

# **VIRGINIA BOARD OF DENTISTRY**

## **June 21, 2019 AGENDA**

*Department of Health Professions*

*Perimeter Center - 2nd Floor Conference Center, Board Room 4*

*9960 Mayland Drive, Henrico, Virginia 23233*

### **Board Business**

### **Page**

<b>9:00 a.m.</b>	<b>Call to Order – Dr. Tonya A. Parris-Wilkins, President</b>	
	<b>Evacuation Announcement – Ms. Reen</b>	
	<b>Public Comment – Dr. Parris-Wilkins</b>	<b>P.1</b>
	<b>Approval of Minutes - Dr. Parris-Wilkins</b>	
	• March 15, 2019 <b>Board Meeting</b>	<b>P.2</b>
	• March 25, 2019 <b>Telephone Conference Call</b>	<b>P.6</b>
	• April 18, 2019 <b>Telephone Conference Call</b>	<b>P.9</b>
	<b>Director’s Report – Dr. Brown</b>	
	<b>2019 Workforce Reports – Ms. Yetty Shobo</b>	
	<b>Sanctioning Reference Points – Neal Kauder</b>	<b>P.11</b>
	<b>Liaison/Committee Reports</b>	
	• <b>Dr. Watkins</b>	
	<b>*SRTA</b>	
	<b>*BHP</b>	
	• <b>Dr. Petticolas</b>	
	<b>*Regulatory-Legislative Committee Meeting (minutes from May 17, 2019)</b>	<b>P.18</b>
	• <b>Dr. Bryant</b>	
	<b>*ADEX</b>	
	<b>*JCNDE</b>	
	<b>Board Discussion/Action</b>	
	• <b>Dental Interstate Licensing Compact - Dr. Parris Wilkins</b>	
	• <b>Silver Diamine Fluoride – Dr. Parris-Wilkins</b>	<b>P.22</b>
	• <b>Adoption of 2020 Board Meeting Calendar – Ms. Beard</b>	<b>P.24</b>
	<b>Executive Director’s Report/Business – Ms. Reen</b>	
	• <b>Regulatory Actions</b>	<b>P.25</b>
	• <b>Disciplinary Activity Report</b>	<b>P.53</b>
	• <b>Board Participation with AADB</b>	
	• <b>Duplicate Wall Certificates</b>	
	• <b>Revenue, Expenditures, &amp; Cash Balance Analysis</b>	<b>P.57</b>

***Nominating Committee will meet immediately following the Board meeting.***

## **ANNOUNCEMENT REGARDING PUBLIC COMMENT**

The **NOIRA**\* public comment period for each of the following regulatory actions is closed:

- Administration of sedation and anesthesia
- Use of dental specialties,
- Change in renewal schedule, and
- Education and training of dental assistants II

The Committee cannot accept comments on these actions at this meeting.

There will be another public comment period during the **Proposed**\*\* stage on each of these regulatory actions. The comment period will be posted on the Regulatory TownHall and sent to the Board's Public Participation list.

### **Standard Three Stage Process**

**1. Notice of Intended Regulatory Action (NOIRA):** The public receives notification that a regulatory change is being considered, along with a description of the changes being considered. Once this stage is published in *The Virginia Register of Regulations* and appears on the Town Hall, there is at least a 30-day period during which the agency receives comments from the public. The agency reviews these comments as it develops the proposed regulation.

**2. Proposed:** The public is provided with the full text of the regulation, a statement explaining the substance of the regulatory action, and an Economic Impact Analysis (EIA) prepared by the Department of Planning and Budget. Once the proposed stage is published in *The Virginia Register of Regulations* and appears on the Town Hall, there is at least a 60-day public comment period. Based on the comments received, the agency may modify the proposed text of the regulation. The agency also provides a summary of comments that have been received during the NOIRA period, and the agency's response.

**3. Final:** The public is provided with the full text of the regulation, this time with an explanation of any changes made to the text of the regulation since the proposed stage. Once the final stage is published in *The Virginia Register of Regulations* and appears on the Town Hall, there is a 30-day final adoption period.

**UNAPPROVED**

**VIRGINIA BOARD OF DENTISTRY  
FULL BOARD MINUTES**

March 15, 2019

Department of Health Professions

Henrico, VA 23233

**CALL TO ORDER:**

Dr. Parris-Wilkins called the meeting of the Board to order at 9:05AM.  
With 10 Board members present, a quorum was established.  
Ms. Reen provided the emergency egress procedures for Board Room 4.

**MEMBERS PRESENT:**

Tonya A. Parris-Wilkins, D.D.S., President  
Augustus A. Petticolas, Jr., D.D.S., Vice President  
Sandra J. Catchings, D.D.S., Secretary  
Nathaniel C. Bryant, D.D.S.  
James D. Watkins, D.D.S.  
Perry E. Jones, D.D.S.  
Carol R. Russek, JD  
Tammy C. Ridout, R.D.H.  
Jamiah Dawson, D.D.S.  
Patricia B. Bonwell, R.D.H., PhD

**STAFF PRESENT:**

Sandra K. Reen, Executive Director of the Board  
Kelley W. Palmatier, Deputy Executive Director of the Board  
Sheila Beard, Executive Assistant  
David Brown, DC, DHP Director  
Elaine Yeatts, DHP Policy Analyst  
Jay Douglas, Executive Director, Board of Nursing

**COUNSEL PRESENT:**

James E. Rutkowski, Assistant Attorney General

**PUBLIC COMMENT:**

Trey Lawrence, American Assoc. of Orthodontist – Mr. Lawrence asked if he could comment on the regulatory action addressing specialty advertising. Ms. Yeatts responded that comments could not be received until the action is released for comment. Mr. Lawrence informed the board of the Association's intention to file written comments regarding advertising dental specialties when the comment period on the pending regulatory action opens.

Dr. Parris-Wilkins directed attention to the written comment received from Dr. Wise regarding licensing of foreign-trained dentists.

**APPROVAL OF  
MINUTES:**

Dr. Parris-Wilkins asked if there were corrections to any of the 5 sets of minutes.  
Dr. Petticolas requested a grammatical change to the December 14, 2018 minutes then moved to adopt the 5 sets of minutes with this correction. The motion was seconded and passed.

**DHP DIRECTOR'S REPORT**

Dr. Brown reported on the General Assembly's 2019 Session and the resulting legislative actions which affect DHP. He said a bill to license music therapists was amended to have the Board of Health Professions conduct a study on the need to

regulate this profession. He also reported that studies on telemedicine and on barriers to licensure for foreign trained medical doctors are required. He went on to note there were numerous bills affecting the Board of Pharmacy and the behavioral health boards. He closed by stating that Ms. Yeatts will address the legislation which affects the Board of Dentistry.

## **LEGISLATION**

Ms. Yeatts reported the following information on the bills passed by the General Assembly which address the Board:

- **HB 2184 Volunteer license, special; issuance for limited practice** – Exempts dentists and dental hygienists from registering with the Board if they are volunteering to provide free health care to an underserved area of the Commonwealth for a period not exceeding three consecutive days. The nonprofit organization is required to verify that such practitioners have a valid, unrestricted license in another state.
- **HB 1849 Dental hygienists; remote supervision of a dentist employed by DBHDS** – Directs the Board to adopt emergency regulations to implement the new protocol for remote supervision which the Department of Health and the Department of Behavioral Health and Developmental Services are required to develop.
- **HB 2228 Health Regulatory boards, staggered terms**: Directs the Secretary of the Commonwealth to stagger the terms of appointees to the Board and other health profession boards, without affecting the terms of current board members. Effective July 1, 2020, one member of the Board will be appointed for a term of one year, another member will be appointed for a term of two years, and any remaining appointments in 2020 shall be for a term of four years. Thereafter, all appointments to the Board will be for a term of four years.
- **HB 2493 Topical drugs; administration by dental hygienists, physician assistants, and nurses** – Authorizes dental hygienists practicing under remote supervision to possess and administer topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions.
- **HB 2559 Electronic transmission of certain prescriptions; exceptions** – Requires the Board and other health profession boards to adopt emergency regulations for granting certain prescribers a waiver of the electronic prescription requirement for a period not to exceed one year due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances.

## **REGULATORY ACTIONS**

Ms. Yeatts reported that the following actions are under review at the Department of Planning and Budget:

- Proposed Regulation for change in renewal schedule
- Proposed Regulation for amendment to restriction on advertising dental specialties
- Proposed Regulation for administration of sedation and anesthesia
- Proposed Regulation for education and training of dental assistants II

She also reported that the final regulations on prescribing opioids for pain management went into effect on March 6, 2019.

Ms. Yeatts then informed the Board that the renewal fees for a faculty license and a mobile clinic were inadvertently omitted from the Regulations Governing the Practice of Dentistry when Chapter 21 was adopted in 2015. She requested adoption of a final regulation to make the needed technical correction to show these fees. Dr. Watkins made the motion to adopt the final regulations as proposed. The motion was seconded and passed.

## **REVIEW OF SANCTION REFERENCE POINTS**

Neal Kauder, President of Visual Research, Inc., introduced the proposed SRP worksheet and instructions which were developed in response to the Board's request for a review of its use of sanction reference points. He explained that the proposed worksheet would replace the three worksheets currently in use. He presented his findings in support of adopting a new worksheet, which were developed after looking at case worksheets completed in 2017 and 2018; interviewing board members and staff; and identifying relevant factors or best practices from other boards. Following discussion of the proposed worksheet and

instructions, the Board decided by consensus to have the chairs of its three special conference committees meet to discuss the proposed documents and to make a recommendation on adoption at the June Board meeting.

#### CONFERENCE/MEETING REPORTS

- **Southern Regional Testing Agency** – Dr. Watkins reported that SRTA’s last annual meeting will take place in August 2019 because planning for the merger with CITA continues. By the year 2020, the combined agency will operate under a new name. He added that he attended the CITA Board of Directors meeting in January 2019 to participate in planning for the merger. He also noted that SRTA received a full refund of the \$30,000 application fee SRTA had paid to join ADEX.
- **Board of Health Professions** – Dr. Watkins reported that the BHP met in February and focused on workforce data reports, women practicing in medicine and the election of new officers.
- **Southern Conference of Dental Deans and Examiners** – Dr. Bonwell, Dr. Petticolas and Ms. Palmatier all attended this conference. Each attendee submitted a written report which is included in the agenda package.
- **American Association of Dental Boards**
  - Ms. Reen said she attended the back to back meetings of the American Association of Dental Administrators and the AADB. The AADA discussed the Council of State Governments’ efforts to establish a dental licensure compact and plans for its Fall annual meeting then had a roundtable discussion of current issues. Regarding the AADB meeting, she noted that it was a poorly managed meeting with presentations on marijuana and interstate compacts. She said she especially liked the presentation on Big Data Trends which addressed a national database for claims processed by dental payers and the utilization trends that are being identified.
  - Dr. Petticolas reported that the AADB has governance issues which disrupted the meeting. He stated the board of directors was at war with the president of the organization over questionable decisions and actions. He added that a few presentations were not held because of the conflict but the presentations that were given were satisfactory. He recommended that the Board consider its ongoing participation with AADB.
  - Dr. Bryant reported that he also attended the meeting and found it to be poorly managed and uninformative.
- **American Board of Dental Examiners** – Dr. Bryant reported on changes made in the ADEX dental exam grading criteria for crowns and root canal therapy.

#### BOARD DISCUSSIONS

- **Dental Interstate Licensing Compact** - Ms. Reen informed the Board that, with the consent of Dr. Parris-Wilkins and Dr. Brown, she attended a national meeting sponsored by the Council of State Governments (CSG) to discuss the prospects for a dental compact addressing licensure portability for dentists and dental hygienists. She explained that she was invited to this meeting to be the representative for the AADA because she is the current president. She added that she was tasked with recruiting more representatives of dental boards to participate on the advisory group and noted that she has recommended several candidates including Dr. Parris-Wilkins to CSG. She went on to explain that participation on the advisory group is not a commitment to join a compact but an opportunity to help shape a compact model that would serve multiple dental boards. She then asked Ms. Douglas to talk about her experience with the Nurse Licensure Compact.
- **Overview of the Nurse Licensure Compact** - Jay Douglas, Executive Director for the Board of Nursing, addressed the progression of the compact since 2005. She noted the benefits of a compact include increased mobility, removal of barriers, and enhancement of cross border practice, tele-health and disaster relief. She explained the Nurse Compact is a mutual recognition model where qualified applicants can receive a multi-state privilege to practice in the 31 states that have joined the compact. She said there are eleven criteria an applicant must meet to qualify for the multistate privilege which include meeting the home state requirements plus taking an English proficiency exam, a finger print background check, having no felony convictions and having no misdemeanor convictions related to the practice of nursing. She added that the Board of Nursing can issue a state license to applicants who do not meet the multistate requirements but do meet Virginia’s requirements.
- **Appointment of Nominating Committee** - Dr. Parris-Wilkins announced that she will chair this year’s committee and that Dr. Watkins and Ms. Russek have agreed to serve with her. She said the committee will meet immediately following the June board meeting.

- **Board Participation with AADB** – Following discussion of the recent events within the AADB, the Board agreed by consensus to wait until the June board meeting to evaluate the value of sending representatives to the September meeting.

**DEPUTY EXECUTIVE DIRECTOR REPORT/BUSINESS**

Ms. Palmatier reviewed her written report covering the last quarter of FY2018 and the second quarter of FY2019. She noted that two summary suspensions of dental licenses were ordered between November 17, 2018 and February 28, 2019. She reported 26 OMS audits were completed and are being reviewed by an expert. She also said she included the number of licensees to her report. Dr. Watkins thanked her for adding this information.

**EXECUTIVE DIRECTOR REPORT**

- Ms. Reen reported that DHP is moving to paperless licensing beginning in October 2019. She said licensees will receive a final paper license with no expiration date which can be posted.
- Dr. Watkins asked if he could get a duplicate wall certificate with his signature on it. Ms. Reen said she didn't think that was possible because it wouldn't be a duplicate. She agreed to bring information on obtaining a duplicate wall certificate to the June meeting.

**ADJOURNMENT:** With all business concluded, Dr. Parris-Wilkins adjourned the meeting at 12:28 PM.

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

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 Sandra K. Reen, Executive Director

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

**UNAPPROVED**

**VIRGINIA BOARD OF DENTISTRY**

**MINUTES**

**SPECIAL SESSION – TELEPHONE CONFERENCE CALL**

- CALL TO ORDER:** The meeting of the Board of Dentistry was called to order at 5:16 p.m., on March 25, 2019, at the Department of Health Professions, Perimeter Center, 2<sup>nd</sup> Floor Conference Center, Board Room 4, 9960 Mayland Drive, Henrico, VA 23233.
- FIRST PRESENTATION:** 5:16 p..m.
- PRESIDING:** Augustus A. Petticolas, Jr., D.D.S., Vice-President
- MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD  
Nathaniel C. Bryant, D.D.S.  
Jamiah Dawson, D.D.S.  
Perry E. Jones, D.D.S.  
Tammy C. Ridout, R.D.H.  
Carol R. Russek, J.D.  
James D. Watkins, D.D.S.
- MEMBERS ABSENT:** Sandra J. Catchings, D.D.S.  
Tonya A. Parris-Wilkins, D.D.S.
- QUORUM:** With 8 members present, a quorum was established.
- STAFF PRESENT:** Kelley W. Palmatier, Deputy Executive Director
- OTHERS PRESENT:** James E. Rutkowski, Assistant Attorney General, Board Counsel
- Arnold J. Berger, D.M.D.  
Case No.: 188506** The Board received information from Ms. Palmatier regarding a Consent Order signed by Dr. Berger as a settlement proposal for the resolution of his case in lieu of proceeding with the scheduled Formal Hearing.
- Closed Meeting:** Dr. Bonwell moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Arnold J. Berger. Additionally, Dr. Bonwell moved that Ms. Palmatier and Mr. Rutkowski attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and passed.
- Reconvene:** Dr. Bonwell moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

**DECISION:** Ms. Russek moved that the Board accept the Consent Order that was signed by Dr. Berger in lieu of proceeding with the Formal Hearing. Following a second, a roll call vote was taken. The motion passed.

**SECOND PRESENTATION:** 5:38 p..m.

**PRESIDING:** Augustus A. Petticolas, Jr., D.D.S., Vice-President

**MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD  
Nathaniel C. Bryant, D.D.S.  
Jamlah Dawson, D.D.S.  
Perry E. Jones, D.D.S.  
Tammy C. Rldout, R.D.H.  
Carol R. Russek, J.D.  
James D. Watkins, D.D.S.

**MEMBERS ABSENT:** Sandra J. Catchings, D.D.S.  
Tonya A. Parris-Wilkins, D.D.S.

**QUORUM:** With 8 members present, a quorum was established.

**STAFF PRESENT:** Kelley W. Palmatier, Deputy Executive Director

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

**Gary A. Hartman, D.D.S.  
Case No.: 182577** The Board received information from Ms. Palmatier regarding a Consent Order signed by Dr. Hartman as a settlement proposal for the resolution of his case in lieu of proceeding with the scheduled Formal Hearing.

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

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

**DECISION:** Ms. Russek moved that the Board accept the Consent Order that was signed by Dr. Hartman in lieu of proceeding with the Formal Hearing. Following a second, a roll call vote was taken. The motion passed.



**ADJOURNMENT:**

With all business concluded, the Board adjourned at 5:43 p.m.

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Augustus A. Petticoles, Jr., D.D.S., Chair

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Sandra K. Reen, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**UNAPPROVED**

**VIRGINIA BOARD OF DENTISTRY**

**MINUTES**

**SPECIAL SESSION – TELEPHONE CONFERENCE CALL**

- CALL TO ORDER:** The meeting of the Board of Dentistry was called to order at 5:19 p.m., on April 18, 2019, at the Department of Health Professions, Perimeter Center, 2<sup>nd</sup> Floor Conference Center, Board Room 3, 9960 Mayland Drive, Henrico, VA 23233.
- PRESIDING:** Tonya A. Parris-Wilkins, D.D.S., President
- MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD  
Nathaniel C. Bryant, D.D.S.  
Jamiah Dawson, D.D.S.  
Augustus A. Petticolas, Jr., D.D.s.  
Carol R. Russek, J.D.
- MEMBERS ABSENT:** Perry E. Jones, D.D.S.
- QUORUM:** With 6 members present, a quorum was established.
- STAFF PRESENT:** Kelley W. Palmatier, Deputy Executive Director  
Donna M. Lee, Discipline Case Manager
- OTHERS PRESENT:** James E. Rutkowski, Assistant Attorney General, Board Counsel
- Amisha Shroff, D.D.S.  
Case No.: 164105** The Board received information from Ms. Palmatier regarding a Consent Order signed by Dr. Shroff as a settlement proposal for the resolution of her case in lieu of proceeding with the scheduled Formal Hearing.
- Closed Meeting:** Dr. Petticolas moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Amisha Shroff. Additionally, Dr. Petticolas moved that Ms. Palmatier, Ms. Lee and Mr. Rutkowski attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and passed.
- Reconvene:** Dr. Petticolas moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.
- DECISION:** Dr. Bryant moved that the Board accept the Consent Order that was signed by Dr. Shroff in lieu of proceeding with the Formal Hearing. Following a second, a roll call vote was taken. The motion passed unanimously.

**ADJOURNMENT:**

With all business concluded, the Board adjourned at 5:51 p.m.

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

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Sandra K. Reen, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



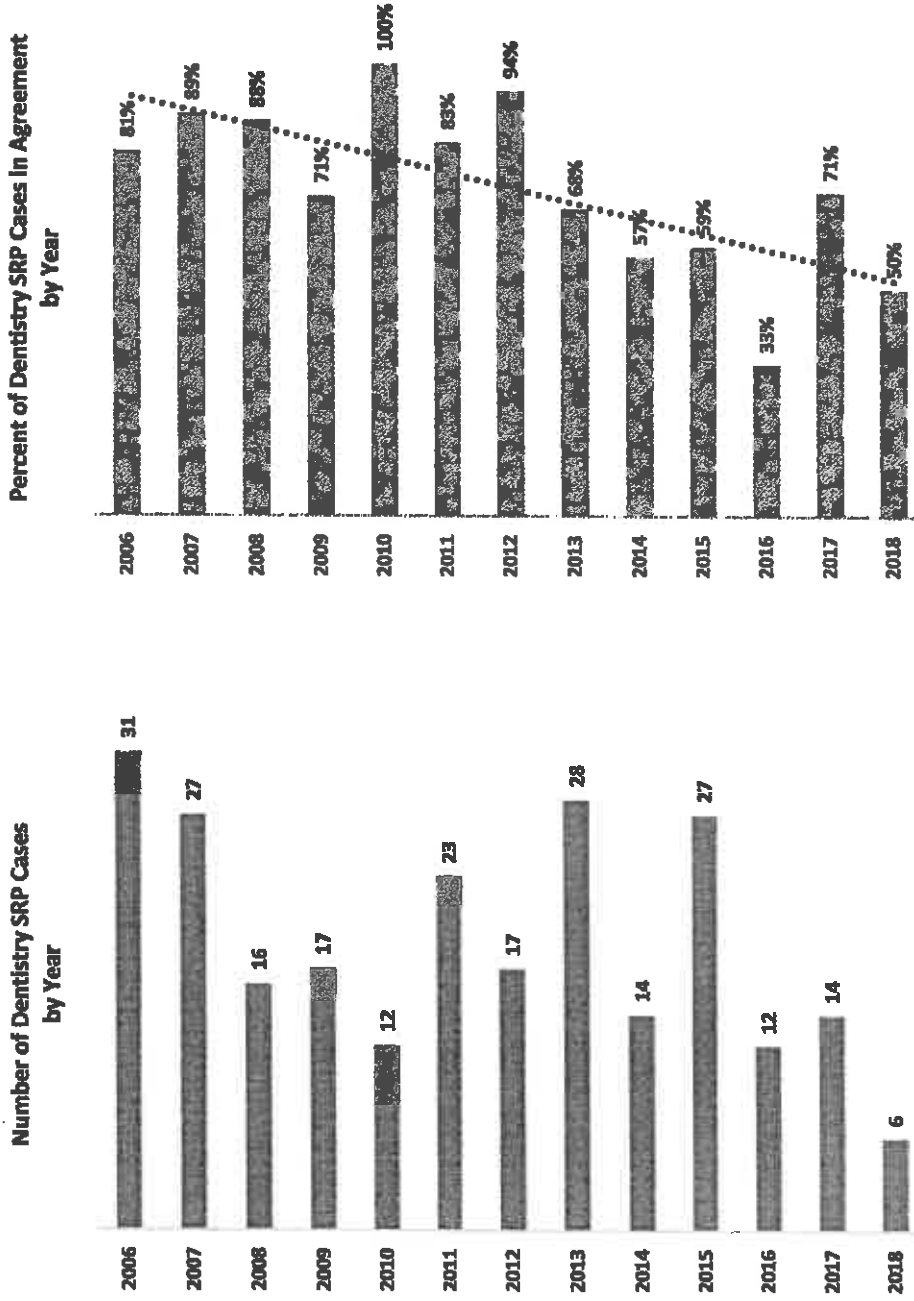
**VISUAL RESEARCH, INC.**

**Dentistry Sanctioning  
Reference Points**

**Presented by: Neal Kauder**

**Virginia Department of Health Professions**  
Sanctioning Reference Points (SRP) Agreement Analysis  
Board of Dentistry

David E. Brown, D.C.  
Director



**SRP Worksheet - Board of Dentistry**

Case Type (score only one)	Points	Score
a. Inability to Safely Practice	50	_____
b. Standard of Care	30	_____
c. Business Practice Issues	20	_____

**Offense and Respondent Factors (score all that apply)**

a. Impaired at the time of the incident	60	_____
b. License ever taken away	40	_____
c. Case involved prescription issues	35	_____
d. Patient injury	30	_____
e. Act of commission	25	_____
f. Patient required subsequent treatment	25	_____
g. Past difficulties (substances, mental/physical)	20	_____
h. Financial or material gain	15	_____
i. Any action against the respondent	15	_____
j. More than one patient involved	5	_____
k. Two or more teeth involved	5	_____
l. Patient especially vulnerable	5	_____
m. Previous finding of a violation	5	_____
n. Previous violation similar to current	5	_____

**Total Worksheet Score**

<u>Score</u>	<u>Sanctioning Recommendations</u>	<u>Monetary Penalty Recommendations</u>
0 - 40	No Sanction	
41 - 99	Monetary Penalty/Continuing Education	
100 - 150	Reprimand	
151 or more	Probation/Loss of License/Refer to Form:	

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

 SRP Worksheet Instructions - Board of Dentistry

**Step 1: Case Type – Select the case type from the list and score accordingly. If a case has multiple aspects, enter the point value for the most serious case type that is highest on the list. (score only one)**

**Inability to Safely Practice**

- Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions.

**Standard of Care**

- Improper/unnecessary performance of surgery, improper patient management, and other surgery-related issues
- Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat & other diagnosis/treatment issues.
- Violations of the DCA (excessive prescribing, not in accordance with dosage, or dispensing without a relationship)

**Business Practice Issues**

- Improper management of patient regimen and failure to provide counseling as well as other medication/prescription related issues
- Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.
- Advertising, records, inspections, audits, self-referral of patients, required report not filed, prescription blanks, or disclosure.

**Step 2: Offense and Respondent Factors – Score all factors reflecting the totality of the case(s) presented. (score all that apply)**

- a. Enter “60” if the respondent was unable to safely practice at the time of the offense due to substance abuse (alcohol or drugs) or mental/physical incapacitation.
- b. Enter “40” if the respondent’s license was previously lost due to Revocation, Suspension, or Summary Suspension.
- c. Enter “35” if the case involved certain prescription issues. These include: excessive/over prescribing, self-prescribing, prescribing without a dentist/patient relationship, and prescribing beyond the scope or for non-dental purposes.
- d. Enter “30” if physical injury occurred. Physical Injury includes any injury requiring medical care ranging from first aid treatment to hospitalization. Patient death would also be included here.

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- e. Enter "25" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- f. Enter "25" if the patient required subsequent treatment from a licensed third party healthcare practitioner, not necessarily a dentist.
- g. Enter "20" if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities or physical capabilities. Scored here would be prior convictions for DUI/DWI, inpatient/ outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.
- h. Enter "15" if there was financial or material gain. Examples of cases involving financial or material gain include, but are not limited to, completing unnecessary treatment to increase fees, failure to comply with provider contracts with insurance companies and billing patient portion of fees, unbundling of services or aiding and abetting the unlicensed practice of dentistry or dental hygiene.
- i. Enter "15" if there was any action against the respondent. Actions against the respondent can include: malpractice claims, civil cases, criminal convictions, and sanctioning by an employer. A sanction from an employer may include: suspension, review, or termination. The action must be related to the case.
- j. Enter "5" if the offense involves multiple patients.
- k. Enter "5" if the offense involves two or more teeth.
- l. Enter "5" if the patient is especially vulnerable. Patients in this category must be one of the following: under age 18, over age 65, or mentally/physically handicapped.
- m. Enter "5" if the respondent has had a previous finding of a violation.
- n. Enter "5" if the respondent has had any prior similar violations. Similar violations are those which fall into the same case category.



# Monetary Penalty Recommendation Options

**55% accuracy**

Score	Sanctioning Recommendations	Monetary Penalty Recommendations	Accuracy
0 - 40	No Sanction	N/A	100%
41 - 99	Monetary Penalty/ Continuing Education	\$0 - \$1,000	50%
100 - 150	Reprimand	\$1,000 - \$3,000	62%
151 or more	Probation/Loss of License/ Refer to Formal	\$3,000 or more	0%

**68% accuracy**

Score	Sanctioning Recommendations	Monetary Penalty Recommendations	Accuracy
0 - 40	No Sanction	N/A	100%
41 - 99	Monetary Penalty/ Continuing Education	\$0 - \$2,000	77%
100 - 150	Reprimand	\$1,000 - \$3,000	62%
151 or more	Probation/Loss of License/ Refer to Formal	\$3,000 or more	0%

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# Monetary Penalty Recommendation Options

66% accuracy

Score	Sanctioning Recommendations	Monetary Penalty Recommendations	Accuracy
0 - 40	No Sanction	N/A	100%
41 - 99	Monetary Penalty/ Continuing Education	\$0 - \$2,000	77%
100 - 150	Reprimand	\$2,000 - \$5,000	58%
151 or more	Probation/Loss of License/ Refer to Formal	\$5,000 or more	0%

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

- TIME AND PLACE:** The meeting of the Regulatory-Legislative Committee ("Committee") was called to order at 9:00 a.m., on May 17, 2019, at the Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 3, Henrico, Virginia 23233.
- PRESIDING:** Augustus A. Petticolas, Jr., D.D.S., Chair
- COMMITTEE MEMBERS PRESENT:** Sandra J. Catchings, D.D.S.  
Tammy C. Ridout, R.D.H.  
James D. Watkins, D.D.S.
- COMMITTEE MEMBERS ABSENT:** Carol R. Russek, J.D.
- OTHER BOARD MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD  
Nathaniel C. Bryant, D.D.S.  
Tonya A. Parris-Wilkins, D.D.S.  
Perry E. Jones, D.D.S.
- STAFF PRESENT:** Sandra K. Reen, Executive Director for the Board  
Kelley W. Palmatier, Deputy Executive Director  
Donna Lee, Discipline Case Manager for the Board
- COUNSEL PRESENT:** James E. Rutkowski, Assistant Attorney General
- ESTABLISHMENT OF A QUORUM:** With four members of the Committee present, a quorum was established.
- Ms. Reen read the emergency evacuation procedures.
- PUBLIC COMMENT:** Dag Zapatero, D.D.S. – Dr. Zapatero discussed the May 8, 2019 ruling issued by the United States District Court for the Northern District of Georgia; stating the ruling found that SmileDirectClub's acts of taking digital scans of a patient's mouth falls within the definition of the practice of dentistry. He then addressed a New York Post article in which orthodontists explain the consequences of do it yourself aligners. He also reported that SmileDirect and CVS Health made a deal to double SmileDirect's retail locations in North America, to include Virginia. Dr. Zapatero urged the Committee to determine why SmileDirect would not be required to have a dentist present in their retail locations.

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

**APPROVAL OF  
MINUTES:**

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

**LEGISLATION AND  
REGULATORY  
ACTIONS:**

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

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

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

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

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

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

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

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

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

- 18VAC80-21-40(C) the numbering is corrected and the mobile clinic/portable operation fee of \$50 is added.
- in 18VAC80-21-40(D) numbers (5), (6) are added to address the \$150 reinstatement fees for moderate sedation permits and deep sedation/general anesthesia permits.

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

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

Ms. Reen reviewed proposed language amendments to the dentistry, dental hygiene and dental assisting regulations to reduce the fee for reactivation of an inactive license or registration; and amending 18VAC80-21-240 to add the renewal requirement for mobile clinics and portable dental operations.

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

**DEFINITION OF  
DENTISTRY AND  
A1C TESTING:**

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

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

**NATIONAL REPORTS  
ON LICENSING:**

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

Virginia Board of Dentistry  
Regulatory-Legislative Committee Meeting  
May 17, 2019

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

**DENTAL LICENSURE  
COMPACT UPDATE:**

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

**NEXT MEETING:**

Scheduled for October 18, 2019.

**ADJOURNMENT:**

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

\_\_\_\_\_  
Augustus A. Petticolas, Jr., D.D.S., Chair

\_\_\_\_\_  
Sandra K. Reen, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Silver Diamine Fluoride (SDF) Fact Sheet

March 2017 Amended July 2017

### What is SDF?

Silver diamine fluoride (SDF) has been used extensively outside the United States for many years for caries control.<sup>1</sup> SDF is a colorless liquid containing silver particles and 38% (44,800 ppm) fluoride ion that at pH 10 is 25% silver, 8% ammonia, 5% fluoride, and 62% water. This is referred to as 38% SDF.

### What is the strength of evidence for SDF?

In clinical trials, SDF applied directly to the cavitated lesion outperformed fluoride varnish for the non-surgical arrest of caries in children and older adults. In addition, SDF demonstrated impressive caries prevention to adjoining teeth not receiving direct application of SDF.<sup>1,2</sup> At least eight published reports of randomized clinical trials consistently demonstrated very high rates of caries arrest.<sup>3,4,5,6,7,8,9,10</sup> Although a 2016 systematic review and meta-analysis of clinical trials in children concluded 38% SDF applied at least once per year effectively arrested more than 65% of active caries,<sup>11</sup> there is no consensus for the number and frequency of applications for optimal caries control.<sup>12</sup> A critical summary of the systematic review, published in early 2017, called for more well-designed and well-conducted clinical trials comparing the effectiveness of SDF with no treatment or other caries management approaches in populations with varying caries risk, lesion severities, and other fluoride exposures.<sup>12</sup>

### Does SDF have FDA Approval?

In August 2014, SDF was cleared by the Food and Drug Administration (FDA) as a desensitizing agent, similar to fluoride varnish 20 years ago.<sup>13</sup> As of early 2017, there is only one SDF product on the U.S. market. The FDA granted the manufacturer “breakthrough therapy status,” facilitating clinical trials of SDF for caries arrest. It is used off-label for caries arrest.

### What are indications for SDF use?

SDF arrests active carious lesions painlessly and without local anesthetic, as long as the teeth are asymptomatic, avoiding or delaying traditional surgical removal of caries. This intervention can be applied to teeth as soon as caries is detected. SDF is indicated in treating caries in people who are unable to access dental treatment or tolerate conventional dental care, including very young “pre-cooperative” children, persons with intellectual/developmental disabilities, or older adults.

### What are contraindications for SDF therapy?

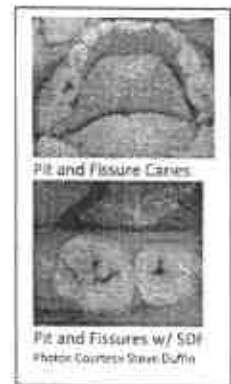
No adverse events using silver compounds have been reported in more than 80 years of use in dentistry.<sup>1,14</sup> Silver allergy is the only known contraindication.<sup>2</sup> Teeth with evidence of pulpitis or pulpal necrosis are not appropriate for SDF treatment and require surgical treatment. Similarly, teeth with deep lesions where the carious dentin has been excavated are not candidates for SDF, due to the ammonia content and high pH, which may create a pulpal reaction.

### Are there other considerations for SDF therapy?

The silver particles in SDF darken active dental caries and if touched, temporarily stain unprotected soft tissues, which may be a concern with patient/parent acceptance. It does not stain sound enamel. See the UCSF protocol (below) for additional information. Some individuals report a transient metallic taste after application of SDF. SDF will also permanently stain floors, clothing, and furniture.

### Are there recommended protocols?

All providers applying SDF need appropriate training. In January 2016, for example, the University of California San Francisco (UCSF) School of Dentistry published a thorough [clinical protocol](#) for the use of SDF<sup>14</sup> (watch the [application](#) of SDF on YouTube). The American Academy of Pediatric Dentistry is currently conducting a review and, depending on the evidence, may include clinical guidelines (personal communication, Norman Tinanoff, University of Maryland, 3/1/2017).



### **Can SDF be used in addition to fluoride varnish, other professionally applied fluorides, or dental sealants?**

SDF is a new addition to professionally applied topical fluoride products available in the U.S. While there is little evidence in the literature to support additional efficacy, some practitioners apply fluoride varnish or fluoride in addition to SDF treatment, but not to the teeth already treated with SDF. For any patient with active caries, UCSF's protocol includes replacement of fluoride varnish with the application of silver diamine fluoride to active lesions only.<sup>14</sup> Dental sealants are more effective than SDF for caries prevention in non-cavitated teeth.<sup>15,16</sup> Compared to SDF, the use of dental sealants is firmly supported for long term caries prevention by the quantity and quality of evidence available.<sup>17</sup>

### **In which states does Medicaid reimburse for SDF therapy?**

State Medicaid policy and coverage guidelines may vary by professional training, risk, age, dentition, and frequency of application. As of December 2016, at least 14 states reported using existing or implementing new policy coverage for SDF application (reported by Vermont Department of Health, informal survey of ASTDD members, December 2016). State Oral Health Programs and interested health professionals should review their individual state Medicaid program dental policy on fluoride applications to determine if and how the policy addresses coverage of SDF application.

### **Who can apply SDF?**

According to the rules and as governed by their state medical and/or dental practice acts, dentists, dental hygienists, physicians, nurses, and their assistants may be permitted to apply fluorides and SDF. Dental hygienists in most states whose Medicaid programs cover SDF application may be permitted to apply SDF under the same authorization or restrictions as other topical fluorides.<sup>18</sup>

<sup>1</sup> Rosenblatt A, Stamford TC, Niederman R. Silver diamine fluoride: a caries "silver-fluoride bullet." *J Dent Res.* 2009;88(2):116–125.

<sup>2</sup> Mei ML, Lo EC, Chu CH. [Clinical use of silver diamine fluoride in dental treatment.](#) *Compend Contin Educ Dent.* 2016;37(2):93–98.

<sup>3</sup> Yee RC, Holmgren C, Mulder J, Lama D, Walker D, Helderman W. Efficacy of silver diamine fluoride for arresting caries treatment. *J Dent Res.* 2009;88(7):644–647

<sup>4</sup> Zhang W, McGrath C, Lo EC, U JY. [Silver diamine fluoride and education to prevent and arrest root caries among community-dwelling elders.](#) *Caries Res.* 2013;47(4):284–290.

<sup>5</sup> Santos Dos VE, de Vasconcelos FMN, Ribeiro AG, Rosenblatt A. [Paradigm shift in the effective treatment of caries in schoolchildren at risk.](#) *Int Dent J* 2012;62(1):47–51

<sup>6</sup> Chu CH, Lo ECM, Lin HC. [Effectiveness of silver diamine fluoride and sodium fluoride varnish in arresting dentin caries in Chinese pre-school children.](#) *J Dent Res.* 2002;81(11):767–770.

<sup>7</sup> Uodra JC, Rodriguez A, Ferrer B, Menardia V, Ramos T, Morato M. [Efficacy of silver diamine fluoride for caries reduction in primary teeth and first permanent molars of schoolchildren: 36-month clinical trial.](#) *J Dent Res.* 2005;84(8):721–724.

<sup>8</sup> Lo EC, Chu CH, Lin HC. [A community-based caries control program for pre-school children using topical fluorides: 18-month results.](#) *J Dent Res.* 2001; 80(12):2071–2074.

<sup>9</sup> Zhi QH, Lo EC, Lin HC. Randomized clinical trial on effectiveness of silver diamine fluoride and glass ionomer in arresting dentine caries in preschool children. *J Dent.* 2012;40(11):962–967.

<sup>10</sup> Li R, Lo EC, Liu BY, Wong MC, Chu CH. [Randomized clinical trial on arresting dental root caries through silver diamine fluoride applications in community-dwelling elders.](#) *J Dent.* 2016 Aug;51:15–20. doi: 10.1016/j.jdent.2016.05.005. Epub 2016 May 18.

<sup>11</sup> Gao SS, Zhang S, Mei ML, Lo EC, Chu CH. [Caries remineralisation and arresting effect in children by professionally applied fluoride treatment - a systematic review.](#) *BMC Oral Health.* 2016;16:12.

<sup>12</sup> Cheng LL. [Limited evidence suggesting silver diamine fluoride may arrest dental caries in children](#) *J Am Dent Assoc.* 148(2) Feb 2017.

<sup>13</sup> Wittach CM, Burkle CM, Lanier WL. Ten common questions (and their answers) about off-label drug use. *Mayo Clin Proc.* 2012;87(10):982–990.

<sup>14</sup> Horst JA, Ellenikiotis H, Milgrom PL. [UCSF protocol for caries arrest using silver diamine fluoride: rationale, indications and consent.](#) *J Calif Dent Assoc.* 2016;44(1):16–28.

<sup>15</sup> Liu BY, Lo ECM, Chu CH, Lin HC. Randomized trial on fluorides and sealants for fissure caries prevention. *J Dent Res.* 2012;91(8):753–758.

<sup>16</sup> Monse B, Heinrich-Weitzel R, Mulder J, Holmgren C, van Palenstein, Helderman WH. [Caries preventive efficacy of silver diamine fluoride \(SDF\) and ART sealants in a school-based daily fluoride toothbrushing program in the Philippines.](#) *BMC Oral Health.* 2012 Nov 21;12:52.

<sup>17</sup> Twetman S. [The evidence base for professional and self-care prevention—caries, erosion and sensitivity.](#) *BMC Oral Health.* 2015;15 Suppl 1:S4. doi: 10.1186/1472-6831-15-S1-S4. Epub 2015 Sep 15.

<sup>18</sup> American Dental Hygienist's Association. [Dental Hygiene Practice Act Overview: Permitted Functions and Supervision Levels by State.](#) *Rev. Dec.* 2016. www.adha.org. Accessed 5.3.2017.



# Board of Dentistry

## Schedule

January							February							March							April						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
29	30	31	1	2	3	4	26	27	28	29	30	31	1	1	2	3	4	5	6	7	29	30	31	1	2	3	4
5	6	7	8	9	10	11	2	3	4	5	6	7	8	8	9	10	11	12	13	14	5	6	7	8	9	10	11
12	13	14	15	16	17	18	9	10	11	12	13	14	15	15	16	17	18	19	20	21	12	13	14	15	16	17	18
19	20	21	22	23	24	25	16	17	18	19	20	21	22	22	23	24	25	26	27	28	19	20	21	22	23	24	25
26	27	28	29	30	31	1	23	24	25	26	27	28	29	29	30	31	1	2	3	4	26	27	28	29	30	1	2

May							June							July							August						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	1	2	31	1	2	3	4	5	6	28	29	30	1	2	3	4	26	27	28	29	30	31	1
3	4	5	6	7	8	9	7	8	9	10	11	12	13	5	6	7	8	9	10	11	2	3	4	5	6	7	8
10	11	12	13	14	15	16	14	15	16	17	18	19	20	12	13	14	15	16	17	18	9	10	11	12	13	14	15
17	18	19	20	21	22	23	21	22	23	24	25	26	27	19	20	21	22	23	24	25	16	17	18	19	20	21	22
24	25	26	27	28	29	30	28	29	30	1	2	3	4	26	27	28	29	30	31	1	23	24	25	26	27	28	29
31	1	2	3	4	5	6															30	31	1	2	3	4	5

September							October							November							December						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
30	31	1	2	3	4	5	27	28	29	30	1	2	3	1	2	3	4	5	6	7	29	30	1	2	3	4	5
6	7	8	9	10	11	12	4	5	6	7	8	9	10	8	9	10	11	12	13	14	6	7	8	9	10	11	12
13	14	15	16	17	18	19	11	12	13	14	15	16	17	15	16	17	18	19	20	21	13	14	15	16	17	18	19
20	21	22	23	24	25	26	18	19	20	21	22	23	24	22	23	24	25	26	27	28	20	21	22	23	24	25	26
27	28	29	30	1	2	3	25	26	27	28	29	30	31	29	30	1	2	3	4	5	27	28	29	30	31	1	2

**Formal Hearings**  
12 March/ 11 June/ 10 Sept. / 10 Dec.

**Board Business Meetings**  
13 March/ 12 June/ 11 Sept. / 11 Dec.

**Committee Meetings**  
28 Feb./ 29 May/ 23 Oct.

**SCCA**  
27 Jan./ 9 Mar./ 20 Apr./ 1 June/ 13 July/  
17 Aug. / 28 Sept. / 9 Nov. / 21 Dec.

**SCC-B**  
10 Jan./ 21 Feb./ 3 Apr./ 15 May/ 26 June/  
7 Aug./ 18 Sept./ 30 Oct./ 4 Dec.

**SCC-C**  
7 Feb./ 20 Mar./ 1 May/ 19 June/ 24 July/  
28 Aug./ 9 Oct./ 20 Nov./ 18 Dec.

**Holidays - ○**

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions  
As of June 7, 2019**

Chapter		Action / Stage Information
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Change in renewal schedule</u> [Action 4975] Proposed - At Governor's Office for 11 days
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Amendment to restriction on advertising dental specialties</u> [Action 4920] Proposed - At Secretary's Office for 57 days
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Administration of sedation and anesthesia</u> [Action 5056] Proposed - At Secretary's Office for 57 days
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Technical correction</u> [Action 5198] Fast-Track - At Agency [Stage 8622]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Content of acceptable examination</u> [Action 5281] Fast-Track - DPB Review in progress [Stage 8623]
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	<u>Education and training for dental assistants II</u> [Action 4916] Proposed - At Secretary's Office for 35 days

**Board of Dentistry  
Regulatory/Policy Actions – 2019 General Assembly**

**EMERGENCY REGULATIONS:**

Legislative source	Mandate	Promulgating agency	Board adoption date	Effective date Within 280 days of enactment
HB1849	Remote supervision for hygienists at DBHDS	Dentistry	6/21/19 (signed 2/21)	11/24/19
HB2559	Waiver for electronic prescribing	Medicine Nursing Dentistry Optometry	6/13/19 or 8/2/19 7/16/19 6/21/19 6/28/19 (signed 3/21)	12/24/19

**EXEMPT REGULATORY ACTIONS**

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB2184	Restricted volunteer practice	Dentistry	6/21/19	8/7/19
HB2493	DH – administration of drugs; remote supervision	Dentistry	6/21/19	8/7/19

**NON-REGULATORY ACTIONS**

Legislative source	Affected agency	Action needed	Due date
HB2184	Dentistry	Revision of volunteer registration form	7/1/19
HB2556	Department – Enforcement	Revision of procedures & policy for disclosure of investigative information to state and federal law enforcement Revision of designation form for Boards	7/1/19
HB2557	Department – PMP	Change in reporting requirements; publication on websites Gabapentin in Schedule III	7/1/19

**Future Policy Actions:**

**HB2559 (2019)** - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022.

**Agenda Item: Board Action on fees; renewal & reinstatement**

**Included in agenda package:**

Draft amendments to fee section to include reinstatement fees for sedation/anesthesia permits and mobile clinics/dental operations

Draft amendments to reduce the fee for reactivation of an inactive license/registration and to clarify renewal date for mobile clinics or portable dental operations

**Staff note:**

Reinstatement fees for two categories of permits issued by the Board were inadvertently omitted and need to be added

The reactivation fee (equal to the current renewal fee) is more burdensome than other boards that only require payment of the difference between the inactive fee and the current renewal fee. The draft proposal would mirror Medicine and Nursing regulation.

The proposed amendments were reviewed and recommended by the Regulation Committee

**Board action:**

Adoption of proposed changes as presented in the agenda package by a fast-track action.

**Project 5785 - Fast-Track**

**BOARD OF DENTISTRY**

**Technical correction**

**18VAC60-21-40. Required fees.**

**A. Application/registration fees.**

1. Dental license by examination	\$400
2. Dental license by credentials	\$500
3. Dental restricted teaching license ( <u>pursuant to § 54.1-2714</u> )	\$285
4. Dental faculty license ( <u>pursuant to § 54.1-2713</u> )	\$400
<u>5. Temporary dental permit (pursuant to § 54.1-2715)</u>	<u>\$400</u>
<del>5-6.</del> Dental temporary resident's license	\$60
<del>6-7.</del> Restricted volunteer license	\$25
<del>7-8.</del> Volunteer exemption registration	\$10
<del>8-9.</del> Oral maxillofacial surgeon registration	\$175
<del>9-10.</del> Cosmetic procedures certification	\$225
<del>10-11.</del> Mobile clinic/portable operation	\$250
<del>11-12.</del> Moderate sedation permit	\$100
<del>12-13.</del> Deep sedation/general anesthesia permit	\$100

**B. Renewal fees.**

1. Dental license – <del>active</del> ( <u>active, faculty, or temporary permit</u> )	\$285
2. Dental license - inactive	\$145
3. Dental temporary resident's license	\$35
4. Restricted volunteer license	\$15
5. Oral maxillofacial surgeon registration	\$175
6. Cosmetic procedures certification	\$100

7. Moderate sedation permit	\$100
8. Deep sedation/general anesthesia permit	\$100
<u>9. Mobile clinic/portable operation</u>	<u>\$150</u>

C. Late fees.

1. Dental license - active	\$100
2. Dental license - inactive	\$50
3. Dental temporary resident's license	\$15
4. Oral maxillofacial surgeon registration	\$55
5. Cosmetic procedures certification	\$35
6. Moderate sedation permit	\$35
7. Deep sedation/general anesthesia permit	\$35
<u>8. Mobile clinic/portable operation</u>	<u>\$50</u>

D. Reinstatement fees.

1. Dental license - expired	\$500
2. Dental license - suspended	\$750
3. Dental license - revoked	\$1000
4. Oral maxillofacial surgeon registration	\$350
<u>5. Moderate sedation permit</u>	<u>\$150</u>
<u>6. Deep sedation/general anesthesia permit</u>	<u>\$150</u>

E. Document fees.

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

F. Other fees.

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

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

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

1. Dentist - active	\$142
2. Dentist - inactive	\$72
3. Dental full-time faculty	\$142
4. Temporary resident	\$17
5. Dental restricted volunteer	\$7
6. Oral/maxillofacial surgeon registration	\$87
7. Cosmetic procedure certification	\$50
8. Moderate sedation certification	\$50
9. Deep sedation/general anesthesia	\$50
10. Mobile clinic/portable operation	\$75

**18VAC60-21-220. Inactive license.**

A. Any dentist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. With the exception of practice with a current restricted volunteer license as provided in § 54.1-2712.1 of the Code, the holder of an inactive license shall not be entitled to perform any act requiring a license to practice dentistry in Virginia.

B. An inactive license may be reactivated upon submission of the required application, which includes evidence of continuing competence and payment of the difference between the current renewal fee inactive licensure and the current renewal fee for active licensure. To evaluate continuing competence the board shall consider (i) hours of continuing education that meet the requirements of 18VAC60-21-250; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a clinical competency examination that is accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.

1. Continuing education hours equal to the requirement for the number of years in which the license has been inactive, not to exceed a total of 45 hours, must be included with the application. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation.

2. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2706 of the Code or who is unable to demonstrate continuing competence.

#### Part V

#### Licensure Renewal

#### **18VAC60-21-240. License renewal and reinstatement.**

A. The license or permit of any person who does not return the completed renewal form and fees by the deadline shall automatically expire and become invalid, and his practice of dentistry shall be illegal. With the exception of practice with a current, restricted volunteer license as provided in § 54.1-2712.1 of the Code practicing in Virginia with an expired license or permit may subject the licensee to disciplinary action by the board.

B. Every person holding an active or inactive license and those holding a permit to administer moderate sedation, deep sedation, or general anesthesia shall annually, on or before March 31, renew his license or permit.

C. Every person holding a faculty license, temporary resident's license, a restricted volunteer license, or a temporary permit shall, on or before June 30, request renewal of his license.

D. Every person holding a permit as a mobile clinic or portable dental operation shall renew annually by December 31.



**G-E.** Any person who does not return the completed form and fee by the deadline required in subsection B of this section shall be required to pay an additional late fee.

**D-F.** The board shall renew a license or permit if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection B of this section provided that no grounds exist to deny said renewal pursuant to § 54.1-2706 of the Code and Part II (18VAC60-21-50 et seq.) of this chapter.

**E-G. Reinstatement procedures.**

1. Any person whose license or permit has expired for more than one year or whose license or permit has been revoked or suspended and who wishes to reinstate such license or permit shall submit a reinstatement application and the reinstatement fee. The application must include evidence of continuing competence.
2. To evaluate continuing competence, the board shall consider (i) hours of continuing education that meet the requirements of subsection H of 18VAC60-21-250; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a clinical competency examination accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.
3. The executive director may reinstate such expired license or permit provided that the applicant can demonstrate continuing competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code and Part II (18VAC60-21-50 et seq.) of this chapter.

**Agenda Item: Board action on Exempt Regulations**

**Included in the agenda package:**

Copies of legislation passed in the 2019 General Assembly:

HB1849

HB2184

HB2493

**Staff note:**

Amendments to regulations may be adopted by the Board with the filing of the actions to the Register of Regulations on July 3rd, publication on July 22th, and effective on August 21<sup>st</sup>.

**Action:**

Motion to approve the amendments to Chapter 21 and Chapter 25 as presented in the agenda package.

**Project 6024 - none**

**BOARD OF DENTISTRY**

**Administration of topical drugs by hygienists; remote supervision**

**Part II**

**Practice of Dental Hygiene**

**18VAC60-25-40. Scope of practice.**

A. Pursuant to § 54.1-2722 of the Code, a licensed dental hygienist may perform services that are educational, diagnostic, therapeutic, or preventive under the direction and indirect, ~~or general,~~ or remote supervision of a licensed dentist.

B. The following duties of a dentist shall not be delegated:

1. Final diagnosis and treatment planning;
2. Performing surgical or cutting procedures on hard or soft tissue, except as may be permitted by subdivisions C 1 and D 1 of this section;
3. Prescribing or parenterally administering drugs or medicaments, except a dental hygienist who meets the requirements of 18VAC60-25-100 C may parenterally administer Schedule VI local anesthesia to patients 18 years of age or older;
4. Authorization of work orders for any appliance or prosthetic device or restoration that is to be inserted into a patient's mouth;
5. Operation of high speed rotary instruments in the mouth;
6. Administration of deep sedation or general anesthesia and moderate sedation;
7. Condensing, contouring, or adjusting any final, fixed, or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam

and placing and shaping composite resins by dental assistants II with advanced training as specified in 18VAC60-30-120;

8. Final positioning and attachment of orthodontic bonds and bands; and

9. Final adjustment and fitting of crowns and bridges in preparation for final cementation.

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

D. 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 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 and gingival 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 subsection B of this section and those restricted to indirect supervision in subsection C of this section.

E. The following duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II:

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.

F. A dental hygienist employed by the Virginia Department of Health may provide educational and preventative dental care under remote supervision, as defined in ~~§ 54.1-2722-D~~ § 54.1-2722 E of the Code, of a dentist employed by the Virginia Department of Health and in accordance with the protocol adopted by the Commissioner of Health for Dental Hygienists to Practice in an Expanded Capacity under Remote Supervision by Public Health Dentists, September 2012, which is hereby incorporated by reference.

A dental hygienist who meets the qualifications of § 54.1-2722 F of the Code of Virginia may practice under remote supervision as specified in that subsection of the Code.

**18VAC60-25-100. Administration of controlled substances.**

**A. A licensed dental hygienist may:**

1. Administer topical oral fluoride varnish ~~to children aged six months to three years~~ 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 of the Code;
2. Administer topical Schedule VI drugs, including topical oral fluorides, topical oral anesthetics, and topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions pursuant to subsection J of § 54.1-3408 of the Code; and
3. If qualified in accordance with subsection B or C of this section, administer Schedule VI nitrous oxide/inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia parenterally under the indirect supervision of a dentist.

**B. To administer only nitrous oxide/inhalation analgesia, a dental hygienist shall:**

1. Successfully complete a didactic and clinical course leading to certification in administration of nitrous oxide offered by a CODA accredited dental or dental hygiene program, which includes a minimum of eight hours in didactic and clinical instruction in the following topics:
  - a. Patient physical and psychological assessment;
  - b. Medical history evaluation;
  - c. Equipment and techniques used for administration of nitrous oxide;
  - d. Neurophysiology of nitrous oxide administration;
  - e. Pharmacology of nitrous oxide;

- f. Recordkeeping, medical, and legal aspects of nitrous oxide;**
- g. Adjunctive uses of nitrous oxide for dental patients; and**
- h. Clinical experiences in administering nitrous oxide, including training with live patients.**

**2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia given by the accredited program.**

**C. To administer local anesthesia parenterally to patients 18 years of age or older, a dental hygienist shall:**

**1. Successfully complete a didactic and clinical course leading to certification in administration of local anesthesia that is offered by a CODA accredited dental or dental hygiene program, which includes a minimum of 28 didactic and clinical hours in the following topics:**

- a. Patient physical and psychological assessment;**
- b. Medical history evaluation and recordkeeping;**
- c. Neurophysiology of local anesthesia;**
- d. Pharmacology of local anesthetics and vasoconstrictors;**
- e. Anatomical considerations for local anesthesia;**
- f. Techniques for maxillary infiltration and block anesthesia;**
- g. Techniques for mandibular infiltration and block anesthesia;**
- h. Local and systemic anesthetic complications;**
- i. Management of medical emergencies; and**
- j. Clinical experiences in administering local anesthesia injections on patients.**

**2. Successfully complete an examination with a minimum score of 75% in the parenteral administration of local anesthesia given by the accredited program.**

**D. A dental hygienist who holds a certificate or credential issued by the licensing board of another jurisdiction of the United States that authorizes the administration of nitrous oxide/inhalation analgesia or local anesthesia may be authorized for such administration in Virginia if:**

**1. The qualifications on which the credential or certificate was issued were substantially equivalent in hours of instruction and course content to those set forth in subsections B and C of this section; or**

**2. If the certificate or credential issued by another jurisdiction was not substantially equivalent, the hygienist can document experience in such administration for at least 24 of the past 48 months preceding application for licensure in Virginia.**

**E. A dentist who provides direction for the administration of nitrous oxide/inhalation analgesia or local anesthesia shall ensure that the dental hygienist has met the qualifications for such administration as set forth in this section.**



# VIRGINIA ACTS OF ASSEMBLY – 2019 SESSION

## CHAPTER 86

*An Act to amend and reenact § 54.1-2722 of the Code of Virginia, relating to practice of dental hygiene; remote supervision; employment or supervision by the Department of Behavioral Health and Developmental Services.*

Approved February 21, 2019

[H 1849]

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; report.

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 or the Department of Behavioral Health and Developmental Services 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 or the Department of Behavioral Health and Developmental Services. A dental hygienist providing such services shall practice pursuant to a protocol adopted by the Commissioner of Health on September 23, 2010, having been protocols developed jointly by (i) the medical directors of the Cumberland Plateau, Southside, and Shenandoah 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 and the Department of Behavioral Health and Developmental Services for each agency, in consultation with the Virginia Dental Association; and (v) one representative of the Virginia Dental Hygienists'

Association. Such ~~protecol~~ *protocols* shall be adopted by the Board as regulations.

A report of services provided by dental hygienists *employed by the Virginia Department of Health* pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted *annually to the Secretary of Health and Human Resources* by the Department of Health, *and a report of services provided by dental hygienists employed by the Department of Behavioral Health and Developmental Services shall be prepared and submitted annually to the Virginia Secretary of Health and Human Resources annually by the Department of Behavioral Health and Developmental Services.* 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 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 license by the Board and who has a dental 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 federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; *mobile dentistry program for adults with developmental disabilities operated by the Department of Behavioral Health and Developmental Services' Office of Integrated Health*; 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 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 may provide further dental hygiene services 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.**

# VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

## CHAPTER 431

*An Act to amend and reenact §§ 54.1-2722 and 54.1-3408 of the Code of Virginia, relating to the administration of topical drugs; dental hygienists, physician assistants, and nurses.*

Approved March 18, 2019

[H 2493]

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2722 and 54.1-3408 of the Code of Virginia are 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 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 license by the Board and who has a dental 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 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, *topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry* 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 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 may provide further dental hygiene services 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.

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled

substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in

§ 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or *his remote supervision, as defined in subsection E or F of § 54.1-2722*, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may 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.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with

disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 may dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal approved by the Department of Behavioral Health and Developmental Services, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber, (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.



**Project 6034 - none**

**BOARD OF DENTISTRY**

**Volunteer practice**

**18VAC60-21-230. Qualifications for a restricted license; temporary permit or license.**

A. Temporary permit for public health settings. A temporary permit shall be issued only for the purpose of allowing dental practice in a dental clinic operated by a state agency or a Virginia charitable organization as limited by § 54.1-2715 of the Code.

1. Passage of a clinical competency examination is not required, but the applicant cannot have failed a clinical competency examination accepted by the board.
2. A temporary permit will not be renewed unless the holder shows that extraordinary circumstances prevented the holder from taking the licensure examination during the term of the temporary permit.

B. Faculty license. A faculty license shall be issued for the purpose of allowing dental practice as a faculty member of an accredited dental program when the applicant meets the entry requirements of § 54.1-2713 of the Code.

1. A faculty license shall remain valid only while the holder is serving on the faculty of an accredited dental program in the Commonwealth. When any such license holder ceases to continue serving on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of employment.
2. The dean of the dental school shall notify the board within five working days of such termination of employment.

C. Restricted license to teach for foreign dentists. The board may issue a restricted license to a foreign dentist to teach in an accredited dental program in the Commonwealth in accordance with provisions of § 54.1-2714 of the Code.

D. Temporary licenses to persons enrolled in advanced dental education programs. A dental intern, resident, or post-doctoral certificate or degree candidate shall obtain a temporary license to practice in Virginia in accordance with provisions of § 54.1-2711.1 of the Code.

1. The applicant shall submit a recommendation from the dean of the dental school or the director of the accredited advanced dental education program specifying the applicant's acceptance as an intern, resident, or post-doctoral certificate or degree candidate. The beginning and ending dates of the internship, residency, or post-doctoral program shall be specified.

2. The temporary license permits the holder to practice only in the hospital or outpatient clinics that are recognized parts of an advanced dental education program.

3. The temporary license may be renewed annually by June 30, for up to five times, upon the recommendation of the dean of the dental school or director of the accredited advanced dental education program.

4. The temporary license holder shall be responsible and accountable at all times to a licensed dentist, who is a member of the staff where the internship, residency, or post-doctoral program is taken. The holder is prohibited from practicing outside of the advanced dental education program.

5. The temporary license holder shall abide by the accrediting requirements for an advanced dental education program as approved by the Commission on Dental Accreditation of the American Dental Association.

E. Restricted volunteer license.

1. In accordance with § 54.1-2712.1 of the Code, the board may issue a restricted volunteer license to a dentist who:

- a. Held an unrestricted license in Virginia or another U.S. jurisdiction as a licensee in good standing at the time the license expired or became inactive;
- b. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;
- c. Has fulfilled the board's requirement related to knowledge of the laws and regulations governing the practice of dentistry in Virginia;
- d. Has not failed a clinical examination within the past five years; and
- e. Has had at least five years of clinical practice.

2. A person holding a restricted volunteer license under this section shall:

- a. Only practice in public health or community free clinics that provide dental services to underserved populations;
- b. Only treat patients who have been screened by the approved clinic and are eligible for treatment;
- c. Attest on a form provided by the board that he will not receive remuneration directly or indirectly for providing dental services; and
- d. Not be required to complete continuing education in order to renew such a license.

3. The restricted volunteer license shall specify whether supervision is required, and if not, the date by which it will be required. If a dentist with a restricted volunteer license issued under this section has not held an active, unrestricted license and been engaged in active practice within the past five years, he shall only practice dentistry and perform dental procedures if a dentist with an unrestricted Virginia license, volunteering at the clinic,

reviews the quality of care rendered by the dentist with the restricted volunteer license at least every 30 days. If supervision is required, the supervising dentist shall directly observe patient care being provided by the restricted volunteer dentist and review all patient charts at least quarterly. Such supervision shall be noted in patient charts and maintained in accordance with 18VAC60-21-90.

4. A restricted volunteer license granted pursuant to this section shall expire on June 30 of the second year after its issuance or shall terminate when the supervising dentist withdraws his sponsorship.

5. A dentist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations that apply to all licensees practicing in Virginia.

F. Registration for voluntary practice by out-of-state licensees. Any dentist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, ~~all-volunteer~~, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least ~~45~~ five days prior to engaging in such practice;

2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license; and

3. Provide the name of the nonprofit organization, and the dates and location of the voluntary provision of services; ~~and~~

~~4. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 5 of § 54.1-2701 of the Code.~~

# VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

## CHAPTER 290

*An Act to amend and reenact § 54.1-2701 of the Code of Virginia, relating to volunteer dentists and dental hygienists.*

[H 2184]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2701 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2701. Exemptions.**

This chapter shall not:

1. Apply to a licensed physician or surgeon unless he practices dentistry as a specialty;
2. Apply to a nurse practitioner certified by the Board of Nursing and the Board of Medicine except that intraoral procedures shall be performed only under the direct supervision of a licensed dentist;
3. Apply to a dentist or a dental hygienist of the United States Army, Navy, Coast Guard, Air Force, Public Health Service, or Department of Veterans Affairs;
4. Apply to any dentist of the United States Army, Navy, Coast Guard, or Air Force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;
5. Apply to any dentist or dental hygienist who (i) does not regularly practice dentistry in Virginia, (ii) holds a current valid license or certificate to practice as a dentist or dental hygienist in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of ~~this~~ *the* Commonwealth under the auspices of a publicly supported ~~all~~ *volunteer*, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least ~~15~~ *five* days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the ~~volunteer~~, nonprofit organization on the dates and at the location filed with the Board. *Clauses (iv), (v), and (vi) shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people if they do so for a period not exceeding three consecutive days and if the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.* The Board may deny the right to practice in Virginia to any dentist or dental hygienist whose license has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations; or
6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth in regulations promulgated by the Board.

## Disciplinary Board Report for June 21, 2019

Today's report reviews the final totals for the 2019 case activity through May 31, 2019, then addresses the Board's disciplinary case actions for the third quarter of fiscal year 2019 (January 1, 2019 – March 31, 2019).

### Calendar Year 2019

The table below includes all cases that have received Board action since January 1, 2019 through May 31, 2019.

Calendar 2019	Cases Received	Cases Closed No/Violation	Cases Closed W/Violation	Total Cases Closed
January	33	20	1	21
February	36	33	1	34
March	34	39	4	43
April	48	30	3	33
May	46	71	2	73
<b>Totals</b>	<b>197</b>	<b>193</b>	<b>11</b>	<b>204</b>

### Q3 FY 2019

For the third quarter of 2019, the Board received a total of 84 patient care cases. The Board closed a total of 69 patient care cases for a 82% clearance rate, which is down from 103% in Q2 of 2019. The current pending caseload older than 250 days is 24%, which is consistent with Q2 of 2019. The Board's goal is 20%. In Q3 of 2019, 94% of the patient care cases were closed within 250 days, whereas 95% of the patient care cases were closed within 250 days in Q2 of 2019. The Board's goal is 90% of patient care cases closed within 250 days.

### License Suspensions

There was one summary suspension of a dental license between February 29, 2019 and May 31, 2019.

### Licensing Numbers

Dentist – 6,948 Active  
298 Inactive

Dental Hygienist - 5,619 Active  
200 Inactive

Dental Assistant II - 27 Active

### **Sanctioning for Practicing with an Expired License**

The Board needs to discuss how it would like to handle sanctioning for practicing with an expired license. Currently the Board addresses the issue of practicing with an expired license in Guidance Document 60-6. Board staff runs a report twice a year to identify licensees who renew their license after the annual deadline for renewal but within the twelve-month late period and follows the process set forth in the guidance document. Recently the Enforcement Division revised their investigative policies and determined it no longer has the resources to investigate this type of case without having additional allegations of a violation of the Board's laws and regulations.

The main issue addressed while investigating practicing on an expired license is whether the licensee actually practiced on an expired license. This requires an investigator to obtain an appointment list and one record of a patient who was treated after a license has been expired at least 30 days. Generally, there is no evidence available to prove patient harm occurred from the lapse of a license within twelve months after the annual deadline for renewal. However, because the Enforcement Division no longer will investigate these cases sent from Board staff, new guidance is required on how to address practicing on an expired license.

### **Board Member concerns**

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

**Virginia Board of Dentistry**  
**Policy on Sanctioning for**  
**Practicing with an Expired License**

**Excerpts of Applicable Law, Regulation and Guidance**

- No person shall practice dentistry unless he possesses a current valid license, §54.1-2709.A.
- No person shall practice dental hygiene unless he possesses a current valid license, §54.1-2722.A.
- Dental and dental hygiene licenses and dental assistant II registrations must be renewed annually, 18 VAC 60-21-240.B, 18VAC60-25-180.A, and 18VAC60-30-150.A.
- Practicing with an expired license may subject the licensee to disciplinary action and additional fines, 18 VAC 60-21-240.A, 18VAC60-25-180.B, and 18VAC60-30-150.B.
- Confidential Consent Agreements may be used to address practicing with a lapsed license up to 90 days, Guidance Document: 60-1.
- Licensees shall provide the board with current addresses and notice is validly given by the board when mailed to the latest address given, 18 VAC 60-21-20, 18VAC60-25-20, and 18VAC60-30-20.
- If a disciplinary proceeding will not be instituted, a board may send an advisory letter to the subject of a complaint or report, § 54.1-2400.2.F.

**Reporting**

1. On a semi-annual basis during the months of October and April, the Board will generate a report to identify licensees who renew their license after the annual deadline for renewal but within the twelve-month late period.
2. Board staff will sort the licensees in groups according to the length of time the license was lapsed to determine which action will be taken by the Board.
3. Cases where the license was lapsed for 30 days or less will be assigned a case number by Board staff and will not be referred to Enforcement.
4. Cases where the license was lapsed for more than 30 days but was renewed within the 365-day late period will be sent to Enforcement for an investigation to determine if the licensee was practicing in Virginia during the period the license was lapsed and to determine if the address of record is current.

**Probable Cause Decision**

1. Cases where the license was lapsed for 30 days or less will be closed without investigation by Board staff with an advisory letter unless there are other grounds for disciplinary action.
2. Cases where the license was lapsed for more that 30 days will be reviewed by either a Board member or staff (the reviewer) to determine if evidence exists that the licensee was practicing during the period the license was lapsed.



**A. Guidelines for Offering a Confidential Consent Agreement**

1. The reviewer shall only offer a CCA for a first offense.
2. The reviewer shall offer a CCA to a licensee in a case where there is only one finding of probable cause and that finding is that his license was expired for 31 to 90 days.
3. The reviewer shall offer a CCA to a licensee in a case where there are only two findings of probable cause and those findings are that (1) his license was expired for 31 to 90 days, and (2) he failed to provide a current address.
4. In cases where there are findings of probable cause for violations in addition to an expired license for 90 days or less and an address not being kept current, the reviewer may offer a CCA consistent with Guidance Document 60-1.
5. The offered CCA shall include a finding that a violation occurred and shall request the licensee's agreement to henceforth keep his license and address current.

**B. Guidelines for Imposing Disciplinary Sanctions**

1. The reviewer shall offer a Pre-Hearing Consent Order (PHCO) to a licensee for a second and for subsequent offenses where there is a finding of probable cause and that finding is that his license was expired for 90 days or less.
2. The reviewer shall offer a Pre-Hearing Consent Order (PHCO) to a licensee in a case where there is only one finding of probable cause and that finding is that his license was expired for a period longer than 90 days but less than 365 days.
3. The reviewer shall offer a PHCO to a licensee in a case where there are only two findings of probable cause and those findings are that (1) his license was expired for a period longer than 90 days but less than 365 days and (2) he failed to provide a current address.
4. In cases where there are findings of probable cause for violations in addition to an expired license and an address not being kept current, the reviewer may offer a PHCO or refer for an informal fact finding conference.
5. The reviewer shall consider the following sanctioning guidelines for a PHCO:
  - a. For a license expired for less than 180 days – First Offence – Reprimand
  - b. For a license expired for less than 180 days – Subsequent Offences – Reprimand and a \$500 monetary penalty
  - c. For a license expired for more than 180 days but less than 365 – First Offense - Reprimand and \$500 monetary penalty
  - d. For a license expired for more than 180 days but less than 365 – Subsequent Offences - Reprimand and \$1000 monetary penalty
  - e. For an address not being kept current – \$500 monetary penalty



## COMMONWEALTH of VIRGINIA

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### MEMORANDUM

**TO:** Members, Board of Dentistry

**FROM:** David E. Brown, D.C. *DEB*

**DATE:** May 13, 2019

**SUBJECT:** Revenue, Expenditures, & Cash Balance Analysis

Virginia law requires that an analysis of revenues and expenditures of each regulatory board be conducted at least biennially. If revenues and expenditures for a given board are more than 10% apart, the Board is required by law to adjust fees so that the fees are sufficient, but not excessive, to cover expenses. The action by the Board can be a fee increase, a fee decrease, or it can maintain the current fees.

The Board of Dentistry ended the 2016 - 2018 biennium (July 1, 2016, through June 30, 2018) with a cash balance of \$ 3,599,497. Current projections indicate that revenue for the 2018 - 2020 biennium (July 1, 2017, through June 30, 2020) will exceed expenditures by approximately \$537,133. When combined with the Board's \$3,499,497 cash balance as of June 30, 2018, the Board of Dentistry projected cash balance on June 30, 2018, is \$4,136,630.

To reduce the Board's projected cash surplus we recommend a one-time renewal fee decrease. Please note that these projections are based on internal agency assumptions and are, subject to change based on actions by the Governor, the General Assembly and other state agencies.

We are grateful for continued support and cooperation as we work together to manage the fiscal affairs of the Board and the Department.

Please do not hesitate to call me if you have questions.

**CC:** Sandra Reen, Executive Director  
Lisa R. Hahn, Chief Operating Officer  
Charles E. Giles, Budget Manager  
Elaine Yeatts, Senior Policy Analyst