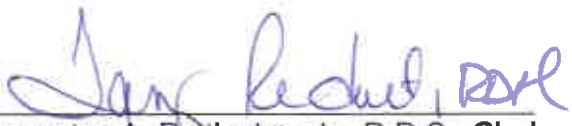
Dr. Parris-Wilkins gave an overview of the information provided at the meeting she and Ms. Reen attended on April 10-11, 2019 held by the Council of State Governments (CSG) regarding interstate compacts. She said younger dentists want to be mobile when they come out of dental school. She encouraged the Committee to promote mobility and put the Board at the front end of the licensure and testing conversation before options are taken away. She explained that a dental licensure compact would allow military families mobility, which affects Virginia because of the various military institutions in the state. She also noted that the professions of Nursing and EMT have active compacts in Virginia and Physical Therapy is completing their compact arrangements. She said CSG is talking to the Department of Defense about funding for a dental licensure compact.


NEXT MEETING:

Scheduled for October 18, 2019.

ADJOURNMENT:

With all business concluded, the meeting was adjourned at 10:50 a.m.


Augustus A. Petticolas, Jr., D.D.S., Chair
TAMMY BIDOUT, RDH, Chair
11/15/19
Date


Sandra K. Reen, Executive Director
November 15, 2019
Date