VIRGINIA BOARD OF DENTISTRY
DECEMBER 15, 2017 AGENDA

Department of Health Professions
Perimeter Center - 2nd Floor Conference Center, Board Room 4
9960 Mayland Drive, Henrico, Virginia 23233

Board Business		Page
9:00 a.m.	**Call to Order – Dr. Alexander, President**	
	Evacuation Announcement – Ms. Reen	
	Public Comment – Dr. Alexander	
	• Dr. Snyder's Comments on Smile Direct Club	P. 1
	Approval of Minutes - Dr. Alexander	
	• September 15, 2017 Business Meeting	P. 4
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	• September 22, 2017 Telephone Conference Call	P. 13
	• October 25, 2017 Telephone Conference Call	P. 15
	• November 3, 2017 Amend Regulation Proposal on Advertising	P. 17
	Director's Report – Dr. Brown	
	Sanctioning Reference Points – Mr. Kauder	
	Healthcare Workforce Data Center Reports – Dr. Carter	
	• Virginia's Dentistry Workforce: 2017	Included
	• Virginia's Dental Hygiene Workforce: 2017	Included
	Liaison/Committee Reports	
	• **Dr. Parris-Wilkins** *AADB	P. 19
	• **Dr. Watkins** *SRTA *BHP *Exam Committee	
	• **Dr. Bonwell** *CODA	P. 24
	• **Dr. Petticolas** *Regulatory – Legislative Committee	
	• **Dr. Bryant** *ADEX	
	• **Dr. Alexander** *AADB *Advisory Panel on Opioids	

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Legislation and Regulation – Ms. Yeatts	
• Status Report on Regulatory Actions	P. 25
• Adoption of NOIRA to change renewal schedule	P. 26
• Board Action on Fee Reduction	P. 30
Board Discussion/Action	
• Licensing exam test	P. 40
• GD 60-2 Sanctioning Reference Points Instruction Manual	P. 42
Board Counsel Report – Mr. Rutkowski	
Deputy Executive Report/Business – Ms. Palmatier	
• Disciplinary Activity Report	P. 59
• Revised Guidance Document 76-24.3	P. 66
Executive Director's Report/Business – Ms. Reen	

12:30 p.m. * *Board Member Service Recognition Lunch*
NO BUSINESS WILL BE CONDUCTED
**Or immediately following the conclusion of the Business Meeting*

2:00 p.m. Formal Hearing

SNYDER
Orthodontics

10/23/2018

Virginia Board of Dentistry
9960 Mayland Drive
Richmond, VA 23233

RE: Smile Direct Club

Dear Board Members,

My name is Edward P. Snyder. I am a former Board of Dentistry member and I have been practicing since 1982 and as an orthodontist since 1987.

Over the last 6 months I have seen advertisements for Smile Direct Club where they announce that you can avoid those aggravating and expensive visits to your dentist and still get your teeth straightened. I recently did some research into Smile Direct Club's business model. What I discovered makes me very uncomfortable in terms of the high potential for harm to the patient's dentition and supporting structures.

As a Board member I understand that the State of Virginia grants me a license to practice dentistry under the laws, rules and regulations of the State of Virginia and that the Board can restrict or remove my license if I violate those laws. I am thus responsible to the citizens of Virginia who are my patients and if I violate this trust, the State steps in to protect the citizen.

Smile Direct Club's approach works around the patient protections provided by the State of Virginia through its Board of Dentistry. The process Smile Direct Club uses begins with the individual taking 'selfies' of their teeth and send these to Smile Direct's website (Smile Direct Club is headquartered in Nashville TN) where a 'licensed' professional (we assume a dentist) looks at the patient's self made images and determines if the patient is a 'candidate' for treatment with them. Is this 'licensed professional' a dentist? Are they licensed to practice in the State of Virginia? What is the name of this individual so if I, the patient, have a problem I know who I need to contact to have my problem corrected.

Once the case is 'approved' an impression kit is sent to the patient so that the patient can take their own 'high quality' impressions. The patient sends these impressions back to Smile Direct Club for the fabrication of aligners to straighten their teeth at

invisalign
The Clear Alternative to Braces

Member
American
Association of
Orthodontists

Dr. Edward P. Snyder, P.C.
Orthodontics for children and adults
BOARD CERTIFIED
101 Cleveland Avenue, Suite 6, Martinsville, VA 24112 • 276.632.4144
789 Piney Forest Road, Suite 4, Danville, VA 24540 • 434.792.8900

SNYDER Orthodontics

home. Smile Direct Club will provide up to 20 aligners which typically takes around 6 months of treatment time to finish. Once the patient has completed the series of aligners they can ask for a retainer at an additional charge. Unless the patient requires additional retainers they are finished with the program. Smile Direct takes no responsibility for the result or the aftermath if things go wrong. The consent the patient signs basically absolves Smile Direct Club of any and all liabilities.

Tremendous harm can befall the patient as they pursue straightening their teeth. Can a 'licensed professional' diagnose periodontal problems from a 'selfie' of the teeth since no radiographs are required. Can this 'licensed professional' determine if there are any impacted teeth from a 'selfie' and finally, can this 'licensed professional' determine if the roots of the teeth being moved are long and strong enough to withstand this movement. Periodontal disease, root resorption and problems with impacted teeth are the three main causes that Orthodontists are sued according to the group's malpractice provider.

If harm occurs or if the patient is unhappy with the treatment using Smile Direct what recourse does the patient have. The 'licensed professional' may not have a valid Virginia license, they may be located and practice outside of Virginia and since the patient has no ongoing contact with this 'licensed provider' how will the Board of Dentistry determine who this individual is.

To allow Smile Direct Club, or any of the other Do It Yourself (DIY) providers to practice dentistry in the State of Virginia in the manner that Smile Direct Club is providing treatment opens the door to abuse of the citizens of Virginia under the guise of placing the burden of treatment on the patient.

North Carolina does not allow Smile Direct Club to operate within the State and Alaska recently issued a cease and desist letter to Smile Direct Club. I have included the link.

To date, at least one state (Alaska) has already voted to issue a cease and desist letter to SDC, https://www.commerce.alaska.gov/web/Portals/5/pub/DEN_Minutes_2017.08.pdf

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Finally, while I understand that the Board avoids the costs of treatment, the citizens of Virginia will have harm done to their bank account in addition to potential harm to their oral structures. Smile Direct Club's total fee ranges from $1,950 (includes one retainer) to more than $2,385 if financed.

I thank y'all for your time reading this letter and if you have any questions you can contact me at 276-632-4144 (office) or by email at choppersnyder@gmail.com.

Sincerely,

Edward P. Snyder, DDS

invisalign
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UNAPPROVED

VIRGINIA BOARD OF DENTISTRY
BOARD MEETING MINUTES
September 15, 2017

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 9:02 a.m. on September 15, 2017, at the Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia 23233.

PRESIDING: John M. Alexander, D.D.S., President

BOARD MEMBERS PRESENT:
Tonya A. Parris-Wilkins, D.D.S.
Sandra J. Catchings, D.D.S.
Nathaniel C. Bryant, D.D.S.
Augustus A. Petticolas, Jr., D.D.S.
Tammy C. Ridout, R.D.H.
Patricia B. Bonwell, R.D.H., PhD
James D. Watkins, D.D.S.
Jamiah Dawson, D.D.S.
Carol R. Russek, JD

STAFF PRESENT:
Sandra K. Reen, Executive Director for the Board
Elaine J. Yeatts, DHP Senior Policy Analyst
Kelley Palmatier, Deputy Executive Director for the Board
Sheila Beard, Executive Assistant for the Board

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

OTHERS PRESENT: Lisa Hahn, Chief Deputy Director, DHP

ESTABLISHMENT OF A QUORUM: All members of the Board were present.

Dr. Alexander called the meeting to order then Ms. Reen read the emergency evacuation procedures.

PUBLIC COMMENT: Dr. Alexander explained the parameters for public comment and opened the public comment period.

Dr. Karen McAndrew, liaison for the VDA, supported maintaining the requirement for passage of a clinical examination for licensure. She noted that the ADA is working on development of a national clinical examination.

Dr. David Sarrett, Dean of the VCU School of Dentistry, supported maintaining the requirement for passage of a clinical examination for licensure, stating that it is risky for a foreign trained dentist to get

licensure by completing only a PGY-1 program. Dr. Sarrett suggested that having an Objective Structured Clinical Exam would test an applicant's clinical judgment and provide better licensure portability.

Dr. John Riviere stated it would be a mistake to recognize new specialty boards with insufficient oversight, citing his concerns for patient safety and false advertising.

APPROVAL OF MINUTES:

Dr. Alexander asked if there were any corrections to the 4 sets of minutes presented in the agenda package. Hearing none, a motion by Dr. Petticolas to adopt these minutes was seconded and passed.

Dr. Alexander asked if there were any changes to the minutes for the September 7, 2017 Telephone Conference Call. Hearing none, a motion by Dr. Watkins to adopt these minutes was seconded and passed.

DHP DIRECTOR'S REPORT:

Ms. Lisa Hahn, Chief Deputy Director of DHP, reported on the progress of the agency workgroup addressing the requirement for e-prescribing of opioids which is to be implemented in 2020. She added that another workgroup is developing the curriculum for a course addressing pain management, the appropriate use of opioids and addiction to be taught in programs training health professionals who will prescribe or dispense medication.

Ms. Hahn presented the newest feature to the DHP website, a prominently displayed online complaint form.

She also announced the plans to relocated the Board of Dentistry staff on the third floor to provide more space.

LIAISON/COMMITTEE REPORTS:

Nominating Committee. Dr. Watkins reviewed the draft minutes of the Committee then moved the election of Dr. Alexander as President, Dr. Parris-Wilkins as Vice-President, and Dr. Petticolas as Secretary/Treasurer. The motion was seconded and passed.

SRTA. Dr. Watkins stated the annual meeting was held August 4-6 in Myrtle Beach, SC. He said the primary focus was the vote to return to ADEX. He added that ADEX is developing an application process before considering SRTA's request. Ms. Levitin's report on the Dental Hygiene discussions was noted and Dr. Bonwell referenced her report and spoke about the Dental Hygiene Educators Forum.

BHP. Dr. Watkins stated he did not attend the last meeting and reported that nothing directly related to the Board of Dentistry is currently being addressed.

Exam Committee. Dr. Watkins stated there is nothing new to report.

Regulatory-Legislative Committee. Dr. Petticolas stated the requirements for having capnography equipment for administering sedation are now in effect. He reported that the Committee's recommendation for the continuing education course for remote supervision will be addressed as an action item. He added that the Committee decided not to recommend changing the definition of Dental Assistants I as proposed by the Regulatory Advisory Panel.

ADEX. Dr. Bryant said the annual conference was held on August 11-13, 2017 in Chicago, IL. He stated some changes to the ADEX examination process for patient based exams have been implemented to make it easier to administer.

AADB. Dr. Alexander said the AADB is a valuable resource then reviewed the agenda topics for the October annual meeting, indicating that he, Dr. Parris-Wilkins and Ms. Reen will be attending. Dr. Watkins asked Ms. Reen to explain the AADB's membership policies. She said there are two levels of membership, the Board can join as a body and then individual memberships. She noted that there are no voting privileges associated with the Board membership and that only individual members present at the meeting can vote. She explained that state policy limits the number of people who can travel so the Board pays for three individual memberships for two board members and the executive director to attend. She explained that other Board members do not need to become members.

Advisory Panel on Opioids. Dr. Alexander reported that work on the Board's regulations continues and noted that the Board does need to address the requirement for prescribing Naloxone.

LEGISLATION AND REGULATIONS:

Status Report on Regulatory Actions. Ms. Yeatts said the June 9, 2017 Business meeting minutes need to be amended to correct the information regarding the two June 14, 2017 actions then addressed the following regulatory actions:

- Conforming the regulations to reflect the language used in the 2016 ADA Guidelines for moderate sedation. Ms. Yeatts reviewed the public comment received, noting that it focused on the ADA Guidelines rather than the NOIRA. She said the proposed changes are to replace the term "conscious moderate sedation" with "moderate sedation" throughout and to delete the provision for training in enteral moderate sedation. Following discussion, Dr. Watkins's motion to adopt the proposed regulations was seconded. In response to a question, Ms. Yeatts clarified that dentists holding an enteral permit can renew the

permit but no new enteral permits can be issued. Dr. Sarrett asked the Board to be aware that the ADA Guidelines are specific to administering to adults only. The question was called and the motion passed.

- Amending the emergency regulations for remote supervision to include the requirements for the continuing education course dental hygienists are required to take before practicing under remote supervision and starting the process to replace the emergency regulations by issuing a Notice of Intended Regulatory Action (NOIRA). Ms. Ridout moved the adoption of the proposed amendments to 18VAC60-25-190 as an emergency action and approval for a NOIRA to replace the emergency action. The motion was seconded and passed.
- Adopting proposed Opioid regulations to replace the emergency regulations after considering the comments on requiring issuance of a Naloxone prescription. Discussion followed about amending this provision. Ms. Yeatts suggested changing the language to require consideration of prescribing Naloxone when there is concomitant use of benzodiazepine. A motion by Ms. Ridout to adopt the amendment proposed by Ms. Yeatts was seconded and passed. Dr. Catchings moved to adopt the proposed regulation as amended to replace the emergency regulation. The motion was seconded and passed.
- Amending the advertising regulations to delete the provisions on advertising as a specialist in 18VAC60-21-80(G)3 and 4 as proposed by the Regulatory-Legislative Committee. Discussion followed about revising the proposal to delete the word "false" but keep the language on claims of superiority. Questions were also raised about the provision in the Code of Virginia on ADA recognized specialties. Mr. Rutkowski advised that only the General Assembly can change the Code. Ms. Yeatts proposed keeping number 3 to address claims of superiority and revising provision 4. A motion made by Ms. Ridout to adopt the amendment as proposed was seconded and passed. The question of submitting a legislative proposal for administrative review for the 2019 Session of the General Assembly was referred to the Regulatory/Legislative Committee.
- Adopting a NOIRA on changing the Dental Assistant II education requirements to a competency based standards as proposed by the Regulatory-Legislative Committee. Dr. Watkins moved to adopt the NOIRA as proposed. The motion was seconded and passed.

BOARD DISCUSSION/ ACTION

Dr. Alexander acknowledged the contributions of the Regulatory Advisory Panel on Prescribing Opioids and noted that the regulatory action adopted today takes care of this issue for now. He also

reported that work is underway on scheduling a meeting and a forum for the Regulatory Advisory Panel being convened to review the regulations on Controlled Substances, Sedation and Anesthesia for consistency. Ms. Reen added that the plan to have a report from the RAP for the Regulatory-Legislative Committee to meet on October 20, 2017 isn't working out so she would talk with Dr. Petticolas about whether or not the Committee will meet that day.

BOARD COUNSEL REPORT:

Mr. Rutkowski reported that following further discussion within the Office of the Attorney General he revised the guidance he had given to Board staff regarding out of state dental students in a CODA accredited program being able to volunteer in Virginia. He determined that the Code provision on permissible practices does allow these out of state students to provide indigent care when they are supervised by faculty of a CODA accredited program.

Additionally, Mr. Rutkowski advised Board members to be aware of possible conflicts that might arise in their personal activities which could lead to a lawsuit. He explained that recently a member of another board was seen having dinner with a lobbyist and such a meeting raises questions of a conflict of interest. He said if this member was sued, the Office of the Attorney General (OAG) could not represent them. He said the OAG can only represent a board member being sued for a conflict of interest that may have occurred while performing the official duties of the Board.

REPORT ON CASE ACTIVITY:

Ms. Palmatier reviewed her report noting that from January 1, 2017 through August 25, 2017, 236 cases were received and 233 were closed. She also noted that in Q4 of 2017 60 patient care cases were received and 66 were closed for a 110% clearance rate.
Ms. Palmatier then addressed the importance of being consistent with sanctions. She said the committees are beginning to show inconsistencies with imposing reprimands and monetary penalties. Ms. Reen asked the Board if it wanted to reaffirm $1000 per violation as the standard for setting monetary penalties. Ms. Hahn suggested having Neal Kauder discuss the information used to develop percentages and figures for the sanction reference forms. Ms. Hahn added that DHP is preparing a video for board members that will address probable cause. The Board agreed by consensus to invite Mr. Kauder to give a presentation at the December meeting.

EXECUTIVE DIRECTOR'S REPORT/BUSINESS:

Board Revenue. Ms. Reen reported that the Board has a large cash balance which by law needs to be reduced and that she is proposing using a significant portion of the balance to transition dental and dental hygiene license renewals to birth months. She explained that Dr. Brown, Ms. Hahn, and Mr. Giles, the DHP Budget Manager, are supportive of this action and numbers are being worked to project a

fee reduction to prorate renewals issued in March 2019 to extend the license renewal period for each licensee to their respective 2020 birth month. Ms. Reen said the other options for reducing the cash balance are to do a one-time reduction or to reduce the annual renewal fees indefinitely. Following discussion, the Board agreed by consensus to support using the cash balance to transition renewals to birth months. Ms. Yeatts said the Board should adopt the implementation plan and the regulatory action needed to reduce fees at its upcoming December meeting.

Updating Guidance Documents. Ms. Reen presented two revised guidance documents for Board action:

- Guidance Document 60-13 on remote supervision which has been revised to incorporate the current statutory provisions and the emergency regulations. Ms. Yeatts explained that the answer to number 4 in the proposal needs to reflect that the regulations with the course requirements are not final and she read the language she proposed using. A motion by Dr. Bonwell to adopt the guidance document with the language proposed by Ms. Yeatts was seconded and passed.
- Guidance Document 60-17on the recovery of disciplinary costs has been revised to modify the per hour fees to be consistent with the actual costs incurred in FY 2017. Dr. Watkins moved to adopt the document as presented. The motion was seconded and passed.

Status of Adding PGY1 Pathway. Ms. Reen explained this change cannot be done through a regulatory action until the statute requiring passage of a clinical examination is changed. She said the Board needs to decide if it wants to pursue this and advised that a legislative proposal could not be submitted until the 2019 Session of the General Assembly. Discussion followed about the adequacy of one year of training for dentists who were trained in other countries. Ms. Russek moved to have staff bring a legislative proposal to the December 2017 meeting. The motion was seconded and passed.

Status of Applicant Law Exam. Ms. Palmatier reviewed the work to date on establishing a web based exam on the Board's web page using the Storyline tools. Ms. Reen reported that Dr. Brown reviewed the request to purchase Storyline and he requested she provide more information on costs and a report on the other board executives' interest in having a web based tool.

Licensing Update. Ms. Reen reported that the Board's licensing numbers are healthy with over 14,000 licensees.

Per Diems. Ms. Reen noted that since July 1, 2017 Board members have been receiving $50 per day in compensation for participation in official business meetings as addressed in DHP's Policy adopted on 7/26/2017.

Minutes. Ms. Reen said the Board would need to address Ms. Yeatts's request for amendment of the June 9, 2017 business meeting minutes to correct the information regarding the two June 14, 2017 actions in her Status Report on Regulatory Actions at its December meeting.

Amendment. Ms. Reen said she was asked to see if the Board would consider changing a term in the proposed DA II regulations being included in the NOIRA from "taking final impressions" to "making final impressions" which is the standard dental terminology. The Board agreed by consensus to change the term to "making final impressions."

ADJOURNMENT: With all business concluded, the meeting was adjourned at 12:15 p.m.

_____
John M. Alexander, D.D.S., President

_____
Sandra K. Reen, Executive Director

_____
Date

_____
Date

VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING
September 15, 2017

TIME AND PLACE: The meeting of the Virginia Board of Dentistry was called to order at 1:03 p.m., on September 15, 2017 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Tonya A. Parris-Wilkins, D.D.S.

MEMBERS PRESENT: Patricia B. Bonwell, R.D.H., PhD
Nathaniel C. Bryant, D.D.S.
Sandra J. Catchings, D.D.S.
James D. Watkins, D.D.S.
Tammy C. Ridout, R.D.H.
Jamiah Dawson, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Sheila M. Beard, Executive Assistant

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

OTHERS PRESENT: Wayne T. Halbleib, Senior Assistant Attorney General
Shevaun Roukous, Adjudication Specialist
Theresa J. Pata, Court Reporter

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

Sawsan M. Salih, BDS MPH
Case No.: 174650

Ms. Salih was present without legal counsel in accordance with the Notice of the Board dated June 15, 2017.

Dr. Parris-Wilkins swore in Ms. Salih.

Ms. Salih made an opening statement, clarifying that she is not a DDS, she is a BDS, MPH. Ms. Salih did not have any exhibits to present to the Board.

Mr. Halbleib presented an opening statement and Commonwealth's Exhibits 1-3 which were admitted into evidence.

Ms. Salih testified on her own behalf.

There were no witnesses for the Commonwealth.

Closed Meeting: Ms. Ridout moved that the Board enter into a closed meeting pursuant to §2.2-3711(A)(27) and Section 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Ms. Salih. Additionally, she moved that Board staff, Ms. Reen, Ms. Beard, and Board Counsel, Mr. Rutkowski attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Reconvene: Ms. Ridout moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision: Ms. Ridout moved to accept the Findings of Facts and Conclusion of Law as presented by the Commonwealth, amended by the Board and read by Mr. Rutkowski. The motion was seconded and passed.

Mr. Rutkowski reported that the Board denied Ms. Salih's application for licensure to practice dentistry in the Commonwealth of Virginia.

Ms. Ridout moved to adopt the decision as read by Mr. Rutkowski. The motion was seconded and passed.

ADJOURNMENT: The Board adjourned at 2:50 p.m.

_____ _____

Tonya A. Parris-Wilkins, D.D.S. Sandra K. Reen, Executive Director

_____ _____

Date Date

UNAPPROVED

VIRGINIA BOARD OF DENTISTRY

MINUTES
SPECIAL SESSION - TELEPHONE CONFERENCE CALL

CALL TO ORDER: The meeting of the Board of Dentistry was called to order at 3:32 p.m., on September 22, 2017, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, 9960 Mayland Drive, Henrico, VA 23233.

PRESIDING: John M. Alexander, D.D.S., President

MEMBERS PRESENT:
Patricia B. Bonwell, R.D.H., PhD.
Nathaniel C. Bryant, D.D.S.
Sandra J. Catchings, D.D.S.
Tonya A. Parris-Wilkins, D.D.S.
Tammy C. Ridout, R.D.H.
Carol R. Russek, J.D.
James D. Watkins, D.D.S.

MEMBERS ABSENT:
Jamiah Dawson, D.D.S.
Augustus A. Petticolas, Jr., D.D.S.

QUORUM: With eight members present, a quorum was established.

STAFF PRESENT:
Sandra K. Reen, Executive Director
Donna Lee, Discipline Case Manager
Elena Callwood, Adjudication Specialist

OTHERS PRESENT:
James E. Rutkowski, Assistant Attorney General, Board Counsel
James E. Schliessmann, Senior Assistant Attorney General

Jennifer Combs, R.D.H.
Case No.: 181096

The Board received information from Mr. Schliessmann in order to determine if Ms. Combs' practice of dental hygiene and violation of a Board Order entered on May 23, 2017, constitute a substantial danger to public health and safety. Mr. Schliessmann reviewed the case and responded to questions.

Closed Meeting: Ms. Russek moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Jennifer Combs. Additionally, Ms. Russek moved that Ms. Reen, Mr. Rutkowski, and Ms. Lee attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene: Ms. Russek moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

DECISION: Dr. Watkins moved that the Board summarily suspend Ms. Combs' license to practice dental hygiene in the Commonwealth of Virginia in that her practice of dental hygiene and violation of a Board Order constitute a substantial danger to public health and safety; and schedule her for a formal hearing. Following a second, a roll call vote was taken. The motion passed unanimously.

ADJOURNMENT: With all business concluded, the Board adjourned at 3:45 p.m.

_____
John M. Alexander, D.D.S., Chair

_____
Date

_____
Sandra K. Reen, Executive Director

_____
Date

UNAPPROVED

VIRGINIA BOARD OF DENTISTRY

MINUTES
SPECIAL SESSION - TELEPHONE CONFERENCE CALL

CALL TO ORDER: The meeting of the Board of Dentistry was called to order at 5:22 p.m., on October 25, 2017, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, 9960 Mayland Drive, Henrico, VA 23233.

PRESIDING: Tonya A. Parris-Wilkins, D.D.S., Vice-President

MEMBERS PRESENT:
Patricia B. Bonwell, R.D.H., PhD.
Nathaniel C. Bryant, D.D.S.
Sandra J. Catchings, D.D.S.
Jamiah Dawson, D.D.S.
Tammy C. Ridout, R.D.H.

MEMBERS ABSENT:
John M. Alexander, D.D.S.
Augustus A. Petticolas, Jr., D.D.S.
Carol R. Russek, J.D.
James D. Watkins, D.D.S.

QUORUM: With six members present, a quorum was established.

STAFF PRESENT:
Sandra K. Reen, Executive Director
Donna Lee, Discipline Case Manager
Lori L. Pound, J.D., Adjudication Specialist

OTHERS PRESENT:
James E. Rutkowski, Assistant Attorney General, Board Counsel
Charles French, II, D.M.D.
Michael Goodman, Counsel for Dr. French

Charles French, II, D.M.D.
Case No.: 173171

The Board received documents and statements from Dr. French, Mr. Goodman, and Ms. Pound regarding the request by Dr. French for modification of Term #3 of his Board Order entered November 29, 2016.

Closed Meeting:

Ms. Ridout moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Charles French. Additionally, Ms. Ridout moved that Ms. Reen, Ms. Lee, and Mr. Rutkowski attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

Ms. Ridout moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

DECISION: Ms. Ridout moved that the Board deny Dr. French's request for modification of Term #3 of the November 29, 2016 Order. Following a second, a roll call vote was taken. The motion passed unanimously.

ADJOURNMENT: With all business concluded, the Board adjourned at 6:05 p.m.

Tonya A. Parris-Wilkins, D.D.S., Chair

Date

Sandra K. Reen, Executive Director

Date

UNAPPROVED

VIRGINIA BOARD OF DENTISTRY
MINUTES
November 3, 2017

TIME AND PLACE: The meeting of the Board of Dentistry was called to order at 1:00 p.m. on November 3, 2017, at the Department of Health Professions, 9960 Mayland Drive, Suite 201, Training Room 2, Henrico, Virginia 23233.

PRESIDING: John M. Alexander, D.D.S., President

BOARD MEMBERS PRESENT:
Tonya A. Parris-Wilkins, D.D.S
James D. Watkins, D.D.S.
Tammy C. Ridout, R.D.H.
Patricia B. Bonwell, R.D.H., PhD
Jamiah Dawson, D.D.S.
Sandra Catchings, D.D.S.

BOARD MEMBER ABSENT:
Nathaniel C. Bryant, D.D.S.
Augustus A. Petticolas, Jr., D.D.S.
Carol R. Russek, J.D., Citizen Member

STAFF PRESENT:
Sandra K. Reen, Executive Director for the Board
Elaine J. Yeatts, DHP Senior Policy Analyst
Sheila Beard, Executive Assistant for the Board

ESTABLISHMENT OFA QUORUM: With seven members of the Board present, a quorum was established.

Ms. Reen read the emergency evacuation procedures.

AMENDMENT TO REGULATIONS: Ms. Reen presented to the Board the amendment to the proposed regulation on advertising dental specialties. The change is to replace the word "false" with "unsubstantiated"

A motion was made and seconded to accept the change.

ADJOURNMENT: With all business concluded, the meeting was adjourned at 1:45 p.m.

_____
John M. Alexander, D.D.S., President

_____
Sandra K. Reen, Executive Director

_____
Date

_____
Date

American Association of Dental Boards
134th Annual Meeting
October 17th-18th
Atlanta, Georgia

I would like to thank the Department of Health Professions, Dr. David Brown, Ms. Sandra Reen, Dr. John Alexander and the Board at large for allowing me to represent the organization at the AADB Annual Meeting. The following is a condensed presentation of the main points of the meeting.

About the AADB:
The American Association of Dental Boards is a national organization that encourages the highest standards of dental education, promotes higher and uniform standards of qualification for dental practitioners, and advocates uniform methods in the conduct, operation, and working of dental examining boards.

Key Issues for Organization, Per Richard Hetke, Executive Director

- Membership Development
- More and Better Services
- Balanced Budget
- Revenue Generation
- Committee contribution
- Greater advocacy of members
- Regain rightful place

The meeting consisted of the following major themes:

I. Dental anesthesia
II. Opioid awareness
III. Dental Assisting National Board (DANB) and programs/literature offered to ensure patient safety
IV. Recognition of Dental Specialties/Certifying organizations

I. Dental Anesthesia
Despite media coverage of recent deaths of patients in dental practices undergoing sedation, dental anesthesia remains one of the safest forms of anesthesia practiced.
1/100,000 incidents in hospitals
1/678,794 OMFS incidents
1/400,000 deaths in dental anesthesia cases

American Dental Association---Guidelines for the Use of Sedation and General Anesthesia by Dentists Adopted in 2016 by the ADA House of Delegates
"The American Dental Association is committed to the safe and effective use of these modalities by appropriately educated and trained dentists. The purpose of these guidelines is to assist dentists in the delivery of safe and effective sedation and anesthesia for adults..... For children, the American Dental Association supports the use of the American Academy of Pediatrics/American Academy of Pediatric

Dentistry Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures."

- Defines common terms used in sedation including methods of anxiety and pain control
- Discusses educational requirements and clinical guidelines

American Academy of Pediatrics/American Association of Pediatric Dentistry Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures

- Care of children from birth to 19
- Children and adults with special needs
- Pediatric sedation cases are selected based upon: Age, Behavior, Medical Status and Extent of Decay
- AAPD offers independent accreditation of dental offices

Oral and Maxillofacial Training (CODA) Approved

- Minimum of 300 general/deep sedation cases
- 150 ambulatory cases
- 50 pediatric cases
- Must manage all aspects of pain/anxiety

Specialty and Post-Doctoral Education Programs Accredited in Anesthesia

- Oral and Maxillofacial Surgery
- Pediatric Dentistry
- Periodontics
- Dental Anesthesia
- General Practice Residency

II. Opioid Awareness

United States is 4.6% of world's population but consumes 80% of its opioids.

Opioid Receptor Characteristics:

- Help achieve a short term goal
- Decrease pain
- Increase motivation
- Increase confidence
- Decrease depression/Anxiety
- Increase reward
- Increase "warm fuzzy feeling"/interpersonal bonding

Types of pain----Acute pain < 3 months, Chronic pain > 3 months

Opioid "Truths"

Opioids are not effective pain medications.
Opioids lead to addiction.
We must prevent first exposure.

Best treatment for acute pain: Acetaminophen, Physical therapy, ice

Best treatment for chronic pain: Behavioral therapy

III. Dental Assisting National Board

The Dental Assisting National Board (DANB) was founded in 1948 and is the national certification board for dental assistants. More than 37,000 dental assistants are currently DANB certified nationwide. DANB, a nonprofit organization, is a member of the Institute for Credentialing Excellence.

Discussed CDC updates, including 2016 publication---Summary of Infection Prevention Practice in Dental Settings: Basic Expectations for Safe Care.
(E-copy available at https://www.cdc.gov/oralhealth/infectioncontrol/pdf/safe-care.pdf)

Organizational Certification Programs:
Certified Dental Assistant
Certified Orthodontic Assistant
Certified Restorative Functions Assistant
Certified Preventative Functions Dental Assistant
RHS+ICE+AMP=NELDA (National Entry Level Dental Assistant)

NELDA is a program created by DANB to ensure there are minimum requirements (education and training) to work as an entry level dental assistant. This is similar to a DA I in several states.

IV. Recognition of Dental Specialties/Certifying organizations

Frank Recker, DDS, JD
Frank R. Recker and Associates, Viewpoint

"A dental board serves a very legitimate purpose in protecting the public. However, most boards are ill-informed relative to imposing advertising restrictions. It is one thing to enact regulations that restrict commercial free speech; but it is something else to be able to constitutionally justify such regulations. A dental board cannot simply decide, on its own, what constitutes lawful restrictions on free speech. It must have evidence, not just speculation, to support any such restrictions.

Any dentist facing a challenge or threat of disciplinary action because of alleged violations of a dental board's advertising rules would be wise to consult with legal counsel well-versed in the legal issues relating to commercial free speech. In my experience, too many dentists are willing to "admit" such violations rather than challenge them. And, remember, insurance company-retained defense counsel will not challenge any such regulation as the insurance carriers will not pay for such challenges prior to formal disciplinary action, when the dentist's license is put in jeopardy. And, it is very possible that insurance carrier-retained counsel will not raise First Amendment constitutional issues in any forum, as they are generally not familiar with this area of the law."

J. Craig Busey, JD
ADA General Counsel, Viewpoint

What is a dental specialty?

A specialty is an area of dentistry that has been formally recognized by the American Dental Association as meeting the specified Requirements for Recognition of Dental Specialties. The responsibilities of the different areas of specialization, the requirements and other information can be found here in Dental Specialties. Currently there are Nine Dental Specialties recognized by the ADA.

Mr. Busey discussed current ADA guidelines as to specialty certification but also stated changes were proposed to the existing certification process. See the changes below which were established approximately 1 week after the meeting.

ADA Press Release dated November 3, 2017

"In an effort to reduce potential or perceived bias and conflict of interest in the decision-making process for recognizing dental specialties, the ADA 2017 House of Delegates voted Oct. 23 to establish a new commission to oversee the process.

Resolution 30H-2017 called for an amendment to the ADA Bylaws, and creates the ADA National Commission on Recognition for Dental Specialties and Certifying Boards.

Following the House of Delegates decision, the ADA Board of Trustees in December is expected to consider nominations and make appointments for the ADA's nine general dentist appointees to the new commission. The ADA is also requesting that the sponsoring organizations of the nine recognized specialties make their appointments. The new commission is expected to hold its first meeting in 2018, likely in spring or summer.

The establishment of the new commission will enhance the specialty recognition program that sets requirements designed to help dentists excel throughout their careers and the public ascertain the importance of educationally qualified and board certified dental specialists, according to the ADA Board of Trustees report that accompanied the resolution.

Previously, the ADA House of Delegates determined the recognition of dental specialties, organizations and certifying boards. According to the report, that process carried financial and reputational risks.

The Board report stated that "while the process will be grounded in the existing ADA Requirements for the Recognition of Dental Specialties and national Certifying Boards for Dental Specialists as approved by the ADA House of Delegates, the decision to grant or deny recognition to a dental specialty must rest with a new commission."

The Board's decision to explore a new commission was made after it charged the Task Force on Specialty and Specialty Certifying Board Recognition to evaluate the process and criteria by which specialties and specialty certifying boards are recognized.

The Board and task force created a list of principles that guided them in developing a proposal to revise the process. These principles included:

- The process must be grounded in objective standards that protect the public, nurture the art and science of dentistry and improve the quality of care.
- The process must serve to reduce potential bias or conflicts of interest, or the perception of bias or conflicts of interest, in the decision-making process.
- The process must include multiple steps, including provisions for appeal.

The creation of the ADA National Commission on Recognition of Dental Specialties and Certifying Boards can accomplish those principles and others, according to the approved proposal."

The slides for the presentations are available at www.dentalboards.org.

Respectfully submitted----
Tonya Parris-Wilkins, DDS

CODA Site Visit Report
Northern Virginia Community College/Germanna Community College
Dental Hygiene Program
November 15-17, 2017
Presented by: Patricia B. Bonwell, RDH, BSDH, MSG, PhD
Virginia State Board of Dentistry Member

Representing the Virginia State Board of Dentistry, I served on a site visit team and participated in an accreditation site visit of the Dental Hygiene Program at the Northern Virginia Community College/Germanna Community College scheduled for November 15-17, 2017. Participating in various conferences and interviews with students, faculty, and administrators as well as touring the clinics at the two educational sites, I gained a better understanding and respect for the accreditation process. All elements of the educational program and curriculum for each course were evaluated. The site visit is such an important component of the accreditation process. All information presented in the self-study is verified on site to assure compliance with CODA standards. The accreditation process is necessary to ensure that educational standards are met supporting the graduation of competent, confident, and professional oral health care providers in order to serve the public and profession.

Agenda Item: Regulatory Actions - Chart of Regulatory Actions
(As of December 5, 2017)

Chapter		Action / Stage Information
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Conforming rules to ADA guidelines on moderate sedation [Action 4748] Proposed - *Register Date: 12/25/17* *Comment period ends: 2/23/18* *Public hearing: 1/26/18*
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Prescribing opioids for pain management [Action 4778] Proposed - *At Secretary's Office for 4 days*
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Amendment to restriction on advertising dental specialties [Action 4920] Fast-Track - *DPB Review in progress*
[18 VAC 60 - 25]	Regulations Governing the Practice of Dental Hygienists	Continuing education for practice by remote supervision [Action 4917] Emergency/NOIRA - *Register Date: 11/27/17* *Emergency effective: 11/13/17* *Comment on NOIRA: 12/27/17*
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	Education and training for dental assistants II [Action 4916] NOIRA - *At Secretary's Office for 60 days*

VIRGINIA
REGULATORY TOWN HALL

townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Board of Dentistry, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC60-21-10 et seq. 18VAC60-25-10 et seq. 18VAC60-30-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Dentistry Regulations Governing the Practice of Dental Hygiene Regulations Governing the Practice of Dental Assistants
Action title	Change in renewal schedule from annual to birth month
Date this document prepared	12/15/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

Amendments to regulations are necessary to change the renewal schedule from a set date of March 31st to renewal in one's birth month. The change will occur in the calendar year after the effective date of the regulation. The intent is to distribute the workload associated with renewal across a calendar year and to make the renewal deadline easier for licensees to remember. The board will experience a modest reduction in revenue for that calendar year, but it had a balance of $4,013,542 on June 30, 2017 with projected expenditures of $2,839,981 in FY18. It can easily absorb any reduction resulting from this action.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system, including the establishment of renewal schedules and collection of fees:

§ 54.1-2400 -General powers and duties of health regulatory boards
The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.

4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The proposed regulatory action may make it easier for licensees to remember to renew if it coincides with their birth month and avoid late fees or practicing without a valid license. The birth month renewal schedule has been adopted by Medicine and Nursing for many years. It alleviates the compressed workload associated with renewals and allows staff to be more responsive to other concerns. Renewal of licensure is essential to protect public health and safety; as a non-general fund agency, the Board of Dentistry depends on a steady stream of revenue to offset expenditures associated with the regulation and discipline of these professions.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Sections in each chapter setting out the renewal of licensure for dentists, dental hygienists, and dental assistants II will be amended to become effective in the calendar year following the effective date of this regulation. Assuming the effective date would be in calendar year 2019, the revised renewal schedule by birth month would take effect in January of 2020. Those licensees who have birth dates in January and February and who would normally renew in March will renew in their birth month with a proportionally reduced fee. All other licensees would pay the current fee in their birth month, beginning in March of 2020.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no alternatives to the proposal; this is the least burdensome alternative that meets the essential purpose.

Public participation

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (**http://www.townhall.virginia.gov**), or by mail, email, or fax to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or elaine.yeatts@dhp.virginia.gov or by fax to (804) 527-4434. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (**http://www.townhall.virginia.gov**) and on the Commonwealth Calendar website (https://www.virginia.gov/connect/commonwealth-calendar). Both oral and written comments may be submitted at that time.

Agenda Item: Board Action on Fee Reduction

Included in your agenda package are:

Copy of statutes - *§ 54.1-113 Regulatory boards to adjust fees* and
§ 2.2-4006. Exemptions from requirements of this article. (APA exemption)

Projected cash balances from June 30, 2017 to June 30, 2022

Draft – Recommendation for one-time fee reduction in 2018

Draft – NOIRA for change of renewal schedule from annual to renewal by birth month in 2020

Board action:

- **Adoption of a one-time fee reduction by exempt action.**
- **Adoption of NOIRA to change renewal schedule**

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 1. General Provisions

§ 54.1-113. Regulatory boards to adjust fees; certain transfer of moneys collected on behalf of health regulatory boards prohibited.

A. Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

B. Nongeneral funds generated by fees collected on behalf of the health regulatory boards and accounted for and deposited into a special fund by the Director of the Department of Health Professions shall be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Monitoring Program, and the Department and Board of Health Professions and shall not be transferred to any agency other than the Department of Health Professions, except as provided in §§ 54.1-3011.1 and 54.1-3011.2.

1981, c. 558, § 54-1.28:1; 1988, c. 765; 1993, c. 499; 2006, c. 631; 2009, c. 472; 2017, c. 423.

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:...

6. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants.

Department of Health Professions
Board of Dentistry
FY18 - FY22 Projected Cash Balances and Financial Data
Includes FY18 One-time Renewal Fee Reduction

		Dentistry
FY18		
Cash Balance as of June 30, 2017	$	4,013,542
Revised Budget Revenue		1,527,840
Budget Direct and In-Direct Expenditures		2,830,981
Projected Cash Balance as of June 30, 2018		2,710,401
FY19		
Projected Cash Balance as of June 30, 2018		2,710,401
Projected Revenue		2,905,580
Projected Direct and In-Direct Expenditures		2,866,696
Projected Cash Balance as of June 30, 2019		2,749,285
FY20		
Projected Cash Balance as of June 30, 2019		2,749,285
Projected Revenue		2,978,720
Projected Direct and In-Direct Expenditures		2,926,819
Projected Cash Balance as of June 30, 2020		2,801,186
FY21		
Projected Cash Balance as of June 30, 2020		2,801,186
Projected Revenue		3,053,980
Projected Direct and In-Direct Expenditures		2,975,797
Projected Cash Balance as of June 30, 2021		2,879,369
FY22		
Projected Cash Balance as of June 30, 2021		2,879,369
Projected Revenue		3,131,420
Projected Direct and In-Direct Expenditures		3,047,953
Projected Cash Balance as of June 30, 2022	$	2,962,837

Board of Dentistry
Draft One-time Fee Reduction
FY18

Renewal Fee Types	Number of Licensees (a)	FY18 Projected Renewal Revenue	Current Fees	One-Time Fee Reduction (b)	FY18 Revised Projected Renewal Revenue	Difference
Cosmetic Procedure Certification	40	4,000	$100	50.00	2,000	50.0%
Dental Full Time Faculty, Current Active	14	3,990	285	142.00	1,988	50.2%
Dental Hygienist, Current Active	5,716	428,700	75	37.00	211,492	50.7%
Dental Hygienist, Current Inactive	206	8,240	40	20.00	4,120	50.0%
Dentist, Current Active	7,063	2,012,955	285	142.00	1,002,946	50.2%
Dentist, Current Inactive	300	43,500	145	72.00	21,600	50.3%
Oral/Maxillofacial Surgeon Registration, Current Active	266	46,550	175	87.00	23,142	50.3%
Conscious/Moderate Sedation	233	23,300	100	50.00	11,650	50.0%
Dental Assistant II	19	950	50	25.00	475	50.0%
Deep Sedation/General Anesthesia	57	5,700	100	50.00	2,850	50.0%
Enteral Conscious/Moderate Sedation	171	17,100	100	50.00	8,550	50.0%
Mobile Dental Facility	17	2,550	150	75.00	1,275	50.0%
Dental Restricted Volunteer	16	240	15	7.00	112	53.3%
Temporary Resident	60	2,100	35	17.00	1,020	51.4%
Dental Hygienist Restricted Volunteer	1	15	15	7.00	7	53.3%
Total	14,179	2,599,890			1,293,227	
Difference between current fees and proposed one time fee reduction						1,306,663.00

(a) as of November 30, 2017

(b) approximately 50% one time fee reduction

Project 5359 - none

BOARD OF DENTISTRY

Fee reduction 2018

18VAC60-21-40. Required fees.

A. Application/registration fees.

1. Dental license by examination	$400
2. Dental license by credentials	$500
3. Dental restricted teaching license	$285
4. Dental faculty license	$400
5. Dental temporary resident's license	$60
6. Restricted volunteer license	$25
7. Volunteer exemption registration	$10
8. Oral maxillofacial surgeon registration	$175
9. Cosmetic procedures certification	$225
10. Mobile clinic/portable operation	$250
11. Conscious/moderate sedation permit	$100
12. Deep sedation/general anesthesia permit	$100

B. Renewal fees.

1. Dental license - active	$285
2. Dental license - inactive	$145
3. Dental temporary resident's license	$35
4. Restricted volunteer license	$15
5. Oral maxillofacial surgeon registration	$175
6. Cosmetic procedures certification	$100
7. Conscious/moderate sedation permit	$100
8. Deep sedation/general anesthesia permit	$100

C. Late fees.

1. Dental license - active	$100
2. Dental license - inactive	$50
3. Dental temporary resident's license	$15
4. Oral maxillofacial surgeon registration	$55
5. Cosmetic procedures certification	$35
6. Conscious/moderate sedation permit	$35
7. Deep sedation/general anesthesia permit	$35

D. Reinstatement fees.

1. Dental license - expired	$500
2. Dental license - suspended	$750
3. Dental license - revoked	$1000
4. Oral maxillofacial surgeon registration	$350
5. Cosmetic procedures certification	$225

E. Document fees.

1. Duplicate wall certificate	$60
2. Duplicate license	$20
3. License certification	$35

F. Other fees.

1. Returned check fee	$35
2. Practice inspection fee	$350

G. No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

H. For the renewal of licenses, registrations, certifications, and permits in ~~2016~~ 2018, the following fees shall be in effect:

1. Dentist - active	~~$210~~ $142
2. Dentist - inactive	~~$105~~ $72
3. Dental full-time faculty	~~$210~~ $142
4. Temporary resident	~~$25~~ $17
5. Dental restricted volunteer	~~$10~~ $7

6. Oral/maxillofacial surgeon registration	~~$130~~ $87
7. Cosmetic procedure certification	~~$75~~ $50
8. Conscious/moderate sedation certification	~~$75~~ $50
9. Deep sedation/general anesthesia	~~$75~~ $50
10. Mobile clinic/portable operation	~~$110~~ $75

18VAC60-25-30. Required fees.

A. Application fees.

1. License by examination	$175
2. License by credentials	$275
3. License to teach dental hygiene pursuant to § 54.1-2725 of the Code	$175
4. Temporary permit pursuant to § 54.1-2726 of the Code	$175
3. Restricted volunteer license	$25
4. Volunteer exemption registration	$10

B. Renewal fees.

1. Active license	$75
2. Inactive license	$40
3. License to teach dental hygiene pursuant to § 54.1-2725	$75
4. Temporary permit pursuant to § 54.1-2726	$75

C. Late fees.

1. Active license	$25
2. Inactive license	$15
3. License to teach dental hygiene pursuant to § 54.1-2725	$25
4. Temporary permit pursuant to § 54.1-2726	$25

D. Reinstatement fees.

1. Expired license	$200
2. Suspended license	$400
3. Revoked license	$500

E. Administrative fees.

1. Duplicate wall certificate	$60
2. Duplicate license	$20
3. Certification of licensure	$35
4. Returned check	$35

F. No fee shall be refunded or applied for any purpose other than the purpose for which the fee was submitted.

G. For the renewal of licenses in ~~2016~~ 2018, the following fees shall be in effect:

1. Dental hygienist - active	~~$55~~$37
2. Dental hygienist - inactive	~~$30~~$20
3. Dental hygienist restricted volunteer	~~$10~~$7

18VAC60-30-30. Required fees.

A. Initial registration fee.	$100
B. Renewal fees.	
1. Dental assistant II registration - active	$50
2. Dental assistant II registration - inactive	$25
C. Late fees.	
1. Dental assistant II registration - active	$20
2. Dental assistant II registration - inactive	$10
D. Reinstatement fees.	
1. Expired registration	$125
2. Suspended registration	$250
3. Revoked registration	$300
E. Administrative fees.	
1. Duplicate wall certificate	$60
2. Duplicate registration	$20
3. Registration verification	$35
4. Returned check fee	$35

F. No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

G. For the renewal of a dental assistant II registration in ~~2016~~, the fees shall be ~~$35~~ $25.

Boards Should Be Based on Multiple Tests Using Patients

For almost 50 years I have argued that candidates for licensure should demonstrate their competence on patients before being allowed to practice. A paper-and-pencil exercise or station exam is inadequate. My dissatisfaction with a single encounter, narrow technique test on patients out of context is also well known. Both one-shot and head knowledge exams are simultaneously unreliable and invalid. It is quite within the realm of possibility that dental therapists could qualify under either alternative.

A recent American Student Dental Association (ASDA) whitepaper summarizes these shortcomings.[1]

Just one example involves a turf war about 15 years ago between the California Dental Board and Western Regional Examining Board (WREB). To show which was tougher (better at protecting the public), in the year where candidates could take either exam, the pass rate fell by 14% across all five dental schools in the state but immediately returned to equilibrium when California dropped out. Some candidates took both exams so it was possible to compare two performances of the same procedures separated by a few days. On the clinical periodontal performance, the correlation between the two tests for the same candidates was negative 0.04. There is no way to know which was right.

I was invited to a conference cosponsored by the American Dental Association (ADA), the American Dental Education Association (ADEA), and the testing community in Chicago in 2003. It was no surprise to find that an outside expert had been hired by the examiners. As I have a master's degree in testing from Harvard, the two of us hit it off just fine. We volleyed generalities for a bit until the expert asked how often the candidates were tested and what the failure rate was. Appropriately, he announced that it would be virtually impossible to determine the validity of a one-off test under such circumstances.

Those in the examining community seemed discouraged so I admittied that dental schools had made mistakes in the past and graduated some students who should not have practiced dentistry. Every year across the country a small number of practitioners have their licenses revoked or are placed on probation. In every case, these are individuals who graduated from dental school (not all in the United States) and who passed the one-shot initial licensure hurdle or alternative. For the past several months I have been reading disciplinary reports on dentists from four states. There are deaths, overtreatment, fraud, drugs, sexually aberrant behavior, and assaults. I have yet to run across a single disciplined license for an overhang, open margin, or anything else that would constitute a failure on an initial licensure examination.

There was a time when an independent examination of the near totality of dental knowledge and skill could be done in an afternoon. Throughout much of the nineteenth century there were no dental schools, but there were examiners. During the first quarter of the twentieth century, dental education was short—mostly lectures and demonstrations —and unstandardized, and schools were not accredited or otherwise held to common standards. Boards were necessary under such circumstances.

A high-water mark was reached in the 1940s, 50s, and 60s. The professional literature of that period showed educators and examiners sitting side by side working out a common way to elevate the profession. The American College of Dentists took the lead on some of these issues with standing committees on denturists, scope of practice of hygienists, and continuing education.

I have not been able to figure out why that era of cooperation came to an end. Some of the potential factors might include: (a) the steady decline of membership in the ADA from about 95% in 1960 to 65% today; (b) the explosion of effective and less technique-sensitive therapies; (c) prevention, the use of auxiliaries, and scientific understanding of the course of dental diseases all of which greatly

expanded what it means to "practice" dentistry; or (d) the emergence of third-party examining bodies that have to show a profit.

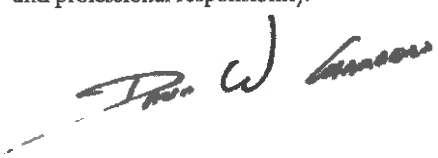
My disappointment is not with boards of dentistry. They provide a voice for minimal standards in oral health treatment in a world where state agencies are underfunded and slow to pursue regulations, consumer belly-aching, and a small number of greedy folks who passed the one-shot licensure process and have lawyer friends.

Although boards must retain responsibility for ensuring standards, they have the authority to delegate some of this work to others, consistent with state statues. For example, boards delegate background checks for criminal activity to law enforcement agencies. They delegate certification in the theoretical areas of dentistry to the Commission on National Dental Board Examinations (NBDE).

Most states have chosen to delegate one-shot, narrow scope initial licensure testing to financially independent examination agencies. There are many reasons why it would be better to delegate this function to the dental schools. That is already being done in some states by the GPR mechanism. It could easily be done generally at the DDS/DMD level. Students would be required to present evidence of their competence to independently manage and treat a family of patients to the standard of care across the full range of dental skills. This would include a battery of test case patient treatments including those the examining agencies use, except that they would come from a pool of patients in the normal comprehensive treatment sequence and there would be lots of them. To guarantee independence, examiners would be faculty members who can demonstrate calibration against standards developed by the state board.

This is known as the portfolio evaluation system, or the California system. It is now in place in several states. The system is more valid than alternatives because it is possible to test dental skill in a realistic, continuous, and comprehensive setting. The system is reliable because there are multiple measures of the core competencies.

Finally portfolios address the ethical concerns so prominent today. Professionalism on this score is a matter of who accepts the risk for patient treatment performed by non-licensed individuals, especially long-term risk. Testing agencies have refused to do so, thus transferring the risk to candidates. Treatment of patients by dental students does not constitute moral distress because schools are willing to assume the legal and professional responsibility.



1 www.asdanet.org/docs/advocate/asda_white-paper_licensure_web_final.pdf?sfvrsn=6)

Both one-shot and head knowledge exams are simultaneously unreliable and invalid.

The portfolio evaluation system is more valid than any alternatives because it is possible to test dental skill in a realistic, continuous, and comprehensive setting. The system is reliable because there are multiple measures of the core competencies.

Sanctioning Reference Points Instruction Manual

Board of Dentistry

Guidance Document 60-2
Adopted October 2005
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July 22, 2005

Dear Interested Parties:

In the spring of 2001, the Virginia Department of Health Professions approved a workplan to study sanctioning in disciplinary cases for Virginia's 13 health regulatory boards. The purpose of the study was to "*...provide an empirical, systematic analysis of board sanctions for offenses and, based on this analysis, to derive reference points for board members...*" The purposes and goals of this study are consistent with state statutes which specify that the Board of Health Professions periodically review the investigatory and disciplinary processes to ensure the protection of the public and the fair and equitable treatment of health professionals.

Each health regulatory board hears different types of cases, and as a result, considers different factors when determining an appropriate sanction. After interviewing current and past Board of Dentistry members and staff, a committee of Board members, staff, and research consultants assembled a research agenda involving one of the most exhaustive statistical studies of sanctioned Dentists in the United States. The analysis included collecting over 130 factors on all Board of Dentistry sanctioned cases in Virginia over a 7 year period. These factors measured case seriousness, respondent characteristics, and prior disciplinary history. After identifying the factors that were consistently associated with sanctioning, it was decided that the results provided a solid foundation for the creation of sanction reference points. Using both the data and collective input from the Board of Dentistry and staff, analysts spent 10 months developing a usable set of sanction worksheets as a way to implement the reference system.

By design, future sanction recommendations will encompass, on average, about 75% of past historical sanctioning decisions; an estimated 25% of future sanctions will fall above or below the sanction point recommendations. This allows considerable flexibility when sanctioning cases that are particularly egregious or less serious in nature. Consequently, one of the most important features of this system is its voluntary nature; that is, the Board is encouraged to depart from the reference point recommendation when aggravating or mitigating circumstances exist.

Equally important to recommending a sanction, the system allows each respondent to be evaluated against a common set of factors—making sanctioning more predictable, providing an educational tool for new Board members, and neutralizing the possible influence of "inappropriate" factors (e.g., race, sex, attorney presence, identity of Board members). As a result, the following reference instruments should greatly benefit Board members, health professionals and the general public.

Sincerely yours,

Robert A. Nebiker
Director

Cordially,

Elizabeth A. Carter, Ph.D.
Executive Director
Virginia Board of Health Professions

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GENERAL INFORMATION

Overview

The Virginia Board of Health Professions has spent the last three years studying sanctioning in disciplinary cases. The study is examining all 13 health regulatory boards, with the greatest focus most recently on the Board of Dentistry. The Board of Dentistry is now in a position to implement the results of the research by using a set of voluntary Sanctioning Reference Points (SRPs). This manual contains some background on the project, the goals and purposes of the system, and the three offense-based sanction worksheets and grids that will be used to help Board members determine how a similarly situated respondent has been treated in the past. This sanctioning system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Virginia Board of Dentistry. Moreover, the worksheets and grids have not been tested or validated on any other groups of persons. Therefore, they should not be used at this point to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The Sanctioning Reference system is comprised of a series of worksheets which score a number of offense and prior record factors identified using statistical analysis. These factors have been isolated and tested in order to determine their influence on sanctioning outcomes. A sanctioning grid found on each of the offense worksheets uses an offense score and a prior record score to recommend a range of sanctions from which the Board may select in a particular case.

In addition to this instruction booklet, separate coversheets and worksheets are available to record the offense score, prior record score, recommended sanction, actual sanction and any reasons for departure (if applicable). The completed coversheets and worksheets will be evaluated as part of an on-going effort to monitor and refine the SRPs. These instructions and the use of the SRP system fall within current Department of Health Professions and Board of Dentistry policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Board and are specified within existing Virginia statutes.

Background

In April of 2001, the Virginia Board of Health Professions (BHP) approved a work plan to conduct an analysis of health regulatory board sanctioning and to consider the appropriateness of developing historically-based sanctioning reference points for health regulatory boards, including the Board of Dentistry (BOD). The Board of Health Professions and project staff recognize the complexity and difficulty in sanction decision-making and have indicated that for any sanction reference system to be successful, it must be *"developed with complete Board oversight, be value-neutral, be grounded in sound data analysis, and be totally voluntary"*—that is, the system is viewed strictly as a Board decision tool.

Goals

The Board of Health Professions and the Board of Dentistry cite the following purposes and goals for establishing SRPs:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for BOD and those involved in proceedings
- "Neutralizing" sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Constraining the influence of undesirable factors—e.g., overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for compliance monitoring

Methodology

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive approach). A prescriptive approach reflects what policymakers feel sanction recommendations should be, as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments to

follow. This approach combines information from past practice with policy adjustments, in order to achieve some desired outcome. The Board of Dentistry chose a descriptive approach with a limited number of normative adjustments.

Qualitative Analysis

Researchers conducted 11 in-depth personal interviews of past and current BOD members, Board staff, and representatives from the Attorney General's office. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further frame the analysis. Additionally, interviews helped ensure the factors that Board members consider when sanctioning were included during the quantitative phase of the study. A literature review of sanctioning practice across the United States was also conducted.

Quantitative Analysis

Researchers collected detailed information on all BOD disciplinary cases ending in a violation between 1996 and 2004; approximately 198 sanctioning "events" covering 222 cases. Over 130 different factors were collected on each case in order to describe the case attributes Board members identified as potentially impacting sanction decisions. Researchers used data available through the DHP case management system combined with primary data collected from hard copy files. The hard copy files contained investigative reports, Board notices, Board orders, and all other documentation that is made available to Board members when deciding a case sanction.

A comprehensive database was created to analyze the offense and respondent factors which were identified as potentially influencing sanctioning decisions. Using statistical analysis to construct a "historical portrait" of past sanctioning decisions, the significant factors along with their relative weights were derived. These factors and weights were formulated into sanctioning worksheets and grids, which are the basis of the SRPs.

Offense factors such as patient harm, patient vulnerability and number of teeth involved were analyzed as well as respondent factors such as substance abuse, impairment at the time of offense, initiation of self-corrective action, and prior disciplinary history of the respondent. Some factors were deemed inappropriate for use in a structured sanctioning reference system. For example, the presence of the respondent's attorney, the respondent's age or sex, and case processing time, are considered "extra-legal" factors, and were explicitly excluded from the sanction reference points. Although many factors, both "legal" and "extra-legal" can help explain sanction variation, only those "legal" factors the Board felt should consistently play a role in a sanction decision were included in the final product.

By using this method, the hope is to achieve more neutrality in sanctioning, by making sure the Board considers the same set of "legal" factors in every case.

Wide Sanctioning Ranges

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Board with a sanction range that encompasses roughly 77% of historical practice. This means that 23% of past cases had received sanctions either higher or lower than what the reference points indicate, acknowledging that aggravating and mitigating factors play a role in sanctioning. The wide sanctioning ranges recognize that the Board will sometimes reasonably disagree on a particular sanction outcome, but that a broad selection of sanctions fall within the recommended range.

Any sanction recommendation the Board derives from the SRP worksheets must fall within Virginia law and regulations. If a Sanctioning Reference Point worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or policies supersede any worksheet recommendation.

Two Dimensional Sanctioning Grid Scores Both Offense and Prior Record Factors

The Board indicated early in the study that sanctioning is not only influenced by circumstances associated with the instant offense, but also by the respondent's past history. The empirical analysis supported the notion that both offense and prior record factors impacted sanction outcomes. To this end, the Sanction Reference Points make use of a two-dimensional scoring grid; one dimension assesses factors related to the instant offense, while the other dimension assesses factors related to prior record.

The first dimension assigns points for circumstances related to the violation offense that the Board is currently considering. For example, the respondent may receive points if they were unable to safely practice due to impairment at the time of the offense, or if there were multiple patients involved in the incident(s). The other dimension assigns points for factors that relate to the respondent's prior record. So a respondent before the Board for an unlicensed activity case may also receive points for having had a history of disciplinary violations. This respondent can receive additional points if the prior violation is similar.

Voluntary Nature

The SRP system is a tool to be utilized by the Board of Dentistry. Compliance with the SRPs is voluntary. The Board will use the system as a reference tool and may choose to sanction outside the recommendation. The Board maintains complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Board is not provided with the appropriate coversheet and worksheet in every case eligible for scoring.
A coversheet and worksheet should be completed in cases resolved by Informal Conferences. The coversheet and worksheets will be referenced by Board members during Closed Session.

Worksheets Not Used in Certain Cases

The SRPs will not be applied in any of the following circumstances:

- Formal Hearings — Sanction Reference Points will not be used in cases that reach a Formal Hearing level.
- Mandatory suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the license of a practitioner must be suspended. The sanction is defined by law and is therefore excluded from the Sanctioning Reference Point system.
- Compliance/reinstatements – The SRPs should not be applied to compliance or reinstatement cases
- Action by another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Board of Dentistry, the Board often attempts to mirror the sanction handed down by the other Board. The Virginia Board of Dentistry usually requires that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply as the case has already been heard and adjudicated by another Board.

The SRPs are organized into three offense groups. This organization is based on a historical analysis showing that offense and prior record factors and their relative importance vary by type of offense. The reference point factors found within a particular offense group are those which proved important in determining historical sanctions for that offense category.

When multiple cases have been combined into one "event" (one notice) for disposition by the Board, only one offense group coversheet and worksheet should be completed and it should encompass the entire event. If a case has more than one offense type, one coversheet and worksheet is selected according to the offense group which appears highest on the following table. For example, a dentist found in violation of both advertising and a treatment-related offense would have their case scored on a Standards of Care worksheet, since Standards of Care is above Advertising/Business Practice Issues on the table. The table also assigns the various case categories brought before the Board to one of the three offense groups. If an offense type is not listed, find the most analogous offense type and use the appropriate scoring worksheet.

Table 1: Offense Groups Covered by the Sanctioning Reference Points

Inability to Safely Practice	Inability to safely practice – Impairment or Incapacitation Inability to safely practice - Other Drug Related • Prescribing without a relationship • Non-dental purposes • Excessive prescribing/dispensing • Personal Use • Security • Other • Obtaining drugs by fraud
Standard of Care	Standard of Care – Diagnosis/Treatment Related • Failure to diagnose or treat • Incorrect diagnosis or treatment • Failure to respond to needs • Delay in treatment • Unnecessary treatment • Improper performance of procedure • Failure to refer/obtain consult • Failure to offer patient education • Other Standard of Care - Consent related Standard of Care - Equipment/Product related Standard of Care - Prescription related Sexual assault and mistreatment Abuse/Abandonment/Neglect Records release
Business Practice Issues/Advertising	Records/Inspections/Audits Business Practices Issues Fraud Criminal activity Unlicensed activity • Aiding/Abetting unlicensed activity • DEA registration revoked/expired/invalid • Practicing on lapsed/expired license • Other Advertising • Claim of Superiority • Deceptive/Misleading • Improper use of trade name • Fail to disclose full fee when advertising discount • Other • Omission of required wording/advertising elements

Completing the Coversheet & Worksheet

Ultimately, it is the responsibility of the Board to complete the Sanction Reference Point coversheet and worksheet in all applicable cases.

The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the Board and respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The Sanction Reference Point coversheet and worksheet, once completed, are confidential under the Code of Virginia. However, complete copies of the Sanction Reference Point Manual, including blank coversheets and worksheets, can be found on the Department of Health Professions web site: www.dhp.state.va.us (paper copy also available on request).

Offense Group Worksheets

Instructions for scoring each of the 3 offenses are contained adjacent to each worksheet in subsequent sections of this manual. Instructions are provided for each line item of each worksheet and should be referenced to ensure accurate scoring for a specific factor. When scoring an offense group worksheet, the scoring weights assigned to a factor on the worksheet cannot be adjusted. The scoring weights can only be applied as 'yes or no' with all or none of the points applied. In instances where a scoring factor is difficult to interpret, the Board has final say in how a case is scored.

Coversheet

The coversheet is completed to ensure a uniform record of each case and to facilitate recordation of other pertinent information critical for system monitoring and evaluation.

If the Board feels the sanctioning grid does not recommend an appropriate sanction, the Board is encouraged to depart either higher or lower when handing down a sanction. If the Board disagrees with the sanction grid recommendation and imposes a sanction greater or less than the recommended sanction, a short explanation can be recorded on the coversheet. The explanation could identify the factors and the reasons for departure. This process will ensure worksheets are revised appropriately to reflect current Board practice. If a particular reason is continually cited, the Board can examine the issue more closely to determine if the worksheets should be modified to better reflect Board practice.

Aggravating and mitigating circumstances that may influence Board decisions can include, but should not be limited to, such things as:

- Severity of the incident
- Monetary gain
- Dishonesty/Obstruction
- Motivation
- Remorse
- Patient vulnerability
- Restitution/Self-corrective action
- Multiple offenses/Isolated incident
- Age of prior record

A space is provided on the coversheet to record the reason(s) for departure. Due to the uniqueness of each case, the reason(s) for departure may be wide-ranging. Sample scenarios are provided below:

Departure Example #1
Sanction Grid Result: Recommend Formal.
Imposed Sanction: Probation with terms – practice restriction.
Reason(s) for Departure: Respondent was particularly remorseful and had already begun corrective action.

Departure Example #2
Sanction Grid Result: No Sanction/Reprimand/Education.
Imposed Sanction: Treatment – practice monitoring.
Reason(s) for Departure: Respondent may be trending towards future violations, implement oversight now to avoid future problems.

Determining a Specific Sanction

The Sanction Grid has four separate sanctioning outcomes: Recommend formal or accept surrender, Treatment, Monetary Penalty, and No Sanction/Reprimand/Education. The table below lists the most frequently cited sanctions under the four sanctioning outcomes that are part of the sanction grid. After considering the sanction grid recommendation, the Board should fashion a more detailed sanction(s) based on the individual case circumstances.

Table 2: Sanctioning Reference Point Grid Outcomes

Recommend Formal or Accept Surrender	Recommend Formal Accept Surrender Suspension Revocation
Treatment/Monitoring	Stayed Suspension - Immediate Probation Terms • Audit/inspection of practice, clinical exam • Quarterly self-reports • Impairment – HPMP • Practice Restriction - oversight by a supervisor/monitor • Practice Restriction - specific • Practice Restriction - setting • Practice Restriction - chart/record review • Prescribing - restrictions • Quarterly job performance evaluations • Prescribing - log • Written notification to employer/employees/associates • Mental/physical evaluation
Monetary Penalty	Monetary Penalty
No Sanction/Reprimand/Education	No Sanction Reprimand Education Terms • Advertising - cease and desist • Cease and Desist • Continuing Education - general or specific • Continuing Education - record keeping • Continuing Education - prescribing • Virginia Dental Law Exam

Sanctioning Reference Points Coversheet, Worksheets and Instructions

Sanctioning Reference Points Coversheet

- Complete Offense Score section.
- Complete Prior Record Score section.
- Determine the Recommended Sanction using the scoring results and the Sanction Grid.
- Complete this coversheet.

Case Number(s): | | | | | | | | | | | | | | | | | | |

Respondent Name: _____ (Last) _____ (First) _____ (Title)

License Number: _____

Worksheet Used:
___ Inability to Safely Practice Standard of Care
___ Advertising/Business Practice Issues

Sanction Grid Result:
___ No Sanction/Reprimand/Education
___ No Sanction/Reprimand/Education - Monetary Penalty
___ Monetary Penalty – Treatment/Monitoring
___ Treatment/Monitoring
___ Treatment - Recommend Formal/Accept Surrender

Imposed Sanction(s):
___ No Sanction
___ Reprimand
___ Monetary Penalty: $_____ enter amount Probation:
___ _____ duration in months
___ Stayed Suspension: _____ duration in months
___ Recommend Formal
___ Accept Surrender
___ Accept Revocation
___ Stayed Suspension
___ Other sanction: _____
___ Terms: _____

Reasons for Departure from Sanction Grid Result (if applicable): _____

_____

_____

Worksheet Preparer's Name: _____ Date Worksheet Completed: _____

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia.

Inability to Safely Practice Worksheet Instructions

Offense Score

Step 1: (score all that apply)

Enter "60" if the respondent was unable to safely practice at the time of the offense due to illness related to substance abuse impairment, or mental/physical incapacitation.

Enter "40" if physical injury occurred. Physical injury includes any injury requiring medical care ranging from first aid treatment to hospitalization. Patient death would also be included here.*

Enter "30" if the offense involves multiple patients.

Enter "20" if the offense involves one or more teeth.

Enter "20" if the patient required subsequent treatment from a licensed third party healthcare practitioner, not necessarily a dentist.

Enter "20" if the offense involves self-prescribing or prescribing beyond the scope.

Enter "20" if there was financial or material gain. Examples of cases involving financial or material gain include, but are not limited to, completing unnecessary treatment to increase fees, failure to comply with provider contracts with insurance companies and billing patient portion of fees, unbundling of services or aiding and abetting the unlicensed practice of dentistry or dental hygiene.

Enter "15" if the patient is especially vulnerable. Patients in this category must be one of the following: under age 18, over age 65, or mentally/physically handicapped.

Enter "10" if multiple respondents were involved.

Enter "10" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.

Step 2: Combine all for Total Offense Score

Prior Record Score

Step 3: (score all that apply)

Enter "60" if the respondent's license was previously lost due to Revocation, Suspension, or Summary Suspension.

Enter "20" if the respondent has a criminal activity conviction related to the current case.

Enter "20" if the respondent has had a previous finding of a violation.

Enter "20" if the respondent has had a previous violation with a sanction imposed.

Enter "10" if the respondent has had any "similar" violations prior to this case. Similar violations include any cases that are also classified as "Inability to Safely Practice" (see cases that are eligible for scoring listed under "Case Categories" in the table on Page 6).

Step 4: Combine all for Total Prior Record Score

Sanction Grid

Step 5:

Locate the Offense and Prior Record scores within the correct ranges on the top and left sides of the grid. The cell where both scores intersect is the sanction recommendation. Example: If the Offense Score is 60 and the Prior Record Score is 10, the recommended sanction is shown in the center grid cell – "Treatment".

Step 6: Coversheet
Complete the coversheet including the grid sanction, the imposed sanction and the reasons for departure if applicable.

* Original text revised in September 2012. Injury was previously defined as, "Physical injury includes any injury requiring medical care ranging from first aid treatment to hospitalization."

Inability to Safely Practice Worksheet

Board of Dentistry
Revised Dec 2015

Offense Score	Points	Score
Inability to safely practice - impaired/incapacitated	60	
Patient injury	40	
More than one patient involved	30	
One or more teeth involved	20	
Patient required subsequent treatment	20	
Self-prescribing or prescribing beyond scope	20	
Financial or material gain	20	
Patient vulnerable	15	
Multiple respondents involved	10	
Act of commission	10	
Total Offense Score		

Respondent Score		
License previously lost	60	
Concurrent criminal activity conviction	20	
Previous finding of a violation	20	
Previous violation with a sanction imposed	20	
Previous violation similar to current	10	
Total Respondent Score		

Offense Score

Prior Record Score	0-30	31-60	61 and over
0	No Sanction/Reprimand/ Education / Monetary Penalty	Monetary Penalty / Treatment/Monitoring	Treatment/Monitoring
1-30	Treatment/Monitoring	Treatment/Monitoring	Treatment/Monitoring
31 and over	Treatment/Monitoring	Treatment/ Monitoring / Recommend Formal/ Accept Surrender	Treatment/ Monitoring / Recommend Formal/ Accept Surrender

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia.

Standard of Care Worksheet Instructions

Offense Score

Step 1: (score all that apply)

Enter "60" if the offense involves multiple patients.

Enter "30" if the patient is especially vulnerable. Patients in this category must be one of the following: under age 18, over age 65, or mentally/physically handicapped.

Enter "25" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.

Enter "20" if there was financial or material gain. Examples of cases involving financial or material gain include, but are not limited to, completing unnecessary treatment to increase fees, failure to comply with provider contracts with insurance companies and billing patient portion of fees, unbundling of services or aiding and abetting the unlicensed practice of dentistry or dental hygiene.

Enter "10" if the offense involves one or more teeth.

Enter "10" if physical injury occurred. Physical injury includes any injury requiring medical care ranging from first-aid treatment to hospitalization. Patient death would also be included here. *

Enter "10" if the patient required subsequent treatment from a licensed third party healthcare practitioner, not necessarily a dentist.

Enter "10" if multiple respondents were involved.

Enter "10" if the offense involves self-prescribing or prescribing beyond the scope.

Step 2: Combine all for Total Offense Score

Prior Record Score

Step 3: (score all that apply)

Enter "60" if the respondent's license was previously lost due to Revocation, Suspension, or Summary Suspension.

Enter "20" if the respondent has had a previous finding of a violation.

Enter "20" if the respondent has had a previous violation with a sanction imposed.

Enter "10" if the respondent has had any "similar" violations prior to this case. Similar violations include any cases that are also classified as "Standard of Care" (see cases that are eligible for scoring listed under "Case Categories" in the table on Page 6).

Enter "10" if the respondent has a criminal activity conviction related to the current case.

Step 4: Combine all for Total Prior Record Score

Sanction Grid

Step 5:
Locate the Offense and Prior Record scores within the correct ranges on the top and left sides of the grid. The cell where both scores intersect is the sanction recommendation.

Example: If the Offense Score is 60 and the Prior Record Score is 10, the recommended sanction is shown in the center grid cell – "Monetary Penalty/Treatment".

Step 6: Coversheet
Complete the coversheet including the grid sanction, the imposed sanction and the reasons for departure if applicable.

* Original text revised in September 2012. Injury was previously defined as, "Physical injury includes any injury requiring medical care ranging from first aid treatment to hospitalization."

Standard of Care

Board of Dentistry
Revised Dec 2015

Offense Score	Points	Score
More than one patient involved	60	
Patient vulnerable	30	
Act of commission	25	
Financial or material gain	20	
One or more teeth involved	10	
Patient injury	10	
Patient required subsequent treatment	10	
Multiple respondents involved	10	
Self-prescribing or prescribing beyond scope	10	
Total Offense Score		

Respondent Score		
License previously lost	60	
Previous finding of a violation	20	
Previous violation with a sanction imposed	20	
Previous violation similar to current	10	
Criminal activity conviction	10	
Total Respondent Score		

Offense Score

Prior Record Score	0-40	41-65	66 and over
0	No Sanction/ Reprimand/Education	No Sanction/Reprimand/ Education / Monetary Penalty	Monetary Penalty / Treatment/Monitoring
1-20	No Sanction/Reprimand/ Education / Monetary Penalty	Monetary Penalty / Treatment/Monitoring	Treatment/Monitoring / Recommend Formal/ Accept Surrender
21 and over	Monetary Penalty / Treatment/Monitoring	Monetary Penalty / Treatment/Monitoring	Treatment/Monitoring / Recommend Formal/ Accept Surrender

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia.

Advertising Worksheet Instructions

Offense Score

Step 1: (score all that apply)

Enter "60" if the offense involves multiple patients.

Enter "40" if the patient is especially vulnerable. Patients in this category must be one of the following: under age 18, over age 65, or mentally/physically handicapped.

Enter "30" if the offense involves one or more teeth.

Enter "20" if multiple respondents were involved.

Enter "20" if the offense involves self-prescribing or prescribing beyond the scope.

Enter "20" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.

Enter "20" if there was financial or material gain. Examples of cases involving financial or material gain include, but are not limited to, completing unnecessary treatment to increase fees, failure to comply with provider contracts with insurance companies and billing patient portion of fees, unbundling of services or aiding and abetting the unlicensed practice of dentistry or dental hygiene.

Enter "10" if physical injury occurred. Physical injury includes any injury requiring medical care ranging from first aid treatment to hospitalization. Patient death would also be included here.*

Enter "10" if the patient required subsequent treatment from a licensed third party healthcare practitioner, not necessarily a dentist.

Step 2: Combine all for Total Offense Score

Prior Record Score

Step 3: (score all that apply)

Enter "60" if the respondent's license was previously lost due to Revocation, Suspension, or Summary Suspension.

Enter "40" if the respondent has a criminal activity conviction related to the current case.

Enter "30" if the respondent has had a previous violation with a sanction imposed.

Enter "20" if the respondent has had a previous finding of a violation.

Enter "10" if the respondent has had any "similar" violations prior to this case. Similar violations include any cases that are also classified as "Advertising/ Business Practice Issues" (see cases that are eligible for scoring listed under "Case Categories" in the table on Page 6).

Step 4: Combine all for Total Prior Record Score

Sanction Grid

Step 5:
Locate the Offense and Prior Record scores within the correct ranges on the top and left sides of the grid. The cell where both scores intersect is the sanction recommendation.

Example: If the Offense Score is 30 and the Prior Record Score is 10, the recommended sanction is shown in the center grid cell – "Monetary Penalty".

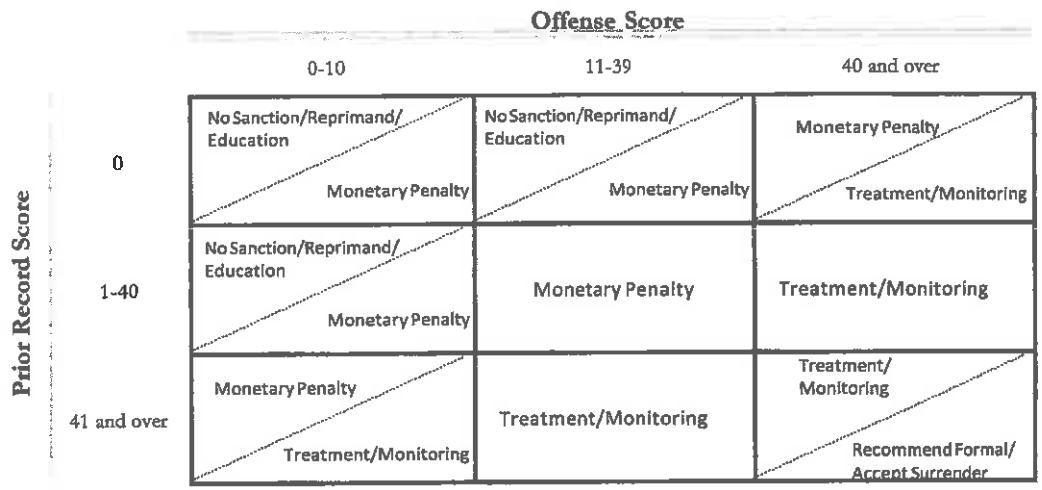
Step 6: Coversheet Complete the coversheet including the grid sanction, the imposed sanction and the reasons for departure if applicable.

Advertising/Business Practice Issues

Board of Dentistry
Revised Dec 2015

Offense Score	Points	Score
More than one patient involved	60	
Patient vulnerable	40	
One or more teeth involved	30	
Multiple respondents involved	20	
Self prescribing or prescribing beyond scope	20	
Act of commission	20	
Financial or material gain	20	
Patient injury	10	
Patient required subsequent treatment	10	
Total Offense Score		

Respondent Score		
License previously lost	60	
Criminal activity conviction	40	
Previous violation with a sanction imposed	30	
Previous finding of a violation	20	
Previous violation similar to current	10	
Total Respondent Score		



Confidential pursuant to § 54.1-2400.2 of the Code of Virginia.

Disciplinary Board Report for December 15, 2017

Today's report reviews the 2017 calendar year case activity then addresses the Board's disciplinary case actions for the first quarter of fiscal year 2018 which includes the dates of July 1, 2017 through September 30, 2017.

Calendar Year 2017

The table below includes all cases that have received Board action since January 1, 2017 through December 1, 2017.

Calendar 2017	Cases Received	Cases Closed No/Violation	Cases Closed W/Violation	Total Cases Closed
January	36	12	7	19
February	18	12	5	17
March	37	50	8	58
April	20	7	5	12
May	30	29	3	32
June	49	45	6	51
July	23	14	2	16
August	37	29	8	32
September	27	23	7	30
October	33	9	3	12
November	27	60	3	63
December 1	0	10	0	10
Totals	**337**	**300**	**57**	**352**

Q1 FY 2018

For the first quarter of 2018, the Board received a total of 66 patient care cases. The Board closed a total of 51 patient care cases for a 77% clearance rate, which is down from 110% in Q4 of 2017. The current pending caseload older than 250 days is 26%, which is down from 34% in Q4 of 2017. The Board's goal is 20%. In Q1 of 2018, 67 % of the patient care cases were closed within 250 days, whereas 87% of the patient care cases were closed within 250 days in Q4 of 2017. The Board's goal is 90% of patient care cases closed within 250 days.[1]

License Suspensions

There was one mandatory suspension of a dental license and one summary suspension of a dental hygiene license by the Board between August 26, 2017 and December 1, 2017.

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[1] The Agency's Key Performance Measures.

- DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2017.
- The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 20% through the end of FY 2017.
- The goal is to resolve 90% of patient care cases within 250 business days through the end of FY 2017.

Guidance Document

Attached to this report is a draft copy of the revisions to Guidance Document 76-24.3, which is the Virginia Board of Dentistry Dental Inspection Form. This form was revised on Page 4 to add an End-Tidal CO2 monitor to the list of equipment required for dentists who administer conscious/moderate sedation. Additionally, the EKG monitoring equipment and temperature monitoring equipment were separated under the list of equipment required for dentists who administer deep sedation/general anesthesia. The additions/changes are highlighted in yellow.

Further, on Page 4, the duplicative section regarding whether a dentist has written basic emergency procedures and staff is trained to carry out the procedures was deleted. The written basic emergency procedures and training is addressed under the Education section on Page 2 of the inspection form.

Finally, on Page 4, under the Staffing Requirements section for Minimal Sedation, the choice for "NA" has been removed.

Board staff is asking that the Board discuss these changes and approve the draft Guidance Document 76-24.3 as revised.

Sedation/Anesthesia Form

Board staff is currently working on creating a sample Sedation/Anesthesia form that contains one place to record all of the information required by the Board's sedation and anesthesia regulations. Board staff will have a draft complete for the Board's review and approval at the March 2018 meeting.

Board Member concerns

Board staff would like to know if the Board members have any concerns about the way discipline matters are being handled? How is the probable cause review process working? Is there anything that could be done differently? Any concerns about informal conferences?

Virginia Board of Dentistry Dental Inspection Form **Date** **Hours** **Case#**

Commonwealth of Virginia
Department of Health Professions
9960 Mayland Drive, Suite 300
Henrico, VA 23233
804-367-4538

TYPE OF INSPECTION

_____**COMPLAINT INVESTIGATION** _____**COMPLIANCE** _____**OMS COSMETIC PROCEDURES AUDIT**

_____**PERIODIC PERMIT HOLDER** **Permit type:** _____ **Conscious/Moderate** ____**Deep Sedation/General Anesthesia**
Permit#: _____ **Exp. Date:** _____ **Facility #:** _____

NAME OF SUBJECT DENTIST **LICENSE #**

PRACTICE NAME **SPECIALTY PRACTICE**

STREET ADDRESS **CITY** **STATE** **ZIP** **CURRENT ADDRESS OF RECORD**

PHONE: **FAX:** **HOURS OF OPERATION:**

STAFF: (Identify dentists, hygienists, assistants, and general office staff)	POSITION	LICENSE	EXP. DATE	Assists in Sedation or GA

C NC NA	18VAC60-21-110 Utilization of Dental Hygienists and Dental Assistants II No more than 4 dental hygienists or dental assistants II in any combination practicing under direction at the same time.
C NC NA	18VAC60-21-120 If Dental Hygienists practice under general supervision determine if: Y N Written orders are in the patient record. Y N The services on the original order are to be rendered within a specific time period not to exceed 10 months. Y N The dental hygienist has consented in writing to providing services under general supervision. See personnel record. Y N The patient is informed before the appointment that he will be treated under general supervision. See patient record. Y N Written basic emergency procedures are established and the hygienist is capable of implementing those procedures. See the procedures. Ask the hygienist about preparation and training. If any of the requirements above are not met obtain a copy of one patient record to support an allegation of non-compliance.

POSTING OF CURRENT LICENSES, CERTIFICATES, AND REGISTRATIONS

C NC NA	54.1-2720	Name of every dentist practicing in this office is displayed at the entrance of the office.
C NC NA	54.1-2721 18VAC60-21-30	Dental Licenses are posted in plain view of patients.
C NC NA	54.1-2727 18VAC60-25-20.B	Dental Hygiene Licenses are posted in plain view of patients.
C NC NA	18VAC60-30-20.B	Dental Assistant II Registrations are posted in plain view of patients.
C NC NA	18VAC60-30-80	Radiation Certificate is posted for each person who exposes dental x-ray and is not otherwise licensed.
C NC NA	12VAC5-481-370.A (1) (B) & (C)	Department of Health's certification of x-ray machine is current and posted near the x-ray machine.
C NC NA	18VAC60-21-30	Conscious/Moderate Sedation Permit or AAOMS certificate AND DEA registration is posted in plain view of patients.
C NC NA	18VAC60-21-30	Deep Sedation/General Anesthesia Permit or AAOMS certificate AND DEA registration are posted in plain view of patients.

EDUCATION				
C	NC		Check which option applies: __18VAC60-21-250.A(2) Dentists must hold current certification in basic life support or basic cardiopulmonary resuscitation with hands-on airway training for healthcare providers. Current training in advanced resuscitation techniques with hands on simulated airway training for health care providers meets this requirement. OR __18VAC60-21-290.E(1) and 18VAC60-21-300.C(3) Dentists who administer conscious/moderate sedation, deep sedation or general anesthesia must hold current certification in advanced resuscitation techniques with hands-on simulated airway and megacode training for health care providers; the training for deep sedation and general anesthesia permit holders must include basic electrocardiographic interpretation
C	NC	NA	18VAC60-25-190.A(1)	Dental hygienists must hold current certification of completion of a hands-on course in basic cardiopulmonary resuscitation for health care providers
C	NC	NA	18VAC60-30-150.D	Dental assistants II must hold current certification of completion of a hands-on course in basic cardiopulmonary resuscitation ~~for health care providers~~
C	NC	NA	18VAC60-21-250.A(3)	Dentists who administer conscious/moderate sedation, deep sedation or general anesthesia have completed at least four hours of continuing education directly related to such administration and monitoring within the past 2 years
C	NC	NA	18VAC60-25-190.A(2)	Dental hygienists who monitor patients under conscious/moderate sedation, deep sedation or general anesthesia have completed at least four hours of continuing education directly related to such monitoring within the past 2 years
C	NC	NA	18VAC60-21-260.H(2)	Written basic emergency procedures are readily accessible when any level of sedation or general anesthesia is administered
C	NC	NA	18VAC60-21-260.H(2)	Record of staff training to carry out emergency procedures when any level of sedation or general anesthesia is administered NOTE THE MOST RECENT DATE OF TRAINING:_____
C	NC	NA	18VAC60-21-260.I(1)	Unlicensed ancillary personnel, i.e. dental assistants, who assist in the administration and monitoring of conscious/moderate sedation or deep sedation and general anesthesia, must hold current certification in basic resuscitation techniques with hands-on airway training for health care providers or a clinically oriented course.

RECORDKEEPING 18VAC60-21-90 and 18VAC60-21-260.D

Obtain Patient Records for content and compliance review by the Board as follows:

- For inspections addressing Complaint Investigations related to treatment or billing practices obtain the treatment records of all patients identified in the complaint.
- For inspections addressing Complaint Investigations related to unsafe/unsanitary conditions or practices obtain the source's patient record and <u>two (2)</u> additional patient records of patients who were recently treated. Review the patient schedule and randomly select the patients. Interview the source and these two (2) patients about their experience/observations.
- For sedation and anesthesia Permit Holders obtain two (2) patient records of patients who were recently treated under sedation or anesthesia. Review the patient schedule and randomly select the patients.
- Inspect each record collected to determine if:
  - ___ All handwritten and electronic documents and evidence are legible and complete
  - ___ Both sides of 2 sided documents are included
  - ___ X-rays, digital images and photographs are labeled with patient's name, date taken and content of the image including teeth numbers
  - ___ Itemized patient financial record and insurance billing records/correspondence are included
  - ___ Laboratory work orders are included
  - ___ Computerized prescriptions are included
  - ___ Periodontal charting is included
  - ___ CDs will open and content is accessible and legible

ENVIRONMENTAL CONDITIONS §54.1-2706(5) and/or §54.1-2706(11), 18VAC60-21-60.A(1)
Reference the CDC Guidelines for Infection Control in Dental Health-Care Settings

All sections of the facility appear neat and clean without any safety hazards Yes No

Observed equipment with broken or missing parts; oil/grease on any equipment; or dirty suction hoses, etc. Yes No
If yes, describe and photograph:

Describe sterilization process to include equipment used (should include heat and/or spore indicators.)

Who processes spore indicators? Obtain names and positions held. Verify that results are maintained. Yes No
What is office protocol when sterilization equipment indicates equipment is not working properly? Is the protocol available to staff in a print or electronic document? Yes No
How are sterilized instruments maintained?
How are clinical surfaces disinfected and sanitized? Frequency? Solutions used?
Are sharps containers available? Yes No Verify that there is a current contract, bill or receipt to document service for disposing of sharps/biohazard waste. Yes No
Appropriate personal protective equipment including gloves, face protection, eye protection and lead aprons are in stock. Yes No
Safe and accessible building exits in case of fire or other emergency were observed. Yes No

DRUG SECURITY, INVENTORY AND RECORDS §54.1-2706(5), §54.1-2706(11) and/or §54.1-2706(15), 18VAC60-21-70.A(4)

The dentist only maintains Sch VI controlled drugs. Yes No

If yes, answer the first question below then skip to the ANESTHESIA, SEDATION AND ANALGESIA section.

If the dentist maintains any Sch II –V controlled drugs complete this section.

C NC		Expired drugs are stored separate from the working stock of drugs until properly disposed
C NC	CFR 1301.75 (b)	Sch II-V controlled substances are stored in a securely locked, substantially constructed cabinet
C NC	CFR 1304.04 (f)	Inventories and records of Sch II controlled substances are maintained separately from all other records and are readily retrievable
C NC	CFR 1304.04 (f)	Inventories and records of Sch III-V controlled substances are maintained either separately from all other records or in such a form that the information is readily retrievable
C NC		Records of Sch II-V controlled substances are maintained in chronological order
C NC	54.1- 3404. F	Required records are maintained completely and accurately for two years from the date of the transaction
C NC	54.1-3404. C	Records of receipt include the actual date of receipt, name and address of the person from whom received, and the name, strength and quantity of drug received
C NC	54,1-3404. D	Records of drugs sold, administered, dispensed or disposed of include the date of the transaction, name of patient, drug name, quantity of drug, and signature of person making the transaction
C NC	54.1-3404. A& B	Biennial inventory of Sch II-V drugs available was taken on a date within two years of the previous biennial inventory
C NC	54.1-3404. A & B	Biennial inventory is dated and indicates whether it was taken at the opening or close of business. Specify.
C NC NA	54.1-3404. E	Theft or unusual loss of drugs in Sch II-V is reported to the board of Pharmacy and an inventory taken if the registrant is unable to determine the exact kind and quantity of drug loss

ANESTHESIA, SEDATION AND ANALGESIA

Dentist only administers local anesthesia? Yes No If yes, stop here. The remaining sections do not apply.

Dentist only administers minimal sedation? Yes No If yes, complete the question on emergency procedures and only the first columns in the next two sections.

Dentist has a conscious/moderate sedation permit? Yes No If yes, complete the question on emergency procedures and only the third columns in the next two sections.

Dentist has a deep sedation and general anesthesia permit? Yes No If yes, complete the question on emergency procedures and only the second columns in the next two sections.

Note here any descriptions provided on the administration practices followed and/or on the level of effect and condition of patients to help the Board assess the level of administration being administered:

EQUIPMENT REQUIREMENTS FOR ANESTHESIA, SEDATION AND ANALGESIA		
18VAC60-21-280.D A dentist who administers MINIMAL SEDATION (anxiolysis or inhalation analgesia) shall maintain the following operational equipment and be trained in its use	18VAC60-21-291.B A dentist who administers CONSCIOUS/MODERATE SEDATION shall maintain the following operational equipment in sizes for adults or children as appropriate for the patient being treated	18VAC60-21-301.C A dentist who administers DEEP SEDATION/GENERAL ANESTHESIA shall maintain the following operational equipment in sizes for adults or children as appropriate for the patient being treated
C NC Blood Pressure Monitoring	C NC Full face masks	C NC Full face masks
C NC Positive Pressure Oxygen	C NC Oral and Nasopharyngeal airway management adjuncts	C NC Oral and Nasopharyngeal airway management adjuncts
C NC Mechanical (hand) respiratory bag	C NC ET tubes with appropriate connectors or airway adjuncts such as a laryngeal mask airway	C NC ET tubes with appropriate connectors or airway adjuncts such as a laryngeal mask
C NC Suction Apparatus	C NC Laryngoscope with reserve batteries and bulbs and appropriately sized blades	C NC Laryngoscope with reserve batteries and bulbs and appropriately sized blades
C NC Pulse Oximeter	C NC Pulse Oximetry and BP Monitoring	C NC Source of delivery of oxygen under controlled positive pressure
	C NC Pharmacological antagonist agents unexpired	C NC Mechanical (hand) respiratory bag
	C NC Source of delivery of oxygen under controlled positive pressure	C NC Pulse Oximetry and BP Monitoring
	C NC Mechanical (hand) respiratory bag	C NC Emergency drugs for resuscitation
	C NC Emergency drugs for resuscitation	C NC EKG/Temp monitoring equipment
	C NC EKG monitor when using parenteral or titration	C NC Pharmacological antagonist agents unexpired
	C NC Defibrillator	C NC External defibrillator (manual or automatic)
	C NC Suction apparatus	C NC An End-Tidal CO2 monitor
	C NC Temp measuring device	C NC Suction apparatus
	C NC Throat Pack	C NC Throat Pack
	C NC Precordial or pretracheal stethoscope	C NC Precordial or pretracheal stethoscope

STAFFING REQUIREMENTS FOR ANESTHESIA, SEDATION, & ANALGESIA		
~~Y N Dentist has written basic emergency procedures and staff is trained to carry out the procedures. See the procedures. Ask staff about preparation and training.~~		
18VAC60-21-280.E A dentist who administers MINIMAL SEDATION by only using nitrous oxide/oxygen assures that: C NC ~~NA~~ The person who administers the nitrous oxide/oxygen or another dental staff member is always present with the patient until discharged. A dentist who administers MINIMAL SEDATION by anxiolysis with or without nitrous oxide/oxygen uses a: C NC ~~NA~~ Treatment team which includes the dentist & a second person to assist, monitor & observe the patient until discharged.	18VAC60-21-291.C A dentist who administers CONSCIOUS/MODERATE SEDATION uses a: C NC Treatment team which includes the operating dentist & a second person to assist, monitor & observe the patient.	18VAC60-21-301.D A dentist who administers DEEP SEDATION/GENERAL ANESTHESIA uses a: C NC Treatment team which includes the operating dentist, a second person to monitor & observe the patient, & a third person to assist the operating dentist

ORAL AND MAXILLOFACIAL SURGEONS

Y	N	18VAC60-21-310	Has Current Board Registration
Y	N	18VAC60-21-320	Has updated practitioner profile. Attach Profile.
Y	N	18VAC60-21-350	Performs cosmetic procedures and is certified by the Board according to §54.1-2709.

Please check all certifications for cosmetic procedures this licensee holds:

A. [ ] Rhinoplasty and other treatment of the nose

B. [ ] Blepharoplasty and other treatment of the eyelid

C. [ ] Rhytidectomy and other treatment of facial skin wrinkles and sagging

D. [ ] Submental liposuction and other procedure to remove fat

E. [ ] Browlift(either open or endoscopic technique) and other procedures to remove furrows and sagging skin on the upper eyelid or forehead

F. [ ] Otoplasty and other procedures to change the appearance of the ear

G. [ ] Laser resurfacing or dermabrasion and other procedures to remove facial skin irregularities

H. [ ] Platysmal muscle plication and other procedures to correct the angle between the chin and neck

I. [ ] Application of injectable medication or material for the purpose of treating extra-oral cosmetic conditions

Compliant (C) Non Compliant (NC) Not Applicable (NA)

Additional Inspection Observations and Notes

Signature of Inspector Date

Signature of Licensee Date

Virginia Board of Dentistry Dental Inspection Form **Date** **Hours** **Case#**

Commonwealth of Virginia
Department of Health Professions
9960 Mayland Drive, Suite 300
Henrico, VA 23233
804-367-4538

TYPE OF INSPECTION

_____COMPLAINT INVESTIGATION _____COMPLIANCE _____OMS COSMETIC PROCEDURES AUDIT

_____PERIODIC PERMIT HOLDER Permit type: _____ Conscious/Moderate ____Deep Sedation/General Anesthesia
Permit#: _____ Exp. Date: _____ Facility #: _____

NAME OF SUBJECT DENTIST **LICENSE #**

PRACTICE NAME **SPECIALTY PRACTICE**

STREET ADDRESS **CITY** **STATE** **ZIP** **CURRENT ADDRESS OF RECORD**

PHONE: **FAX:** **HOURS OF OPERATION:**

STAFF: (Identify dentists, hygienists, assistants, and general office staff)	POSITION	LICENSE	EXP. DATE	Assists in Sedation or GA

C NC NA	18VAC60-21-110	Utilization of Dental Hygienists and Dental Assistants II No more than 4 dental hygienists or dental assistants II in any combination practicing under direction at the same time.
C NC NA	18VAC60-21-120	If Dental Hygienists practice under general supervision determine if: Y N Written orders are in the patient record. Y N The services on the original order are to be rendered within a specific time period not to exceed 10 months. Y N The dental hygienist has consented in writing to providing services under general supervision. See personnel record. Y N The patient is informed before the appointment that he will be treated under general supervision. See patient record. Y N Written basic emergency procedures are established and the hygienist is capable of implementing those procedures. See the procedures. Ask the hygienist about preparation and training. If any of the requirements above are not met obtain a copy of one patient record to support an allegation of non-compliance.

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C NC NA	18VAC60-30-20.B	Dental Assistant II Registrations are posted in plain view of patients.
C NC NA	18VAC60-30-80	Radiation Certificate is posted for each person who exposes dental x-ray and is not otherwise licensed.
C NC NA	12VAC5-481-370.A(1) (B) & (C)	Department of Health's certification of x-ray machine is current and posted near the x-ray machine.
C NC NA	18VAC60-21-30	Conscious/Moderate Sedation Permit or AAOMS certificate AND DEA registration is posted in plain view of patients.
C NC NA	18VAC60-21-30	Deep Sedation/General Anesthesia Permit or AAOMS certificate AND DEA registration are posted in plain view of patients.

EDUCATION			
C NC			Check which option applies: _18VAC60-21-250.A(2) Dentists must hold current certification in basic life support or basic cardiopulmonary resuscitation with hands-on airway training for healthcare providers. Current training in advanced resuscitation techniques with hands on simulated airway training for health care providers meets this requirement. OR _18VAC60-21-290.E(1) and 18VAC60-21-300.C(3) Dentists who administer conscious/moderate sedation, deep sedation or general anesthesia must hold current certification in advanced resuscitation techniques with hands-on simulated airway and megacode training for health care providers; the training for deep sedation and general anesthesia permit holders must include basic electrocardiographic interpretation
C	NC	NA	18VAC60-25-190.A(1) Dental hygienists must hold current certification of completion of a hands-on course in basic cardiopulmonary resuscitation for health care providers
C	NC	NA	18VAC60-30-150.D Dental assistants II must hold current certification of completion of a hands-on course in basic cardiopulmonary resuscitation ~~for health care providers~~
C	NC	NA	18VAC60-21-250.A(3) Dentists who administer conscious/moderate sedation, deep sedation or general anesthesia have completed at least four hours of continuing education directly related to such administration and monitoring within the past 2 years
C	NC	NA	18VAC60-25-190.A(2) Dental hygienists who monitor patients under conscious/moderate sedation, deep sedation or general anesthesia have completed at least four hours of continuing education directly related to such monitoring within the past 2 years
C	NC	NA	18VAC60-21-260.H(2) Written basic emergency procedures are readily accessible when any level of sedation or general anesthesia is administered
C	NC	NA	18VAC60-21-260.H(2) Record of staff training to carry out emergency procedures when any level of sedation or general anesthesia is administered NOTE THE MOST RECENT DATE OF TRAINING:_____
C	NC	NA	18VAC60-21-260.I(1) Unlicensed ancillary personnel, i.e. dental assistants, who assist in the administration and monitoring of conscious/moderate sedation or deep sedation and general anesthesia, must hold current certification in basic resuscitation techniques with hands-on airway training for health care providers or a clinically oriented course.

RECORDKEEPING 18VAC60-21-90 and 18VAC60-21-260.D

Obtain Patient Records for content and compliance review by the Board as follows:

- For inspections addressing Complaint Investigations related to treatment or billing practices obtain the treatment records of all patients identified in the complaint.
- For inspections addressing Complaint Investigations related to unsafe/unsanitary conditions or practices obtain the source's patient record and two (2) additional patient records of patients who were recently treated. Review the patient schedule and randomly select the patients. Interview the source and these two (2) patients about their experience/observations.
- For sedation and anesthesia Permit Holders obtain two (2) patient records of patients who were recently treated under sedation or anesthesia. Review the patient schedule and randomly select the patients.
- Inspect each record collected to determine if:
  - ___All handwritten and electronic documents and evidence are legible and complete
  - ___Both sides of 2 sided documents are included
  - ___X-rays, digital images and photographs are labeled with patient's name, date taken and content of the image including teeth numbers
  - ___Itemized patient financial record and insurance billing records/correspondence are included
  - ___Laboratory work orders are included
  - ___Computerized prescriptions are included
  - ___Periodontal charting is included
  - ___CDs will open and content is accessible and legible

ENVIRONMENTAL CONDITIONS §54.1-2706(5) and/or §54.1-2706(11), 18VAC60-21-60.A(1)
Reference the CDC Guidelines for Infection Control in Dental Health-Care Settings

All sections of the facility appear neat and clean without any safety hazards Yes No

Observed equipment with broken or missing parts; oil/grease on any equipment; or dirty suction hoses, etc. Yes No
If yes, describe and photograph:

Describe sterilization process to include equipment used (should include heat and/or spore indicators.)

Who processes spore indicators? Obtain names and positions held. **Verify that results are maintained. Yes No**
What is office protocol when sterilization equipment indicates equipment is not working properly? **Is the protocol available to staff in a print or electronic document? Yes No**
How are sterilized instruments maintained?
How are clinical surfaces disinfected and sanitized? **Frequency?** **Solutions used?**
Are sharps containers available? Yes No **Verify that there is a current contract, bill or receipt to document service for disposing of sharps/biohazard waste. Yes No**
Appropriate personal protective equipment including gloves, face protection, eye protection and lead aprons are in stock. Yes No
Safe and accessible building exits in case of fire or other emergency were observed. Yes No

DRUG SECURITY, INVENTORY AND RECORDS §54.1-2706(5), §54.1-2706(11) and/or §54.1-2706(15), 18VAC60-21-70.A(4)

The dentist only maintains Sch VI controlled drugs. Yes No

If yes, answer the first question below then skip to the ANESTHESIA, SEDATION AND ANALGESIA section.

If the dentist maintains any Sch II –V controlled drugs complete this section.

C NC		Expired drugs are stored separate from the working stock of drugs until properly disposed
C NC	CFR 1301.75 (b)	Sch II-V controlled substances are stored in a securely locked, substantially constructed cabinet
C NC	CFR 1304.04 (f)	Inventories and records of Sch II controlled substances are maintained separately from all other records and are readily retrievable
C NC	CFR 1304.04 (f)	Inventories and records of Sch III-V controlled substances are maintained either separately from all other records or in such a form that the information is readily retrievable
C NC		Records of Sch II-V controlled substances are maintained in chronological order
C NC	54.1- 3404. F	Required records are maintained completely and accurately for two years from the date of the transaction
C NC	54.1-3404. C	Records of receipt include the actual date of receipt, name and address of the person from whom received, and the name, strength and quantity of drug received
C NC	54,1-3404. D	Records of drugs sold, administered, dispensed or disposed of include the date of the transaction, name of patient, drug name, quantity of drug, and signature of person making the transaction
C NC	54.1-3404. A& B	Biennial inventory of Sch II-V drugs available was taken on a date within two years of the previous biennial inventory
C NC	54.1-3404. A & B	Biennial inventory is dated and indicates whether it was taken at the opening or close of business. Specify.
C NC NA	54.1-3404. E	Theft or unusual loss of drugs in Sch II-V is reported to the board of Pharmacy and an inventory taken if the registrant is unable to determine the exact kind and quantity of drug loss

ANESTHESIA, SEDATION AND ANALGESIA

Dentist only administers local anesthesia? Yes No If yes, stop here. The remaining sections do not apply.

Dentist only administers minimal sedation? Yes No If yes, complete the question on emergency procedures and only the first columns in the next two sections.

Dentist has a conscious/moderate sedation permit? Yes No If yes, complete the question on emergency procedures and only the third columns in the next two sections.

Dentist has a deep sedation and general anesthesia permit? Yes No If yes, complete the question on emergency procedures and only the second columns in the next two sections.

Note here any descriptions provided on the administration practices followed and/or on the level of effect and condition of patients to help the Board assess the level of administration being administered:

EQUIPMENT REQUIREMENTS FOR ANESTHESIA, SEDATION AND ANALGESIA		
18VAC60-21-280.D A dentist who administers MINIMAL SEDATION (anxiolysis or inhalation analgesia) shall maintain the following operational equipment and be trained in its use	**18VAC60-21-291.B A dentist who administers CONSCIOUS/MODERATE SEDATION shall maintain the following operational equipment in sizes for adults or children as appropriate for the patient being treated**	**18VAC60-21-301.C A dentist who administers DEEP SEDATION/GENERAL ANESTHESIA shall maintain the following operational equipment in sizes for adults or children as appropriate for the patient being treated**
C NC Blood Pressure Monitoring	C NC Full face masks	C NC Full face masks
C NC Positive Pressure Oxygen	C NC Oral and Nasopharyngeal airway management adjuncts	C NC Oral and Nasopharyngeal airway management adjuncts
C NC Mechanical (hand) respiratory bag	C NC ET tubes with appropriate connectors or airway adjuncts such as a laryngeal mask airway	C NC ET tubes with appropriate connectors or airway adjuncts such as a laryngeal mask
C NC Suction Apparatus	C NC Laryngoscope with reserve batteries and bulbs and appropriately sized blades	C NC Laryngoscope with reserve batteries and bulbs and appropriately sized blades
C NC Pulse Oximeter	C NC Pulse Oximetry and BP Monitoring	C NC Source of delivery of oxygen under controlled positive pressure
	C NC Pharmacological antagonist agents unexpired	C NC Mechanical (hand) respiratory bag
	C NC Source of delivery of oxygen under controlled positive pressure	C NC Pulse Oximetry and BP Monitoring
	C NC Mechanical (hand) respiratory bag	C NC Emergency drugs for resuscitation
	C NC Emergency drugs for resuscitation	C NC EKG monitoring equipment
	C NC EKG monitor when using parenteral or titration	C NC Temp monitoring equipment
	C NC Defibrillator	C NC Pharmacological antagonist agents unexpired
	C NC Suction apparatus	C NC External defibrillator (manual or automatic)
	C NC Temp measuring device	C NC An End-Tidal CO2 monitor
	C NC Throat Pack	C NC Suction apparatus
	C NC Precordial or pretracheal stethoscope	C NC Throat Pack
	C NC An End-Tidal CO2 monitor	C NC Precordial or pretracheal stethoscope

STAFFING REQUIREMENTS FOR ANESTHESIA, SEDATION, & ANALGESIA		
18VAC60-21-280.E **A dentist who administers MINIMAL SEDATION by only using nitrous oxide/oxygen assures that:** **C NC The person who administers the nitrous oxide/oxygen or another dental staff member is always present with the patient until discharged.** **A dentist who administers MINIMAL SEDATION by anxiolysis with or without nitrous oxide/oxygen uses a:** **C NC Treatment team which includes the dentist & a second person to assist, monitor & observe the patient until discharged.**	**18VAC60-21-291.C** **A dentist who administers CONSCIOUS/MODERATE SEDATION uses a:** **C NC Treatment team which includes the operating dentist & a second person to assist, monitor & observe the patient.**	**18VAC60-21-301.D** **A dentist who administers DEEP SEDATION/GENERAL ANESTHESIA uses a:** **C NC Treatment team which includes the operating dentist, a second person to monitor & observe the patient, & a third person to assist the operating dentist**

ORAL AND MAXILLOFACIAL SURGEONS

Y N 18VAC60-21-310 Has Current Board Registration
Y N 18VAC60-21-320 Has updated practitioner profile. Attach Profile.
Y N 18VAC60-21-350 Performs cosmetic procedures and is certified by the Board according to §54.1-2709.

Please check all certifications for cosmetic procedures this licensee holds:

A. [ ] Rhinoplasty and other treatment of the nose

B. [ ] Blepharoplasty and other treatment of the eyelid

C. [ ] Rhytidectomy and other treatment of facial skin wrinkles and sagging

D. [ ] Submental liposuction and other procedure to remove fat

E. [ ] Browlift (either open or endoscopic technique) and other procedures to remove furrows and sagging skin on the upper eyelid or forehead

F. [ ] Otoplasty and other procedures to change the appearance of the ear

G. [ ] Laser resurfacing or dermabrasion and other procedures to remove facial skin irregularities

H. [ ] Platysmal muscle plication and other procedures to correct the angle between the chin and neck

I. [ ] Application of injectable medication or material for the purpose of treating extra-oral cosmetic conditions

Compliant (C) Non Compliant (NC) Not Applicable (NA)

Additional Inspection Observations and Notes

Signature of Inspector **Date** **Signature of Licensee** **Date**