

**VIRGINIA BOARD OF DENTISTRY  
REGULATORY – LEGISLATIVE COMMITTEE MINUTES  
NOVEMBER 15, 2019**

***APPROVED***

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<b>TIME AND PLACE</b>	The meeting of the Regulatory – Legislative Committee (“Committee”) was called to order at 9:03 a.m., on November 15, 2019, at the Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia 23233.
<b>PRESIDING</b>	Tammy C. Ridout, RDH, Chair
<b>MEMBERS PRESENT</b>	Sandra J. Catchings, D.D.S., Vice-President Mike Nguyen, D.D.S. James D. Watkins, D.D.S.
<b>OTHER BOARD MEMBERS PRESENT</b>	Augustus A. Petticolas, Jr., D.D.S., President Perry E. Jones, D.D.S.
<b>STAFF PRESENT</b>	Sandra K. Reen, Executive Director Elaine Yeatts, DHP Senior Policy Analyst Kathryn Brooks, Executive Assistant
<b>COUNSEL PRESENT</b>	James E. Rutkowski, Assistant Attorney General
<b>ESTABLISHMENT OF A QUORUM</b>	With four members of the Committee present, a quorum was established.  Ms. Reen read the emergency evacuation procedures.
<b>PUBLIC COMMENT</b>	Ms. Ridout explained the parameters for public comment and opened the public comment period.  <b>Gianna Harting (American Association of Orthodontists)</b> stated the AAO is hopeful the Board adopts rules that support and clarify that an “impression” includes “digital scans” and that dental and orthodontic treatment should not occur before a physical, in-person examination of the patient has occurred by a licensed dentist to establish the doctor/patient relationship.  <b>Susan Pharr, RDH (VDH Dental Health Program - Retired)</b> asked that proposed Guidance Document 60-13 on remote

supervision be amended to be consistent with the provisions of the statute addressing practice settings and submitted her proposed language for consideration. She said her proposal clarifies the qualifications of the dentist, explaining that the term 'dental office' does not apply to any of the non-dental practice settings such as schools, Head Start programs, WIC clinics, and long-term care facilities.

**Elisabeth Reynolds (VDA President)** spoke in favor of dentists and dental hygienists being able to perform A1C screening in the dental office. She stated oral health is a major component of overall health and the dental community should be doing everything possible to work hand in hand with their medical colleagues to protect the public. She said it is the responsibility of dental professionals to screen for this disease as many already screen for hypertension by routinely taking blood pressure readings on patients before any invasive procedure.

**Tracey Martin (VDHA President-Elect)** spoke in support of allowing dentists and dental hygienists to perform screening tests to identify those at risk of diabetes. She noted that screening procedures are not diagnostic. They determine the likelihood of already high-risk patients having a certain disease. She also provided handouts listing states that support testing/screening conducted by dental professionals.

**APPROVAL OF MINUTES**

Ms. Ridout asked if there were corrections to the posted minutes. Hearing none, Dr. Petticolas moved to accept the minutes for May 17, 2019 as presented. The motion was seconded and passed.

**LEGISLATION AND  
REGULATORY ACTIONS**

Ms. Yeatts reported that the Governor only approved one DHP bill for introduction in the upcoming legislative session. She also indicated that the comment period on the regulatory proposal for changing the renewal schedule closed on 11/15/19 and the other regulatory actions are pending review by the Secretary of Health and Human Resources or the Governor.

**BLANCHARD PETITION**

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**FOR RULEMAKING**

Ms. Yeatts addressed the Petition for Rulemaking, received from Deborah Blanchard, DDS, to eliminate the regulatory requirement for a dentist to be present in the facility and to examine a patient when a dental hygienist treats a patient. Ms. Yeatts said that taking the proposed action would require amending the Dentistry and Dental Hygiene regulations. Dr. Catchings moved to recommend that the Board keep the current regulatory provisions for indirect supervision and deny the petition. The motion was seconded and passed.

**A1C TESTING/  
DEFINITION  
OF DENTISTRY**

Ms. Ridout opened discussion by asking if the current definition of the term “dentistry” in the Code is broad enough to include A1C testing. Following discussion of relying on the current definition, Mr. Rutkowski explained that A1C testing does not fall within the current definition because screening for diabetes is not related to treatment of the oral cavity and its adjacent and associated structures. Ms. Reen advised that the Board had accepted this advice previously given to it by Counsel and charged the Committee with proposing an amendment. Ms. Yeatts explained that the Board would need to act on amending the definition no later than at its June 2020 meeting to propose legislation for the 2021 Session of the General Assembly.

Ms. Ridout read the current Code definition of dentistry and stated the goal should be an amendment to include A1C testing without establishing a “laundry list” of amendments. In response to further questions about the current definition asked by Dr. Jones and Dr. Watkins, Dr. Catchings read the definition in a different order to explain that a dentist seeing a patient with a sinus condition cannot treat the sinus condition because that condition is not associated with the oral cavity. Mr. Rutkowski stated again that the definition as written does not include A1C testing. Ms. Yeatts said a simple sentence that is concise, not all inclusive of the practice of medicine and presents clear boundaries could be added. Dr. Catchings commented that dentists need parameters to “know where to stop” in addressing medical procedures such as flu shots and HIV testing. Ms. Ridout asked who would serve on a sub-committee to develop a proposal. Dr. Catchings and Dr. Watkins volunteered

and Mr. Rutkowski, Ms. Yeatts and Ms. Reen agreed to assist. Ms. Ridout charged the sub-committee with bringing its proposal to the next Committee meeting, which was scheduled for February 28, 2020.

**REVIEW GUIDANCE  
DOCUMENTS:**

Ms. Reen said she has reviewed the Board's Guidance Documents in response to statutory changes addressing the definition and publication of agencies' guidance addressing the conduct of public business. As a result of her review, Ms. Reen recommended that:

**GD 60-1 on CCAs** be amended as highlighted to delete references to GD 60-6, which was withdrawn by the Board at a previous meeting.

**GD 60-3 on Periodic Office Inspections** be amended to address concerns about the management of inspections raised by the Enforcement Division and by permit holders. Ms. Reen explained the sections highlighted in yellow are editorial in nature and the sections highlighted in blue are policy changes. Ms. Yeatts advised that regulatory action would be needed to require an inspection before issuing a permit. Ms. Reen explained that dentists are changing locations more often than previously assumed and that they are obtaining permits without being prepared to administer moderate sedation. She said changes are needed to be more efficient in utilizing the inspectors and to eliminate the dilemma of what level of sedation is being practiced and what equipment is required. She asked for guidance on how to proceed in light of these issues. The options are to withdraw the document pending edits, or to adopt with edits.

Ms. Yeatts advised that the yellow highlighted areas did not require discussion, only the blue highlighted portions. Ms. Reen suggested that the blue highlighted sections be referred to a sub-committee. Dr. Catchings recommended that a sub-committee discuss the entire process. Dr. Petticolas moved to adopt the yellow highlighted portions. The motion was seconded and passed.

Ms. Ridout asked for discussion of the blue highlighted sections. Ms. Reen said the DHP director of inspections might want to address the Board directly on announcing inspections. Dr.

Petticolas expressed his support for announced inspections. Dr. Catchings agreed and she supported using a two-step permit application process before a permit is given. The first step to review the education credentials and the second step to inspect for readiness. Ms. Yeatts advised that specifics would need to be worked out, as DHP's policy is to conduct unannounced inspections. Ms. Reen requested this matter be tabled to the February 28, 2020 meeting so a subcommittee could gather more information. Dr. Catchings, Dr. Watkins and Ms. Yeatts agreed to serve on the subcommittee with Ms. Reen. Ms. Ridout tabled the discussion until the next meeting.

**GD 60-4 Q & A on Sedation** be revised to be consistent with current regulations. Dr. Catchings moved approval. The motion was seconded and passed.

**GD 60-9 Code of Conduct** can be withdrawn because it does not fall within the definition of a guidance document. Dr. Watkins moved to remove the document. The motion was seconded and passed.

**GD 60-13 Remote Supervision** be revised to be consistent with Code and regulatory changes. In response to public comment, the proposed language addressing who can supervise the practice of remote supervision was discussed. The consensus was that a revision was needed. After reviewing the language recommended in public comment, Ms. Yeatts proposed adding the word "would" in front of the word "qualify" as a solution. Dr. Watkins moved to add the word "would" as suggested by Ms. Yeatts. Ms. Yeatts then suggested also changing the word "office" to "practice" as requested by the commenter. Dr. Watkins amended his motion to include changing the word "office" to "practice" in the response. The motion was seconded and passed.

Ms. Reen asked for consideration of the other proposed changes highlighted in yellow, which are directly related to changes in the law. Ms. Ridout asked for a motion on the entire document as amended. Dr. Petticolas moved adoption of the changes as revised. The motion was seconded and passed.

**GD 60-17 Recovery of Costs** needs updating to show the actual FY2019 hourly costs for staff to be used to calculate the

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administrative costs to be assessed in disciplinary orders. Dr. Catchings moved to accept the updated costs. The motion was seconded and passed.

**TELEHEALTH PRACTICE**

Ms. Reen advised there are no proposed changes to this guidance document and noted it is however a hot topic so it is available for discussion. Dr. Petticolas asked if there is a policy for review of guidance documents. Ms. Yeatts responded that the documents are reviewed on a four-year cycle and can be revised as needed. She also identified one typo to be corrected. Dr. Petticolas moved to reaffirm the document. The motion was seconded and passed.

**CLEAR ALIGNER  
THERAPY,  
INTRAORAL  
DIGITAL  
SCANNING,  
OUTSOURCING  
CBCT SCANS**

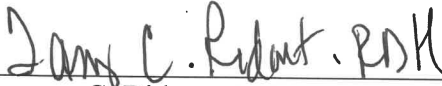
Ms. Reen stated the Board referred these topics to the Committee for discussion. She explained that the Board does not typically regulate specific types of equipment used in dentistry and noted that the Department of Health regulates x-ray machines. She added that action should be considered if needed to protect patients or the public. Dr. Jones spoke against addressing clear aligner therapy, CBCT and digital scanning in regulations. Dr. Catchings questioned if untrained individuals are reading CBCT scans and if scans are being misread. Mr. Rutkowski advised that the concerns surrounding these subjects seems to be more about billing and not necessarily public health. Mr. Rutkowski was asked to research the feasibility of requiring an in person, physical examination by a dentist before orthodontic treatment is initiated.


**NEXT MEETING**

February 28, 2020

**ADJOURNMENT**

With all business concluded, the meeting was adjourned at 11:16 a.m.

  
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Tammy C. Ridout, RDH, Chair  
3/13/2020  
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Date

  
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Sandra K. Reen, Executive Director  
March 13, 2020  
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Date