VIRGINIA BOARD OF DENTISTRY
Regulatory-Legislative Committee
AGENDA
June 30, 2017

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

TIME		PAGE
1:00 p.m.	**Call to Order – Bruce S. Wyman DMD, Chair**	
	Evacuation Announcement – Ms. Reen	
	Public Comment	
	Approval of Minutes	
	• **October 16, 2015**	**P. 1**
	• **October 14, 2016**	**P. 6**
	• **January 05, 2017**	**P. 11**
	Status Report on Legislation and Regulatory Actions	
	Mayberry Petition for Recognition of the American Board of Dental Specialties	**P. 15**
	Carney Petition on Rules for Sedation and Anesthesia	**P. 27**
	Discussion Draft of the Dental Assistant Regulations with The Changes Proposed by the Regulatory Advisory Panel	**P. 43**
	Remote Supervision Regulations	**P. 48**
	Address Dental Assistants Using Cavitrons	**P. 51**
	Next meeting	
Adjourn		

Unapproved

VIRGINIA BOARD OF DENTISTRY
MINUTES OF REGULATORY-LEGISLATIVE COMMITTEE
October 16, 2015

TIME AND PLACE: The meeting of the Regulatory-Legislative Committee of the Board of Dentistry was called to order at 9:04 a.m., on October 16, 2015, Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 3, Henrico, Virginia.

PRESIDING: Melanie C. Swain, R.D.H., Chair

MEMBERS PRESENT: John M. Alexander, D.D.S.
Tonya A. Parris-Wilkins, D.D.S.
Bruce S. Wyman, D.M.D.

OTHER BOARD MEMBERS: Charles E. Gaskins, III, D.D.S.
Al Rizkalla, D.D.S.
Evelyn M. Rolon, D.M.D.
Tammy K. Swecker, R.D.H.
James D. Watkins, D.D.S

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

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

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

PUBLIC COMMENT: **Quinn Dufurrena, D.D.S., J.D.,** Executive Director of the Association of Dental Support Organizations (ADSO), stated that ADSO members help owner dentists with back office activities such as accounting, marketing, IT, and equipment. He added that ADSO has a Code of Ethics which prohibits interference with clinical decisions and records access and the creation of quotas. He added that ADSO would like to be involved in any discussion of regulating dental support organizations.

Dennis Gaskins, D.D.S. stated that he owns two dental practices and works under the umbrella of a dental support organization (DSO). He said he does not receive instructions regarding his practice decisions and that working with a DSO allows him to keep his fees low and to treat more people.

David Slezak, D.D.S. of Affordable Care, Inc., noted his concerns about the Texas laws addressing ownership of dental practices. He said he is ready to assist the Board in giving dentists the right to choose how to run their business.

Michelle McGregory, R.D.H., Director of the VCU Dental Hygiene Program and President of the Virginia Dental Hygienists' Association. She said VCU supports expansion of remote supervision. She noted that she provided evidence which supports increasing access to dental care at the Board's May 8th Open Forum. She stated that collaboration between dentists and dental hygienists is a win–win situation to increase access to dental care.

APPROVAL OF MINUTES:

Ms. Swain asked if Committee members had reviewed the October 24, 2014 minutes. Dr. Wyman moved to accept the minutes. The motion was seconded and passed.

DHP DIRECTOR'S REPORT:

Dr. Brown welcomed Dr. Parris-Wilkins to the Board. He then said he has submitted two draft legislative proposals on access to care to Secretary Hazel. He noted that one of the proposals addressed the practice of nurse practitioners and the other addressed the expansion of remote supervision settings for dental hygienists. He explained that Secretary Hazel has not decided if he will advance either of the proposals.

STATUS REPORT ON REGULATOR ACTIONS:

Ms. Yeatts reported:

- The NOIRA for a law exam is pending Governor's approval to publish and has been in this status for more than 139 days;
- The Fast-Track action to require capnography for monitoring anesthesia or sedation was rejected by the Department of Planning and Budget and was resubmitted as a NOIRA. The NOIRA has been at the Governor's Office for approval to publish for more than 34 days;
- The Fast-Track action to recognize the Commission on Dental Accreditation of Canada is pending Governor's approval to publish and been in this status for more than 24 days;
- The Periodic Review to reorganize Chapter 20 into four chapters will be published as final regulations on November 2, 2015 and go into effect on December 2, 2015. She noted that this has been under review for about four years. She recommended communication with all licensees since the regulations are quite different from the current regulations. She added that the Registrar's Office commented that the regulations were well written and credited Ms. Reen for her effort; and
- The exempt action to decrease one time renewal fees has been approved and will go into effect on December 2, 2015.

Virginia Board of Dentistry
Regulatory-Legislative Committee
October 16, 2015

ASSIGNMENTS:

Address who may own a dental practice

Ms. Swain called for discussion. Ms. Reen explained the Board asked the Committee to address:

1. How long a non-dentist relative such as a widow can operate a dental practice; and

2. Options for holding practice management companies and other such business entities accountable for policies and practices that contribute to unsafe dental treatment.

Ms. Reen said the Committee asked staff to contact several state agencies to get information on the authority they have to hold practice management companies and other such businesses accountable for policies and practices that contribute to unsafe dental treatment:

- The State Corporation Commission (SCC) indicated that it does not handle complaints against businesses unless they fall under one of their bureaus (insurance company, financial institution, utility company, etc);

- The Department of Medical Assistance Services (DMAS) stated that it monitors Board actions to determine if it will take action against licensees. Several meetings were held with DMAS staff and contact points were established to facilitate information sharing during investigations; and

- The Office of the Attorney General said it takes complaints about fraudulent billing practices through its Consumer Protection Section (CPS) and frequently refers complaints about health care to DHP. This section does do joint investigations with other state agencies and agreed to review cases involving practice management companies where fraud is suspected for conducting joint investigations.

Ms. Reen then expressed her concern that the Board has no legal authority to regulate practice management companies and asked for guidance on addressing this topic further. Discussion followed about: claims by respondents that the management company they have affiliated with has influenced patient care decisions; adding regulations on the boundaries a dentist must adhere to when associating with management companies using the Texas Code as the model; and, the comments from the public that contracts between dentists and management companies are working within reasonable bounds. The Committee agreed by consensus to recommend that the Board continue to monitor this topic for now and asked staff to confer with Board Counsel to develop a guidance document which sets forth the current law on practice ownership and lists the decisions that only a dentist can make.

Dr. Alexander asked if action is needed on how long a widow may own a dental practice. Ms. Reen responded there is no statute which addresses this but the Board does receive inquiries where there is a belief there is a time limit for a spouse to own a dental practice. She added that current law only provides that no dentist shall be supervised by anyone who is not a dentist. The Committee agreed by consensus to recommend that the Board take no action to limit the amount of time a family member can own a dental practice.

Dr. Watkins suggested that the Board issue a guidance document on the legal provisions for ownership and where a dentist might practice and include a list of the decisions only a dentist can make. Following discussion it was agreed by consensus that staff would work with Board Counsel on development of a guidance document.

Consider establishing a policy on the role of a dentist in treating sleep apnea

Ms. Reen stated the Board requested consideration of having a policy on the appropriate role of dentists in treating sleep apnea. She added that the questions is whether a dentist can diagnose the condition then reported that the position of the Board in disciplinary cases has consistently been that sleep apnea must first be diagnosed by a physician who can then coordinate with a dentist to provide treatment. During the Committee's discussion, Ms. Yeatts advised that there is a new law, 54.1-2957.15, which requires the technologists who do sleep study must be under the direction and supervision of a physician. By consensus, the Committee decided to recommend no action be taken at this time.

Work on a proposal to expand the use of remote supervision to free clinics and settings serving children and the elderly and to review the education requirements for dental assistants II

Ms. Swain said many of the speakers at the Board's forum recommended these actions to improve access to dental treatment then asked Ms. Swecker to start discussion by addressing her review of these topics, as noted in the material she submitted in the agenda. Ms. Swecker stated that the requirement to be a certified dental assistant (CDA) is a drawback for increasing the number of dental assistants II (DAII) and recommended establishing a path for dental hygienists to practice the functions delegable to DAIIs without requiring them to become a CDA as a way to provide care to elderly patients in facilities such as nursing homes. Discussion followed with no action taken.

Ms. Reen asked Dr. Browder from the Virginia Department of Health (VDH) if he would address the implementation of remote supervision in the health system. He agreed and reported that: the scope of practice of dental hygienists (RDH) was not changed; RDHs are trained and calibrated; they assess patient needs and provide hygiene treatment without a dentist's examination; RDHs have access to a dentist and are required to make contact at least every two weeks; and, schedules are maintained so the supervising dentist knows where practice is occurring and what treatment is being provided. He said treatment needs are referred to community dentists. Dr. Rolon and Dr. Parris-Wilkins commented that the VDH program is working well in their communities. Dr. Brown gave out copies of the proposed draft legislation submitted to Secretary Hazel. Following discussion, a motion by Dr. Alexander to present the proposal to the Board for discussion was seconded and passed. Discussion followed regarding the possibility of expanding the type of underserved groups, but it was agreed to do so at the December board meeting when further input is received from interested groups for consideration.

Discussion moved to the education requirements for dental assistants II (DAII). Ms. Reen said that years ago dentists in rural areas told the Board they needed help in order to see more patients. In response, the Board worked with educators from accredited dental assisting programs and the VCU School of Dentistry to develop the curriculum and regulations for practice as a DA II. She added that there are two programs offering DAII training. Ms. Yeatts noted that DAs II in Virginia have broader duties than the expanded function DAs (EFDA) in other states. Following discussion of reducing the requirements or requiring passage of a clinical examination, Dr. Wyman moved to recommend that the DA II regulations not be changed at this time. The motion was seconded and passed.

Consider policy action on the subject of teledentistry

Ms. Swain opened the floor for discussion. Discussion followed on the need for a policy which requires licensure in Virginia establishes the doctor-patient relationship and addresses the security of patient information. Dr. Wyman moved to have staff revise the Board of Medicine's Guidance Document 85-12 to present to the Board for consideration at its December meeting. The motion was seconded and passed.

Consider requiring a clinical examination similar to Ohio's for dental assistants II

Ms. Swain asked if discussion was needed since the Committee voted earlier not to recommend changes in the DA II regulations. Establishing a clinical examination was discussed with no action taken. Following further discussion, Ms. Reen suggested the Committee recommend that the Board establish a Regulatory Advisory Panel (RAP) of educator to discuss the DAII requirements. By consensus, all agreed.

VDA LEGISLATIVE PROPOSAL:

Ms. Reen stated the VDA proposal to modify the provisions for mobile dental clinics is provided for information. She explained the VDA requested the legislation to require registration and is now requesting an amendment to expand the entities exempt from registration requirements. Dr. Wyman moved to recommend that the Board, at its December meeting, decide to support this proposal. The motion was seconded and passed.

NEXT MEETING:

By consensus, the Committee decided to meet on Friday, February 12, 2016 if this date works for the RAP to address DAII requirements.

ADJOURNMENT:

With all business concluded, Ms. Swain adjourned the meeting at 12:42 p.m.

Melanie C. Swain, R.D.H., Chair

Sandra K. Reen, Executive Director

Date

Date

UNAPPROVED

BOARD OF DENTISTRY
MINUTES OF REGULATORY–LEGISLATIVE COMMITTEE
Friday, October 14, 2016

TIME AND PLACE:	The meeting of the Regulatory-Legislative Committee of the Board of Dentistry was called to order on October 14, 2016 at 9:05 a.m. at the Department of Health Professions, 9960 Maryland Drive, Suite 201, Board Room 4; Henrico, Virginia.
PRESIDING:	Bruce S. Wyman, D.M.D., Chair
COMMITTEE MEMBERS PRESENT:	John M. Alexander, D.D.S. Tonya A. Parris-Wilkins, D.D.S. Augustus A. Petticolas, Jr., D.D.S. Tammy C. Ridout, R.D.H
OTHER BOARD MEMBERS PRESENT:	James D. Watkins, D.D.S.
ESTABLISHMENT OF QUORUM:	All members of the Committee were present.
STAFF PRESENT:	Sandra K. Reen, Executive Director Kelley W. Palmatier, Deputy Executive Director Christine M. Houchens, Licensing Manager Elaine Yeatts, DHP Policy Analyst
PUBLIC COMMENT:	Misty Mesimer, Program Director-Dental Assisting/Assistant Professor from Germanna Community College, said the DAII courses offered at Germanna have now received accreditation through the Virginia Community College System which allows students to earn college credit as well as receive student loans for these courses. She supported changing the DAII eligibility requirements to a competency based model. She advised against using the DANB Expanded Functions Exam because it doesn't cover all the duties delegable in Virginia. Lori Turner, DAU Instructor at VCU School of Dentistry, stated that currently VCU does not have a DAII program but that there is interest. She supported moving to a competency based program which addresses the classification levels of procedures. She said dentists should be calibrated in teaching the procedures to ensure better understanding of competence of DAIIs.
APPROVAL OF MINUTES:	Dr. Wyman asked for a motion on the May 6, 2016 minutes. Ms. Ridout's motion to accept the minutes as presented was seconded and passed.

Virginia Board of Dentistry
Regulatory-Legislative Committee Meeting
October 14, 2016

REMOTE SUPERVISON LAWS AND REGULATIONS:

Terry Dickinson, DDS, VDA Executive Director, presented the recommended changes to the law governing remote supervision of dental hygienists which have been agreed to by the VDHA and the VDA. He said the current employment provision was changed to allow the clinics and facilities where remote supervision is allowed to employ the dental hygienist. He added that the current dental home language was simplified and the current medically compromised and periodontal disease provision was replaced with having a written protocol for addressing medical conditions and the presence of oral disease. In response to a question, Dr. Dickinson confirmed that the VDHA has seen and agreed to the propose changes. Elaine Yeatts congratulated the VDA and VDHA for working collaboratively and that she believes this will accomplish the initial intended goals. Ms. Reen said the Committee might accept the proposed changes by the VDA/VDHA as information, recommend that the Board support the proposed legislation, or identify any issues with the proposal the Board should address. She added the VDA/VDHA proposed language does address the three issues the Board identified in developing regulations to implement the remote supervision statute. Ms. Ridout's motion to recommend support of the proposed changes was seconded and passed.

STATUS REPORT ON LEGISLATION AND REGULATORY ACTIONS:

Ms. Yeatts reported that two regulatory actions will go into effect on November 16, 2016:

- The action amending Chapters 21 and 25 to include the new definition of remote supervision, the limitation on employment of dental hygienists for practice under remote supervision, and the delegation of duties under such supervision to conform to changes in §54.1-2722 and §54.1-2724 of the Code of Virginia.
- The action amending 18VAC60-21-430 to expand the exemptions for registration of mobile dental clinics to conform to changes in § 54.1-2708.3 of the Code of Virginia.

Ms. Yeatts reported that the action to change the requirement for posting a DEA permit to require that such a permit be maintained in a readily retrievable manner at each practice location is currently under review by the Department of Planning and Budget. She also stated the amendment of the Public Participation Guidelines to afford interested persons the right to be accompanied by and represented by counsel or other representative in making comments to the Board is pending publication as final regulations.

DISCUSSION ON POSSIBLE REVISIONS TO THE REQUIREMENTS FOR DENTAL ASSISTANT II REGISTRATION

Dr. Wyman said the question before the Committee is whether it wants to recommend either keeping the DAII regulations as they are or to amend them. Following extensive discussion of the reported barriers to obtaining registration under the current

regulations, the Committee agreed to pursue amendment of the regulations.

Ms. Mesimer responded to questions about the recognition of the DAII coursework by the Virginia Community College System and gave an overview of Germanna's program. She noted that the cost of the program is a major factor for enrollment and that the students can now receive financial aid because the courses qualify for college credit hours. She added that students are hesitant to enroll in the program because of the uncertainty of job prospects. She stressed the need to calibrate dentists who supervise the clinical experience.

Ms. Turner responded to questions about the expanded function dental assistant (EFDA) program requirements in Pennsylvania where she is registered as an EFDA. She discussed how she would convert the Board's current regulations to a competency based model. She recommended that an externship be evaluated on the number of procedures that need to be performed correctly. She also commented on the importance of dental oversight by dentists who have completed mandatory calibration exercises to guide the assessment of students. She added that the DAII requirements cannot be higher than requirements for dental students and noted that the needed chairside skills and techniques for CDAs are different from those needed by dental hygienists. She said, in Pennsylvania, DAIIs are employed in mostly high end practices of all practice types because it allows the dentist to see more patients. She added that her experience was that patients did not have qualms about being treated by an EFDA.

The Committee agreed by consensus that the education requirements should be changed to a competency based model as recommended in forums and in public comment. Ms. Yeatts advised that the Committee must take into account that other states regulate all dental assistants but Virginia doesn't. Dr. Petticolas moved that the Regulatory Advisory Panel be convened to review the DAII regulations and recommend changes to the regulations for consideration by the Committee. The motion was seconded and passed.

REVIEW ISSUES WITH IMPLEMENTATION OF THE FOUR CHAPTERS

Dr. Wyman called for discussion of the questions and statements of concern staff have received from licensees since issuance of the four chapters of regulations. The topics were addressed as follows:

- 18VAC60-21-30.B, 18VAC60-25-20.B, and 18VAC60-30-20.B, which require posting a license or registration, do appear to permit a licensee or registrant to post the wallet size license issued by the Board. Ms. Ridout made a motion to

recommend this interpretation to the Board. The motion was seconded and passed.

- 18VAC60-21-30.B, 18VAC60-25-20.B, and 18VAC60-30-20.B, which require posting a license or registration, do not address the exemptions in §§54.1-2721 and 54.1-2727 of the Code of Virginia for volunteer practice. The committee agreed by consensus to recommend that these sections be amended to reference the exemptions as proposed by Yeatts.

- Ms. Yeatts advised against incorporating the CDC Guidelines by reference in the regulations and recommended consideration of a guidance document. A motion by Dr. Parris-Wilkins to address safe and sanitary practice through a guidance document was seconded and passed.

- The Committee agreed by consensus to recommend that 18VAC60-21-100 should be interpreted to require reporting within 15 days of any emergency treatment related to local anesthesia is. It was also agreed by consensus to recommend that "or" be inserted between sedation and anesthesia in this section.

- By consensus, Ms. Yeatts was asked to research and propose terminology to replace the terms "gingival curettage" and "non-surgical" in 18VAC60-21-130. 18VAC60-21-140, and 18VAC60-25-40 for consideration by the Board.

- The inconsistency in regulatory provisions addressing dental hygiene practice in 18VAC60-21-140, 18VAC60-25-40, 18VAC60-21-291, and 18VAC60-21-30, and also in Guidance Document 60-4 related to treating patients under sedation and anesthesia was discussed. A motion by Dr. Alexander to recommend requiring a three-person treatment team for conscious/moderate sedation was seconded and passed. By consensus, Ms. Yeatts was asked to propose language addressing when a dental hygienist is allowed to treat patients who are sedated for consideration by the Board.

- Ms. Yeatts stated she would correct the regulatory citations in 18 VAC 60-21-280 as a technical amendment which does not require Board action.

NEXT MEETING:

Ms. Reen said she would work on scheduling the Regulatory Advisory Panel meeting for early January.

ADJOURNMENT:

With all business concluded, Dr. Wyman adjourned the meeting at

Virginia Board of Dentistry
Regulatory-Legislative Committee Meeting
October 14, 2016

11:48 a.m.

Bruce S. Wyman, D.M.D. Chair	Sandra K. Reen, Executive Director
Date	Date

UNAPPROVED

BOARD OF DENTISTRY
MINUTES OF REGULATORY--LEGISLATIVE COMMITTEE
Regulatory Advisory Panel Discussion on the
Education and Practice of Dental Assistants I & II

January 5, 2017

TIME AND PLACE:	The meeting of the Regulatory-Legislative Committee of the Board of Dentistry and the Regulatory Advisory Panel (RAP) was called to order on January 5, 2017 at 9:07 a.m. at the Department of Health Professions, 9960 Maryland Drive, Suite 201, Board Room 4; Henrico, Virginia.
PRESIDING:	Bruce S. Wyman, D.M.D., Chair
COMMITTEE MEMBERS PRESENT:	John M. Alexander, D.D.S. Tonya A. Parris-Wilkins, D.D.S. Tammy C. Ridout, R.D.H
COMMITTEE MEMBERS ABSENT:	Augustus A. Petticolas, Jr., D.D.S.
ESTABLISHMENT OF QUORUM:	With four members of the committee present, a quorum was established.
STAFF PRESENT:	Sandra K. Reen, Executive Director Kelley W. Palmatier, Deputy Executive Director Christine M. Houchens, Licensing Manager
ADVISORY PANEL MEMBERS PRESENT:	Lori Turner, CDA - VCU School of Dentistry Cheryl Evans, CDA, BSHA - Fortis College Angela Smith - J. Sargeant Reynolds Community College Misty Mesimer, RDH - Germanna Community College Richard Taliaferro, D.D.S. - Past-President, Virginia Dental Association Trish MacDougall, RDH - President, Virginia Dental Hygiene Association Vickie Brett - ECPI University Michelle Green-Wright, RN - Virginia Dept. of Education
PANEL MEMBERS ABSENT:	Tina Bailey, CDA - Virginia Dental Assistants Association
OTHERS PRESENT:	Elaine Yeatts, DHP Policy Analyst
PUBLIC COMMENT:	None
DISCUSSION ON POSSIBLE REVISIONS TO THE REQUIREMENTS FOR DENTAL ASSISTANT II REGISTRATION:	Dr. Wyman opened the meeting, indicating the RAP is asked to address the regulatory changes needed to establish competency based education requirements for Dental Assistants II (DAsII). He then asked each member of the panel to state their recommendations for revising the requirements.

Ms. Mesimer recommended that the DAII curriculum be changed to competency based requirements. She also recommended revising the regulations for Dental Assistants I to require certification in Infection Control in addition to the requirement for radiation certification. She requested that the Board provide more details on the content for the didactic courses on "dental anatomy" and "operative dentistry" to specify the topics that must be covered so there is consistency across programs.

Ms. Smith recommended revising the regulations to include minimum education standards for Dental Assistants I. She agreed with changing to a competency based curriculum and recommended that the Board define who can teach the DAII programs.

Ms. Evans noted that she agrees with all of the recommendations stated by Ms. Smith and Ms. Mesimer. She added that schools need to know the Board's required credentials for those who can teach the DAII program. She also noted that she supports a competency based curriculum.

Ms. Turner said the regulations should be revised to require Dental Assistants I to hold the Certified Dental Assisting credential available through the Dental Assisting National Board. She recommended that Dental Assistants II be required to have training in all the delegable procedures. She also encouraged that the clinical experience be overseen by someone other than an employer and that it should be completed at the school rather than an employer's dental office.

Dr. Taliaferro stated he supports a competency based curriculum and recommended having independent clinical examinations for each procedure, especially composites and amalgams.

Ms. MacDougall agreed with all the recommendations of the previous speakers.

Mrs. Green-Wright supported the recommendations for a competency based curriculum and added that students completing the dental assisting programs offered through the Department of Education could feed into the programs offered by community colleges for career advancement. She offered assistance in developing a competency based curriculum.

Ms. Brett also agreed with changing to a competency based curriculum, noting this is essential. She said she is concerned about the limited availability of DAII programs and questioned whether they should be restricted to schools with CODA accredited

programs.

Dr. Wyman questioned if there is a need for DAsII and if changing the regulations will lead to more training programs. He then said a universal approach to revising the regulations is needed and facilitated a discussion of the recommendations. There was general agreement that:

- There are dentists and dental assistants who have reported interest in having a DAII program in their area.
- The requirement that DAII programs be offered by an educational institution that maintains a CODA accredited dental assisting, dental hygiene or dental program should be maintained.
- The didactic dental anatomy and operative dentistry coursework should be two courses and the content of each course should be specified for uniformity across programs.
- Requirements to teach DAII programs should be addressed in regulation. Instructors should be at or above the DAII level and have appropriate experience.
- The clinical experience component of the program should be supervised by a dentist who has successfully completed a calibration exercise.
- All the delegable duties should be taught to every enrolled student.
- Competence in each delegable duty should be established by completing a clinical examination.
- There is concern about the lack of uniformity across programs when a dentist who employs a student also supervises and evaluates clinical competence.
- Education requirements for DAsI should be established. The need for training in infection control was stressed and DANB was identified as the source for this training. There was support for requiring that CDA certification by DANB be obtained over a specified period of time so that all DAsI would be required to hold the credential. Concerns about the need for and cost of such a requirement were raised. The possibility of using work force development grants for training current DAsI was noted.
- Requirements for clinical experience settings DAsII should be addressed for consistency across programs. Options identified included not for profit settings, clinics that operate in conjunction with the CODA accredited program, and a hybrid program for completion at the school and in dental offices.
- The Board could elect to undertake program accreditation and set the standards to assure consistency across programs.
- Objective competency assessment tools should be established for consistency across programs.

Dr. Wyman asked Ms. Reen to review the current regulations for the DAII program to identify the provisions where changes are recommended. During this review these additional items were also generally agreed to:

- The homework provision for laboratory training should be deleted. All training should be completed in the program's laboratory.
- Laboratory training should be mannequin based.
- The number of successful procedures required for the laboratory training in amalgam restorations and in composite resin restorations should be set for each class of restoration, with 12 required for Class I, 12 required for Class II, 5 required for Class III, 5 required for Class 4 and 5 required for Class V.
- The number of successful procedures for final impressions should be 4 and for the use non-epinephrine should be 2.
- The number of successful procedures required for the laboratory training in final cementation of crowns should be 5 and in final cementation of bridges should be 2.
- The number of hours for clinical experience should be reduced to a total of 120 hours and a required number of successful procedures should be set for each procedure.
- Strike the requirement for a practical examination at the conclusion of each module of laboratory training.

Ms. Reen said all the recommendations made today will be presented to the Regulatory-Legislative Committee for discussion. She said the ones addressing the DAII program requirements will be included in a discussion draft of the regulations which she will send to all the panel members for review in advance of the next meeting of the Committee. She invited their comments on the draft for the Committee's consideration.

NEXT MEETING: TBD

ADJOURNMENT: With all business concluded, Dr. Wyman thanked everyone for their contributions and adjourned the meeting at 12:12 pm.

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

Sandra K. Reen, Executive Director

Date

Date

Mayberry petition on recognition of American Board of Dental Specialties

Board Action on Draft Regulations for Opioid Prescribing. Following Ms. Yeatts review of the draft, the Board made the following amendments:

- in 18VAC60-21-103(C) the term "medical record" was changed to "patient record".
- in 18VAC60-21-105(1) the terminology was changed to address a "pain management specialist" to be consistent with 18VAC60-21-103(B)(3).
- 18VAC60-21-106 was changed to require dentists who prescribes any Schedule II through IV controlled substances to obtain two hours of continuing education on pain management during the renewal cycle following the effective date of the regulations which may be included in the 15 hours required for license renewal.

Dr. Watkins moved to adopt the amended regulations. The motion was seconded and passed.

Board Action on Petitions for Rulemaking.

- Dr. Carney petitioned the Board to amend three regulatory sections which address the requirements for taking vital signs when sedation is being administered. Following discussion, Dr. Petticolas moved to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.
- Dr. Mayberry petitioned the Board to recognize the American Board of Dental Specialties as a bona fide dental specialty certifying organization and to authorize dentists who were certified by the American Board of Implantology/Implant Dentistry be recognized as Dental Implant Specialists. Ms. Ridout moved to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.

BOARD DISCUSSION/ACTION:

Exam Committee Motion that the Board Reaffirm its Position of Requiring Live Patient Exams.
Dr. Watkins offered the motion for discussion. Following a brief discussion in support of the motion, it was passed.

How Should the Board Address the Use of a Cavitron Device. Dr. Watkins explained that during a recent informal conference, Special Conference Committee C discussed its concern that dentists are allowing dental assistants to use Cavitrons for scaling. He asked if the Board should issue a guidance document to inform licensees that dental assistants cannot use Cavitrons. Ms. Reen suggested that the Board review 18VAC60-21-140 which restricts delegation of scaling to only dental hygienists. Discussion followed about how to proceed and Ms. Ridout made a motion to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.

COMMONWEALTH OF VIRGINIA
Board of Dentistry

9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

(804) 367-4538 (Tel)
(804) 527-4428 (Fax)

Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle initial, Suffix,) Mayberry, Rodney S		
Street Address 112 Pleasant Street NW	**Area Code and Telephone Number** 703-281-2111	
City Vienna	**State** VA	**Zip Code** 22180
Email Address (optional) drmayberry@mayberrydental.com	**Fax (optional)** 703-281-0973	

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

   See attached letter.

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

   See attached letter.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

   See attached letter.

Signature: Rodney S. Mayberry DDS, DABOF **Date:** 11-1-2016

To: The Commonwealth of Virginia, Board of Dentistry
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

My understanding is the Virginia Board of Dentistry is aware of the recent changes with regard to certification and recognition of dental specialty certifying organizations and that the American Dental Association has determined that the Virginia Board of dentistry may recognize the American Board of Dental Specialties authority to certify dental specialties not currently recognized by the American Dental Association.

As a result of this recent change in the position and policy of the American Dental Association, please accept this letter as a formal petition to the Commonwealth of Virginia Board of Dentistry requesting the immediate recognition of American Board of Dental Specialties as a bona fide dental specialty certifying organization with all the powers, authority and status previously granted to the specialty groups and organizations' previously recognized by the American Dental Association listed below.

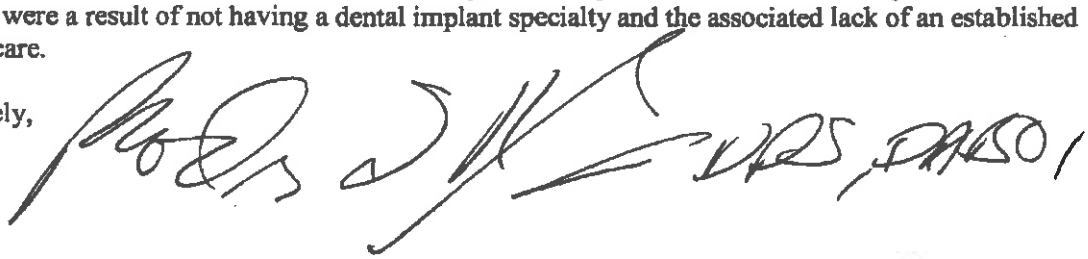
Oral and Maxillofacial Surgery
Dental Public Health
Endodontics
Oral and Maxillofacial Pathology
Oral and Maxillofacial Radiology
Orthodontics
Periodontics
Pediatric Dentistry
Prosthodontics

American Board of Dental Specialties
ADA Headquarters Building
211 E. Chicago Ave, Suite 750C
Chicago, IL 60611
312-818-2070

As part of this petition, it is requested that Diplomates, previously certified by the American Board of Oral Implantology/Implant Dentistry, which is a founding member of the ABDS, be immediately recognized as specialists in implant dentistry and be granted the unrestricted license to market, advertise and publish themselves as Dental Implant Specialists. Approval and acceptance of this petition would offer ABOI Diplomates in Virginia the same freedoms provided to ABOI Diplomates in Texas, and other states. The ability to advertise as dental implant specialists came about as a result of recent Federal Court decisions that will benefit all of dentistry.

My understanding is that the attorneys representing the Commonwealth of Virginia Board of Dentistry have already been made aware of these developments in Texas and the changes instituted by the American Dental Association. These changes are welcome and when fully instituted will better serve the public, establish a standard of care for implant dentistry, and help the Virginia Board of Dentistry clarify and provide guidance to the dentists in the Commonwealth. Most importantly, approval of these requested changes, recognition of the new dental implant specialty, will allow the Board to more fully protect the public, avoid some of the problems encountered in the past that were a result of not having a dental implant specialty and the associated lack of an established standard of care.

Most sincerely,



Rodney S. Mayberry DDS
Diplomate, American Board of Oral Implantology/Implant Dentistry

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VIRGINIA REGULATORY TOWN HALL

Department of Health Professions

Board **Board of Dentistry**

Chapter **Regulations Governing the Practice of Dentistry [18 VAC 60 - 21]**

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Commenter: Charles Martin, DDS * 1/4/17 11:08 pm

New certifying board for dental specialties

In light of the recent decision of the ADA to no longer be the governing body of dental specialties because of FTC action since they are restraining trade, I support the recommendation to recognize the American Board of Dental Specialties as the new governing body. This is an organization created to monitor specialties just like a similar board in medicine. over this text and enter your comments here. You are limited to approximately 3000 words.

* Nonregistered public user

Reen, Sandra (DHP)

From:	Rod Mayberry DDS <dr.mayberry@vacoxmail.com>
Sent:	Tuesday, May 2, 2017 8:42 AM
To:	Reen, Sandra (DHP)
Subject:	Proposed language for rule change
Attachments:	Recommendation of Rule Change 18VAC60-211-80 Advertizing.-1.docx

Dear Ms. Reen,

After thoughtful consideration, I have attached the recommended language for the proposed rule change to 18VAC60-21-80 Advertising.
Please advise me on any addition information needed, but according to my advisors, the attached should be sufficient.

Thank you for your help in making this needed change.

Sincerely,

Rod Mayberry DDS

Mayberry Dental
112 Pleasant Street NW
Vienna, VA 22180
703-281-2111
www.mayberrydental.com

R.S. Mayberry DDS, FAGD, FAAID, DABOI

To: Virginia Board of Dentistry
Request for Action on Petition for Rule Change
Submitted by Rodney S. Mayberry DDS PC 11-1-2016.,
on behalf of the American Board of Dental Specialties

Take notice that on November 1, 2016, the State Board of Dentistry (Board) received a petition for rulemaking from Rodney S. Mayberry DDS PC on behalf of the American Board of Dental Specialties (ABDS), requesting that the Board amend existing 18VAC60-21-80 Advertising to formally recognize the ABDS recognized certifying boards/areas of practice as specialties, and any future ABDS recognized specialties; thereby allowing diplomates of ABDS recognized certifying boards to advertise as specialists in accordance with 18 VAC60-21-80.

The petitioner notes that the ABDS was formed to offer a specialty-recognition process, similar to the American Board of Medical Specialties, that is not controlled by a private professional/trade association such as the American Dental Association (ADA). ABDS' focus is on recognizing certifying boards as specialty boards. To be recognized by the ABDS, a certifying board seeking dental specialty recognition must require a minimum of two (2) full-time, formal, advanced educational programs that are a minimum of two (2) years in duration and are presented by recognized educational institutions; or require 400 didactic hours in the specific area and the equivalent of one (1) year of clinical practice. A certifying board that is seeking membership in the ABDS must: 1) reflect a distinct and well-defined area of expertise in dental practice; 2) develop a rigorous standard of preparation and evaluation in the dental specialty area; 3) provide evidence of psychometric evaluation of the written and oral examination; 4) provide an effective mechanism to maintain certification; and 5) exist as an independent, self-governing entity whose main purpose is to evaluate candidates for board certification. The documentation and application requirements are numerous, and the ABDS

maintains rigorous standards for recognition.

The petitioner states that 18VAC60-21-80 violates the rights of credentialed members of ABDS certifying boards by infringing on their First Amendment rights to free speech by banning truthful non-misleading commercial speech, and on their Fourteenth Amendment rights to equal protection and due process of law. The petitioner also states that 18VAC60-21-80 violates anti-trust law by suppressing competition in a recognizable market.

The petitioner states that the Virginia regulation has effectively granted the ADA the power to regulate the right to free speech of **ABDS** credentialed members by not allowing credentialed members in the ABDS certifying boards to advertise as specialists even though they are highly qualified to do so. The specialty regulation has a chilling effect on the lawful exercise of the right to engage in truthful, non-misleading commercial speech because, if these licensees were to advertise to the public as specialists, their licenses would be at risk and subject to monetary and licensure penalties imposed by the Board.

The petitioner also states that members of its certifying boards have protected property and liberty interests in their licenses to practice dentistry and to be rewarded for their industry, including reaping the rewards of earning a *bona fide* specialty credential in their respective areas of expertise. In addition, the petitioner states that its licensees are deprived of any neutral, state- sponsored mechanism to determine dental specialties, evaluate the credentials earned in areas of dentistry that are not recognized by the ADA as a specialty, and appeal the ADA's denial of recognition of any credentialing organization that issues *bona fide* credentials upon which credentialed members of the ABDS could declare themselves "specialists" in their respective fields.

The petitioner further states that the Board has delegated authority to the ADA to determine which areas of dental practice should receive specialty designation and, hence, which

areas may be advertised by Virginia dentists as specialties. In addition, the petitioner states that the regulations provide no mechanism for evaluating the accrediting organization or its credentials or for contesting the decisions of the ADA denying specialty recognition. The petitioner also states that the Board has no active, continuing, or meaningful supervision over the unfettered regulatory delegation afforded to the ADA to determine which areas of practice and which dental specialties may be advertised by Virginia dentists as specialties. The petitioner states that Federal constitutional restraints do not allow the Board to delegate unguided and uncontrolled authority to a private organization to establish rules determining the lawfulness or unlawfulness of commercial speech.

In addition, the petitioner notes that the ADA recently revised its Code of Ethics to allow dentists to advertise a specialty not specifically recognized by the ADA.

The petitioner proposes that 18VAC60-21-80 be amended to read as follows:

(A-G, 2.) (No change.)

G.-3 Publishing an advertisement that contains a false claim of professional superiority, contains a claim to be a specialist, or uses any terms to designate a dental specialty unless his is entitled to such specialty designation, under the guidelines or requirements for specialties approved by the American Dental Association or American Board of Dental Specialties.~~(Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, November 2013), or such guidelines or requirements as subsequently amended:~~ or

G. 4 (No Change)

H. 1. Specialty dental practice recognition is granted to currently recognized American Dental Association (ADA) specialties including:

a. Oral and Maxillofacial Surgery;
b. Dental Public Health;
c. Endodontics;
d. Oral and Maxillofacial Pathology;
e. Oral and Maxillofacial Radiology;
f. Orthodontics;
g. Prosthodontics;
h. Pediatric Dentistry;
i. Periodontics;

And also specialties currently recognized by the American Board of Dental Specialties (ABDS) including:

j. Oral Implantology/ Implant Dentistry;
k. Oral Medicine;
l. Orofacial Pain;
m. Dental Anesthesiology;

And any other area of dentistry recognized in the future by either the American Dental Association and/or the American Board of Dental Specialties as a specialty area of dentistry.

2. The Board shall grant permission to announce a dental specialty or specialization of a dental practice to:

a. A licensed dentist who is certified or eligible for certification by a specialty board recognized by the American Dental Association **or American Board of Dental Specialties** appropriate to that area of dental practice listed in (H-1.) above; any specialist recognized in one specialty area will be in violation of the regulation if that dentist advertises as a specialist in any other recognized specialty area not having been recognized by the appropriate board granting that specialty recognition. For example, an Oral Surgeon advertising as a specialist in implantology and not recognized by the Board of Oral Implantology/Implant Dentistry would be in violation of the regulation.

b. A licensed dentist who successfully completes a post-doctoral education of two or more years in duration in one or more of the specialty areas listed in (H-1.) above and which, at the time of completion, was accredited or provisionally accredited by the American Dental Association Council on Dental Education **and/or have comported with the relevant educational requirements of the American Board of Dental Specialties.**

In addition, the petitioner urges the Board to provide a process that allows a dentist who does not qualify to advertise as a specialist pursuant to 18VAC60-21-80, as petitioned for amendment. The petitioner suggests that the Board provide a process for a non-qualifying dentist to advertise other areas of specialty, for example, upon a showing that the diplomate credentials are issued by: a bona fide, independent certifying board, based upon psychometric testing; a certifying board which is comprised of and operated by licensed dentists, and that only issues its diplomate certificates to licensed dentists; a board that has staff for its operations and has been issuing such diplomates for more than five years. The petitioner believes that such a provision would allow access to other licensees to potentially seek recognition of a specialty.

Rodney S. Mayberry DDS PC

DRAFT amendment on dental specialties

18VAC60-21-80. Advertising.

A. Practice limitation. A general dentist who limits his practice to a dental specialty or describes his practice by types of treatment shall state in conjunction with his name that he is a general dentist providing certain services (e.g., orthodontic services).

B. Fee disclosures. Any statement specifying a fee for a dental service that does not include the cost of all related procedures, services, and products that, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts and free offers. Discount and free offers for a dental service are permissible for advertising only when the nondiscounted or full fee, if any, and the final discounted fee are also disclosed in the advertisement. In addition, the time period for obtaining the discount or free offer must be stated in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee or free offer.

D. Retention of advertising. A prerecorded or archived copy of all advertisements shall be retained for a two-year period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded or archived copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services. Advertising of fees pursuant to this section is limited to procedures that are set forth in the American Dental Association's "Dental Procedures Codes," published in Current Dental Terminology in effect at the time the advertisement is issued.

F. Advertisements. Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code are met.

G. False, deceptive, or misleading advertisement. The following practices shall constitute false, deceptive, or misleading advertising within the meaning of subdivision 7 of § 54.1-2706 of the Code:

1. Publishing an advertisement that contains a material misrepresentation or omission of facts that causes an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation not deceptive;

2. Publishing an advertisement that fails to include the information and disclaimers required by this section;

3. Publishing an advertisement that contains a false claim of professional superiority, contains a claim to be a specialist, or uses any terms to designate a dental specialty unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, November 2013), or such guidelines or requirements as subsequently amended, or by the American Board of Dental Specialties; or

4. Representation by a dentist who does not currently hold specialty certification that his practice is limited to providing services in such specialty area without clearly disclosing that he is a general dentist.

Carney petition on rules for sedation and anesthesia

Board Action on Draft Regulations for Opioid Prescribing. Following Ms. Yeatts review of the draft, the Board made the following amendments:

- in 18VAC60-21-103(C) the term "medical record" was changed to "patient record".
- in 18VAC60-21-105(1) the terminology was changed to address a "pain management specialist" to be consistent with 18VAC60-21-103(B)(3).
- 18VAC60-21-106 was changed to require dentists who prescribes any Schedule II through IV controlled substances to obtain two hours of continuing education on pain management during the renewal cycle following the effective date of the regulations which may be included in the 15 hours required for license renewal.

Dr. Watkins moved to adopt the amended regulations. The motion was seconded and passed.

Board Action on Petitions for Rulemaking.

- Dr. Carney petitioned the Board to amend three regulatory sections which address the requirements for taking vital signs when sedation is being administered. Following discussion, Dr. Petticolas moved to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.
- Dr. Mayberry petitioned the Board to recognize the American Board of Dental Specialties as a bona fide dental specialty certifying organization and to authorize dentists who were certified by the American Board of Implantology/Implant Dentistry be recognized as Dental Implant Specialists. Ms. Ridout moved to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.

BOARD DISCUSSION/ACTION:

Exam Committee Motion that the Board Reaffirm its Position of Requiring Live Patient Exams.
Dr. Watkins offered the motion for discussion. Following a brief discussion in support of the motion, it was passed.

How Should the Board Address the Use of a Cavitron Device.
Dr. Watkins explained that during a recent informal conference, Special Conference Committee C discussed its concern that dentists are allowing dental assistants to use Cavitrons for scaling. He asked if the Board should issue a guidance document to inform licensees that dental assistants cannot use Cavitrons. Ms. Reen suggested that the Board review 18VAC60-21-140 which restricts delegation of scaling to only dental hygienists. Discussion followed about how to proceed and Ms. Ridout made a motion to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.

COMMONWEALTH OF VIRGINIA
Board of Dentistry

9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

(804) 367-4539 (Tel)
(804) 527-4428 (Fax)

Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle Initial, Suffix,)		
Carney, Jacqueline		
Street Address 536 Pantops Center #382	**Area Code and Telephone Number** 434.760.0312	
City Charlottesville	**State** VA	**Zip Code** 22911
Email Address (optional)	**Fax (optional)**	

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

18VAC60-21-280, 18VAC60-21-291, 18VAC60-21-301

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

See attached

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

Board of Dentistry is given power and duty to establish the regulations governing the practitioners licensed by the Board of Dentistry

Signature: J Carney **Date:** 1/10/2017

I am hoping that some clarification can be provided for the guidelines regarding pre-operative, peri-operative and post-operative vital signs for the various levels of anxiolysis, sedation and anesthesia. I had thought this was under review along with the nitrous oxide/oxygen guidelines but upon review of the information that was presented to the governor and is now open for public comment, I do not see any information addressing my questions.

I have attached an excel file with the information I have compiled from Chapter 21 regulations for dentistry. This shows the information I have read and interpreted in order to meet the criteria for documentation. I have not been able to find a listing in every level of sedation/anesthesia across the 3 periods of time (pre-operative, peri-operative and post-operative). And, because the one level of sedation (minimal) that does document the requirements across all 3 time periods has different requirements for peri-op vs. pre and post-op, I do not want to make incorrect assumptions.

For moderate sedation, I only see specific vital signs listed for the peri-operative period. The information in this section tells me that vital signs must be taken for the other 2 segments of time but no specific vital signs are listed as required.

For deep sedation/general anesthesia, the pre-op requirements are listed but specific peri-op and post-op are not. Page 31, section E.3 says "monitoring shall take place continuously during administration..., the dental procedure and recovery." This implies the same vital signs during all phases. However, it is an incredible challenge/burden to keep/maintain monitoring on a recovering pediatric patient for EKG reading, blood pressure and temperature.

Could you also clarify one additional item for me? All of these guidelines state "until the patient is discharged" for monitoring. Does this mean until the patient is physically walked out of the facility or does this mean until the patient meets discharge criteria(such as an Aldrete scale or other form of assessment)?

Thank you,

Jacqueline Carney

DOCUMENTATION REQUIRED

NITROUS OXIDE	PRE OP	PERI OP	POST OP
BLOOD PRESSURE	X		X
OXYGEN SATURATION			
RESPIRATORY RATE			
HEART RATE	X		X

MINIMAL SEDATION	PRE OP	PERI OP	POST OP
BLOOD PRESSURE	X	X	X
OXYGEN SATURATION		X	
RESPIRATORY RATE	X	X	X
HEART RATE	X	X	X

MODERATE SEDATION	PRE OP	PERI OP	POST OP
BLOOD PRESSURE		X	
OXYGEN SATURATION		X	
RESPIRATORY RATE			
HEART RATE		X	

PG 29 D.1 states "baseline vital signs shall be taken and recorded prior to administration" but doesn't list which vital signs
pg 29 E.1 states "vital signs have been taken and recorded" but doesn't list which vital signs to record

GENERAL ANESTHESIA	PRE OP	PERI OP	POST OP
TEMPERATURE	X	X*	
BLOOD PRESSURE	X		
OXYGEN SATURATION	X		
RESPIRATORY RATE	X		
HEART RATE	X		
EKG READING		X	

pg 31 E.2 says "vital signs and EKG readings shall be monitored, recorded every 5 minutes...throughout the administration of controlled drugs and recovery" but doesn't list which vital signs
PG 31 E.2 says "vital signs and EKG readings shall be monitored, recorded every 5 minutes" but doesn't list which vital signs
pg 31 E.3 says "monitoring shall take place continuously during administration, the dental procedure and recovery" but doesn't list which vital signs for recovery
pg 32 G.1 says "discharged...until vital signs have been taken and recorded" but doesn't list which vital signs

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Logged in as
Elaine J. Yeatts

Department of Health Professions

Board of Dentistry

Chapter Regulations Governing the Practice of Dentistry [18 VAC 60 - 21]

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Commenter: Keith Richardson 3/8/17 11:56 pm

In support

I support the petition

I was concerened by fast track http://register.dls.virginia.gov/details.aspx?id=6110
https://www.dhp.virginia.gov/dentistry/leg/Chapter25DentalHygiene_02102017.doc

I don;t believe dental assistants can administer Schedule VI controlled substances

18VAC60-21-160 is no where to be found in 18VAC60-21-291 18VAC60-21-301 18VAC60-21-280

18VAC60-25-70

The delegation of duties for a dental hygienists 18VAC60-25-60 AND 18VAC60-21-140

certainly do not help matters
Of who is responsible for mointoring and sedating patients

18VAC60-21-260. General Provisions.

PART VI. CONTROLLED SUBSTANCES, SEDATION, AND ANESTHESIA

5. Conscious/moderate sedation, deep sedation, or general anesthesia shall not be provided in a dental office for patients in ASA Class IV and Class V

54.1-2722 License; application; qualifications; practice of dental hygiene

In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

Delegation of administration pf each 18VAC60-21-291 18VAC60-21-301 18VAC60-21-280

should have the following quoted below

§§ 54.1-2722

"For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided"

"current dental assist requirements"

The portion I quoted above is troubling especially general supevision
Not mentioning §§ 54.1-2722 in some shape or form

18VAC60-30-120
offer no means for the authorization of dental assistants to administer Schdule VI drugs sedation or local anathesia

18VAC60-30-115 has no mention of controlled sustances or nitrous oxide

The board must explain its process

18VAC60-21-279. Administration of Only Inhalation Analgesia (Nitrous Oxide).

A. Education and training requirements. A dentist who utilizes nitrous oxide shall have training in and knowledge of:

1. The appropriate use and physiological effects of nitrous oxide, the potential complications of administration, the indicators for complications, and the interventions to address the complications.

2. The use and maintenance of the equipment required in subsection D of this section.

B. No sedating medication shall be prescribed for or administered to a patient 12 years of age or younger prior to his arrival at the dental office or treatment facility.

C. Delegation of administration.

1. A qualified dentist may administer or use the services of the following personnel to administer nitrous oxide:

a. A dentist;

b. An anesthesiologist;

c. A certified registered nurse anesthetist under his medical direction and indirect supervision;

d. A dental hygienist with the training required by 18VAC60-25-100 B and under indirect supervision; or

e. A registered nurse upon his direct instruction and under immediate supervision.

2. Preceding the administration of nitrous oxide, a dentist may use the services of the following personnel working under indirect supervision to administer local anesthesia to numb an injection or treatment site:

a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or

b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

D. Equipment requirements. A dentist who utilizes nitrous oxide only or who directs the administration by another licensed health professional as permitted in subsection C of this section shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Blood pressure monitoring equipment;

2. Source of delivery of oxygen under controlled positive pressure;

3. Mechanical (hand) respiratory bag; and

4. Suction apparatus.

E. Required staffing. When only nitrous oxide/oxygen is administered, a second person in the operatory is not required. Either the dentist or qualified dental hygienist under the indirect supervision of a dentist may administer the nitrous oxide/oxygen and treat and monitor the patient.

F. Monitoring requirements.

1. Baseline vital signs, to include blood pressure and heart rate, shall be taken and recorded prior to administration of nitrous oxide analgesia and prior to discharge, unless extenuating circumstances exist and are documented in the patient's record.

2. Continual clinical observation of the patient's responsiveness, color, respiratory rate, and depth of ventilation shall be performed.

3. Once the administration of nitrous oxide has begun, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I monitors the patient at all times until discharged as required in subsection G of this section.

4. Monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or by another qualified licensed health professional identified in subsection C of this section. Only the dentist or another qualified licensed health professional identified in subsection C of this section may turn the nitrous oxide/oxygen machines on or off.

5. Upon completion of nitrous oxide administration, the patient shall be administered 100% oxygen for a minimum of five minutes to minimize the risk of diffusion hypoxia.

G. Discharge requirements.

1. The dentist shall not discharge a patient until he exhibits baseline responses in a post-operative evaluation of the level of consciousness. Vital signs, to include blood pressure and heart rate, shall be taken and recorded prior to discharge.

2. Post-operative instructions shall be given verbally and in writing. The written instructions shall include a 24-hour emergency telephone number.

3. Pediatric patients shall be discharged with a responsible individual who has been instructed with regard to the patient's care.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from Volume 33, Issue 09, eff. February 10, 2017.

18VAC60-21-280. Administration of Minimal Sedation.

A. Education and training requirements. A dentist who utilizes minimal sedation shall have training in and knowledge of:

1. The medications used, the appropriate dosages, the potential complications of administration, the indicators for complications, and the interventions to address the complications.

2. The physiological effects of minimal sedation, the potential complications of administration, the indicators for complications, and the interventions to address the complications.

3. The use and maintenance of the equipment required in subsection D of this section.

B. No sedating medication shall be prescribed for or administered to a patient 12 years of age or younger prior to his arrival at the dental office or treatment facility.

C. Delegation of administration.

1. A qualified dentist may administer or use the services of the following personnel to administer minimal sedation:

a. A dentist;

b. An anesthesiologist;

c. A certified registered nurse anesthetist under his medical direction and indirect supervision;

d. A dental hygienist with the training required by 18VAC60-25-100 C only for administration of nitrous oxide/oxygen with the dentist present in the operatory; or

e. A registered nurse upon his direct instruction and under immediate supervision.

2. Preceding the administration of minimal sedation, a dentist may use the services of the following personnel working under indirect supervision to administer local anesthesia to numb an injection or treatment site:

a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or

b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

3. If minimal sedation is self-administered by or to a patient 13 years of age or older before arrival at the dental office or treatment facility, the dentist may only use the personnel listed in subdivision 1 of this subsection to administer local anesthesia.

D. Equipment requirements. A dentist who utilizes minimal sedation or who directs the administration by another licensed health professional as permitted in subsection C of this

section shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Blood pressure monitoring equipment;

2. Source of delivery of oxygen under controlled positive pressure;

3. Mechanical (hand) respiratory bag;

4. Suction apparatus; and

5. Pulse oximeter.

E. Required staffing. The treatment team for minimal sedation shall consist of the dentist and a second person in the operatory with the patient to assist the dentist and monitor the patient. The second person shall be a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I.

F. Monitoring requirements.

1. Baseline vital signs to include blood pressure, respiratory rate, and heart rate shall be taken and recorded prior to administration of sedation and prior to discharge.

2. Blood pressure, oxygen saturation, respiratory rate, and pulse shall be monitored continuously during the procedure.

3. Once the administration of minimal sedation has begun by any route of administration, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I monitors the patient at all times until discharged as required in subsection G of this section.

4. If nitrous oxide/oxygen is used in addition to any other pharmacological agent, monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or by another qualified licensed health professional identified in subsection C of this section. Only the dentist or another qualified licensed health professional identified in subsection C of this section may turn the nitrous oxide/oxygen machines on or off.

5. If any other pharmacological agent is used in addition to nitrous oxide/oxygen and a local anesthetic, requirements for the induced level of sedation must be met.

G. Discharge requirements.

1. The dentist shall not discharge a patient until he exhibits baseline responses in a post-operative evaluation of the level of consciousness. Vital signs, to include blood pressure, respiratory rate, and heart rate shall be taken and recorded prior to discharge.

2. Post-operative instructions shall be given verbally and in writing. The written instructions shall include a 24-hour emergency telephone number.

3. Pediatric patients shall be discharged with a responsible individual who has been instructed with regard to the patient's care.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from Volume 32, Issue 05, eff. December 2, 2015; amended, Virginia Register Volume 33, Issue 09, eff. February 10, 2017.

18VAC60-21-291. Requirements for Administration of Conscious/Moderate Sedation.

A. Delegation of administration.

1. A dentist who does not hold a permit to administer conscious/moderate sedation shall only use the services of a qualified dentist or an anesthesiologist to administer such sedation in a dental office. In a licensed outpatient surgery center, a dentist who does not hold a permit to administer conscious/moderate sedation shall use a qualified dentist, an anesthesiologist, or a certified registered nurse anesthetist to administer such sedation.

2. A dentist who holds a permit may administer or use the services of the following personnel to administer conscious/moderate sedation:

a. A dentist with the training required by 18VAC60-21-290 D 2 to administer by an enteral method;

b. A dentist with the training required by 18VAC60-21-290 D 1 to administer by any method;

c. An anesthesiologist;

d. A certified registered nurse anesthetist under the medical direction and indirect supervision of a dentist who meets the training requirements of 18VAC60-21-290 D 1; or

e. A registered nurse upon his direct instruction and under the immediate supervision of a dentist who meets the training requirements of 18VAC60-21-290 D 1.

3. If minimal sedation is self-administered by or to a patient 13 years of age or older before arrival at the dental office, the dentist may only use the personnel listed in subdivision 2 of this subsection to administer local anesthesia. No sedating medication shall be prescribed for or administered to a patient 12 years of age or younger prior to his arrival at the dentist office or treatment facility.

4. Preceding the administration of conscious/moderate sedation, a permitted dentist may use the services of the following personnel under indirect supervision to administer local anesthesia to anesthetize the injection or treatment site:

a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or

b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

5. A dentist who delegates administration of conscious/moderate sedation shall ensure that:

a. All equipment required in subsection B of this section is present, in good working order, and immediately available to the areas where patients will be sedated and treated and will recover; and

b. Qualified staff is on site to monitor patients in accordance with requirements of subsection D of this section.

B. Equipment requirements. A dentist who administers conscious/moderate sedation shall have available the following equipment in sizes for adults or children as appropriate for the patient being treated and shall maintain it in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face mask or masks;

2. Oral and nasopharyngeal airway management adjuncts;

3. Endotracheal tubes with appropriate connectors or other appropriate airway management adjunct such as a laryngeal mask airway;

4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades;

5. Pulse oximetry;

6. Blood pressure monitoring equipment;

7. Pharmacologic antagonist agents;

8. Source of delivery of oxygen under controlled positive pressure;

9. Mechanical (hand) respiratory bag;

10. Appropriate emergency drugs for patient resuscitation;

11. Electrocardiographic monitor if a patient is receiving parenteral administration of sedation or if the dentist is using titration;

12. Defibrillator;

13. Suction apparatus;

14. Temperature measuring device;

15. Throat pack;

16. Precordial or pretracheal stethoscope; and

17. An end-tidal carbon dioxide monitor (capnograph).

C. Required staffing. At a minimum, there shall be a two-person treatment team for conscious/moderate sedation. The team shall include the operating dentist and a second person to monitor the patient as provided in 18VAC60-21-260 K and assist the operating dentist as provided in 18VAC60-21-260 J, both of whom shall be in the operatory with the patient throughout the dental procedure. If the second person is a dentist, an anesthesiologist, or a

certified registered nurse anesthetist who administers the drugs as permitted in 18VAC60-21-291 A, such person may monitor the patient.

D. Monitoring requirements.

1. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug at the facility and prior to discharge.

2. Blood pressure, oxygen saturation, end-tidal carbon dioxide, and pulse shall be monitored continually during the administration and recorded every five minutes.

3. Monitoring of the patient under conscious/moderate sedation is to begin prior to administration of sedation or, if pre-medication is self-administered by the patient, immediately upon the patient's arrival at the dental facility and shall take place continuously during the dental procedure and recovery from sedation. The person who administers the sedation or another licensed practitioner qualified to administer the same level of sedation must remain on the premises of the dental facility until the patient is evaluated and is discharged.

E. Discharge requirements.

1. The patient shall not be discharged until the responsible licensed practitioner determines that the patient's level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge and vital signs have been taken and recorded.

2. Post-operative instructions shall be given verbally and in writing. The written instructions shall include a 24-hour emergency telephone number.

3. The patient shall be discharged with a responsible individual who has been instructed with regard to the patient's care.

F. Emergency management. The dentist shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.

Statutory Authority

§§ 54.1-2400 and 54.1-2709.5 of the Code of Virginia.

Historical Notes

Derived from Volume 32, Issue 05, eff. December 2, 2015; amended, Virginia Register Volume 33, Issue 19, eff. June 14, 2017.

18VAC60-21-301. Requirements for Administration of Deep Sedation or General Anesthesia.

A. Preoperative requirements. Prior to the appointment for treatment under deep sedation or general anesthesia the patient shall:

1. Be informed about the personnel and procedures used to deliver the sedative or anesthetic drugs to assure informed consent as required by 18VAC60-21-260 F.

2. Have a physical evaluation as required by 18VAC60-21-260 C.

3. Be given preoperative verbal and written instructions including any dietary or medication restrictions.

B. Delegation of administration.

1. A dentist who does not meet the requirements of 18VAC60-21-300 shall only use the services of a dentist who does meet those requirements or an anesthesiologist to administer deep sedation or general anesthesia in a dental office. In a licensed outpatient surgery center, a dentist shall use either a dentist who meets the requirements of 18VAC60-21-300, an anesthesiologist, or a certified registered nurse anesthetist to administer deep sedation or general anesthesia.

2. A dentist who meets the requirements of 18VAC60-21-300 may administer or use the services of the following personnel to administer deep sedation or general anesthesia:

a. A dentist with the training required by 18VAC60-21-300 C;

b. An anesthesiologist; or

c. A certified registered nurse anesthetist under the medical direction and indirect supervision of a dentist who meets the training requirements of 18VAC60-21-300 C.

3. Preceding the administration of deep sedation or general anesthesia, a dentist who meets the requirements of 18VAC60-21-300 may use the services of the following personnel under indirect supervision to administer local anesthesia to anesthetize the injection or treatment site:

a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or

b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

C. Equipment requirements. A dentist who administers deep sedation or general anesthesia shall have available the following equipment in sizes appropriate for the patient being treated and shall maintain it in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face mask or masks;

DISCUSSION DRAFT

RAP's RECOMMENDED CHANGES AS DISCUSSED ON JANUARY 5, 2017

REGULATIONS GOVERNING THE PRACTICE OF DENTAL ASSISTANTS

Part I. General Provisions.

18VAC60-30-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

"Code" means the Code of Virginia.

"Dental assistant I" means any unlicensed person ~~who on or after Month Day, Year holds current certification as a Certified Dental Assistant conferred by the Dental Assisting National Board or another nationally recognized credentialing organization and who~~ under the direction of a dentist or a dental hygienist ~~who~~ renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

OR

"Dental assistant I" means any unlicensed person ~~who on or after Month Day, Year provides an employer with proof of having completed a Radiation Health and Safety (RHS) and Infection Control (ICE) course through the Dental Assisting National Board or another credentialing organization acceptable to the board or of holding Certification by the American Medical Technologist and providing current credential in Registered Dental Assisting (RDA) and who~~ under the direction of a dentist or a dental hygienist ~~who~~ renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures as specified in 18VAC60-30-60 and 18VAC60-30-70.

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the tooth or teeth to be restored and remains immediately available in the office to the dental assistant II for guidance or assistance during the delivery of treatment and related services. The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

"Direction" means the level of supervision (i.e., immediate, direct, indirect or general) that a dentist is required to exercise with a dental hygienist, a dental assistant I, or a dental assistant II or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Immediate supervision" means the dentist is in the operatory to supervise the administration of sedation or provision of treatment.

"Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.

"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part VI (18VAC60-21-260 et seq.) of Regulations Governing the Practice of Dentistry.

"Radiographs" means intraoral and extraoral radiographic images of hard and soft tissues used for purposes of diagnosis.

18VAC60-30-20. Address of record; posting of registration.

A. Address of record. Each registered dental assistant II shall provide the board with a current address of record. All required notices and correspondence mailed by the board to any such registrant shall be validly given when mailed to the address of record on file with the board. Each registrant may also provide a different address to be used as the public address, but if a second address is not provided, the address of record shall be the public address. All changes of address shall be furnished to the board in writing within 30 days of such changes.

B. Posting of registration. A copy of the registration of a dental assistant II shall either be posted in an operatory in which the ~~person dental assistant~~ is providing services to the public or in the patient reception area where it is clearly visible to patients and accessible for reading. If a dental assistant II is employed in more than one office, a duplicate registration obtained from the board may be displayed. ***[Should CDA credential be posted?]***

18VAC60-30-60. Delegation to dental assistants II.

The following duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II who has completed the coursework, corresponding module of laboratory training, corresponding module of clinical experience, and examinations specified in 18VAC60-30-120:

1. Performing pulp capping procedures;
2. Packing and carving of amalgam restorations;
3. Placing and shaping composite resin restorations with a slow speed handpiece;
4. Taking final impressions;
5. Use of a non-epinephrine retraction cord; and
6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.

Part IV. Entry Requirements for Dental Assistants II.

18VAC60-30-115. General application requirements.

A. All applications for registration as a dental assistant II shall include:

1. Evidence of a current credential as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another certification from a credentialing organization recognized by the American Dental Association and acceptable to the board, which was granted following passage of an examination on general chairside assisting, radiation health and safety, and infection control;

2. Verification of completion of educational requirements set forth in 18VAC60-30-120; and

3. Attestation of having read and understood the laws and regulations governing the practice of dentistry and dental assisting in Virginia and of the applicant's intent to remain current with such laws and regulations.

18VAC60-30-XXX Requirements for Dental Assistant II Education Programs

1. Each program shall be provided by an educational institution that maintains a program in dental assisting, dental hygiene or dentistry which is accredited by CODA.
2. Each program shall have a program coordinator who must be registered in Virginia as a dental assistant II or be licensed in Virginia as a dental hygienist or dentist. The program coordinator shall have administrative responsibility and accountability for operation of the program.
3. Each program shall have a clinical practice advisor who must be a licensed dentist in Virginia. The clinical practice advisor assists in the laboratory training component of the program and conducts the calibration exercise for dentists who supervise student clinical experience.
4. The program shall enter into a participation agreement with any dentist who agrees to supervise clinical experience. The dentist shall successfully complete a calibration exercise on evaluating the clinical skills of a student. The dentist supervisor may be the employer of the student.
5. Each program shall enroll practice sites for clinical experience which may be a dental office, non-profit dental clinic or at an educational institution clinic.
6. All treatment of patients shall be under the direct and immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist shall attest to successful completion of the clinical competencies and restorative experiences.

18VAC60-30-120. Educational requirements for dental assistants II programs.

A. A prerequisite for entry into an educational program preparing a person for registration as a dental assistant II shall be current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board.

B. To be registered as a dental assistant II, a person shall complete the following requirements a competency-based program from an educational institution that maintains a program in dental assisting, dental hygiene or dentistry accredited by CODA. Additionally

the educational program must meet all of the following requirements: *[means all the delegable duties in 18VAC60-30-60 must be taught]*

1. ~~At least 50 hours of~~ Complete didactic course work in dental anatomy ~~and operative dentistry that may be completed online.~~ that includes basic histology, understanding of the periodontium and temporal mandibular joint, pulp tissue and nerve innervation, occlusion and function, muscles of mastication and any other item related to the restorative dental process. *[length of time or # of credits?] [online and/or classroom?]*

~~2. Complete didactic course work in operative dentistry to include materials used in direct and indirect restorative techniques, economy of motion, fulcrum techniques, tooth preparations, etch and bonding techniques and systems, and luting agents.~~ *[length of time or # of credits?] [online and/or classroom?]*

~~2.~~ 3. Laboratory training ~~that may~~ to be completed in the following modules ~~with no more than 20% of the specified instruction to be completed as homework in a dental office~~:

a. ~~At least 40 hours~~ No less than 15 hours of placing, packing, carving, and polishing of amalgam restorations and pulp capping procedures and no less than 6 class I and 6 class II restorations completed on a manikin simulator to competency;

b. ~~At least 60~~ No less than 40 hours of placing and shaping composite resin restorations and pulp capping procedures and no less than 12 class I, 12 class II, 5 class III, 5 class IV, and 5 class V restorations completed on a manikin simulator to competency;

c. ~~At least 20 hours of taking final impressions and use of a non-epinephrine retraction cord; and~~ At least 10 hours of taking final impressions, non-epinephrine retraction cord, and final cementation of crowns and bridges after adjustment and fitting by the dentist and no less than 4 crown impressions, 2 placements of retraction cord, 5 crown cementations, and 2 bridge cementations on a manikin simulator to competency. *[is adjustment and fitting by a dentist applicable in a simulation?]*

~~d. At least 30 hours of final cementation of crowns and bridges after adjustment and fitting by the dentist.~~

3. ~~2.~~ Clinical experience applying the techniques learned in the preclinical coursework and laboratory training ~~that may be completed in a dental office~~, in the following modules:

a. At least ~~80~~ 30 hours of placing, packing, carving, and polishing of amalgam restorations and no less than 6 class I and 6 class II restorations completed on a live patient to competency;

b. At least ~~120~~ 60 hours of placing and shaping composite resin restorations and no less than 6 class I, 6 class II, 5 class III, 5 class IV and 5 class V restorations completed on a live patient to competency;

c. ~~At least 40 hours of taking final impressions and use of a non-epinephrine retraction cord; and~~ At least 30 hours of taking final impressions, non-epinephrine retraction cord, and final cementation of crowns and bridges after adjustment and fitting by the dentist and no less than 4 crown impressions, 2 placements of retraction cord, 5 crown cementations, and 2 bridge cementations on a live patient to competency.

~~d. At least 60 hours of final cementation of crowns and bridges after adjustment and fitting by the dentist.~~

4. ~~3.~~ Successful completion of the following competency examinations given by the accredited educational programs:

a. A written examination at the conclusion ~~of the 50 hours~~ of didactic coursework;

~~b. A practical examination at the conclusion of each module of laboratory training; and~~

~~c. A comprehensive written examination at the conclusion of all required coursework, training, and experience for each of the corresponding modules.~~ A clinical competency exam.

~~C. All treatment of patients shall be under the direct and immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist shall attest to successful completion of the clinical competencies and restorative experiences.~~

18VAC60-30-130. Reserved.

18VAC60-30-140. Registration by endorsement as a dental assistant II.

A. An applicant for registration by endorsement as a dental assistant II shall provide evidence of the following:

1. Hold current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association;

2. Be currently authorized to perform the expanded duties delegable in Virginia as specified in 18VAC60-30-60 as a dental assistant in ~~each~~ another jurisdiction of the United States;

3. Hold a credential, registration, or certificate with qualifications substantially equivalent in hours of instruction and course content to those set forth in 18VAC60-30-120 ~~or if the qualifications were not substantially equivalent the dental assistant can document experience in the restorative and prosthetic expanded duties set forth in 18VAC60-30-60 for at least 24 of the past 48 months preceding application for registration in Virginia~~.

B. An applicant shall also:

1. Be certified to be in good standing from each jurisdiction of the United States in which he is currently registered, certified, or credentialed or in which he has ever held a registration, certificate, or credential;

2. Not have committed any act that would constitute a violation of § 54.1-2706 of the Code; and

3. Attest to having read and understand and to remain current with the laws and the regulations governing dental practice in Virginia.

Remote Supervision Regulations

1. A continuing education course is required for dental hygienists on the competencies needed to provide care under remote supervision.

   Action: Recommend the length and content of such a course for inclusion in the emergency regulations

   Examples of content to consider include:
   - Introduction to public health dentistry and practice settings
   - Legal requirements for practice under remote supervision
   - Oral health/overall health link
   - Oral disease prevention
   - Establishing orders for administering topical oral flourides and a written practice protocol
   - Record keeping and risk management

2. After the initial 90-day period of treatment by a dental hygienist practicing under remote supervision, the supervising dentist, absent emergent circumstances, shall examine the patient or refer the patient to another dentist to conduct an examination to authorize further treatment by a dental hygienist practicing under remote supervision.

   The Medical Dictionary for the Dental Professions defines emergent to mean 1. Arising suddenly, calling for prompt action. 2. Coming out; leaving a cavity or other part.

   Action: Recommend for inclusion in the emergency regulations what a dental hygienist would be permitted to do if after the initial 90-day period a patient who has yet to be examined by a dentist presents at a remote supervision practice setting for emergency treatment.

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 410

An Act to amend and reenact § 54.1-2722 of the Code of Virginia, relating to practice of dental hygiene; remote supervision.

[H 1474]

Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2722 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2722. License; application; qualifications; practice of dental hygiene.

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health. A dental hygienist providing such services shall practice pursuant to a protocol adopted by the Commissioner of Health on September 23, 2010, having been developed jointly by (i) the medical directors of the Cumberland Plateau, Southside, and Lenowisco Health Districts; (ii) dental hygienists employed by the Department of Health; (iii) the Director of the Dental Health Division of the Department of Health; (iv) one representative of the Virginia Dental Association; and (v) one representative of the Virginia Dental Hygienists' Association. Such protocol shall be adopted by the Board as regulations.

A report of services provided by dental hygienists pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted by the

Department of Health to the Virginia Secretary of Health and Human Resources annually. Nothing in this section shall be construed to authorize or establish the independent practice of dental hygiene.

F. For the purposes of this subsection, "remote supervision" means that a *supervising* dentist is accessible and available for communication and consultation with a dental hygienist ~~employed by such dentist~~ during the delivery of dental hygiene services, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active~~, unrestricted~~ license by the Board and who has a dental ~~office~~ *practice* physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course *designed to develop the competencies needed to provide care under remote supervision* offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a ~~community health center~~, *federally qualified health center*; charitable safety net facility~~,~~; free clinic~~,~~; long-term care facility~~,~~; elementary or secondary school~~,~~; Head Start program~~,~~; or women, infants, and children *(WIC)* program.

A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. No dental hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal ~~or written permission of any dentist who has treated the patient in the previous 12 months and can be identified by~~ *confirmation from* the patient *that he does not have a dentist of record whom he is seeing regularly.*

After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision ~~shall consult with the supervising dentist prior to providing~~ *may provide* further dental hygiene services ~~if such patient is medically compromised or has periodontal disease~~ *following a written practice protocol developed and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.*

A dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances, shall either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist shall develop a *diagnosis and* treatment plan for the patient, and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The supervising dentist shall review a patient's records at least once every 10 months.

Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer.

2. That the Board of Dentistry shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

Use of Cavitron by dental assistants

Board Action on Draft Regulations for Opioid Prescribing. Following Ms. Yeatts review of the draft, the Board made the following amendments:

- In 18VAC60-21-103(C) the term "medical record" was changed to "patient record".
- In 18VAC60-21-105(1) the terminology was changed to address a "pain management specialist" to be consistent with 18VAC60-21-103(B)(3).
- 18VAC60-21-106 was changed to require dentists who prescribes any Schedule II through IV controlled substances to obtain two hours of continuing education on pain management during the renewal cycle following the effective date of the regulations which may be included in the 15 hours required for license renewal.

Dr. Watkins moved to adopt the amended regulations. The motion was seconded and passed.

Board Action on Petitions for Rulemaking.

- Dr. Carney petitioned the Board to amend three regulatory sections which address the requirements for taking vital signs when sedation is being administered. Following discussion, Dr. Petticolas moved to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.
- Dr. Mayberry petitioned the Board to recognize the American Board of Dental Specialties as a bona fide dental specialty certifying organization and to authorize dentists who were certified by the American Board of Implantology/Implant Dentistry be recognized as Dental Implant Specialists. Ms. Ridout moved to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.

BOARD DISCUSSION/ACTION:

Exam Committee Motion that the Board Reaffirm Its Position of Requiring Live Patient Exams.
Dr. Watkins offered the motion for discussion. Following a brief discussion in support of the motion, it was passed.

How Should the Board Address the Use of a Cavitron Device. Dr. Watkins explained that during a recent informal conference, Special Conference Committee C discussed its concern that dentists are allowing dental assistants to use Cavitrons for scaling. He asked if the Board should issue a guidance document to inform licensees that dental assistants cannot use Cavitrons. Ms. Reen suggested that the Board review 18VAC60-21-140 which restricts delegation of scaling to only dental hygienists. Discussion followed about how to proceed and Ms. Ridout made a motion to refer this matter to the Legislative-Regulatory Committee. The motion was seconded and passed.

Draft Cavitron regulation

18VAC60-21-140. Delegation to Dental Hygienists.

A. The following duties shall only be delegated to dental hygienists under direction and may only be performed under indirect supervision:

1. Scaling (including use of a Cavitron), root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers, with any sedation or anesthesia administered.

2. Performing an initial examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets, or other abnormal conditions for assisting the dentist in the diagnosis.

3. Administering nitrous oxide or local anesthesia by dental hygienists qualified in accordance with the requirements of 18VAC60-25-100.

B. The following duties shall only be delegated to dental hygienists and may be performed under indirect supervision or may be delegated by written order in accordance with §§ 54.1-2722 D and 54.1-3408 J of the Code to be performed under general supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers with or without topical oral anesthetics.

2. Polishing of natural and restored teeth using air polishers.

3. Performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets, or other abnormal conditions for further evaluation and diagnosis by the dentist.

4. Subgingival irrigation or subgingival application of topical Schedule VI medicinal agents pursuant to § 54.1-3408 J of the Code.

5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in 18VAC60-21-130, those restricted to indirect supervision in subsection A of this section, and those restricted to delegation to dental assistants II in 18VAC60-21-150.

C. Delegation of duties to a dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 F of the Code. However, delegation of duties to a public health dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 E.