

APPROVED

**BOARD OF DENTISTRY
MINUTES OF REGULATORY-LEGISLATIVE COMMITTEE
Friday, May 6, 2016**

TIME AND PLACE: The meeting of the Regulatory-Legislative Committee of the Board of Dentistry was called to order on May 6, 2016 at 9:00 a.m. at the Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 3, Henrico, Virginia.

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

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

OTHER BOARD MEMBERS PRESENT: Charles E. Gaskins, III, D.D.S., Ex-Officio
Al Rizkalla, D.D.S.
Carol Russek, J.D., Citizen Member
Tammy K. Swecker, R.D.H.

ESTABLISHMENT OF QUORUM: All members of the Committee were present.

STAFF PRESENT: Sandra K. Reen, Executive Director
Kelley W. Palmatier, Deputy Executive Director
Huong Q. Vu, Operations Manager
Elaine Yeatts, DHP Policy Analyst

OTHER PRESENT: James E. Rutkowski, Assistant Attorney General

PUBLIC COMMENT: None

APPROVAL OF MINUTES: Ms. Swain asked if Committee members had reviewed the February 12, 2016 minutes. Two grammatical corrections were agreed to by consensus and the minutes were approved as amended.

STATUS REPORT ON LEGISLATION AND REGULATORY ACTIONS: Ms. Yeatts reported that the Board has two regulatory actions at the Secretary's office for review: one to require capnography equipment for monitoring anesthesia or sedation; and the other to amend 18VAC60-21-230 to be consistent with statutory requirements for a faculty license.

RECOMMENDATION ON PUBLIC PARTICIPATION GUIDELINES (PPG): Ms. Yeatts advised that section 18VAC60-11-50 of the Board's regulations for public participation need to be amended to include a Code change which permits a person to be accompanied or represented by counsel at public comment opportunities. She asked the Committee to advance this recommendation to the Board for adoption as a fast track action. Dr. Wyman moved to accept Ms. Yeatts' request. The motion was seconded and passed.

**RECOMMENDATION ON
THE AMENDMENT TO
ALLOW VOLUNTEER
HOURS TO COUNT
TOWARD CE
REQUIREMENTS
(HB319):**

Ms. Yeatts stated that HB319, as passed by the 2016 General Assembly, requires the Board to amend its regulations to provide continuing education credit (CE) to licensees who volunteer at a local health department or a free clinic. She offered proposed language to amend 18VAC60-21-250.5 and 18VAC60-25-190.3 and asked the Committee to recommend the number of hours that could be earned for what amount of service.

Discussion followed about the maximum number of hours that could be earned for volunteer activities and the number of volunteer hours needed to earn one hour of CE. Points of discussion included the purpose of CE is to address clinical competence; voluntary practice does not address competence; reasonable credit should be allowed to promote volunteer services; and volunteer hours must be documented by the host/sponsor for the volunteer activity to count toward the Board's CE requirement. Following consideration of several proposals, Dr. Wyman moved to recommend a maximum of two CE credits per renewal year. The motion was seconded and passed. Dr. Wyman moved to recommend requiring three documented volunteer hours for one hour of credit. The motion was seconded and passed.

**RECOMMENDATION ON
EXPANDING THE
EXEMPTION FOR
REGISTRATION
REQUIREMENTS TO
MOBILE DENTAL CLINICS
OPERATED BY THE
FEDERALLY QUALIFIED
HEALTH CENTERS, AND
FREE HEALTH CLINICS
OR HEALTH SAFETY NET
CLINICS (HB310):**

Ms. Yeatts stated that HB310, as passed by the 2016 General Assembly, expands the exemptions for registration requirements to include mobile dental clinics operated by federally qualified health centers, free health clinics, and health safety net clinics. She reviewed her proposal to amend 18VAC60-21-430, which can be done as an exempt action and asked the Committee to advance the recommendation to the Board for adoption.

The fifth exemption for clinics serving non-ambulatory people was discussed as having the potential for abuse and inconsistency with standards for practice. Ms. Yeatts said the Board cannot delete or edit this provision because it is the language passed by the General Assembly. The 30 mile radius was questioned and Ms. Yeatts again explained that it could not be changed because it is established as law. Dr. Wyman move to recommend the proposal as presented to the Board for adoption as an exempt action. The motion was seconded and passed.

**RECOMMENDATION ON
THE REQUIREMENTS OF
THE REMOTE
SUPERVISION OF DENTAL
HYGIENISTS TO
IMPLEMENT SB712:**

Ms. Yeatts stated that SB712, as passed by the 2016 General Assembly, allows dental hygienists who are employed by a dentist to practice under remote supervision in free clinics and federally qualified health centers. She added that the required emergency regulations must be in effect within 280 days of enactment. She said the statute is very detailed and will be the primary reference so the proposed regulations include only the provisions needed to acknowledge the new practice model. She also offered a proposed guidance document which addresses the provisions for remote supervision in a question and answer format. She then reviewed the proposed regulatory language which includes:

- adding the definition of "remote supervision" to 18VAC60-21-10 and 18VAC60-25-10; and
- adding references to the Code in 18VAC60-21-140.C and in 18VAC60-25-60 to include the remote supervision as an option in the provisions for delegation to dental hygienists.

She added that questions had been raised about having an exemption from the mobile clinic registration requirement for dental hygienists to practice under remote supervision. She said this is not a required change but, for purposes of discussion, she added language in 18VAC60-21-430.

Discussion followed with agreement that:

- the definition of "remote supervision" in the Code for the Virginia Department of Health model should also be included in the definitions section to avoid confusion about the two meanings of the term; and
- the new recordkeeping requirements for dental hygienists practicing under remote supervision should be added in 18VAC60-25-110.

The consultation requirement for a dental hygienist to provide hygiene services to patients with periodontal disease raised concerns. Addressing the level of disease that would require consultation was considered but not pursued based on advice of counsel. The limitation that only dental hygienists employed by a dentist can practice under the new definition and the ratio of dentist to dental hygienist were discussed without any action taken.

A motion made by Dr. Wyman to strike the proposed exemption for mobile clinic registration in 18VAC60-21-430 was seconded. In discussion, it was agreed that the new exemptions added by passage of HB 310 addresses the settings where dental hygienists might practice under remote supervision so the proposed exemption was not needed. The motion passed.

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Ms. Yeatts reviewed the draft guidance document she prepared, *Guidance for Practice of a Dental Hygienist under Remote Supervision*. Ms. Reen asked that it clearly reference section F of §54.1-2722 since it only addresses the private practice model. It was agreed to present this draft at the June Board meeting for discussion.

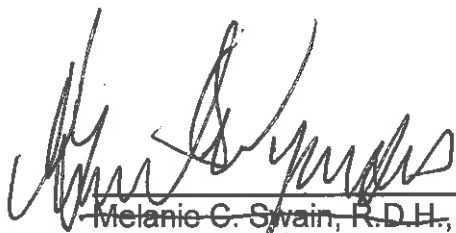
Dr. Alexander moved to advance the emergency regulations as amended to the Board for discussion at the June meeting and adoption at its September meeting. The motion was seconded and passed.

NEXT MEETING:

Ms. Swain reminded the Committee that it is scheduled to meet on Friday, October 14, 2016.

ADJOURNMENT:

With all business concluded, Ms. Swain adjourned the meeting at 11:06 a.m.



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

Date

10/14/2016



Sandra K. Reen, Executive Director

Date

October 14, 2016