

VIRGINIA BOARD OF DENTISTRY

June 8, 2018 AGENDA

Department of Health Professions

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

9960 Mayland Drive, Henrico, Virginia 23233

Board Business

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9:30a.m. Call to Order – Dr. Alexander, President

Evacuation Announcement – Ms. Reen

Public Comment – Dr. Alexander

Approval of Minutes - Dr. Alexander

March 9, 2018	Board Business Meeting	PG.1
March 9, 2018	Formal Hearing	PG.7
March 30, 2018	Telephone Conference	PG.10

Director's Report – Dr. Brown

Conference/Meeting Reports

*AADB – Dr. Petticolas, Dr. Dawson, Ms. Reen PG.12

Liaison/Committee Reports

- **Dr. Watkins**
 - *SRTA
 - *BHP
 - *Exam Committee

- **Dr. Petticolas**
 - *Regulatory – Legislative Committee

- **Dr. Bryant**
 - *ADEX

- **Dr. Alexander**
 - *Update on Opioids Epidemic
 - * Executive Committee Meeting
 - * Minutes – March 8, 2018 PG.14
 - * Revised By-Laws PG.16
 - *Nominating Committee Meeting
 - * Minutes – May 18, 2018 PG.21

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Legislation and Regulation – Ms. Yeatts

- Status of Regulatory Actions PG.22

Board Discussion/Action

- Public Comment
- Review of Guidance Documents PG.23
 - 60-1 – Confidential Consent Agreements PG.25
 - 60-7 – Delegation to Dental Assistants PG.26
 - 60-9 – Code of Conduct for Members PG.28
 - 60-11 – Guidance on Completion of Treatment if Patient Has Not Paid Fees PG.31
 - 60-12 – Administration of Topical Oral Fluoride by Dental Hygienists Under Standards adopted by VA. Dept. of Health PG.32
 - 60-13 – Practice of Dental Hygienists under Remote Supervision PG.33
 - 60-14 – By-Laws PG.43
 - 60-15 – Adding an unpaid fee provision in the Practitioner Responsibility Section Standards for Professional Conduct In Dentistry PG.48
 - 60-19 – Dental Laboratory Subcontractor Work Order Form PG.53

Deputy Executive Report/Business – Ms. Palmatier

- Disciplinary Activity Report PG.54

Executive Director’s Report/Business – Ms. Reen

- Oral Health Providers Overview PG.56
- Virginia DEQ Dental Rule FAQ for Dentists PG.59

Executive Assistant Business – Ms. Beard

- Travel Policy Reminders

Calibration Exercise

UNAPPROVED

**VIRGINIA BOARD OF DENTISTRY
FULL BOARD MINUTES**

March 9, 2018

Department of Health Professions

Henrico, VA 23233

CALL TO ORDER: Dr. Alexander called the meeting of the Board to order at 9:03AM. With 9 Board members present, a quorum was established.
Ms. Reen provided the emergency egress procedures for Board Room 4.

MEMBERS PRESENT: John M. Alexander, D.D.S., President
Tonya A. Parris-Wilkins, D.D.S., Vice-President
Augustus A. Petticolas, Jr., D.D.S., Secretary - Treasurer
Tammy C. Ridout, R.D.H.
Sandra J. Catchings, D.D.S.
James D. Watkins, D.D.S.
Carol R. Russek, JD
Jamiah Dawson, D.D.S.
Patricia B. Bonwell, R.D.H., PhD

MEMBERS ABSENT: Nathaniel C. Bryant, D.D.S.

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
Barbara Allison-Bryan, MD, DHP Chief Deputy Director
Elaine Yeatts, DHP Policy Analyst

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

PUBLIC COMMENT: Kassie Schroth, McGuire Woods Consulting – Recommended amending section 18VAC60-21-290 of the Regulations Governing the Practice of Dentistry to require a dentist to hold a permit in order to delegate administration of sedation.

APPROVAL OF MINUTES: With two changes noted in the December 14, 2017 minutes, Dr. Watkins made a motion to adopt the 2 sets of formal hearing minutes. The motion was seconded and passed.

Dr. Catchings moved to adopt the minutes for the December 15, 2017 Formal Hearing and Business Meeting; the January 26, 2018 Public Hearing; and February 8, 2018 Conference Call. The motion was seconded and passed.

DHP DIRECTOR'S REPORT

Dr. Brown informed the Board that there have been many changes in state leadership to include Governor Northam, MD, the Secretary of Health and Human Resources, Dan Carey, MD, Deputy Secretary, Gina Boyle, Deputy Secretary, Marvin Figaroa, and the new agency director of DMAS, Jennifer Lee. He also welcomed and introduced Dr. Barbara Allison-Bryan, MD as the new Chief Deputy Director at DHP.

Dr. Brown also informed the Board that the agency has acquired additional office space on the first floor which is ready to be occupied and the upcoming move of the Board of Dentistry to its new space on the 3rd floor. He then thanked the Board for addressing his concerns about disciplinary cost recovery.

Dr. Allison-Bryan thanked everyone for the warm welcome and expressed her special interest in addressing the opioid epidemic and its impact.

SANCTIONING REFERENCE POINTS

Neal Kauder, President of VisualResearch, Inc., provided an overview of the Fine Amounts and Sanctioning Reference Points (SRP) tools that are currently used by the Board in discipline cases. This review was done primarily because of the Board's concern for promoting consistency in the fine amounts and fairness to those being sanctioned. After the conclusion of his presentation, Mr. Kauder suggested the Board consider revising the worksheets or making it a guidance document. A motion was made by Ms. Ridout to revise the sanctioning worksheets. The motion was seconded and passed.

COMMITTEE REPORTS

Dr. Watkins made the following reports:

- **SRTA** - SRTA is still considering rejoining ADEX for the development of licensure exams. One thing that may be a hindrance is ADEX is considering assessing a fee for joining. There will be more information to come on this decision.
- **BHP** - BHP has discussed the upcoming changes to the agency to include the move for dentistry. Also, the committee is discussing in more detail the possibility of implementing criminal background checks for two more boards.
- **Exam Committee** - Dr. Watkins reviewed the Exam Committee's minutes in the agenda package. He stated the Committee recommends adding five "Did you know" questions and answers on the renewal form for both dentists and dental hygienists to read. The Committee recommended that the Board not move forward with requiring a law exam for new licensees.

Ms Ridout made the following report:

- **SCDDE** - The 2018 Southern Conference of Dental Deans and Examiners took place on January 26-28, and included discussion of the new CDT Code for skin pricks for diabetes testing. Ms. Ridout asked if action was needed to allow dentists to do skin pricks. Ms. Reen responded that the definition of dentistry in the Code of Virginia may need to be changed to make this possible.

Dr. Petticolas made the following report:

- The Regulatory-Legislative Committee met on March 8, 2018 and adopted the following motions for Board action. The Committee moved:
 - To withdraw the fast track regulatory action for amending the restriction on advertising dental specialties and resubmit it as a NOIRA. Following discussion of the rules for fast track action, the motion passed.
 - To not pursue granting CE credit for attending Board meetings. The motion passed without discussion.
 - To not pursue adding PGY-1 as a pathway for licensure. The motion passed without discussion.
 - To issue a NOIRA to revise the sedation regulations including the recommendations from RAP. Following discussion of the RAP's recommendations, the motion passed.

Dr. Alexander made the following reports:

- **AADB** - Dr. Alexander announced that the next AADB meeting will be held in April in Chicago, IL. He said it is very important that the Board continue to attend these meetings because the information shared is relevant and important.
- **Advisory Panel on Opioids** - There was nothing new to report from the Advisory Panel on Opioids. He noted that the requirements for e-prescribing must be in effect by the year 2020 and the current challenge for prescribers is obtaining the right software package to prescribe opioids.
- **RAP** - Dr. Alexander referred to the minutes from the last RAP meeting and reviewed the changes recommended to Part VI of the Regulations Governing the Practice of Dentistry regarding controlled substances, sedation, and anesthesia regulations. He also suggested that the Board consider adding a requirement for dentists to inform patients on the proper use of prescribed opioids, the risk of addiction and overdose, and the proper storage and disposal of unused and expired opioid medications. He said this addition would help prevent unintended use by others and accidental poisoning of pediatric patients.
- Dr. Alexander informed the Board that the Executive Committee met to review and update the bylaws. During the meeting the Code of Conduct for board members was also reviewed. All proposed changes will be included in the June meeting agenda package.

LEGISLATION AND REGULATORY ACTIONS

Ms. Yeatts gave a report on the legislation that passed in the 2018 General Assembly which impacts DHP:

- HB 533 Veterans: acceptance of substantially equivalent military training, etc.
- HB 793 Nurse Practitioners: practice agreements
- HB 883 Regulatory reduction pilot program: Department of Planning and Budget to implement, report.
- HB 1173 Controlled substances: limits on prescriptions containing opioids.
- HB 1440 Schedule I and Schedule II drugs: adds various drugs to list.
- SB 258 Subpoenas: issuance by Director of Department of Health Professions or his designee.
- SB 544 Prescription drugs: donation of used medicines.
- SB 726 CBD oil and THC-A oil: certification for use, dispensing.
- SB 918 Professional and occupational regulation: authority to suspend or revoke licenses, certificates.

Ms. Yeatts provided a status report on the following regulatory actions:

- **Conforming rules to ADA guidelines on moderate sedation** –the comment period ended on February 23, 2018 so the Board can adopt these for publication as a final action. Ms. Russek made the motion to adopt as a final action. The motion was seconded and passed.
- **Continuing education for practice by remote supervision** – Ms. Yeatts said the emergency regulation is in effect and needs to be replaced with final regulations by May 12, 2019. She requested adoption of these regulations as proposed with final regulations to be released for public comment. Dr. Bonwell made the motion to adopt the proposed regulations. The motion was seconded and passed.

BOARD DISCUSSIONS

Acknowledgment of Public Comments – Dr. Alexander acknowledged the verbal and written comments received from the public on specialty advertising and the sedation regulations.

Guidance Documents – Ms. Palmatier reviewed the following documents for approval by the Board:

- **Acceptable Clinical Examinations.** This Guidance document is a new policy on the content of Clinical Examinations Acceptable to the Board. Adoption of this guidance document is proposed to address the Board’s requirements in regard to sections the examining agencies have made optional. Dr. Bonwell moved to accept the guidance document. The motion was seconded and passed.
- **Proposed changes to Guidance document 60-13 regarding the practice of dental hygiene under remote supervision.** Revision of this guidance is proposed to address changes made to the current regulations and to address recent questions from licensees. Ms. Ridout made a motion to accept the proposed changes. The motion was seconded and passed.

National Actions on Dental Specialties – Dr. Alexander reviewed the following announcements:

- ADA has appointed members to a new dental specialty commission.
- CODA is eliminating the word “specialty” from its terminology, opting to use “advanced education programs” instead.
- JCNDE is in the process of changing its examination to the Integrated National Board Dental Examination and has released an implementation plan and recommended actions dental boards should take to prepare for the change.

BOARD COUNSEL REPORT

Mr. Rutkowski had nothing to report to Board.

DISCIPLINE AND DEPUTY EXECUTIVE DIRECTOR REPORT

- **Disciplinary Activity Report**

Ms. Palmatier reviewed her report noting for the second quarter of 2018, the Board received a total of 64 patient care cases. The Board closed a total of 78 patient care cases for a 122% clearance rate, which is up from 77% in Q1 of 2018. The current pending caseload older than 250 days is 29%, while the Board’s goal is 20%. In Q2 of 2018, 90 % of the patient care cases were closed within 250 days which meets DHP’s performance goal. There were two mandatory suspensions of dental licenses between December 2, 2017 and February 20, 2018.

- Update of Guidance Document 76-24.3 Inspection Form**
 Ms. Palmatier reviewed proposed revisions to Guidance Document 76-24.3, the Virginia Board of Dentistry Dental Inspection Form: on Page 1, changing the DEA registration posting requirements to having it readily retrievable and on Pages 3 and 4, changing the provisions on conscious/moderate sedation shown as the second column to reflect the progression of the levels of sedation. Dr. Petticolas moved the adoption of the revisions. It was suggested that the term “conscious” should be removed since it is being stricken from the regulations. It was agreed to include this change in the motion, which was seconded and passed.
- Sedation / Anesthesia Form**
 Ms. Palmatier reported that she is creating a sample Sedation/Anesthesia form for licensees to record all of the information required by the Board’s sedation and anesthesia regulations. She plans to have a draft for the Board’s review and approval at the June 2018 meeting.
- Southern Conference of Dental Deans and Examiners Report**
 Ms. Palmatier reported on her attendance at the 63rd Southern Conference of Dental Deans and Examiners held on January 27-28, 2018, noting the presentations on national exam activities and inter-professional training in the area of dental sleep medicine.

EXECUTIVE DIRECTORS REPORT –

- Updating Guidance Document 60-17 on Recovery of Disciplinary Costs**
 Ms. Reen addressed Dr. Brown’s concern that the recovery of administrative costs in disciplinary cases was not fair to dental hygienist who earn 50% less than dentists and not fair to any licensee who only receives a reprimand. Ms. Reen provided the guidance document and asked the Board if it would prefer to suspend collection of administrative costs or look further at this Guidance document for possible amendment. A motion was made by Ms. Ridout to refer this guidance document to the Regulatory-Legislative Committee for review. The motion was seconded and passed.
- CODA Winter 2018 Accreditation Actions**
 Ms. Reen reviewed a Notice of Accreditation Actions issued by the Commission on Dental Accreditation.
- Silver Diamine Fluoride (SDF) Fact Sheet**
 Ms. Reen provided a fact sheet to the Board regarding Silver Diamine Fluoride, noting that under current law it is permissible for dental hygienist to apply this fluoride treatment. The fact sheet addresses considerations, protocols and who may be allowed to apply this treatment. She said several state boards have adopted guidance on the use of SDF since it can stain tooth surfaces. She asked if the Board wants to look further into the use of SDF. The Board decided by consensus not to take any actions regarding SDF.

ADJOURNMENT: With all business concluded, Dr. Alexander adjourned the meeting at 12:00 PM.

John M. Alexander, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date

**VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING
March 09, 2018**

TIME AND PLACE: The meeting of the Virginia Board of Dentistry was called to order at 12:58 p.m., on March 09, 2018 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: John M. Alexander, D.D.S

MEMBERS PRESENT: August A. Petticolas Jr., D.D.S.
Tammy C. Ridout, R.D.H.
Sandra J. Catchings, D.D.S.
Jamiah Dawson, D.D.S.
Patricia B. Bonwell, R.D.H., PhD
Tonya A. Parris-Wilkins, D.D.S.
James D. Watkins, D.D.S.
Carol R. Russek, JD

MEMBERS ABSENT: Nathaniel C. Bryant, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Sheila Beard, Executive Assistant

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

OTHERS PRESENT: Lori L. Pound, J.D., Adjudication Specialist
Mary F. Treta, Court Reporter
Nathan C. Mortier, Esquire, Respondent's Counsel

ESTABLISHMENT OF A QUORUM: With 9 Board members present, a quorum was established.

Saman Sepahl, DDS Dr. Sepahi was present with legal counsel in accordance with the Notice of the Board dated February 8, 2018.

Case No. 185054 Dr. Alexander swore in the witnesses.

Dr. Sepahi stated that he was familiar with the order of proceedings. There were no preliminary matters discussed.

Following Mr. Mortier's opening statement; Dr. Alexander admitted into evidence Respondent's exhibits A-B.

Following Ms. Pound's opening statement;
Dr. Alexander admitted into evidence Commonwealth's Exhibits
1-5.

Dr. Sepahi testified on his own behalf.

Testifying on behalf of the Commonwealth was Stephanie Fried,
DHP Senior Investigator.

Mr. Mortier and Ms. Pound provided closing statements.

Closed Meeting:

Dr. Parris-Wilkins moved that the Board enter into a closed meeting pursuant to §2.2-3711(A)(27) and Section 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Dr. Sepahi. Additionally, she moved that Board staff, Ms. Reen, Ms. Beard, and Board counsel, Mr. Rutkowski attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Dr. Parris-Wilkins moved to certify that the Board 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.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Decision:

Dr. Parris-Wilkins moved to accept the Findings of Facts and Conclusion of Law as presented by the Commonwealth, amended by the Board and read by Mr. Rutowski. The motion was seconded and passed.

Mr. Rutkowski reported that Dr. Sepahi received unanimous votes for reinstatement of his license so his application is approved. Dr. Sepahi is placed on Indefinite probation and must complete the terms specified in the Board Order.

Virginia Board of Dentistry
Formal Hearing
March 9, 2018

Dr. Parris-Wilkins moved the adoption of the sanction imposed as read by Mr. Rutkowski. The motion was seconded and passed.

ADJOURNMENT: The Board adjourned at 2:52 p.m.

John M. Alexander, D.D.S., President

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 12:32 p.m., on March 30, 2018, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, 9960 Mayland Drive, Henrico, VA 23233.
- PRESIDING:** John M. Alexander, D.D.S., President
- MEMBERS PRESENT:** Sandra J. Catchings, D.D.S.
Jamiah Dawson, D.D.S.
Augustus A. Petticolas, Jr., D.D.S.
Tammy C. Ridout, R.D.H.
Carol R. Russek, J.D.
James D. Watkins, D.D.S.
- MEMBERS ABSENT:** Patricia B. Bonwell, R.D.H., PhD
Nathaniel C. Bryant, D.D.S.
Tonya A. Parris-Wilkins, D.D.S.
- QUORUM:** With seven members present, a quorum was established.
- STAFF PRESENT:** Kelley W. Palmatier, Deputy Executive Director
Erin Weaver, Adjudication Specialist
Donna Lee, Discipline Case Manager
- OTHERS PRESENT:** James E. Rutkowski, Assistant Attorney General, Board Counsel
James Schliessmann, Senior Assistant Attorney General
- Joseph Damiano, D.D.S.
Case No.: 182924** The Board received information from Mr. Schliessmann in order to determine if Dr. Damiano's impairment from mental illness constitutes a substantial danger to public health and safety. Mr. Schliessmann reviewed the case and responded to questions.
- 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 Joseph Damiano. Additionally, Dr. Petticolas moved that Ms. Palmatier, Mr. Rutkowski, and Ms. Lee attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Committee 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.
Dr. Dawson moved that the Board summarily suspend Dr. Damiano's

DECISION:

license to practice dentistry in the Commonwealth of Virginia in that he is unable to practice dentistry safely due to impairment resulting from mental illness and schedule him for a formal hearing. Also offer a consent order to accept the voluntary surrender for indefinite suspension the license of Dr. Damiano to practice dentistry in lieu of proceeding with a formal hearing. Following a second, a roll call vote was taken. The motion passed unanimously.

ADJOURNMENT:

With all business concluded, the Board adjourned at 12:55 p.m.

John M. Alexander, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date

From: Jamiah Dawson (02244 Newport News VA)
Sent:
To: Jamiah Dawson (02244 Newport News VA)
Cc:
Subject: presentation for AADB

Dear VA Dental Board Committee,

Thank you for the wonderful opportunity to attend the American Association of Dental Boards mid year meeting April 22-23, 2018 in Chicago, IL. The meeting started later than expected on the first day which was a pleasant surprise. I was able to have breakfast and then workout before getting ready for the afternoon welcome. That was pretty smart planning.

The meeting agenda consisted of briefings and debriefings of up to date state board concerns, forums to allow for discussion amongst colleagues, administrators and attorneys pertaining to what can be, should be and is being done to address many concerns in dental health care today. I was very excited to be amongst representatives from every state in the US and some folk from Canada to carry out the mission of this organization: To serve as a resource by providing a national forum for exchange, development, and dissemination of information to assist dental regulatory boards with their obligation to protect the public. This organization advocates for the highest standards of dental education for dentists, hygienist and dental assistants as well as maintaining a national synchronization of the methods, conduct and operations of the dental examining boards (in theory).

Over the two day session we had six educational sessions where we were able to earn CE Units which I wasn't expecting. Thanks for the extra CE's this year. The first course instructors were a 3rd yr dental student and the chairman of the board of dental education; they each gave their perspective on dental school education today. They had some interesting highlights on the expectations of the student and the promising dental career going forward. We know that women are growing in this industry and that's the reason this career is 'cool' now. But the amount of debt to complete your education is not 'cool' and it doesn't get any better for new practitioners anytime soon. They highlighted some of the new clinical competency assessments being used today and how effective it seems to be. I wonder if I had to start over again would I do it? Its a scary world out here and I'm not sure I would brave this jungle. I guess its no turning back for some of us.

The networking opportunities, multiple caucuses, committee and other organizational meetings is where "real talk" took place. Networking with other state board members and past dental association presidents was where I learned why being on the board of dentistry in Virginia was such an honor for me. Some of the stories of why these citizens are doing this extracurricular activity for their community's and what they have accomplished thus far was worth the trip to this cold state in the almost spring weather. Just in Illinois the state passed a law to allow dentists to administer the flu vaccine to improve the access to healthcare amongst the adult population.

I have to admit there was one discussion that I felt was lacking in research fact and totally biased and that was the Corporate Dentistry lecture given by two Assistant professors from Georgia. This was a lecture against corporate dentistry meanwhile one of the large sponsors of the entire meeting was the Association of Dental Support Organizations. The premise that corporate dentistry is growing, all run by non dentists, controlling dental practitioners, dictating practice procedures and making the quality of life for dentists who are employed by these organizations unfavorable is not research based

facts. There were opposing opinions and facts voiced by members in open forum, facts which the lecturer never addressed. I was glad to hear the dialogue but hopefully next time an organization hosts such opinionated guests to lecture they would have both sides represented to counter balance facts and research. This lecture could have been very damaging as the advocates were proposing the state board members represented here to advocate to their particular state to regulate Dental support Organizations.

I look forward to hearing what new ideas and regulations are created from these important discussions at this Informative meeting.

Sincerely,

Jamiah Dawson, DDS

UNAPPROVED

**VIRGINIA BOARD OF DENTISTRY
EXECUTIVE COMMITTEE MINUTES**

March 8, 2018

Department of Health Professions

Henrico, VA 23233

- CALL TO ORDER:** Dr. John M. Alexander called the meeting of the Executive Committee to order at 12:01PM. With all members present, a quorum was established.
- MEMBERS PRESENT:** John M. Alexander, D.D.S., President
Tonya A. Parris-Wilkins, D.D.S., Vice - President
Augustus A. Petticolos, Jr., D.D.S., Secretary - Treasurer
- STAFF PRESENT:** Sandra K. Reen, Executive Director
Sheila Beard, Executive Assistant
- PUBLIC COMMENT ON AGENDA ITEM:** There were no public comment provided.
- APPROVAL OF MINUTES:** Dr. Parris-Wilkins moved to accept the minutes of October 16, 2015 with one change. The minutes were adopted by consensus.
- REVIEW OF THE BYLAWS:** After review and discussion, the Committee made the following changes:
Article I. Officers Election, Terms of Office, Vacancies – In item number 2, replace “Prior to the Fall meeting” with “during the June/Summer Board meeting.”
Article II. Duties of Officers – in item number 3, remove the word “treasurer” from the Secretary-Treasurer title and move “be knowledgeable about the budget of the Board” to the duties of the Executive Committee in Article V.
Article V. Committee Duties – in item number 1(a) after Bylaws add “for Board review at its December/Winter meeting” and combine items (b) and (c) to read “To be knowledgeable about the budget of the Board and make recommendations regarding financial matters.” In item number 4, change the second appearances of (a), (b), (c), to numbers 1-3 and strike the entire last paragraph beginning with “Each year”.

Article VI. Executive Director – Item number 2, letter (h) change to “Send the financial reports of the Board budget to the Executive Committee for review and monitoring”. Following discussion of licensing procedures, Ms. Reen was authorized to propose additional revisions to this section for review by the Committee prior to the June Board meeting.

**CODE OF CONDUCT
FOR MEMBERS:**

There were no changes to the Code of Conduct. The Committee agreed that the Board should review this guidance document 60-9 annually during the September Board meeting.

ADJOURNMENT:

With all business concluded, the Committee meeting adjourned at 2:00PM.

John M. Alexander, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date

VIRGINIA BOARD OF DENTISTRY

BYLAWS

Article I. Officers Election, Terms of Office, Vacancies

1. Officers

The officers of the Virginia Board of Dentistry (Board) shall be President, Vice-President, and Secretary-Treasurer.

2. Election.

~~Prior to the Fall meeting, †~~ The President shall appoint a nominating committee to meet and submit a slate of officers to be included in the September/fall meeting agenda package. The election of officers shall be held during the September/fall meeting. Prior to the election of officers, nominations from the floor may be entered. The President shall appoint a Nominating Committee. The Committee shall submit candidates for each office to the Board for election at its Fall meeting. Prior to each election, additional nominations from the floor may be entered.

3. Terms of Office.

The terms of office of the President, Vice-President, and Secretary-Treasurer shall be for twelve months, until succeeded, or their successor(s) are elected. The term of each office shall begin at the conclusion of the Fall meeting and end at the conclusion of the subsequent Fall meeting. No officer shall be eligible to serve for more than two consecutive terms in the same office unless serving an unexpired term.

4. Vacancies.

In the event of a vacancy in the office of president, the vice-president shall assume the office of president for the remainder of the term. In the event of a vacancy in the office of vice-president, the secretary-treasurer shall assume the office of vice-president for the remainder of the term. In the event of a vacancy in the office of secretary-treasurer, the president shall appoint a board member to fill the vacancy for the remainder of the term.

In the event that all of the offices are vacated and succession is not possible, the Board shall be convened to appoint a Nominating Committee which will develop a slate of candidates for the Board's consideration at its next meeting. Pending the election of new officers, the member of the Board with the longest length of continuous service shall serve as acting president.

Article II. Duties of Officers

1. President.

The *President* shall preside at all meetings and conduct all business according to the Virginia Administrative Process Act and the American Institute of Parliamentarians Standard Code of Parliamentary Procedure. The President shall appoint all committees and designate committee chairs and all representatives, except where specifically provided by law. The President shall sign certificates and documents authorized to be signed by the President, and may serve as an ex-officio member of all committees (at which times possessing all the rights, responsibilities, and duties as any other member of the committee; including the right to vote). The President also may serve as a substitute for an absent committee member and, in this role, he shall participate in voting.

2. Vice-President.

The *Vice-President* shall perform all duties of the President in either the absence of, or the inability of the President to serve.

3. Secretary-Treasurer.

The ~~*Secretary-Treasurer*~~ shall authorize issuance of the draft unapproved minutes of meetings of the Board, ~~and shall be knowledgeable about the budget of the Board.~~

Article III. Duties of Members

1. Qualifications.

After appointment by the Governor, each member of the Board shall forthwith take the oath of office to qualify for service as provided by law.

2. Attendance at meetings.

Members of the Board shall attend all regular and special meetings of the full Board, meetings of committees to which they are assigned, and all hearings conducted by the Board at which their attendance is requested by the President or Board Executive Director; unless prevented by illness or other unavoidable cause. In the case of unavoidable absence of any member from any meeting, the President shall reassign the duties of such absent member when necessary to achieve a quorum for the conduct of business.

3. Examinations.

Each member of the Board who is currently licensed as a dentist or as a dental hygienist may participate in conducting clinical examinations for testing agencies in which the Board holds membership.

4. Code of Conduct.

Via incorporation by reference, members of the Board shall abide by the adopted Virginia Board of Dentistry Code of Conduct for Members (Guidance Document 60-9, Adopted: June 12, 2009).

Article IV. Meeting

1. Number.

The Board shall hold at least three regular meetings in each year. The President shall call meetings at any time to conduct the business of the Board, and shall convene conference calls when needed to consider summary suspensions and settlements. Additional meetings shall be called by the President at the written request of any two members of the Board.

2. Quorum.

A majority of the members of the Board shall constitute a quorum at any meeting.

3. Voting.

All matters shall be determined by a majority vote of the members present.

Article V. Committees

Standing committees of the Board shall be the following:

Executive Committee
Regulatory-Legislative Committee
Examination Committee
Special Conference Committees

Committee Duties.

1. Executive Committee.

The Executive Committee shall consist of the current officers of the Board and the Past President of the Board, with the President serving as Chair. The Executive Committee shall:

- a) Order a biennial review of these Bylaws for review by the Board at its December/Winter meeting in odd numbered years.
- b) ~~Review the proposed budget presented by the Executive Director, and submit it along with any recommendations relating to the proposed budget to the Board for approval~~
Be knowledgeable about the budget of the Board and
- c) ~~Periodically~~ review financial reports and may make recommendations to the Board regarding financial matters.
- d) Select ~~current~~ or former board members and knowledgeable professionals to be invited to serve as agency subordinates.
- e) Conduct all other matters delegated to it by the Board.

2. Regulatory-Legislative Committee.

The Regulatory-Legislative Committee shall consist of two or more members, appointed by the President. This Committee shall consider matters bearing upon state and federal regulations and legislation, and make recommendations to the Board regarding policy matters. The Board may direct the Committee to review the law for possible changes. Proposed changes in State laws, or in the Rules and Regulations of the Board, shall be distributed to all Board members prior to scheduled meetings of the Board.

3. Examination Committee.

The Examination Committee shall develop and oversee the administration of all Board examinations. This shall include, but not be limited to, jurisprudence and licensure examinations.

4. Special Conference Committees.

Special Conference Committees shall:

- a) Review investigation reports to determine if there is ~~probable cause to conclude that~~ a violation of law or regulation has occurred;
- b) Hold informal fact-finding conferences;
- c) Direct the disposition of disciplinary cases at the ~~probable cause review and~~ informal fact-finding stages. The committee chairs shall provide guidance to Board staff on implementation of their committee's decisions;
 1. Review and decide any action to be taken regarding applications for licensure when the application includes information about criminal activity, practice history, medical conditions, or other content issues;
 2. Consider applicant or licensee requests for approval of credit for programs when the content or the sponsorship of courses are in question; and
 3. Hold informal fact-finding conferences at the request of the applicant or licensee to determine if Board requirements have been met.

~~Each year, on a rotating basis, one of the Special Conference Committees shall be designated to receive all investigation reports alleging violations of the existing Board of Dentistry Rules and Regulations pertaining to advertising.~~

Article VI. Executive Director

1. Designation.

The Administrative Officer of the Board shall be designated the Executive Director of the Board.

2. Duties.

The Executive Director shall:

- a) Supervise the operation of the Board office and be responsible for both the conduct ~~and performance~~ of the staff, and the assignment of cases to agency subordinates;
- b) Execute the policies and services established by the Board;
- c) Provide and disburse all forms as required by law to include, but not be limited to, new and renewal application forms;
- d) Keep accurate record of all applications for licensure, maintain a file of all applications, and notify each applicant regarding the actions of the Board in response to their application. Prepare and deliver licenses to all successful applicants. Keep and maintain a current record of all dental and dental hygiene licenses issued by the Board;

- e) Notify all members of the Board of regular and special meetings of the Board. Notify all Committee members of regular and special meetings of Committees. Keep true and accurate minutes of all meetings and distribute approved draft minutes to the Board members within ten days following such meetings;
- f) Issue all notices and orders, render all reports, keep all records, and notify all individuals as required by these Bylaws or applicable law. Affix and attach the seal of the Board to such documents, papers, records, certificates and other instruments as may be directed by law;
- g) Keep accurate records of all disciplinary proceedings. Receive and certify all exhibits presented. Certify a complete record of all documents whenever and wherever required by law; and
- h) ~~Present~~ Provide the Board's financial statements and biennial budget, along with any revisions, to ~~be reviewed by~~ the Executive Committee ~~prior to submission to the Board for approval~~ for review.
- i) ~~Assign the determination of probable cause for disciplinary action to a board member or the staff dental review coordinator, who may offer a confidential consent agreement, offer a pre-hearing consent order, cause the scheduling of an informal conference, request additional information, or close the case.~~

DEFINITIONS OF TYPES OF COMMITTEE MEMBERS

1. Advisory Member - Specialized, non-voting member of a committee. Cannot make or second motions, but may participate fully in debate and discussions.
2. Ex-Officio Member - A member of a committee who serves by virtue of holding a specific office. Has all the rights, responsibilities and duties as any other member of the committee, including the right to vote.

UNAPPROVED - DRAFT

**BOARD OF DENTISTRY
MINUTES of the NOMINATING COMMITTEE MEETING**

Friday, May 18, 2018

**Perimeter Center
9960 Mayland Drive, Suite 200
Richmond, VA 23233
Hearing Room 3**

- CALL TO ORDER:** The meeting was called to order at 12:40 p.m.
- PRESIDING:** John M. Alexander, D.D.S., Chair
- MEMBER PRESENT:** James D. Watkins, D.D.S.,
- STAFF PRESENT:** Sandra K. Reen, Executive Director for the Board
- QUORUM:** With two members present, a quorum was established.
- NOMINATIONS:** The Committee discussed possible candidates and agreed by consensus to nominate Dr. Parris-Wilkins for president, Dr. Petticolas for vice-president and Dr. Catchings for secretary.
- APPROVAL OF MINUTES:** Ms. Reen requested approval of the June 30, 2017 meeting minutes. The Committee agreed by consensus to approve these minutes.
- ADJOURNMENT:** With all business concluded, the Committee adjourned at 1:05 p.m.

John M. Alexander, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions
(As of May 31, 2018)**

Chapter		Action / Stage Information
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Change in renewal schedule</u> [Action 4975] NOIRA - At Governor's Office for 77 days
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Amendment to restriction on advertising dental specialties</u> [Action 4920] NOIRA - At Governor's Office for 22 days
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Administration of sedation and anesthesia</u> [Action 5056] NOIRA - At Governor's Office for 7 days
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Prescribing opioids for pain management</u> [Action 4778] Proposed - At Governor's Office for 77 days
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Conforming rules to ADA guidelines on moderate sedation</u> [Action 4748] Final - At Governor's Office for 22 days
[18 VAC 60 - 25]	Regulations Governing the Practice of Dental Hygienists	<u>Continuing education for practice by remote supervision</u> [Action 4917] Fast-Track - At Governor's Office for 22 days
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	<u>Education and training for dental assistants II</u> [Action 4916] NOIRA - At Governor's Office for 77 days

REVIEW OF GUIDANCE DOCUMENT

Periodically each guidance document (GD) issued by the Board must be reviewed for accuracy and consistency with current legal provisions. There are eight GDs provided for review as noted below and at the top of the first page of each GD. These GDs have been reviewed for consistency with current law and practices. Opportunities to merge two guidance documents addressing the same subject matter into one have also been noted. The Board might revise, re-adopt or withdraw any of them.

60-1 Confidential Consent Agreements

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.

- If re-adopted, consider removing violations of “terms of probation” in item number 2 as a matter that could be addressed in a CCA.

60-7 Delegation to Dental Assistants

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.

- Staff did not identify any needed changes or additions.

60-9 Code of Conduct for Members

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.

- Staff did not identify any needed changes or additions.

60-11 Guidance on Completion of Treatment if Patient Has Not Paid Fees

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.

- If the Board wishes to retain this guidance, staff recommends withdrawing this guidance document and addressing it in the Practitioner Responsibility section of Guidance Document 60-15 by amending this provision as follows:

Practitioner Responsibility

- *Once a course of treatment is undertaken, the dentist shall not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another dentist. Even if fees have not been paid, Emergency care must be provided during the notice period to make sure that the patient's oral health is not jeopardized or to stabilize the patient's condition.*

Guidance Document 60-15 Standards for Professional Conduct in the Practice of Dentistry is next in the agenda package to review this proposed language in context.

60-12 Administration of Topical Oral Fluorides by Dental Hygienists under Standards adopted by the Virginia Department of Health

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.

- Staff recommends withdrawal of this guidance document because the substance of this guidance is more fully addressed in Guidance Document 60-13 Practice of Dental Hygienists under Remote Supervision which is the next document in the agenda package.

60-13 Practice of Dental Hygienists under Remote Supervision

The Virginia Dental Hygienists' Association has requested that the Board make two revisions to this guidance document to conform to language in the governing statutes. Staff has drafted language to address this request for review by the Board and added language addressing the §54.1-3408 provisions. Attachments also provided are:

- The email sent by the VDHA
- §54.1-2722 of the Code of Virginia
- An excerpt from the Drug Control Act, §54.1-3408, with subsections J. and V.

60-19 Dental Laboratory Subcontractor Work Order Form

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.

- Staff did not identify any needed changes or additions.

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.
If re-adopted, consider removing violations of "terms of probation" in item number 2 as a matter that could be addressed in a CCA.

Virginia Board of Dentistry
Policy on
CONFIDENTIAL CONSENT AGREEMENTS (CCAs)

Excerpts of Applicable Law, Regulation and Guidance

- CCAs may be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner, §54.1-2400 (14)
- A licensed practitioner who has entered into two CCAs involving a standard of care violation, within the ten year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10 year period unless... §54.1-2400 (14)

Probable Cause Decisions

1. Consideration of CCAs shall be addressed in probable cause reviews.
2. Reviewers may use CCAs to address one or more minor or technical violations to include:
 - advertising
 - CE*
 - recordkeeping
 - ~~terms of probation~~
 - inadequate communication with patient
 - standard of care findings when there was little or no injury
 - practicing with a lapsed license up to 90 days**
 - failure to post required license, credential or certificate
 - failure to file and maintain OMS profile
 - OHSA standards
 - expired drug stock
 - releasing records
3. The offered CCA shall include a finding that a violation occurred, shall direct that the licensee institute or cease a certain practice and may require continuing education.
4. A proposal from a respondent for a CCA will only be considered during probable cause review stage and shall not be considered once a notice is executed.
5. Upon receipt of a decision to offer a CCA in which standard of care violations are to be addressed, staff shall review the licensee's history to determine if two such CCAs have been entered. If a licensee already has 2 CCAs addressing standard of care violations, staff will confer with the Reviewer on the action to be taken.

* As addressed in Guidance Document: 60-5

** As addressed in Guidance Document: 60-6

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.
Staff did not identify any needed changes or additions.

**VIRGINIA BOARD OF DENTISTRY
DELEGATION TO DENTAL ASSISTANTS**

DUTIES THAT MAY BE DELEGATED TO DENTAL ASSISTANTS I AND II UNDER INDIRECT SUPERVISION OF A DENTIST
GENERAL SERVICES
Prepare patients for treatment/seating/positioning chair/placing napkin
Perform health assessment
Preventive education and oral hygiene instruction
Perform mouth mirror inspection of the oral cavity
Chart existing restorations and conditions as instructed by the dentist
Take, record and monitor vital signs
Transfer dental instruments
Prepare procedural trays/armamentaria set-ups
Maintain emergency kit
Sterilization and disinfection procedures
Compliance with OSHA Regulations and Centers for Disease Control Guidelines
Prep lab forms for signature by the dentist
Maintenance of dental equipment
Select and manipulate gypsums and waxes
RADIOLOGY and IMAGING
Mount and label images
Place x-ray film and expose radiographs ONLY WITH REQUIRED TRAINING
Use Intraoral camera or scanner to take images for tooth preparation and CAD CAM restorations
RESTORATIVE SERVICES
Provide pre- and post operative instructions
Place and remove dental dam
Maintain field of operation through use of retraction, suction, irrigation, drying
Acid Etch - Apply/wash/dry remove only when reversible
Amalgam: Place only
Amalgam: Polish only with slow-speed handpiece and prophy cup
Apply pit and fissure sealants
Apply and cure primer and bonding agents
Fabricate, cement, and remove temporary crowns/restorations
Make impressions and pour and trim study/diagnostic models and opposing models
Make impressions for athletic/night/occlusal/snore mouthguards and fluoride/bleaching trays
Matrices - place and remove
Measure instrument length
Remove excess cement from coronal surfaces of teeth
Remove sutures
Dry canals with paper points
Mix dental materials
Place and remove post-extraction dressings/monitor bleeding
Rubber Dams: Place and remove
Sterilization and disinfection procedures
Take bite and occlusal registrations
HYGIENE
Apply dentin desensitizing solutions
Apply fluoride varnish, gels, foams and agents
Apply pit and fissure sealant
Address risks of tobacco use
Give oral hygiene instruction
Polish coronal portion of teeth with rotary hand piece and rubber prophy cup or brush
Place and remove periodontal dressings
Clean and polish removable appliances and prostheses

Identified for Board review based on its age to consider revision, re-adoption or withdrawal. Staff did not identify any needed changes or additions.

**VIRGINIA BOARD OF DENTISTRY
DELEGATION TO DENTAL ASSISTANTS**

DUTIES THAT MAY BE DELEGATED TO DENTAL ASSISTANTS I AND II UNDER INDIRECT SUPERVISION OF A DENTIST CONTINUED
ORTHODONTICS
Place and remove elastic separators
Check for loose bands and brackets
Remove arch wires and ligature ties
Place ligatures to tie in archwire
Select and fit bands and brackets for cementation by dentist
Instruct patients in placement and removal of retainers and appliances after dentist has fitted and made adjustments in the mouth
Take impressions and make study models for orthodontic treatment and retainers
BLEACHING
Take impressions and fabricate bleaching trays
Apply bleach/whitener
Bleach with light but not laser
Instruct pt on bleaching procedures
SEDATION AND ANESTHESIA SERVICES
Apply topical Schedule VI anesthetic
Monitor patient under nitrous oxide
Monitor patient under minimal sedation/anxiolysis
Monitor patient under moderate/conscious sedation ONLY WITH REQUIRED TRAINING
Monitor patient under deep sedation/general anesthesia ONLY WITH REQUIRED TRAINING
Take blood pressure, pulse and temperature
DUTIES THAT MAY BE DELEGATED TO DENTAL ASSISTANTS I AND II UNDER INDIRECT SUPERVISION OF A DENTAL HYGIENIST
Prepare patients for treatment/seating/positioning chair/placing napkin
Perform health assessment
Preventive education and oral hygiene instruction
Transfer dental instruments
Prepare procedural trays/armamentaria set-ups
Maintain emergency kit
Sterilization and disinfection procedures
Compliance with OSHA Regulations and Centers for Disease Control Guidelines
Maintenance of dental equipment
Pollish coronal portion of teeth with rotary hand piece and rubber prophylaxis cup or brush
Place and remove periodontal dressings
Clean and polish removable appliances and prostheses
Mount and label images
Place x-ray film and expose radiographs ONLY WITH REQUIRED TRAINING
DUTIES THAT MAY ONLY BE DELEGATED TO DENTAL ASSISTANTS II UNDER DIRECT SUPERVISION OF A DENTIST
Condense/pack and carve amalgam
Place, cure and finish composite resin restorations only with slow-speed handpiece
Apply base and cavity liners/perform pulp capping procedures
Final cementation of crowns and bridges after adjustment and fitting by the dentist
Make final impressions and fabricate master casts
Place and remove non-epinephrine retraction cord

Identified for Board review based on its age to consider revision, re-adoption or withdrawal. Staff did not identify any needed changes or additions.

VIRGINIA BOARD OF DENTISTRY CODE OF CONDUCT FOR MEMBERS

The Code of Conduct represents the proper ethic and conduct for board members when interacting with colleagues, patients, and the public. It includes the observance of and compliance with the Board of Dentistry's policies, and procedures as well as the rules and regulations of the Commonwealth of Virginia.

A Board of Dentistry Member

- **Refrains from harm to the public, profession, or staff**
- **Makes the public health and safety the first and most important consideration in all actions and discussions as a member of the Board of Dentistry**
- **Strives to do that which is right and good by**
 - Not interfering with reporting, investigations, or adjudication of alleged violations of the statutes or regulations governing practice
 - Refraining from any contact with respondents, witnesses and their legal counsel before or after a notice or order has been issued
 - Respecting the public right to self determination and confidentiality
 - Respecting the legal, personal rights, dignity and privacy of all members of the Profession, Board, and individuals who are subject to investigation
 - Maintaining confidentiality and safeguarding all Board of Dentistry materials that are confidential in nature
 - Obtaining and maintaining knowledge of governmental laws, rules and regulations that govern the practice of Dentistry in the Commonwealth of Virginia
 - Complying with the Dental Practice Act and related rules and regulations of the Commonwealth that promote public health and safety of all citizens
 - Reporting violations of the Commonwealth of Virginia's Dental Practice Act, Environmental Protection Act, pharmacology and radiological safety health rules and regulations
 - Reporting illegal or unethical acts of others whether inside or outside the dental professions that would endanger the public

- **Maintains proper attire, decorum, and behavior during any meeting concerning matters of the Board of Dentistry by**
 - Treating all people fairly regardless of race, color, gender and ethnic origin
 - Making statements that are true and founded on fact
 - Recusing oneself if there is a conflict or perceived conflict
 - Always behaving ethically, without a conflict of interest. Refraining from becoming involved in investigations and cases where there is a cause for ethical dilemmas
 - Preparing for each meeting by reading all required materials and informing the President if not able to prepare
 - Being on time for each meeting
 - Silencing personal devices
 - Informing the Executive Director if going to be tardy or miss a meeting
 - Ensuring that demeanor and body language remains appropriate
 - Being fair, equitable, impartial and consistent
 - Allowing for an orderly conduct of all meetings, hearings, and conferences
 - Protecting the rights to due process and protecting the integrity of the individuals who appear before the Board
 - Accepting the decisions made by the Board regardless of personal opinion

- **Conducts oneself in a manner which will maintain or elevate the integrity of the Board and the esteem of the dental professions by**
 - Keeping knowledge and skills current in relation to the professions of Dentistry
 - Avoiding communication and relationships that could impair your professional judgment or the risk of exploiting confidences

- Consulting the Executive Director of the Board of Dentistry if any ethical or controversial dilemmas should arise affecting your duties as a member of the Board of Dentistry
- Seeking consultation when necessary from the Executive Director, staff, Board Counsel, or experts when appropriate through correct channels
- Seeking appropriate advice and guidance when faced with unresolved ethical dilemmas
- Not claiming to represent, speak, or write opinions of the Board of Dentistry without prior permission from the Executive Director in concert with the President of the Board of Dentistry
- Not discussing matters of confidentiality or conducting business outside the Board of Dentistry regular meetings which include matters pertaining to the Board of Dentistry with other members of the Board of Dentistry without a proper quorum or authority to conduct such matters
- Only undertaking assignments that one is qualified to perform completely and without a conflict of interest
- Representing the Board of Dentistry without impairment from substance abuse, cognitive deficiency or mental illness
- Increasing professional competency through continuous learning always incorporating knowledge into your actions and decision-making; being accurate and consistent
- Reporting violations of the Code of Conduct to Executive Director of the Board of Dentistry who reports the violations to the President of the Board and the Director of the Department of Health Professions
- Refraining from actions that expose the Board of Dentistry to legal, ethical, or financial risks
- Maintaining professional boundaries in relationships with other members of the Board of Dentistry
- Always acting in the best interests of the Board of Dentistry by conducting oneself with honesty and integrity at all times

Identified for Board review based on its age to consider revision, re-adoption or withdrawal.

If the Board wishes to retain this guidance, staff recommends addressing it in the Practitioner Responsibility section of Guidance Document 60-15 and withdrawing this guidance document.

Virginia Board of Dentistry

Guidance on Completion of Treatment if Patient has Not Paid Fees

The Board advises that a dentist must not leave the patient worse than when treatment began if fees have not been paid.

Suggestions for the public to resolve the issue:

- 1) Contact the practitioner and attempt to resolve;
- 2) Request peer review with the local dental society;
- 3) File a complaint with the Department of Health Professions; or
- 4) Consult with an attorney

Identified for Board review based on its age to consider revision, re-adoption or withdrawal. Staff recommends withdrawal of this guidance document because the substance of this guidance is more fully addressed in Guidance Document 60-13 Practice of Dental Hygienists under Remote Supervision which is the next document in the agenda package.

Virginia Board of Dentistry

Administration of Topical Oral Fluorides by Dental Hygienists under Standards adopted by the Virginia Department of Health

- Chapter 702 of the 2007 Acts of the Assembly authorizes a dental hygienist to *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* in accordance with provisions of the Drug Control Act. (§ 54.1-2722)
- The Drug Control Act provides that: *A 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 or osteopathic medicine that conforms to standards adopted by the Virginia Department of Health.* (§ 54.1-3408)
- Only under the narrow provisions of § 54.1-2722 and § 54.1-3408 is a dental hygienist authorized to administer topical oral fluorides under a standing protocol developed by the Department of Health and signed by a doctor of medicine or osteopathic medicine. Such administration is limited to children aged six months to three years who receive home visits from the Health Department or who are enrolled in Head Start programs or who are clients of safety-net healthcare facilities (e.g. rural health, community health centers, mobile dental clinics, and Health Department programs).

The Virginia Dental Hygienists' Association has requested that the Board make two revisions to this guidance document to conform to language in the governing statutes. Staff has drafted language to address this request for review by the Board and added language addressing the §54.1-3408 provisions. Attachments also provided are:

- The email sent by the VDHA
- §54.1-2722 of the Code of Virginia
- An excerpt from the Drug Control Act, §54.1-3408, with subsections J. and V.

Practice of a Dental Hygienist under Remote Supervision

References from § 54.1-2722 of the Code of Virginia

1. What is meant by "remote supervision"

"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.

2. Who can supervise a dental hygienist to practice dental hygiene under the remote supervision?

A dentist who holds an active, license issued by the Virginia Board of Dentistry and who has a dental office physically located in the Commonwealth, including dental offices maintained by 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.

3. What qualifications are necessary for a dental hygienist to practice under remote supervision?

The hygienist must have (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.

4. What is required for a continuing education course in remote supervision?

The Board requires a remote supervision course to be no less than two hours in duration and to be offered by an accredited dental education program or an approved sponsor listed in the regulation. The required course content is: a) Intent and definitions of remote supervision; b) Review of dental hygiene scope of practice and delegation of services; c) Administration of controlled substances; d) Patient records/documentation/risk management; e) Remote

supervision laws for dental hygienists and dentists; f) Written practice protocols; and g) Settings allowed for remote supervision.

5. Are there other requirements for practice under remote supervision?

A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist.

6. In what settings can a dental hygienist practice under remote supervision?

A hygienist can only practice dental hygiene under remote supervision at a community 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, including a mobile facility or portable dental operation that is operated by one of these settings.

7. What tasks can a dental hygienist practicing under remote supervision perform?

A 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 Schedule VI topical drugs including topical oral flourides, topical oral anesthetics and topical and directly applied antimicrobial agents pursuant to subsections J and V of §54.1-3408 of the Code of Virginia, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation.

8. Is the dental hygienist allowed to administer local anesthetic or nitrous oxide?

No, a dental hygienist practicing under remote supervision is not allowed administer local anesthetic parenterally or nitrous oxide.

9. What disclosures and permissions are required?

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.

10. How is the dental hygienist required to involve the dentist when practicing under remote supervision?

a) 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.

- b) 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.
- c) The supervising dentist shall review a patient's records at least once every 10 months.

11. Can a dental hygienist see a patient beyond 90 days if the patient has not seen a dentist?

Only if the supervising dentist authorizes such treatment to address an emergent circumstance requiring dental hygiene treatment. The practice protocol developed by the supervising dentist is the initial authorization for a hygienist to provide hygiene treatment under remote supervision for 90 days of treatment. After that 90 day period (absent emergent circumstances), the supervising dentist (or another dentist) must examine the patient, develop a diagnosis and establish the treatment plan for the patient which might address both future dental treatment and dental hygiene treatment and the time spans for such treatment. The dentist decides how often he will see a patient in accord with his professional judgment of the patient's dental needs and the resulting treatment plan. In addition, by statute the dentist must review the patient's records at a minimum of every 10 months. Treatment planning and record review are two distinct requirements.

12. Is a dental hygienist who is practicing under remote supervision allowed to also practice dental hygiene under general supervision whether as an employee or as a volunteer?

Yes, the requirements of § 54.1-2722 F do not prevent practice under general supervision.

13. Are the requirements for remote supervision different for a public health dental hygienist employed by the Virginia Department of Health?

Yes, remote supervision in a public health setting is defined in § 54.1-2722 E:

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 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 Virginia Dental Association; and (v) one representative of the Virginia Dental Hygienists' Association. Such protocol shall be adopted by the Board as regulations.

DRAFT

Received 4-9-18

To: sandra.reen@dhp.virginia.gov; mimirdh67@icloud.com; cbcarrd1@msn.com

From: shpharr@gmail.com

Subject: Updated Remote Supervision Guidance Document

Hello, Sandra,

The leadership of the Virginia Dental Hygienists' Association (VDHA) is excited to see the updated version of the Board's Guidance Document for the "Practice of a Dental Hygienist Under Remote Supervision". In reviewing the content, two issues were raised, and we ask the Board to consider revision of the information:

1. The response for Question #6 mistakenly lists 'community health center' (2016 language) instead of 'federally qualified health center' (2017 language).
2. The response for Question #7 is verbatim from the Code for letters (a) through (f). However, (g) leaves out the phrase specific to oral fluorides "under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine". This phrase is especially critical for remote practice because of our expanded settings, and we would like to see it re-inserted for clarity and to be consistent with the actual language of the law in that paragraph.

VDHA is constructing a website that will house multiple resources for dental hygienists practicing under remote supervision, including the required CE course. We plan to include a link to the Board's Guidance Document, but we will wait until these corrections are made, to avoid confusion and misinformation.

Many thanks to the Board for their attention to this matter.

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Public Health, Education and Professional Affairs, Co-Chair
Virginia Dental Hygienists' Association

Code of Virginia

§ 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 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.

1950, pp. 983-985, §§ 54-200.2, 54-200.4, 54-200.7 through 54-200.9, 54-200.11; 1968, c. 604; 1970, c. 639; 1972, cc. 805, 824; 1973, c. 391; 1975, c. 479; 1976, c. 327; 1986, c. 178; 1988, c.

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, 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 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

Selected Drug Laws for Practitioners

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.

VIRGINIA BOARD OF DENTISTRY

BYLAWS

Article I. Officers

Election, Terms of Office, Vacancies

1. Officers

The officers of the Virginia Board of Dentistry (Board) shall be President, Vice-President, and Secretary-Treasurer.

2. Election.

~~Prior to the Fall meeting, the President shall appoint a nominating committee to meet and submit a slate of officers to be included in the September/fall meeting agenda package. The election of officers shall be held during the September/fall meeting. Prior to the election of officers, nominations from the floor may be entered. The President shall appoint a Nominating Committee. The Committee shall submit candidates for each office to the Board for election at its Fall meeting. Prior to each election, additional nominations from the floor may be entered.~~

3. Terms of Office.

The terms of office of the President, Vice-President, and Secretary-Treasurer shall be for twelve months, until succeeded, or their successor(s) are elected. The term of each office shall begin at the conclusion of the Fall meeting and end at the conclusion of the subsequent Fall meeting. No officer shall be eligible to serve for more than two consecutive terms in the same office unless serving an unexpired term.

4. Vacancies.

In the event of a vacancy in the office of president, the vice-president shall assume the office of president for the remainder of the term. In the event of a vacancy in the office of vice-president, the secretary-treasurer shall assume the office of vice-president for the remainder of the term. In the event of a vacancy in the office of secretary-treasurer, the president shall appoint a board member to fill the vacancy for the remainder of the term.

In the event that all of the offices are vacated and succession is not possible, the Board shall be convened to appoint a Nominating Committee which will develop a slate of candidates for the Board's consideration at its next meeting. Pending the election of new officers, the member of the Board with the longest length of continuous service shall serve as acting president.

Article II. Duties of Officers

1. President.

The *President* shall preside at all meetings and conduct all business according to the Virginia Administrative Process Act and the American Institute of Parliamentarians Standard Code of Parliamentary Procedure. The President shall appoint all committees and designate committee chairs and all representatives, except where specifically provided by law. The President shall sign certificates and documents authorized to be signed by the President, and may serve as an ex-officio member of all committees (at which times possessing all the rights, responsibilities, and duties as any other member of the committee; including the right to vote). The President also may serve as a substitute for an absent committee member and, in this role, he shall participate in voting.

2. Vice-President.

The *Vice-President* shall perform all duties of the President in either the absence of, or the inability of the President to serve.

3. Secretary-Treasurer.

The *Secretary-Treasurer* shall authorize issuance of the draft unapproved minutes of meetings of the Board, ~~and shall be knowledgeable about the budget of the Board.~~

Article III. Duties of Members

1. Qualifications.

After appointment by the Governor, each member of the Board shall forthwith take the oath of office to qualify for service as provided by law.

2. Attendance at meetings.

Members of the Board shall attend all regular and special meetings of the full Board, meetings of committees to which they are assigned, and all hearings conducted by the Board at which their attendance is requested by the President or Board Executive Director; unless prevented by illness or other unavoidable cause. In the case of unavoidable absence of any member from any meeting, the President shall reassign the duties of such absent member when necessary to achieve a quorum for the conduct of business.

3. Examinations.

Each member of the Board who is currently licensed as a dentist or as a dental hygienist may participate in conducting clinical examinations for testing agencies in which the Board holds membership.

4. Code of Conduct.

Via incorporation by reference, members of the Board shall abide by the adopted Virginia Board of Dentistry Code of Conduct for Members (Guidance Document 60-9, Adopted: June 12, 2009).

Article IV. Meeting

1. Number.

The Board shall hold at least three regular meetings in each year. The President shall call meetings at any time to conduct the business of the Board, and shall convene conference calls when needed to consider summary suspensions and settlements. Additional meetings shall be called by the President at the written request of any two members of the Board.

2. Quorum.

A majority of the members of the Board shall constitute a quorum at any meeting.

3. Voting.

All matters shall be determined by a majority vote of the members present.

Article V. Committees

Standing committees of the Board shall be the following:

Executive Committee
Regulatory-Legislative Committee
Examination Committee
Special Conference Committees

Committee Duties.

1. Executive Committee.

The Executive Committee shall consist of the current officers of the Board and the Past President of the Board, with the President serving as Chair. The Executive Committee shall:

- a) Order a biennial review of these Bylaws for review by the Board at its December/Winter meeting in odd numbered years.
- b) ~~Review the proposed budget presented by the Executive Director, and submit it along with any recommendations relating to the proposed budget to the Board for approval~~ Be knowledgeable about the budget of the Board and
- c) ~~Periodically~~ review financial reports and may make recommendations to the Board regarding financial matters.
- d) Select ~~current~~ or former board members and knowledgeable professionals to be invited to serve as agency subordinates.
- e) Conduct all other matters delegated to it by the Board.

2. Regulatory-Legislative Committee.

The Regulatory-Legislative Committee shall consist of two or more members, appointed by the President. This Committee shall consider matters bearing upon state and federal regulations and legislation, and make recommendations to the Board regarding policy matters. The Board may direct the Committee to review the law for possible changes. Proposed changes in State laws, or in the Rules and Regulations of the Board, shall be distributed to all Board members prior to scheduled meetings of the Board.

3. Examination Committee.

The Examination Committee shall develop and oversee the administration of all Board examinations. This shall include, but not be limited to, jurisprudence and licensure examinations.

4. Special Conference Committees.

Special Conference Committees shall:

- a) Review investigation reports to determine if there is ~~probable cause to conclude that~~ a violation of law or regulation has occurred;
- b) Hold informal fact-finding conferences;
- c) Direct the disposition of disciplinary cases at the ~~probable cause review and~~ informal fact-finding stages. The committee chairs shall provide guidance to Board staff on implementation of their committee's decisions;
 1. Review and decide any action to be taken regarding applications for licensure when the application includes information about criminal activity, practice history, medical conditions, or other content issues;
 2. Consider applicant or licensee requests for approval of credit for programs when the content or the sponsorship of courses are in question; and
 3. Hold informal fact-finding conferences at the request of the applicant or licensee to determine if Board requirements have been met.

~~Each year, on a rotating basis, one of the Special Conference Committees shall be designated to receive all investigation reports alleging violations of the existing Board of Dentistry Rules and Regulations pertaining to advertising.~~

Article VI. Executive Director**1. Designation.**

The Administrative Officer of the Board shall be designated the Executive Director of the Board.

2. Duties.

The Executive Director shall:

- a) Supervise the operation of the Board office and be responsible for both the conduct ~~and performance~~ of the staff, and the assignment of cases to agency subordinates;
- b) Execute the policies and services established by the Board;
- c) Provide and disburse all forms as required by law to include, but not be limited to, new and renewal application forms;
- d) Keep accurate record of all applications for licensure, maintain a file of all applications, and notify each applicant regarding the actions of the Board in response to their application. Prepare and deliver licenses to all successful applicants. Keep and maintain a current record of all dental and dental hygiene licenses issued by the Board;

- e) Notify all members of the Board of regular and special meetings of the Board. Notify all Committee members of regular and special meetings of Committees. Keep true and accurate minutes of all meetings and distribute approved draft minutes to the Board members within ten days following such meetings;
 - f) Issue all notices and orders, render all reports, keep all records, and notify all individuals as required by these Bylaws or applicable law. Affix and attach the seal of the Board to such documents, papers, records, certificates and other instruments as may be directed by law;
 - g) Keep accurate records of all disciplinary proceedings. Receive and certify all exhibits presented. Certify a complete record of all documents whenever and wherever required by law; and
 - h) ~~Present~~ Provide the Board's financial statements and biennial budget, along with any revisions, to ~~be reviewed by~~ the Executive Committee ~~prior to submission to the Board for approval~~ for review.
 - i) ~~Assign the determination of probable cause for disciplinary action to a board member or the staff dental review coordinator, who may offer a confidential consent agreement, offer a pre-hearing consent order, cause the scheduling of an informal conference, request additional information, or close the case.~~
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DEFINITIONS OF TYPES OF COMMITTEE MEMBERS

1. Advisory Member - Specialized, non-voting member of a committee. Cannot make or second motions, but may participate fully in debate and discussions.
2. Ex-Officio Member - A member of a committee who serves by virtue of holding a specific office. Has all the rights, responsibilities and duties as any other member of the committee, including the right to vote.

Adding an unpaid fee provision in the Practitioner Responsibility section

Standards for Professional Conduct In

The Practice of Dentistry

Preamble

The Standards for Professional Conduct for licensees of the Virginia Board of Dentistry establishes a set of principles to govern the conduct of licensees in the profession of dentistry. Licensees must respect that the practice of dentistry is a privilege which requires a high position of trust within society. The Board maintains that adherence to these standards will safeguard patients, uphold the laws and regulations governing practice and maintain the public trust. The standards are an expression of types of conduct that are either required or encouraged and that are either prohibited or discouraged to provide further guidance on the requirements for practice set out in the Code of Virginia and the Regulations Governing the Practice of Dentistry and Dental Hygiene.

Scope of Practice

- Keep knowledge and skills current. The privilege, professional status, and a license to practice derive from the knowledge, skill, and experience needed to safely serve the public and patients.
- Seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing the knowledge and skills of those who have special skills, knowledge and experience, or advanced training.
- Do not prescribe treatment or use diagnostic techniques or diagnose, cure, or alleviate diseases, infections or other conditions that are not within the scope of the practice of dentistry or that are not based upon accepted scientific knowledge or research.
- Do not treat or prescribe for yourself.

Treating or Prescribing for Family

- Only treat and prescribe based on a bona-fide practitioner-patient relationship, and prescribe by criteria set forth in §54.1-3303 of the Code of Virginia.
- Do not prescribe to a family member a controlled substance or a medicine outside the scope of dentistry.
- When treating a family member or a patient maintain a patient record documenting a bona-fide practitioner-patient relationship.

Staff Supervision

- Protect the health of patients by only assigning to qualified auxiliaries those duties which can be legally delegated.
- Prescribe and supervise the patient care provided by all auxiliary personnel in accordance with the correct type of supervision.
- Maintain documentation that staff has current licenses, certificates for radiology, up-to-date vaccinations, CPR training, HIPPA training, and OSHA training in personnel files.

- Display documents that are required to be posted in the patient receiving area so that all patients might see and read them.
- Be responsible for the professional behavior of staff towards patients and the public at all times.
- Avoid unprofessional behavior with staff
- Provide staff with a safe environment at all times.
- Provide staff with opportunities for continuing education that will keep treatment and services up-to-date and allow staff to meet continuing education requirements
- Supervise staff in dispensing, mixing and following the instruction for materials to be used during treatment.
- Instruct the staff to inform the dentist of any event in the office concerning the welfare of the patient regarding exposures or blood borne pathogens

Practitioner-Patient Communications

- Before performing any dental procedure, accurately inform the patient or the guardian of a minor patient of the diagnoses, prognosis and the benefits, risks, and treatment alternatives to include the consequences of doing nothing.
- Inform the patient of proposed treatment and any reasonable alternatives, in understandable terms to allow the patient to become involved in treatment decisions.
- Acquire informed consent of a patient prior to performing any treatment.
- Refrain from harming the patient and from recommending and performing unnecessary dental services or procedures.
- Specialists must inform the patient that there is a need for continuing care when they complete their specialized care and refer patients to a general dentist or another specialist to continue their care.
- Immediately inform any patient who may have been exposed to blood or other infectious material in the dental office or during a procedure about the need for post exposure evaluation and follow up and to immediately refer the patient to a qualified health care professional
- Do not represent the care being provided in a false or misleading manner
- Inform the patient orally and note in the record any deviation in a procedure due to the dentist's discretion or a situation that arises during treatment that could delay completion of treatment or affect the prognosis for the condition being treated.
- Inform the patient about the materials used for any restoration or procedure such as crowns, bridges, restorative materials, ingestibles, and topicals as to risks, alternatives, benefits, and costs, as well as describing the materials, procedures, or special circumstances in the patient's notes.
- Refrain from removing amalgam restorations from a non-allergic patient for the alleged purpose of removing toxic substances from the body. The same applies to removing any other dental materials.

Patient of Record

- A patient becomes a patient of record when the patient is seated in the dental chair and examination and diagnosis of the oral cavity is initiated.

- In §54.1-2405(B) of the Code of Virginia, “current patient” means a patient who has had a patient encounter with the provider or his professional practice during the two-year period immediately preceding the date of the record transfer.

Patient Records

- Maintain treatment records that are timely, accurate, legible and complete.
- Note all procedures performed as well as substances and materials used.
- Note all drugs with strength and quantity administered and dispensed.
- Safeguard the confidentiality of patient records.
- Upon request of a patient or an authorized dental practitioner, provide any information that will be beneficial for the welfare and future treatment of that patient.
- On request of the patient or the patient’s new dentist timely furnish gratuitously or at a reasonable cost, legible copies of all dental and financial records and readable copies of x-rays. This obligation exists whether or not the patient’s account is paid in full.
- Comply with §32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records.
- Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.
- Maintain records for not less than six years from the last date of treatment as required by the Board of Dentistry and maintain records for longer periods of time to meet contractual obligations or requirements of federal law.
- When closing, selling or relocating a practice, meet the requirements of §54.1-2405 of the Code of Virginia for giving notice and providing records.

Financial Transactions

- Do not accept or tender “rebates” or split fees with other health professionals.
- Maintain a listing of customary fees and represent all fees being charged clearly and accurately.
- Do not use a different fee without providing the patient or third party payers a reasonable explanation which is recorded in the record.
- Return fees to the patient or third party payers in a timely manner if a procedure is not completed or the method of treatment is changed.
- Do not accept a third party payment in full without disclosing to the third party that the patient’s payment portion will not be collected.
- Do not increase fees charged to a patient who is covered by a dental benefit plan.
- Do not incorrectly describe a dental procedure in order to receive a greater payment or reimbursement or incorrectly make a non-covered procedure appear to be a covered procedure on a claim form.
- Do not certify in a patient’s record or on a third party claim that a procedure is completed when it is not completed.
- Do not use inaccurate dates that are to benefit the patient; false or misleading codes; change the procedure code to justify a false procedure; falsify a claim not having done the procedure, or expand the claim.
- Avoid exploiting the trust a patient has in the professional relationship when promoting or selling a product by: advising the patient or buyer if there is a financial incentive for

the dentist to recommend the product; providing the patient with written information about the product's contents and intended use as well as any directions and cautions that apply to its use; and, informing the patient if the product is available elsewhere.

- Do not misrepresent a product's value or necessity or the dentist's professional expertise in recommending products or procedures.

Relationships with Practitioners

- Upon completion of their care, specialists or consulting dentists are to refer back to the referring dentist, or if none, to the dentist of record for future care unless the patient expresses a different preference.
- A dentist who is rendering a second opinion regarding a diagnosis or treatment plan should not have a vested interest in the patient's case and should not seek to secure the patient for treatment unless selected by the patient for care.

Practitioner Responsibility

- Once a course of treatment is undertaken, the dentist shall not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another dentist. **Even if fees have not been paid, Emergency care must be provided during the notice period to make sure that the patient's oral health is not jeopardized or to stabilize the patient's condition.**
- Only prescribe, dispense, and utilize those devices, drugs, dental materials and other agents accepted for dental treatment.
- Make reasonable arrangements for the emergency care of patients of record.
- Exercise reasonable discretion in the selection of patients. Dentists may not refuse patients because of the patient's race, creed, color, sex, or national origin.
- Do not refuse to treat a patient because the individual has AIDS, is HIV positive, or has had hepatitis. Use a proper protocol in the office to protect the public and staff.
- Follow the rules and regulations of HIPAA, OSHA, FDA, and the laws governing health practitioners in the Code of Virginia.
- Follow the applicable CDC infection control guidelines and recommendations. See <https://www.cdc.gov/oralhealth/infectioncontrol/index.html>
- Be knowledgeable in providing emergency care and have an acceptable emergency plan with delegated duties to the staff in written form, maintain accurate records and be current in basic CPR.
- Avoid interpersonal relationships with patients and staff that could impair professional judgment or risk the possibility of exploiting the veracity and confidence placed in the doctor-patient relationship.

Advertising Ethics

- Do not hold out as exclusive any device agent, method, or technique if that representation would be false or misleading in any material respect to the public or patients.
- When you advertise, fees must be included stating the cost of all related procedures, services and products which to a substantial likelihood are necessary for the completion of the service as it would be understood by an ordinarily prudent person.
- Disclose the complete name of a specialty board or other organization which conferred certification or another form of credential.

- Do not claim to be a specialist or claim to be superior in any dental specialty or procedure unless you have attained proper credentials from an advanced postgraduate education program accredited by the Commission on Dental Accreditation of the American Dental Association.

Reports and Investigations

- Cooperate with any investigation initiated by an investigator or inspector from the Department of Health Professions on behalf of the Board and timely provide information and records as requested.
- Allow staff to cooperate with any investigation initiated by an investigator or inspector from the Department of Health Professions on behalf of the Board.
- Report the adverse reaction of a drug or dental device to the appropriate medical and dental community and in the case of a serious event to the Food and Drug Administration or Board of Dentistry.
- Provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.
- Become familiar with the special signs of child abuse and report suspected cases to the proper authorities.
- Report to the Board of Dentistry instances of gross or continually faulty treatment by other dentists.

Notice

This guidance document does not address every law and regulation which governs the practice of dentistry. To fully understand your legal responsibilities you should periodically review the laws, regulations, notices and guidance documents provided on the Board of Dentistry webpage, www.dhp.virginia.gov/dentistry.

Adopted: December 4, 2009

Revised: March 13, 2015, September 16, 2016

Identified for Board review based on its age to consider revision, re-adoption or withdrawal. Staff did not identify any needed changes or additions.

**VIRGINIA BOARD OF DENTISTRY
APPROVED TEMPLATE
DENTAL LABORATORY SUBCONTRACTOR WORK ORDER FORM**

This form is provided by the Board to guide owners of dental laboratories (owners) on meeting the legal requirements for work order forms in §54.1-2719 of the Code of Virginia. Owners have the option of using this form or another form to subcontract all or part of a dentist's work order to another dental laboratory (subcontractor). Regardless of the form the owner chooses to use, the information requested below must be included in the work order sent to the subcontractor. The owner is required to retain a copy of the order; to attach the copy to the order received from the dentist; and to maintain both orders for three years.

PATIENT NAME, INITIALS or ID#: _____

Subcontractor Name: _____

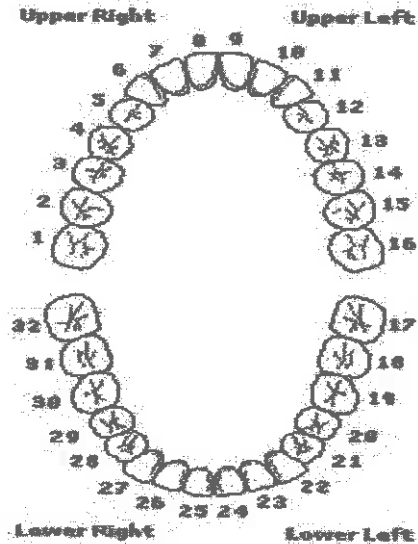
Physical Address: _____

Contact Person: _____

E-mail Address (optional): _____

Return by: _____

Instructions:



Signature: _____ Date: _____

Name Printed: _____ Telephone: _____

Address: _____

Email Address (optional): _____

Disciplinary Board Report for June 8, 2018

Today's report reviews the 2018 calendar year case activity then addresses the Board's disciplinary case actions for the third quarter of fiscal year 2018 which includes the dates of January 1, 2018 through March 31, 2018.

Calendar Year 2018

The table below includes all cases that have received Board action since January 1, 2018 through May 24, 2018.

Calendar 2018	Cases Received	Cases Closed No/Violation	Cases Closed W/Violation	Total Cases Closed
January	35	24	6	30
February	28	19	9	28
March	30	35	6	41
April	41	26	3	29
May 25th	25	48	2	50
Totals	159	152	26	178

Q3 FY 2018

For the third quarter of 2018, the Board received a total of 65 patient care cases. The Board closed a total of 75 patient care cases for a 115 % clearance rate, which is down from 122 % in Q2 of 2018. The current pending caseload older than 250 days is 25 %, which is down from 29 % in Q2 of 2018. The Board's goal is 20 %. In Q3 of 2018, 89 % of the patient care cases were closed within 250 days, whereas 90 % of the patient care cases were closed within 250 days in Q2 of 2018. The Board's goal is 90 % of patient care cases closed within 250 days.¹

IN COMPARISON

Q3 FY 2017

For the third quarter of 2017, the Board received a total of 62 patient care cases. The Board closed a total of 69 patient care cases for a 111% clearance rate. The pending caseload older than 250 days was 32. In Q3 of 2017, 79 % of the patient care cases were closed within 250 days.

License Suspensions

There was one mandatory suspension of a dental license and one voluntary surrender for indefinite suspension by the Board between February 21, 2018 and May 25, 2018.

¹ The Agency's Key Performance Measures.

- DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2018.
- The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 20% through the end of FY 2018.
- The goal is to resolve 90% of patient care cases within 250 business days through the end of FY 2018.

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?

Home (<http://scopeofpracticepolicy.org>) / Practitioners (<http://scopeofpracticepolicy.org/practitioners/>)

/ Oral Health Providers

Oral Health Providers Overview

Dental hygienists are oral health providers working together with a dentist to provide preventive and routine care. Since each state has its own specific regulations regarding the responsibilities of dental hygienists, the range of services performed varies from state to state. The American Dental Hygienists' Association (<http://www.adha.org/>) reports approximately 185,000 dental hygienists working in the U.S (https://www.adha.org/resources-docs/75118_Facts_About_the_Dental_Hygiene_Workforce.pdf), in 2015.

Dental therapists are members of the dental team who provide preventive and restorative dental care, usually for children and adolescents. The precise role varies and depends on the therapist's education and the various state dental regulations and guidelines. There is a growing professional association for dental therapists, the American Academy of Dental Therapy (<http://aaofdt.org>). There are currently few reliable estimates of the number of professionals serving in this capacity.

Dental hygienists and dental therapists practice in private settings, community-based clinics and rural areas. They all practice under varying levels of supervision by dentists, allowing these providers to meet needs in nontraditional, tribal, school based and community settings.

The information on this site focuses on three areas of scope of practice for Oral Health Providers: **dental hygienists with direct access**, **dental hygienists' prescriptive authority** and responsibilities of **dental therapists**.

Direct access is defined by the American Dental Hygienists Association (ADHA) as the ability of a dental hygienist to initiate treatment based on their assessment of a patient's needs without the specific authorization of a dentist, treat the patient without the presence of a dentist, and maintain a provider-patient relationship. Some states require a dental hygienist practicing with direct access to have a collaborative agreement with a dentist that outlines certain policies and procedures including supervision by a dentist. Other states require certain educational and experience requirements before being allowed direct access. In some states dental hygienists are not allowed to have direct access. In addition, there are a number of states that do not require supervision by a dentist when dental hygienists are practicing in direct access settings.

Prescriptive authority refers to whether state policy allows dental hygienists to prescribe medications. In most states dental hygienists do not prescribe medications.

Dental therapists are currently recognized in five states and two territories. Alaska, Maine, Minnesota, Vermont, Washington, American Samoa and the Northern Mariana Islands recognize dental therapists as an additional provider for specified dental services in the dental office or other approved practice sites.

The map on the right shows a comparison of all states and territories for these three areas. Choose a tab to explore different options. For more detailed information, please click on a state or territory.

For information on nurse practitioners and physician assistants, please use the practitioner links below the map.

Select a state for more information.



PRACTITIONER LINKS
<ul style="list-style-type: none"> • Nurse Practitioners Overview (http://scopeofpracticepolicy.org/practitioners/nurse-practitioners/) • Oral Health Providers Overview • Physician Assistants Overview (http://scopeofpracticepolicy.org/practitioners/physician-assistants/)

For More Information

SOPPolicy@ncsl.org (<mailto:SOPPolicy@ncsl.org>) | 303-364-7700 (tel:303-364-7700) | [About Us \(/about/\)](#)

[Privacy Policy \(/privacy-policy/\)](#) | [Terms & Conditions \(/terms-and-conditions/\)](#) | [Login \(http://scopeofpracticepolicy.org/wp-login.php?redirect_to=%2Fwp-admin%2F\)](http://scopeofpracticepolicy.org/wp-login.php?redirect_to=%2Fwp-admin%2F)

(<https://www.facebook.com/search/top/?q=scope%20of%20practice%20policy>)

(<https://www.linkedin.com/company/15253537>)

(<mailto:SOPPolicy@ncsl.org>)

DENTAL HYGIENISTS WITH DIRECT ACCESS



Interactive map [Select a state to get more information](#)

Legend

- No direct access [More info](#)
- Collaborative agreement or supervision required [More info](#)
- Educational/practice hours required for direct access [More info](#)
- No supervision required [More info](#)



FAQs for Dentists

Click on the arrow to the left of the header to see the response.

1. WHERE CAN I FIND THE DENTAL RULE TO REVIEW?

The preamble (explanation for why the rule was developed) and published dental rule can be found here: <https://www.federalregister.gov/documents/2017/06/14/2017-12338/effluent-limitations-guidelines-and-standards-for-the-dental-category>

The dental rule without the preamble, formatted for easier reading can be found here: [Dental Rule](#)

2. DO THE REQUIREMENTS OF THIS DENTAL RULE APPLY TO ME?

The requirement to have an amalgam separator by the dental rule does not apply to dental offices where the practice of dentistry consists exclusively of one or more of the following dental specialties:

- oral pathology
- oral and maxillofacial radiology
- oral and maxillofacial surgery
- orthodontics
- periodontics
- prosthodontics
- *dental offices that discharge to a septic system
- *discharges to publicly owned treatment works from mobile units

* Note that while the dental rule does not apply to dentists who discharge to a septic system and dentists that operate out of mobile dental clinics from being required to have amalgam separators, the waste from these two practices must ultimately be discharged to a wastewater treatment plant for treatment. The wastewater treatment plant may have its own restrictions on waste that it will accept, and it might not take dental wastewater that could contain amalgam. It is recommended that the wastewater treatment plant be contacted to see if there are restrictions. If so, installing an amalgam separator would resolve the issue.

The rule applies to:

- offices where the practice of dentistry is performed, including large institutions such as dental schools and clinics, and permanent or temporary offices
- home offices
- facilities, including dental offices owned and operated by federal, state or local governments including military bases that discharge to a POTW.

3. DO I HAVE TO DO ANYTHING IF THE RULE DOES NOT APPLY TO ME?

Yes. The dental rule does not require installation of an amalgam separator or the associated BMPs if the practice is exempt. However, all dental practices should fill out and submit the applicable parts of the Virginia Dental Rule Compliance Form to let DEQ know the name and address of the practice, and that the rule does not apply. That will enable DEQ to mark a practice as “exempt.”

4. WHAT DO I HAVE TO DO TO BE IN COMPLIANCE?

- Install an amalgam separator(s) compliant with the ISO 11143 2008 standard, which was published December 1, 1999, or document the specifications of the existing amalgam separator on the Virginia Dental Rule Compliance Form at the link.
- Maintain the separator or other amalgam removal device, and document amalgam disposal.
- Adopt these best management practices (BMPs):
 - Prohibit discharge of waste (or scrap).
 - Prohibit use of line cleaners that may lead to dissolution of solid mercury from traps and lines.
- Open the Virginia Dental Rule Compliance Form online. Save it to your computer.
 - Enter your information on the form.
 - Save the form to your computer, and name it with this format:
Zip code(underscore)Owner last name: Example: 23218_Jones or 23218-1201_Jones.
 - Print a copy to keep in the dental office.
 - Attach the saved form to an email addressed to: DentalRule@deq.virginia.gov.
 - A new form should be filled out and submitted as an attachment when the information on the printed form copy is no longer current. Print a copy of the updated form to keep in the dental office.

5. WHAT TYPES OF DENTAL UNIT LINE CLEANERS AM I PROHIBITED FROM USING?

Dental unit water lines, chair-side traps and vacuum lines that discharge amalgam process wastewater to a POTW must not be cleaned with oxidizing or acidic cleaners, including but not limited to bleach, chlorine, iodine and peroxide that have a pH lower than 6 or greater than 8. The purpose of this prohibition is to avoid cleaners that could solubilize mercury.

6. WHERE CAN I GET ADDITIONAL INFORMATION OR ASK QUESTIONS?

Send questions to DentalRule@deq.virginia.gov. Include name and phone number if a call-in response is preferred.

7. WHERE CAN I FIND INFORMATION ON THE ISO 11143 STANDARD (2008)?

Amalgam separators remove amalgam particulates from the rinse water before it is discharged to the sewer. The devices prevent amalgam, which contains mercury, from entering the waste stream that goes to a wastewater treatment plant. Choose an amalgam separator that will handle the number of dental chairs that will perform amalgam removal and the amount of water discharged.

The separator must meet ISO 11143 standards, published December 1, 1999, to ensure removal of at least 95 percent of waste mercury at the time of installation. The current reference to the standard is ISO 11143:2008. It was last reviewed and confirmed in 2016, so this is the most current version. The manufacturer should provide a copy of the one-page test report for testing done after December 1, 1999, upon request.

Here are links to the ISO standard:

<https://www.iso.org/standard/42288.html>

<https://www.iso.org/obp/ui/#iso:std:iso:11143:ed-2:v1:en> preview of the forward

Here are links to the American Dental Association pages on amalgam:

<http://success.ada.org/en/regulatory-legal/amalgam?source=PromoSpots&medium=ADAList>

<http://www.ada.org/en/member-center/oral-health-topics/amalgam-separators>

8. THE RULE SAYS THAT THE COMPLIANCE FORM SHOULD BE SENT TO THE CONTROL AUTHORITY – WHO IS THAT?

The control authority may be the POTW (publically owned treatment work) or wastewater treatment plant that receives the discharge from the dental practice if the POTW has an approved pretreatment program.

A pretreatment program gives the POTW the administrative and legal tools it needs to regulate the dischargers from which it receives waste. The POTW will sample the influent (where waste comes into the plant) and its effluent (the waste after it has been treated just before discharge into state waters) to determine how well the plant is able to treat the waste it receives. The treatment must ensure that the POTW can meet the Virginia Pollutant Discharge Elimination System (VPDES) permit that it holds from Virginia DEQ.

Currently, there are 42 active pretreatment programs in Virginia that cover 72 POTWs. The POTW that receives waste from a particular practice may not have a pretreatment program, which means that DEQ is the control authority. A decision was made to centralize the receipt of the compliance forms and to consolidate all of the information in a database. The information from dental dischargers in a service area that has a pretreatment program will be given to the pretreatment staff at that POTW.

9. WHEN DO I HAVE TO BE COMPLIANT?

STATUS	Must install separator by	Must submit compliance form by
Office in business before July 14, 2017, with no separator	July 14, 2020	within 90 days of installation*
Existing office with amalgam separator	Separator meets rule until June 14, 2027, unless replacement is needed	October 12, 2020, or within 90 days of replacement if after Oct 12, 2020
New office that begins operating/discharging on or after July 14, 2017	At opening	within 90 days of installation*
Transfer ownership of existing office with no separator	July 14, 2020	within 90 days after transfer of ownership*
Transfer ownership of existing office with existing separator	Separator meets rule until June 14, 2027, unless replacement is needed	within 90 days after transfer of ownership*

*Virginia DEQ has extended the compliance dates for the Virginia Dental Rule Compliance Form submission to 180 days of installation or transfer of ownership due to a delay in posting information on the website and having the form available.

10. WHERE CAN I FIND THE FORM I NEED TO FILL OUT?

The Virginia Dental Rule Compliance Form is available at the link on this page.

11. IS THIS THE SAME FORM AS ON THE EPA SITE?

No. The Virginia Dental Rule Compliance Form requires much of the same information as the EPA form, but DEQ's form is fillable online can be saved. It will allow the data from many forms be consolidated into a master list. The Virginia Dental Rule Compliance Form must be used for compliance with the dental rule in Virginia.

12. THE EPA FORM AND THE RULE REFER TO A ONE-TIME COMPLIANCE FORM – IS THIS IT?

EPA intended its form to be a “one-time” effort for dentists to provide the necessary information that an amalgam separator has been installed, and that the form would not need to be resubmitted on a regular basis. However, separators have to be replaced due to mechanical failure, or they will “age out” by June 14, 2027.

EPA allows previously installed amalgam separators to be used for up to 10 years from installation before requiring installation of an ISO 11143:2008 compliant separator. Dental offices can change ownership, expand, downsize, and incur changes that would necessitate updating information the DEQ would have on record. Virginia dentists should ensure that the

information on the form that they keep at the practice has the most current information on the practice and amalgam separator(s). The form should be updated, saved and printed to keep at the practice, and then emailed to DentalRule@deq.virginia.gov so DEQ can update its database.

13. WHY IS THE FORM FOR VIRGINIA NOT CALLED A “ONE-TIME COMPLIANCE FORM”?

See the response to the question above. The form should be updated when the amalgam separator has been changed from what was originally reported to DEQ, if ownership of the practice changes, or if the office expands or downsizes. The information DEQ has should match the information on the form maintained at the dental practice. If the dental practice discharges to a POTW that has a pretreatment program, there may be a follow-up visit with POTW staff to verify the information on the form.

14. WHY IS COMPLIANCE WITH THE DENTAL RULE THROUGH VIRGINIA DEQ AND NOT THE ADA?

DEQ is the state regulatory environmental agency, whereas the American Dental Association (ADA) is a professional dental membership association. DEQ issues VPDES permits to wastewater treatment plants to control what they are able to discharge after treatment. POTWs receive flow from domestic sources (households and other sources of sanitary waste) and non-domestic sources that are grouped as industrial users. Industrial users include restaurants, vehicle repair garages, shops, medical facilities, veterinarians, dental practices, etc. Larger industrial users may be significant industrial users based on the flow or pollutants in the discharge. The dental rule was developed by EPA to require a dental practice to remove mercury from the influent of a POTW, so that it does not continue to pass through the POTW to end up in either the effluent or sludge.

15. HOW LONG DO I HAVE TO KEEP THE FORM?

The Virginia Dental Rule Compliance Form should be maintained on site as long as the dental discharger is in operation or ownership is transferred. The information on the form should reflect current ownership of the dental discharger, and current descriptions of the amalgam separators or other amalgam removal devices. The form should be made available in physical (hard copy) or electronic form for inspection and review by POTW staff or DEQ upon request.

16. HOW LONG DO I HAVE TO KEEP THE HISTORICAL MAINTENANCE RECORDS FOR THE SEPARATOR?

The dental rule specifies a minimum of three years during which these records should be maintained:

- Documentation of the date, person(s) conducting the inspection, and results of each inspection of the amalgam separator(s) or equivalent device(s), and a summary of follow-up actions, if needed.

- Documentation of amalgam retaining container or equivalent container replacement (including the date, as applicable).
- Documentation of all dates that collected dental amalgam is picked up or shipped for proper disposal in accordance with 40 CFR 261.5(g)(3), and the name of the permitted or licensed treatment, storage or disposal facility receiving the amalgam retaining containers.
- Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person(s) making the repair or replacement, and a description of the repair or replacement (including make and model).
- Dischargers or an agent or representative of the dental discharger must maintain and make available for inspection in either physical or electronic form the manufacturers operating manual for the current device.

17. HOW DO I KNOW THAT AN AMALGAM SEPARATOR IS COMPLIANT WITH ISO11143: 2008?

<http://www.ada.org/en/publications/ada-news/2017-archive/september/center-for-professional-success-features-help-on-amalgam-recycling-compliance>

The ADA does not maintain a list of compliant units or manufacturers. However, ADA Business Resources does have an endorsed relationship with HealthFirst that gives members a 33 percent discount on an amalgam recovery system compliant with this regulation. Contact HealthFirst at 1-888-963-6787.

The manufacturer should provide a copy of the one-page test report for testing done after December 1, 1999, upon request. More information on ISO 11143:2008 can be found here:

<https://www.iso.org/standard/42288.html>

<https://www.iso.org/obp/ui/#iso:std:iso:11143:ed-2:v1:en>

18. WHO HAS TO MAINTAIN THIS SEPARATOR?

Dental dischargers often use a third-party vender to maintain their equipment and to handle disposal of the waste amalgam. It also is acceptable for the dental discharger's staff to maintain the equipment and update the records.

Here are some questions to ask prospective vendors:

- What is your area of service?
- Do you provide "regularly scheduled pickup services" or is this on an "as needed basis"?
- What kinds of amalgam waste do you accept? Wet, dry?
- Do you provide packaging for storage, pick-up or shipping of the amalgam waste?
- How do you want the amalgam waste packaged (if you do not provide packaging)?

- What kinds of amalgam waste can be packaged together?
- Do you accept whole filters from the chair-side trap and from the vacuum pump for recycling?
- Is disinfection required for amalgam waste?
- Do you accept extracted teeth with amalgam restorations?

19. WHAT DO I DO WITH THE WASTE AMALGAM CAPTURED BY THE AMALGAM SEPARATOR?

The waste amalgam should be sent to an amalgam recycler and the transfer documented. This brochure from the ADA has information on this topic:

http://www.ada.org/~media/ADA/Member%20Center/Files/topics_amalgamwaste_brochure.pdf?la=en

20. WHAT DO I DO IF THE AMALGAM SEPARATOR MALFUNCTIONS?

The amalgam separator or other amalgam removal device must be repaired or replaced as soon as possible, but no later than 10 business days after the malfunction is discovered, with a unit that meets these requirements:

- Compliant with either the American National Standards Institute (ANSI) American National Standard/American Dental Association (ADA) Specification 108 for Amalgam Separators (2009) with Technical Addendum (2011) or the International Organization for Standardization (ISO) 11143 Standard (2008) or subsequent versions so long as that version requires amalgam separators to achieve at least a 95 percent removal efficiency. Compliance must be assessed by an accredited testing laboratory under ANSI's accreditation program for product certification or a testing laboratory that is a signatory to the International Laboratory Accreditation Cooperation's Mutual Recognition Arrangement. The testing laboratory's scope of accreditation must include ANSI/ADA 108-2009 or ISO 11143.
- The amalgam separator(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater.

Please submit an updated Virginia Dental Rule Compliance Form with the information on the new amalgam separator or removal device to DEQ so records can be updated.

21. ONCE I INSTALL AN AMALGAM SEPARATOR, FILL IN THE FORM AND SUBMIT IT, AM I DONE?

This will constitute compliance with the requirement to fill in and submit the Virginia Dental Rule Compliance Form. Dental dischargers that are located within the service area of a POTW that has a pretreatment program may be inspected by POTW pretreatment staff to verify the information

on the form. The POTW will determine if anything additional needs to be done under its pretreatment program.