

**VIRGINIA BOARD OF DENTISTRY
REGULATORY-LEGISLATIVE COMMITTEE MEETING MINUTES
February 18, 2022**

TIME AND PLACE: The meeting of the Regulatory-Legislative Committee was called to order at 1:02 p.m., on February 18, 2022

CALL TO ORDER: Dr. Bonwell called the meeting to order.

COMMITTEE MEMBERS PRESENT: Patricia B. Bonwell, R.D.H., PhD, Chair
J. Michael Martinez de Andino, J.D.
Alf Hendricksen, D.D.S.
Jamiah Dawson, D.D.S.

COMMITTEE MEMBERS ABSENT: Joshua Anderson, D.D.S

OTHER PARTICIPATING BOARD MEMBERS PRESENT: Nathaniel C. Bryant, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director, Board of Dentistry
Jamie C. Sacksteder, Deputy Executive Director, Board of Dentistry
Sally R. Ragsdale, Executive Assistant, Board of Dentistry
Erin Barrett, JD, Senior Policy Analyst, Department of Health Professions

WORKGROUP PARTICIPANTS PRESENT: Dr. James Vick representing the VCU School of Dentistry
Dr. Michael Ellis representing the Northern VA Dental Society
Dr. Elsa Matthew representing the VA Academy of Sleep Medicine
Dr. Alex Vaughan representing the Virginia Dental Association
Ms. Kristen D. Robbins representing the Commonwealth Dental Hygienist Society
Dr. Bill Crutchfield representing the Virginia Association of Orthodontists
Ms. Carol A. Walsh, representing the Virginia Dental Assistants Association

ESTABLISHMENT OF A QUORUM: With five members of the Committee present, a quorum was established.
Ms. Reen addressed the emergency evacuation procedures.

PUBLIC HEARINGS: Dr. Bonwell explained that there are two public hearings today to receive comments on proposed amendments and that copies of the proposed amendments are on the back table. Dr. Bonwell explained the parameters for public comment. She then added that electronic comment can be posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov or sent by email to Elaine.Yeatts@dhp.virginia.gov. All comments will be considered before the Board adopts final regulations at its meeting

scheduled on **June 10, 2022**. Dr. Bonwell stated the comment period on proposed regulations for **Training in Infection Control for Dental Assistants** will close on **March 4, 2022**; and, the comment period on proposed regulations for **Digital Scan Technicians** will close on **April 1, 2022**.

**PUBLIC HEARING
INFECTION CONTROL:**

Dr. Bonwell opened the public comment period to receive comments on proposed amendments relating to **Training in Infection Control for Dental Assistants**.

Misty Mesimer stated she is a certified dental assistant, a registered dental hygienist, an allied dental educator and the author of the petition for rulemaking to require dental assistants to be certified in infection control. She explained the substandard practices she is aware of including recycling sterilization products and misunderstanding of sterilization indicators to explain the importance of training dental assistants. Then Ms. Mesimer read a message she received from a colleague asking questions and expressing concerns about the unsafe sterilization practices in her dental office such as wiping down syringes but not changing the tips with holes in them and cold sterilizing and reusing disposable syringes and tips. Ms. Mesimer concluded by asking the Board to reconsider the “training within 60 days” clause in the proposed regulations and require training when hired so dental assistants are informed about the need to make decisions about infection control.

Debra Vernon spoke on behalf of the Virginia Dental Assistants Association, stating she has worked in private and government practices for 40 years. She said the only way to prevent infections is to be knowledgeable about current guidelines for safe practice. She stated that most of the responsibility for infection control lies with the dental assistant. She said she is an advocate for adoption of certification requirements in infection control for dental assistants.

Tracey Martin spoke on behalf of the Virginia Dental Hygienists Association and for another dental hygienist, Amanda Hill. She expressed their support for requiring certification in infection control as a needed minimum standard for dental assistants.

Dr. Bonwell concluded the hearing on Training in Infection Control for Dental Assistants.

**PUBLIC HEARING
DIGITAL SCAN
TECHNICANS:**

Dr. Bonwell opened the public comment period to receive comments on proposed regulations for **Digital Scan Technicians**.

Mercer May, who spoke on behalf of Smile Direct Club, stated the proposed regulations are not consistent with the enacted statute. He said the legislative intent is that 3D photography such as digital scans is not the practice of dentistry. He explained that it was never the intent of the law for a dentist to train and supervise a digital scan technician or to require a digital scan work order. He said the terms “supervision” and “direction” have different meaning and requested clarification to recognize that taking a digital scan is an administrative task. He said there is no requirement for a digital scan work order and that there is limited availability of training.

Giana Noreki, who spoke on behalf of the American Association of Orthodontist, said the AAO supports requiring the dentist to inspect the appliance before the delivery of the appliance. She asked for clarification of the provision for work orders, asking if work orders are required for all digital scans or only those scans done by a digital scan technician. She also asked the Board to not consider legislative intent and to review the law as written.

Dr. Bonwell concluded the public hearing at 1:36 p.m.

PUBLIC COMMENT:

Dr. Bonwell explained that the Committee will now receive public comment on agenda items. She added that written comments were distributed to the Board members and copies were available on the back table for the public.

Dr. Mike Pagano, a member of the American Academy of Sleep Medicine, voiced his support for dentists ordering home sleep studies. He said that a physician should treat sleep apnea, but there are multiple reasons and benefits for dentists to order home testing. He cautioned the Board against regulating the sensors and limiting dentists' ability to order home sleep studies.

APPROVAL OF MINUTES:

Dr. Bonwell asked if there were any edits or corrections to the October 22, 2021 Regulatory-Legislative Committee Meeting minutes. Dr. Hendricksen moved to approve the minutes as presented. The motion passed.

DISCUSSION WITH WORKGROUP ON SERVICES RELATED TO SLEEP STUDIES AND SLEEP APNEA:

Dr. Bonwell thanked the participants for serving on the Workgroup on Services Related to Sleep Studies and Sleep Apnea and asked Ms. Reen to begin the conversation by addressing the information she collected from other boards about provisions on sleep testing and treatment.

Ms. Reen reported that she did a quick, limited survey to obtain information on other states' actions addressing sleep testing. She said the responses received were included as information that may be helpful to the Board in its consideration of a dentist's role in addressing sleep disorders.

Dr. Bonwell asked Dr. Vick to begin the discussion. He reported that VCU does not have an official policy. He stated a diagnosis must come from a physician or a qualified radiologist. He said it is within the scope of practice for dentists to initiate a sleep study and dentists should be able to order a sleep study. In response questions, Dr. Vick replied he has had extensive training at Walter Reed Medical Center; that dentists should review the appliance after fabrication to see how it performs. He added that take home sleep studies are useful.

Dr. Ellis stated that he is an orthodontist with a specialty in sleep study. He said sleep apnea is a medical disorder and that a physician should order testing and read the results. He indicated that there are only two organizations that can certify a dentist as a sleep specialist. In response to questions, Dr. Ellis explained about the certification he received which required over 20 hours of training, a presentation to a panel after treating

20 patients, and taking a 4 hour test. He spoke against taking weekend courses for certification. He stated that he supports the initial order coming from a doctor then the dentists can make the device. He suggested that when the initial order is placed a follow up order can be placed at the same time. He strongly supported doctors and dentists working together on this issue and dentists placing a follow up order for a home sleep study as recommended by the treating physician.

Dr. Matthew stated she did not support dentists ordering a home sleep test. She believes it is outside the scope of dentistry. She does support collaboration between dentists and doctors. She commented that it's not just the matter of ordering a sleep test, but also reviewing patient history, labs and medications, as well as consistency in the equipment used. She earned her qualifications for certification in sleep medicine by completing a year of fellowship training and passing an exam. She supported the need for efficacy studies and a calibration study done by a dentist. She stressed the importance of the follow up sleep studies being the same type of test as used in the initial sleep study. She noted that sometimes the patient is being treated for multiple issues and should periodically return to a physician.

Dr. Vaughan addressed the history of sleep apnea diagnosis, calibration and efficacy as well as treatment and the definitions of terms used in addressing the surrounding issues. He said that calibration and efficacy is the same test and that dentists are often diagnosing, ordering, treating and dispensing. He shared that any physician can order a sleep study test without having received special training, and referred to study results that indicated no statistical difference in the knowledge of sleep apnea between general dentists and physicians. He expressed concerns about over treatment and support for dentists ordering a home sleep study, 2 night studies, requiring more education, and having a medical doctor interpret the results.

Ms. Walsh supports dentists being able to order home sleep tests because more people go routinely to the dentist than doctor. She stated that the results should go to a sleep specialist.

Ms. Robbins supports the collaboration between dentist and doctors. She believes that doctors should order the home sleep study not dentists. She commented that more education is needed for dentists and dental hygienists so that the patient is screened and treated properly for sleep disorders.

Dr. Crutchfield stated airway is an important issue, it is life and quality of life. He believes it should be ordered by the person trained and educated in the area. He cautioned the Board against allowing dentists to order sleep studies because he has seen what corporations have done promoting Invisalign and night guards. He is not supportive of dentists ordering sleep studies.

Dr. Bonwell thanked the participants for their participation and explained that the information they provided will be addressed at the next Board Business meeting on March, 11, 2022.

Dr. Bonwell asked the Committee members to let Ms. Reen know if they are available on May 20, 2022 to convene the planned workgroup for discussion of In-Person Examinations of Patients Receiving Active Appliances.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 3:37 p.m.

Patricia B Bonwell

Patricia B. Bonwell, R.D.H., PhD, Chair

5/20/2022

Date

Sandra K. Reen for

Sandra K. Reen, Executive Director

5/20/22

Date