VIRGINIA BOARD OF DENTISTRY

March 15, 2019 AGENDA

Department of Health Professions
Perimeter Center - 2nd Floor Conference Center, Board Room 4
9960 Mayland Drive, Henrico, Virginia 23233

Board Business		**Page**
9:00 a.m.	**Call to Order – Dr. Tonya A. Parris-Wilkins, President**	
	Evacuation Announcement – Ms. Reen	
	Public Comment – Dr. Parris-Wilkins	
	• Written comment from Dr. Sam Wise	P.1
	Approval of Minutes - Dr. Parris-Wilkins	
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	Liaison/Committee Reports	
	• **Dr. Watkins** *SRTA *BHP	P.20
	• **Ms. Bonwell / Dr. Petticolas / Ms. Palmatier** *Southern Conference of Dental Deans and Examiners	P.21
	• **Ms. Reen/ Dr. Petticolas / Dr. Bryant** *AADA/AADB	
	• **Dr. Bryant** *ADEX	
	Legislation and Regulation – Ms. Yeatts	
	• Status Report on 2019 General Assembly	P.24
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	Board Discussion/Action	
	• Dental Interstate Licensing Compact - **Ms. Reen**	P.47
	• Overview if the Nurse Licensure Compact – **Ms. Douglas, Executive Director, Virginia Board of Nursing**	
	Deputy Executive Report/Business – Ms. Palmatier	
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	Executive Director's Report/Business – Ms. Reen	

Sandra Reen

From:	Dr. Sam Wise
Sent:	Sunday, February 3, 2019 2:37 AM
To:	Devona Sykes; Tracey Arrington-Edmonds; denbd@dhp.virginia.gov; donald.levitin@dhp.virginia.gov; kelley.palmatier@dhp.virginia.gov; sandra.reen@dhp.virginia.gov; sheila.beard@dhp.virginia.gov
Subject:	Someone has to take action

Dear Virginia Board of Dentistry,

I have the obligation to convey a message to the Dental Board of Virginia, but I don't know who is supposed to handle this extremely important issue. If you cannot take action, all what I'm asking is to put this issue on the table in the next Board meeting and the law makers.

It's not about me but it's for the good of the public. I hope what I'm telling you will never affect my license that I just got.

There is a disaster loophole in giving the license to internationally trained dentists that grants license for completely unqualified dentists.

I myself finished the two year Orofacial Pain CODA accredited clinical residency program at Rutgers School of Dental Medicine in New Jersey. This program qualified me as all other graduates to practice dentistry in Virginia state.

I have two other master degrees from Germany (this was my third master degree) and I have twenty years of state of the art experience as a world class surgeon and a dentist, **however, most other graduates came directly from India and don't know the alphabet of dentistry.**

This program claims to be clinical but doesn't include a single dental procedure in its curriculum. Not even scaling and a simple filling.

This program is great for experienced dentists as it opens their eyes to medical aspects and Explains many dilemmas and chronic pain that is usually undiagnosed for years. However, this program is **terrible for inexperienced dentists** because it leaves them in lembo not dentists and not doctors.

The majority of students in this program are fresh graduates ,75% from India, who have extremely high GPA but absolute value of zero knowledge in dentistry. Some schools in the third world countries focus on the theoretical part and basic sciences, but almost all students there graduate without seeing a single patient or doing any actual clinical procedure. Not even a simple filling. This explains why they score high in exams on paper but are not able to give a single injection.

I sent many complaints to many agencies in New Jersey and Washington DC explaining that this was a crime to grant "farmers" ,mainly from India, the license without any training. Sorry for this word, but there is no word to explain the academic level of these students but this word. I have nothing against the Indians, they are great people and hardworkers but the truth is the academic level of their dental schools is beyond imagination. They can never be called dentists from my point of view unless they start over the whole educational process.

For example an Indiana student , [redacted] who just graduated and I believe her license in Virginia is under process or maybe she got it, she didn't do a single filling or a simple extraction in her entire life as she told me herself and yet, she is in title of getting the unlimited license in Virginia state. Furthermore, she was caught red handed in major assignment plagiarism, more than 50% absence, and drug addiction, but the school turned the blind eye in a big scandal that is now in the courtroom between me and the school.

Do not rely on the regional clinical exams, they are a jock. I sent emails to the CDCA examiners telling them that all the students have most of the questions handy before they get in the exam. They even have all the answers in order including the wrong options as well. I myself took the exam last year and discovered later that most of the questions and answers were available to all students. The CDCA manager asked me to email him the questions that I found spread online and I

did sent him that, but apparently, he did nothing so far. I assume the other regional exams are the same but I have no experience with them.

When we first started this postgraduate program [redacted] didn't know how to put the bur in the hand-piece, load or unload the anesthesia syringe, and when she saw the rubber-base impression material, she asked what that material was! This is the level of dentists you are giving them the license!

Because I couldn't remain silent in respect to this scandal, the school pushed this lady [redacted] to claim that I harassed her and the whole University tried to fake frivolous cases one after another to retaliate against me. This was the deal between the school and [redacted] in reword to expunge her from plagiarism, law academic level, massive absence that exceeded 50%, and drug abuse. Eventually, the school couldn't prove anything against me and they put themselves in such a shameful disgrace position. Now, I'm suing the school for the damages.

I filed a big lawsuit against Rutgers University in the superior court of New Jersey and the case is still ongoing exposing scandal after another of corruption and discrimination that have been buried for years in this University. I may file another lawsuit to the Federal court soon.

I feel I have the obligation to report that to you and I'm ready to show you all the documents and the lawsuit between me and Rutger to take the best action possible to prevent the unqualified dentists from getting the license.

Last year, another unqualified dentist from Thailand graduated from this program and started practicing in Seattle, WA. I heard that she called an undergraduate student asking him how to make the readymade post and tooth buildup. The student said he was busy but she insisted and told him that the patient was on the chair and she didn't know what to do.

You can imagine the level of service she is providing although her grades were high and she had strong recommendations from the corrupted professors in Rutgers.

This Thai dentist, however has much better moral and ethics than [redacted] but they both are definitely NOT dentists.

I'm sure you want to do your best to protect the public from these phony dentists or at least impose a reasonable clinical curriculum to this particular program or the similar ones.

I wrote to the CODA, the middle states commission for higher education, the department of education, the inspector general for education, and the White House and I explained in details everything.

This country is incredibly corrupted, they all follow buresaucracy and no one cares!! When I moved from Germany to USA, i felt like a free fall of civilization. Even Saudi Arabia was less corrupted!!

I'm willing to help for free if you need my expertise.

Thank you.

--

Sam Wise
DDS, MOM, MSc, MDS.
- German Board of Implantology 2009.
- American Board of Orofacial Pain 2018.
- Master of Oral Biology and two year residency in Orofacial Pain, Rutgers University, USA 2018 .
- Master of Oral surgery & Implantology, Dresden University, Germany 2014.
- Master of Oral Medicine & Implantology, Munster University, Germany 2011.
- Master Course in Implantology and reconstructive dentistry, Thun, Switzerland 2010, 2012.
- Expert and Specialist title in Dental Implant from (DGZI) Germany 2009.
- International Academy of Implantology in France 2012.
cell: +1(973) 747 6425.
First they ignore you, Then they laugh at you, Then they fight you, Then you win.....

VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING
December 13, 2018

TIME AND PLACE: The meeting of the Virginia Board of Dentistry was called to order at 9:02 a.m., on December 13, 2018 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Tonya A. Parris-Wilkins, D.D.S

MEMBERS PRESENT: Patricia B. Bonwell, R.D.H., PhD
Sandra J. Catchings, D.D.S.
Perry E. Jones, D.D.S.
Tammy C. Ridout, R.D.H.
James D. Watkins, D.D.S.

MEMBERS ABSENT: Nathanial 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: James E. Schliessmann, Senior Assistant Attorney General
Shevaun Roukous, Adjudication Specialist
L. Kim Taylor, Court Reporter

ESTABLISHMENT OF A QUORUM: With 6 Board members present, a quorum was established.

Rachel G. Thun, RDH APPLICANT: Ms. Thun was present without legal counsel in accordance with the Notice of the Board dated October 10, 2018.

There were no witnesses for the Applicant or the Commonwealth.

Ms. Thun stated that she was slightly familiar with the order of proceedings. Dr. Parris-Wilkins read the order of proceedings for Ms. Thun. There were no preliminary matters discussed.

Following Ms. Thun's opening statement; Dr. Parris-Wilkins admitted into evidence Applicants exhibit A.

Following Mr. Schliessmann's opening statement;
Dr. Parris-Wilkins admitted into evidence Commonwealth's Exhibits 1-7.

Ms. Thun testified on her own behalf.

Ms. Thun and Mr. Schliessmann provided closing statements.

Virginia Board of Dentistry
Formal Hearing
December 13, 2018

Closed Meeting: Dr. Catchings 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 Rachel Thun. 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. Catchings 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. Catchings moved to accept the Findings of Facts and Conclusion of Law as presented by the Commonwealth, and read by Mr. Rutowski. The motion was seconded and passed.

Mr. Rutkowski reported that Ms. Thun's application for a license to practice dental hygiene in the Commonwealth of Virginia is denied.

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

ADJOURNMENT: The Board adjourned at 10:25 a.m.

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

Sandra K. Reen, Executive Director

Date

Date

VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING
December 13, 2018

TIME AND PLACE: The meeting of the Virginia Board of Dentistry was called to order at 11:05 a.m., on December 13, 2018 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Tonya A. Parris-Wilkins, D.D.S

MEMBERS PRESENT:
Patricia B. Bonwell, R.D.H., PhD
Sandra J. Catchings, D.D.S.
Jamiah Dawson, D.D.S.
Perry E. Jones, D.D.S.
August 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: Nathanial 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:
Wayne Halbleib, Senior Assistant Attorney General/Chief
Shevaun Roukous, Adjudication Specialist
L. Kim Taylor, Court Reporter

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

Tuan Vu, D.D.S
Case No. 188024

Dr. Vu was present with legal counsel, Nicholas Balland in accordance with the Notice of the Board dated October 23, 2018.

Dr. Parris-Wilkins swore in the witnesses.

Mr. Balland stated that he is familiar with the order of proceedings.

Prior to opening statements, Mr. Halbleib asked the Board to exclude the witness for the applicant until time to testify. The Board granted the request and the witness was excused from the room.

Following Mr. Balland's opening statement; Dr. Parris-Wilkins admitted into evidence Applicant's exhibits A.

Following Mr. Halbleib's opening statement; Dr. Parris-Wilkins admitted into evidence Commonwealth's exhibits 1-3.

Testifying on behalf of the Commonwealth was Gayle Miller, DHP Senior Investigator.

Dr. Vu testified on his own behalf and Ms. Omar Win testified on behalf of the applicant.

Mr. Balland and Mr. Halbleib provided closing statements.

Closed Meeting: Dr. Petticolas 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. Vu. Additionally, he 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. Watkins 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. Watkins 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. Vu's reinstatement application is denied.

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

ADJOURNMENT: The Board adjourned at 1:25 p.m.

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

Sandra K. Reen, Executive Director

Date

Date

UNAPPROVED

VIRGINIA BOARD OF DENTISTRY

MINUTES
SPECIAL SESSION

CALL TO ORDER: The meeting of the Board of Dentistry was called to order at 1:50 p.m., on December 13, 2018, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, Board Room 4, 9960 Mayland Drive, Henrico, VA 23233.

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

MEMBERS PRESENT:
Patricia B. Bonwell, R.D.H., PhD
Sandra J. Catchings, D.D.S.
Jamiah Dawson, D.D.S.
Perry E. Jones, 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: Nathaniel C. Bryant, D.D.S.

QUORUM: With nine members present, a quorum was established.

STAFF PRESENT:
Sandra K. Reen, Executive Director
Donna M. Lee, Discipline Case Manager

OTHERS PRESENT:
James E. Rutkowski, Assistant Attorney General, Board Counsel
Julia Bennett, Assistant Attorney General
Steven Bulger, Adjudication Specialist

Gary A. Hartman, D.D.S.
Case No.: 182577

The Board received information from Ms. Bennett in order to determine if Dr. Hartman's impairment from substance abuse constitutes a substantial danger to public health and safety. Ms. Bennett reviewed the case and responded to questions.

DECISION: Ms. Russek moved that the Board summarily suspend Dr. Hartman's license to practice dentistry in the Commonwealth of Virginia in that he is unable to practice dentistry safely due to impairment, resulting from substance abuse; and schedule him for a formal hearing. The motion passed unanimously.

ADJOURNMENT: With all business concluded, the Board adjourned at 2:04 p.m.

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

Date

Sandra K. Reen, Executive Director

Date

UNAPPROVED

VIRGINIA BOARD OF DENTISTRY
FULL BOARD MINUTES

December 14, 2018 | Department of Health Professions | Henrico, VA 23233

CALL TO ORDER: Dr. Parris-Wilkins called the meeting of the Board to order at 9:04AM.
With 9 Board members present, a quorum was established.
Ms. Reen provided the emergency egress procedures for Board Room 4.

MEMBERS PRESENT:
Tonya A. Parris-Wilkins, D.D.S., President
Augustus A. Petticolas, Jr., D.D.S., Vice President
Sandra J. Catchings, D.D.S., Secretary
James D. Watkins, D.D.S.
Perry E. Jones, 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
Elaine Yeatts, DHP Policy Analyst

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

PUBLIC COMMENT: Shawn Murphy, Vice President of Advocacy & General Council for American Assoc. of Orthodontist – Mr. Murphy spoke to the board about rising concerns surrounding Smile Direct Club and read two reviews posted on Yelp stating the dissatisfaction from consumers that has tried this product.

Dr. Parris-Wilkins directed attention to the written comments received on the topics of: periodic testing of licensees; blood glucose testing/diabetes screening; the National Commission on Recognition of Dental Specialties and Certifying Boards; and implementation of the Integrated National Board Dental Examination.

ELECTION OF OFFICERS: Dr. Watkins reported the Nominating Committee's nominees are Dr. Parris-Wilkins for president, Dr. Petticolas for vice-president and Dr. Catchings for secretary. He then asked if there were any nominations from the floor. Hearing none, the Committee's motion to elect the nominees passed.

APPROVAL OF MINUTES: Dr. Parris-Wilkins asked if there were corrections to any of the 5 sets of minutes. Hearing none, Dr. Watkins moved to adopt the minutes as presented. The motion was seconded and passed.

DHP DIRECTOR'S REPORT

Dr. Brown informed the Board about positive developments in addressing the opioid crisis in Virginia. He said preliminary data from the office of the Chief Medical Examiner indicates the number of people dying from opioids should decrease this year. In addition, information from the PMP shows a significant decrease in the amount of opioids being dispensed. He also said the Secretary of Health and Human Resources has sent Core Competencies for addressing addiction and pain management to schools and programs training prescribers. He added that grant funding awarded to the Department of Behavioral Health will provide online educational tools for practitioners and for the schools. Dr. Brown also reported that Medicaid expansion will include funding for treatment of addiction and that Medicaid has worked hard to establish the infrastructure of providers that will help to support the expansion.

CONFERENCE/MEETING REPORTS

- **Southern Regional Testing Agency** – Dr. Watkins reported that SRTA has decided to merge with CITA. By the year 2020, the combined agency will operate under a new name. Dr. Watkins said he will attend the CITA Board of Directors meeting in January 2019 to participate in planning the merger. He added that SRTA has withdrawn its application to join ADEX. He also noted that SRTA has requested that ADEX refund a portion of the $30,000 SRTA paid when it withdrew from ADEX. Dr. Watkins has submitted a full report on the SRTA Conference held in August.

  Dr. Bonwell reported she attended the SRTA Conference and participated in meetings addressing the dental hygiene exam as well as the General Assembly. She noted that her full report is located in the agenda package.
- **Board of Health Professions** – Dr. Watkins stated there is no information to report because there wasn't a quorum to conduct business at the last meeting.
- **American Association of Dental Boards** – Dr. Catchings said she attended the AADB meeting which was very educational. She stated it helped round out the knowledge of what our board does and the issues that all the boards face. She also stated that it provided a deeper understanding of the role the FTC plays in dentistry. She added that her full report is included in the agenda package.

  Dr. Parris-Wilkins reported that she also attended the AADB meeting in September and found the meeting to be informative. She expressed appreciation of the conference planners and their willingness to include topics on the agenda that may be controversial but provided insight into what other boards are going through as well. She added that her full report is included in the agenda package.
- **American Board of Dental Examiners** - Dr. Bryant's report on this meeting is included in the agenda package.
- **Joint Commission on National Dental Examinations** – Dr. Bryant's report on this meeting is included in the agenda package.

BOARD COMMITTEE REPORTS

- **Examination Committee** – Dr. Watkins said the minutes of the August 10, 2018 meeting are in the agenda package. He added that the Committee is recommending that guidance document 60-25 be amended and that a regulatory action be taken to establish the required content for dental clinical exams and that both actions will be addressed later on the agenda.
- **Regulatory-Legislative Committee** – Dr. Petticolas informed the Board that the minutes from the meetings held on June 29, 2018 and October 26, 2018 are in the agenda package. He added that Ms. Yeatts will lead the discussion of the pending regulatory actions addressed by the Committee later on the agenda.

LEGISLATION AND REGULATORY ACTIONS

- **Administration of schedule VI drugs by dental hygienists** – Ms. Yeatts reported that the proposed legislation was approved by the Governor and is going forward. In response to a question, Ms. Yeatts replied that Delegate Tran will be the patron of the bill.
- **Regulation for opioid prescribing** – Ms. Yeatts said that the proposed regulation is presented for adoption to replace the emergency regulation. She said this regulation is identical to the proposed regulation, as recommended by the Regulatory-Legislative Committee. Dr. Bonwell made the motion to adopt the final regulations. The

motion was seconded and passed.

- **Proposed Regulation for administration of sedation & anesthesia** – Ms. Yeatts reviewed the regulation as recommended by the Regulatory-Legislative Committee and the amendments the Committee authorized. She reviewed the additional amendments which included: taking the word "anxiolysis" out of the definition of minimal sedation; adding a definition of the word "provide" as used in these regulations; in 18VAC60-21-279, moving the word "only" in the subsection title to follow after oxide in the parentheses "(nitrous oxide)"; and in 18VAC60-21-301.B(2) adding language to address the supervision of a certified registered nurse anesthetist by a medical doctor in accordance with a practice agreement. Dr. Catchings thanked Ms. Yeatts for her work and then made a motion to delete the words "or general anesthesia" in 18VAC60-21-280.F(4) stating that they are redundant and do not reflect passing into the next level of sedation in a continuum. The motion was seconded and passed. Dr. Catchings moved to adopt the proposed regulations as amended by the Board. The motion was seconded and passed.
- **Proposed Regulation for use of dental specialties** – Ms. Yeatts reminded the Board that this regulation was originally adopted as a fast-track action, however, there were 10 or more objections to the fast track, so the action was converted to the standard process at the NOIRA stage. She noted that, following review of the numerous objections to the proposed deletion of the language addressing dental specialties, the Regulatory-Legislative Committee did not amend the proposed language. In response to questions, Mr. Rutkowski explained that the findings in the Parker case against the Texas Board of Dentistry would apply to the current language in the Board's regulations. He advised that keeping the current language would not withstand a court challenge. Following discussion, Dr. Catchings made the motion to adopt the regulation as proposed. The motion was seconded and passed.
- **Proposed Regulation for change in renewal schedule** – Ms. Yeatts stated the public comment period on the NOIRA for changing the renewal schedule to birth months ended on September 5, 2018. The Regulatory-Legislative Committee reviewed the proposed schedule and the associated plan for fee reductions for dentist, dental hygienists and dental assistants II during the year of 2021. Discussion followed about the effect changing the renewal schedule would have on meeting the continuing education requirement. The question was whether CE should be tracked by calendar year or by birth month. Dr. Jones made the motion to follow the Board of Medicine's process for tracking CE requirements by birth month. The motion was seconded and passed. Ms. Russek moved to adopt the proposed regulation with amendments to change the renewal schedule to birth month as recommended by the Regulatory-Legislative Committee. The motion was seconded and passed.
- **Proposed Regulation for education and training of dental assistants II** – Ms. Yeatts explained that the substance of this proposal was recommended by a Regulatory Advisory Panel (RAP) convened in January 2017 and that the NOIRA on this action ended on September 5, 2018 with a few comments on the testing requirement and the reduction of hours. She added that, on November 27, 2018, the draft regulations were reviewed with the program director of the DAII educational program in Virginia to discuss the appropriate language to use to advance the RAP's guidance on moving to competency based educational requirements. Dr. Petticolas moved to adopt the proposed regulations. The motion was seconded and passed.
- **NOIRA for required content of dental examination** – Ms. Yeatts reported that the Regulatory-Legislative Committee recommended advancing a regulatory proposal to include specific content for examinations acceptable to the Board. She also suggested submitting this proposal as a fast-track action. Dr. Watkins made the motion to submit the proposed regulation as a fast-track action. The motion was seconded and passed.
- **Action on Petition for Rulemaking** – Ms. Yeatts stated that the petition for rulemaking was reviewed by the Regulatory-Legislative Committee, which considered whether the Board should grant continuing education credits for volunteer dentists who serve as preceptors to senior VCU dental students practicing at community/free clinics. The Committee recommended denying the petition. Ms. Ridout moved to deny the petition as recommended by the Regulatory-Legislative Committee. The motion was seconded and passed.

BOARD DISCUSSIONS

Public Comment

- **Mr. Murphy's comments on Smile Direct Club** – Dr. Dawson and Dr. Catchings addressed their interest in educating the public about companies such as Smile Direct Club and asked what the Board could do. Ms. Reen responded that the Board has no authority to address the practices of dental businesses, it can only address licensees.
- **Ms. McGraw's Comments on Blood Glucose screening** – Ms. Ridout expressed her support for the comment and distributed handouts showing the benefits of screening for diabetes in order to refer patients that need care. She said allowing dentists to be proactive would provide a higher standard of care. Mr. Rutkowski shared the definition of "dentistry" and stated that A1C testing does not fit within the current definition. Ms. Yeatts added that the definition would have to be changed and other medical conditions related to the oral cavity would have to be identified and addressed. Dr. Parris-Wilkins assigned discussion of A1C testing and the definition of dentistry to the Regulatory-Legislative Committee. Ms. Reen said a decision to propose changing the definition of dentistry would need to be made at the June 2019 Board meeting into order to advance legislation for the 2020 Session of the General Assembly.

Review of Guidance Documents

- **60-13 Practice of a Dental Hygienists under Remote Supervision** – Ms. Reen explained that the changes in this document address the statutory changes enacted in 2017 and also address the current legal provisions in the Drug Control Act related to the practice of hygienists. She added that this document will need to be revised again if the legislation on remote supervision is passed. Dr. Watkins moved to adopt the proposed changes and to re-adopt the revised guidance document. The motion was seconded and passed.
- **60-15 Standards for Professional Conduct In the Practice of Dentistry** – Ms. Reen asked for consideration of striking the last bullet point in the section on Advertising Ethics. She said this section restricts claiming a specialty to dentists who hold a credential from an advanced postgraduate education program, which is inconsistent with the statute that allows a general dentist to advertise a specialty. Dr. Watkins made a motion to adopt the change and to re-adopt this guidance document as revised. The motion was seconded and passed
- **60-17 Policy on Recovery of Disciplinary Costs** – Ms. Reen said this document is revised annually to reflect the costs incurred in the previous fiscal year for investigations and for monitoring dentists or hygienists under a board order. In addition, this draft includes changes in the policies on the assessment of costs recommended by the Regulatory-Legislative Committee. Dr. Petticolas moved to adopt this guidance document with the proposed changes. The motion was seconded and passed.
- **60-25 Policy on Dental Clinical Examinations Acceptable to the Board** – Ms. Reen said the Examination Committee recommends revising this document to eliminate the language stating all examination taken after December 7, 2012 must meet the stated requirements and replacing it with examinations taken after January 1, 2019. She explained a policy cannot be applied to a time period before it is adopted. She added that changing the term "periodontal" to 'periodontics" is also recommended. A motion was made by Ms. Ridout to adopt the guidance document with the proposed changes. The motion was seconded and passed.
- **2019 Board Meeting Calendar** – Ms. Reen noted that Ms. Beard surveyed Board members earlier this year for conflicts with the proposed meeting dates for 2019. She said the calendar is presented for adoption. Dr. Bonwell moved to adopt the Board Calendar. The motion was seconded and passed.

BOARD COUNSEL REPORT

Mr. Rutkowski said he has nothing to add to his comments given during the discussion of specialty advertising and A1C testing.

DEPUTY EXECUTIVE DIRECTOR REPORT/BUSINES

- **Disciplinary Activity Report**

  Ms. Palmatier reviewed her report covering the last quarter of FY2018 and the first quarter of FY2019. She said 90 patient care cases were received in the last quarter of 2018 and 98 patient care cases were closed, achieving a 109% clearance rate. She explained that across the boards in DHP the percentage of cases closed within 120 days has decreased. She noted that two mandatory suspensions of dental licenses were ordered between May 26, 2018

and November 16, 2018. She also reported on actions taken on late renewals and on OMS audits.

- Ms. Reen recommended the guidance document on late license renewals be referred to the Regulatory-Legislative Committee to address needed changes. The Board agreed to this recommendation by consensus.
- Ms. Palmatier shared written reports from dental and dental hygiene students who observed informal conferences and formal hearings as information for review and discussion.

EXECUTIVE DIRECTOR REPORT

Ms. Reen stated that she also attended the AADB meeting in September and submitted full report on the meeting to Dr. Brown. She added that she has worked on all the items on the agenda and has no additional activities to report.

CALIBRATION EXERCISE

- This exercise was not conducted.

ADJOURNMENT: With all business concluded, Dr. Parris-Wilkins adjourned the meeting at 11:35 AM.

Tonya A. Parris-Wilkins, 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 5:20 p.m., on January 30, 2019, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, Board Room 4, 9960 Mayland Drive, Henrico, VA 23233.

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

MEMBERS PRESENT:
Patricia B. Bonwell, R.D.H., PhD
Nathaniel C. Bryant, D.D.S.
Jamiah Dawson, D.D.S.
Augustus A. Petticolas, Jr., D.D.S.
Tammy C. Ridout, R.D.H.
Carol R. Russek, J.D.
James D. Watkins, D.D.S.

MEMBERS ABSENT:
Sandra J. Catchings, D.D.S.
Perry E. Jones, D.D.S.

QUORUM: With eight members present, a quorum was established.

STAFF PRESENT:
Sandra K. Reen, Executive Director
Donna M. Lee, Discipline Case Manager

OTHERS PRESENT:
James E. Rutkowski, Assistant Attorney General, Board Counsel
Julia Bennett, Assistant Attorney General
Steven Bulger, Adjudication Specialist

Arnold J. Berger, D.M.D. Case No.: 188506

The Board received information from Ms. Bennett in order to determine if Dr. Berger's excessive prescribing of controlled substances to patients, impairment from substance abuse and/or mental or physical incompetence constitute a substantial danger to public health and safety. Ms. Bennett 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 Case No. 188506. Additionally, Dr. Petticolas moved that Ms. Reen, Ms. Lee, and Mr. Rutkowski attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

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

DECISION: Ms. Russek moved that the Board summarily suspend Dr. Berger's license to practice dentistry in the Commonwealth of Virginia in that he is excessively prescribing controlled substances to patients and he is unable to practice dentistry safely due to impairment, resulting from substance abuse, and/or mental or physical incompetence; and schedule him for a formal hearing. The motion passed unanimously.

ADJOURNMENT: With all business concluded, the Board adjourned at 5:39 p.m.

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

Sandra K. Reen, Executive Director

Date

Date

Sandra Reen

From: Neal Kauder
Sent: Thursday, February 28, 2019 10:41 AM
To: Reen Sandra; Kelley.Palmatier@DHP.VIRGINIA.GOV; Georgen Sarah (DHP); Carter Elizabeth A.; Small Kim
Subject: BOD Revised SRP WS and Instructions
Attachments: BOD Revised SRP Worksheet and Instructions.pdf; Untitled attachment 00309.htm

Sandy/Kelley

Please find attached the proposed BOD SRP worksheet and instructions. There are a number of changes, the most notable being only one worksheet and no more sanctioning grid(s).

We would like you to review these factors and the instructions and provide feedback/edits to us. Paying attention to the wording we use and any typos as well. Regarding the worksheet, Monetary Penalty ranges have not yet been applied because we intend to present a couple options for those separately and graphically (which we will talk to you about before the meeting as well).

Please keep in mind that this is not the final product and has not been laid out as such. The look of the document will change once approved.

If you have any edits please copy Kim, I'm at the doctor for a couple hours today.

Thank you for your time.

Thanks! Neal

DRAFT

SRP Worksheet - Board of Dentistry

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

Offense and Respondent Factors (score all that apply)

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

Total Worksheet Score ☐

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

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

SRP Worksheet Instructions - Board of Dentistry

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

Inability to Safely Practice

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

Standard of Care

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

Business Practice Issues

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

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

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

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

COUNCIL OF INTERSTATE TESTING AGENCIES ANNUAL MEETING

----meeting held in Scottsdale, AZ at the Marriott Camelback Resort (January 4, 5, 2019)

----Members of SRTA Board of Directors were invited to attend as observers in anticipation of the upcoming merger of the two agencies.

----A copy of their agenda is attached.

----SRTA Board members were free to attend all sessions. Note that the agenda is very similar to the SRTA annual meeting agenda. The CITA exam is similar to SRTA and the transition is expected to be a smooth one. 2019 will consist of SRTA completing any failed exams from 2018 and any contracted exams for 2019. Examiners from both agencies will participate in both set of exam cycles for dentists and dental hygienists in 2019 with 2020 to be the exam cycle under the NEW (yet to be named) agency.

----ALL INDICATIONS ARE THAT THE MERGER WILL BE IN THE BEST INTERESTS OF THE CITIZENS OF THE COMMONWEALTH OF VIRGINIA.

----SRTA WILL HOLD ITS LAST AGENCY ANNUAL MEETING ON AUGUST 2,3 2019 AT THE LANDSDOWNE RESORT AND CONFERENCE CENTER IN NORTHERN VIRGINIA.

----Our Board may want to consider becoming a member state of the new agency in order to have voting privileges as were held with SRTA.

----Thank you for allowing me to attend on behalf of our Board.

Dr. James D. Watkins

64th Southern Conference of Dental Deans and Examiners (SCDDE) Annual Meeting
January 25-27, 2019
Report Presented by: Patricia Bonwell, RDH, PhD

I. Friday, January 25, 2019 – Welcome Reception

II. Saturday, January 26, 2019 – Various Focused Presentations
- A. Ethics and Integrity in Higher Education & Professional Practice
  1. Material regarding and addressing students cheating (Drs. Messer & Young)
     - a. high level of cheating, which has increased over the years
     - b. most data shared was on college students in general and medical schools, no current data from dental schools on this topic
     - c. Types and Ways of Cheating discussed
       1. different culture in today's educational environment
     - d. importance of dialogue was stressed
  2. Understanding standard of care - (Dr. Bennett)
     - a. role of State Board members & Faculty is to protect the public
     - b. Educators need to include this in educational components
       1. need to know what duties can be delegated
       2. faculty members may need to be remediated or asked to leave
- B. Personal Health – (Dr. Frazier)
  1. mental illness is on the rise, especially anxiety
     - a. students, educators and patients are impacted by and/or encounter it
       1. need to know how to adequately address the issue
          - a. American College Health Association
- C. Fitness for Duty - (Dr. Frazier)
  1. American Student Dental Association (ASDA) - 5 Dimensions of Wellness
     - a. emotional wellness
     - b. physical wellness
     - c. intellectual wellness
     - d. occupational wellness
     - e. environmental wellness
  2. Campus Assessment
- D. Patient Supply Issues for the Dental Clinical Curriculum and Board Exams (Dr. Furness)
  1. Discussed the challenges faced by dental schools in trying to secure patients (patient pool) to pull from to ensure students are able to fulfill their clinical needs for education, graduation and Board exams.
     - a. Screening approaches/scheduling
     - b. Demographics/where are patients coming from

III. Sunday, January 27, 2019
- A. Business Meeting (Dr. Cosby)
  1. Voted on officers
  2. Shared treasury report (dues)
- B. New CODA Accreditation Standards, INDBE & Curriculum Reform (Dr. Vitolo)
  1. Accreditation process discussed
     - a. Various helpful software programs to capture what is needed
     - b. Competency based education
     - c. Humanistic culture and evaluation
- C. Program Summary and Suggestions for Future Meetings (Dr. Frazier)

Report on conference attendance:

64th Southern Conference of Dental Deans and Examiners
January 25-27, 2019
Augusta, Georgia

Attendee: Augustus A. Petticolas, Jr., D.D.S.

I attended this conference as a representative of the Virginia Board of Dentistry. The theme of the three day conference was: " Responding to Challenges in Dental Education & Professional Practice." The given was that there are, in fact, many challenges in dental education & professional practice. The message from the conference was that dental educators and boards of dental examiners must address these challenges by ensuring that students and ultimately practitioners are possessed of **competence, character, compassion, and capability.**

Presentations were made with the following topics:

1) **Ethics and Integrity in Higher Education & Professional Practice.**
2) **Personal Health Issues that Influence Poor Decision-Making.**
3) **Fitness for Duty in Healthcare.**
4) **Patient Supply Issues for the Dental Clinical Curriculum & Board Exams.**
5) **New CODA Accreditation Standards, the INDBE, and Curriculum Reform.**

Some of the Challenges discussed during the presentations:

1) Are you born an ethical person? Ethics is a learned behavior.
2) Incomplete removal of decay is an ethical problem.
3) Student debt and the need to repay can spawn unethical behavior.
4) Corporate Dentistry and the NonDentist owner present an uncharted environment.
5) Mental health issues are the #1 health problem facing students: stress, anxiety, depression, sleep deprivation, substance abuse, suicide.
6) Dental school patient supply issues and their relationship to curriculum reform.

The most surprising bit of information that I gleaned from these presentations is that cheating by dental students is a very significant problem.

Along with the benefit of these presentations was the benefit of interacting one-on-one with Deans and other Dental Board Members in the Southern Conference. The most revealing comment from a fellow Board Member in a neighboring state: "Most of the disciplinary cases we have with Respondents deal with fraud and substance abuse."

This conference was beneficial to me and will help me to better function as a member of the Virginia Board of Dentistry. I extend my thanks to the Board for sending me.

Augustus A. Petticolas, D.D.S.

64th Annual Southern Conference of Dental Deans and Examiners

Augusta University Dental College of Georgia

Kelley W. Palmatier

During the weekend of January 25-27, 2019 the Southern Conference of Dental Deans and Examiners held their 64th annual conference in Augusta, Georgia. This conference provided a platform for discussion of the challenges in dental education and professional practice.

The first topic discussed was regarding ethics and integrity in higher education and professional practice. This mainly centered around academic cheating and how this extends into professional practice. An interesting discussion was held about what each school and/or professor considered cheating in academics, when cheating in academics actually begins, why students cheat and how does that filter into professional practice (debt, delegation, billing, corporate practice).

Another topic discussed concerned patient supply issues for the dental clinical curriculum and board exams. Most schools usually have adequate supply of patients to enable students to efficiently progress through the clinical curriculum. Patient supply is usually the lowest in endodontics. Most screened patients drop out or are discharged from participating in dental care is generally for financial reasons, followed by failing to keep appointments, behavioral issues (disrespectful to students or staff) and then lack of follow-through or performance of self-care. Some dental programs have implemented strategies such as sending appointment reminders, increasing screening appointments, and streamlining the intake process to reduce patient drop out.

Finally, there was a discussion about the new CODA accreditation standards, INDBE and Curriculum Reform. There was a conversation about using competence versus number of procedures completed. The information centered on how students should be able to challenge competency if they have completed maybe 50 procedures at a high level versus just completing the required number of 55 , for example, with a low competency level. There was also a discussion for the need of competency in opioid prescribing.

Report of the 2019 General Assembly

Board of Dentistry

HB 1849 Dental hygienist; remote supervision of a dentist employed by DBHDS.

Chief patron: Adams, D.M.

Summary as passed House:

Practice of dental hygiene; remote supervision; employment or supervision by Department of Behavioral Health and Developmental Services; report. Allows a dental hygienist employed by the Department of Behavioral Health and Developmental Services (the Department) to practice under the remote supervision of a dentist employed by the Department or the Department of Health. Under current law, only a dental hygienist or dentist employed by the Virginia Department of Health may practice or supervise remotely. The bill also adds mobile dentistry programs operated by the Department for adults with developmental disabilities to the list of locations where a dental hygienist may practice under the remote supervision of a licensed dentist and directs the Department to annually submit a report of services provided by such dental hygienists to the Secretary of Health and Human Resources. The bill directs the Board of Dentistry to adopt emergency regulations to implement the provisions of the bill.

HB 1952 Patient care team; podiatrists and physician assistants.

Chief patron: Campbell, J.L.

Summary as passed House:

Patient care team podiatrist definition; physician assistant supervision requirements. Establishes the role of "patient care team podiatrist" as a provider of management and leadership to physician assistants in the care of patients as part of a patient care team. The bill modifies the supervision requirements for physician assistants by establishing a patient care team model. The bill directs the Board of Medicine to adopt emergency regulations to implement the provisions of the bill and is identical to SB 1209.

HB 1970 Telemedicine services; payment and coverage of services.

Chief patron: Kilgore

Summary as passed House:

Telemedicine services; coverage. Requires insurers, corporations, or health maintenance organizations to cover medically necessary remote patient monitoring services as part of their coverage of telemedicine services to the full extent that these services are available. The bill defines remote patient monitoring services as the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including

monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload. The bill requires the Board of Medical Assistance Services to include in the state plan for medical assistance services a provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services.

HB 1971 Health professions and facilities; adverse action in another jurisdiction.

Chief patron: Stolle

Summary as introduced:
Health professions and facilities; adverse action in another jurisdiction. Provides that the mandatory suspension of a license, certificate, or registration of a health professional by the Director of the Department of Health Professions is not required when the license, certificate, or registration of a health professional is revoked, suspended, or surrendered in another jurisdiction based on disciplinary action or mandatory suspension in the Commonwealth. The bill extends the time by which the Board of Pharmacy (Board) is required to hold a hearing after receiving an application for reinstatement from a nonresident pharmacy whose registration has been suspended by the Board based on revocation or suspension in another jurisdiction from not later than its next regular meeting after the expiration of 30 days from receipt of the reinstatement application to not later than its next regular meeting after the expiration of 60 days from receipt of the reinstatement application.

HB 2184 Volunteer license, special; issuance for limited practice.

Chief patron: Kilgore

Summary as passed House:
Special volunteer license for limited practice. Provides an exemption from licensure for dentists and dental hygienists volunteering to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people if they do so for a period not exceeding three consecutive days and if the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.

HB 2228 Nursing and Psychology, Boards of; health regulatory boards, staggered terms.

Chief patron: Bagby

Summary as introduced:
Composition of the Boards of Nursing and Psychology; health regulatory boards; staggered terms. Alters the composition of the Board of Nursing and replaces the requirement that the Board of Nursing meet each January with the requirement that it meet at least annually. The bill also removes specific officer titles from the requirement that the Board of Nursing elect officers from its membership. The bill replaces the requirement that a member of the Board of

Psychology be licensed as an applied psychologist with the requirement that that position be filled by a member who is licensed in any category of psychology. The bill also provides a mechanism for evenly staggering the terms of members of the following health regulatory boards, without affecting the terms of current members: Board of Nursing, Board of Psychology, Board of Dentistry, Board of Long-Term Care Administrators, Board of Medicine, Board of Veterinary Medicine, Board of Audiology and Speech-Language Pathology, Board of Pharmacy, and Board of Counseling.

HB 2493 Topical drugs; administration by dental hygienists, physician assistants, and nurses.

Chief patron: Tran

Summary as introduced:
Administration of topical drugs; dental hygienists, physician assistants, and nurses. Authorizes a dental hygienist practicing under remote supervision to administer topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry. Under current law, a dental hygienist must be practicing under general supervision to do so. Additionally, the bill authorizes a physician assistant, nurse, or dental hygienist to possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol. Under current law, such possession and administration is limited to administration to children aged six months to three years and is required to conform to standards adopted by the Department of Health.

HB 2557 Drug Control Act; classifies gabapentin as a Schedule V controlled substance.

Chief patron: Pillion

Summary as passed:

Drug Control Act; Schedule V; gabapentin. Classifies gabapentin as a Schedule V controlled substance. Current law lists gabapentin as a drug of concern. The bill also removes the list of drugs of concern from the Code of Virginia and provides that any wholesale drug distributor licensed and regulated by the Board of Pharmacy and registered with and regulated by the U.S. Drug Enforcement Administration shall have until July 1, 2020, or within 6 months of final approval of compliance from the Board of Pharmacy and the U.S. Drug Enforcement Administration, whichever is earlier, to comply with storage requirements for Schedule V controlled substances containing gabapentin.

HB 2559 Electronic transmission of certain prescriptions; exceptions.

Chief patron: Pillion

Summary as passed House:

Electronic transmission of certain prescriptions; exceptions. Provides certain exceptions, effective July 1, 2020, to the requirement that any prescription for a controlled substance that contains an opioid be issued as an electronic prescription. The bill requires the licensing health regulatory boards of a prescriber to grant such prescriber a waiver of the electronic prescription requirement for a period not to exceed one year due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber. The bill provides that a dispenser is not required to determine whether one of the exceptions applies when he receives a non-electronic prescription for a controlled substances containing opioids. The bill requires the Boards of Medicine, Nursing, Dentistry, and Optometry to promulgate regulations to implement the prescriber waivers. Finally, the bill requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

[H 2184]

Approved

Be it enacted by the General Assembly of Virginia:

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

§ 54.1-2701. Exemptions.

This chapter shall not:

1. Apply to a licensed physician or surgeon unless he practices dentistry as a specialty;

2. Apply to a nurse practitioner certified by the Board of Nursing and the Board of Medicine except that intraoral procedures shall be performed only under the direct supervision of a licensed dentist;

3. Apply to a dentist or a dental hygienist of the United States Army, Navy, Coast Guard, Air Force, Public Health Service, or Department of Veterans Affairs;

4. Apply to any dentist of the United States Army, Navy, Coast Guard, or Air Force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;

5. Apply to any dentist or dental hygienist who (i) does not regularly practice dentistry in Virginia, (ii) holds a current valid license or certificate to practice as a dentist or dental hygienist in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of ~~this~~ *the* Commonwealth under the auspices of a publicly supported ~~all volunteer,~~ nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least ~~15~~ *five* days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the ~~volunteer,~~ nonprofit organization on the dates and at the location filed with the Board. *Clauses (iv), (v), and (vi) shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people if they do so for a period not exceeding three consecutive days and if the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.* The Board may deny the right to practice in Virginia to any dentist or dental hygienist whose license has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations; or

6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth in regulations promulgated by the Board.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

[H 1849]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2722 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2722. License; application; qualifications; practice of dental hygiene; report.

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health *or the Department of Behavioral Health and Developmental Services* who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health *or the Department of Behavioral Health and Developmental Services*. A dental hygienist providing such services shall practice pursuant to ~~a protocol adopted by the Commissioner of Health on September 23, 2010, having been~~ *protocols* developed jointly by ~~(i)~~ ~~the medical directors of the Cumberland Plateau, Southside, and 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~~ *and*

the Department of Behavioral Health and Developmental Services for each agency, in consultation with the Virginia Dental Association~~,~~ and ~~(v) one representative of~~ the Virginia Dental Hygienists' Association. Such ~~protocol~~ *protocols* shall be adopted by the Board as regulations.

A report of services provided by dental hygienists *employed by the Virginia Department of Health* pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted *annually to the Secretary of Health and Human Resources* by the Department of Health, *and a report of services provided by dental hygienists employed by the Department of Behavioral Health and Developmental Services shall be prepared and submitted annually* to the ~~Virginia~~ Secretary of Health and Human Resources ~~annually~~ *by the Department of Behavioral Health and Developmental Services*. Nothing in this section shall be construed to authorize or establish the independent practice of dental hygiene.

F. For the purposes of this subsection, "remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active license by the Board and who has a dental practice physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; *mobile dentistry program for adults with developmental disabilities operated by the Department of Behavioral Health and Developmental Services' Office of Integrated Health;* or women, infants, and children (WIC) program.

A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. No dental hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that he does not have a dentist of record whom he is seeing regularly.

After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision may provide further dental hygiene services following a written practice protocol developed and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.

A dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances, shall either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist shall develop a diagnosis and treatment plan for the patient, and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The supervising dentist shall review a patient's records at least once every 10 months.

Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer.

2. That the Board of Dentistry shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-3002 and 54.1-3603 of the Code of Virginia, relating to composition of the Boards of Nursing and Psychology; health regulatory boards; staggered terms.

[H 2228]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3002 and 54.1-3603 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3002. Board of Nursing; membership; terms; meetings; quorum; administrative officer.

The Board of Nursing shall consist of 14 members as follows: eight registered nurses, at least two of whom are licensed nurse practitioners; ~~three~~ *two* licensed practical nurses; ~~and~~ three citizen members; *and one member who shall be a registered nurse or a licensed practical nurse*. The terms of office of the Board shall be four years.

The Board shall meet ~~each January~~ *at least annually* and shall elect *officers* from its membership a ~~president, a vice-president, and a secretary~~. It may hold such other meetings as may be necessary to perform its duties. A majority of the Board including one of its officers shall constitute a quorum for the conduct of business at any meeting. Special meetings of the Board shall be called by the administrative officer upon written request of two members.

The Board shall have an administrative officer who shall be a registered nurse.

§ 54.1-3603. Board of Psychology; membership.

The Board of Psychology shall regulate the practice of psychology. The membership of the Board shall be representative of the practices of psychology and shall consist of nine members as follows: five persons who are licensed as clinical psychologists, one person licensed as a school psychologist, one person licensed ~~as an applied psychologist~~ *in any category of psychology*, and two citizen members. At least one of the seven psychologist members of the Board shall be a member of the faculty at an accredited institution of higher education in the Commonwealth actively engaged in teaching psychology. The terms of the members of the Board shall be four years.

2. That for appointments to the Board of Nursing pursuant to § 54.1-3002 of the Code of Virginia, as amended by this act, that are set to begin July 1, 2021, one registered nurse and one licensed practical nurse shall be appointed for a term of one year, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Nursing shall be for a term of four years, as provided in § 54.1-3002 of the Code of Virginia, as amended by this act.

3. That for appointments to the Board of Psychology pursuant to § 54.1-3603 of the Code of Virginia, as amended by this act, that are set to begin July 1, 2020, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Psychology shall be for a term of four years, as provided in § 54.1-3603 of the Code of Virginia, as amended by this act.

4. That for appointments to the Board of Dentistry pursuant to § 54.1-2702 of the Code of Virginia that are set to begin July 1, 2020, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Dentistry shall be for a term of four years, as provided in § 54.1-2702 of the Code of Virginia.

5. That for appointments to the Board of Long-Term Care Administrators pursuant to § 54.1-3101 of the Code of Virginia that are set to begin July 1, 2019, one licensed nursing home administrator and one assisted living facility administrator shall be appointed for a term of one year, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Long-Term Care Administrators shall be for a term of four years, as provided in § 54.1-3101 of the Code of Virginia.

6. That for appointments to the Board of Medicine pursuant to § 54.1-2911 of the Code of Virginia that are set to begin July 1, 2020, three members shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Medicine shall be for a term of four years, as provided in § 54.1-2911 of the Code of Virginia.

7. That for appointments to the Board of Veterinary Medicine pursuant to § 54.1-3802 of the Code of Virginia that are set to begin July 1, 2019, the citizen member shall be appointed for a term of three years, and any remaining appointments shall be for a term of four years. Thereafter, all

appointments to the Board of Veterinary Medicine shall be for a term of four years, as provided in § 54.1-3802 of the Code of Virginia.

8. That for appointments to the Board of Audiology and Speech-Language Pathology pursuant to § 54.1-2602 of the Code of Virginia that are set to begin July 1, 2022, one speech-language pathologist shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Audiology and Speech-Language Pathology shall be for a term of four years, as provided in § 54.1-2602 of the Code of Virginia.

9. That for appointments to the Board of Pharmacy pursuant to § 54.1-3305 of the Code of Virginia that are set to begin July 1, 2022, one citizen member and one pharmacist shall be appointed for a term of three years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Pharmacy shall be for a term of four years, as provided in § 54.1-3305 of the Code of Virginia.

10. That for appointments to the Board of Counseling pursuant to § 54.1-3503 of the Code of Virginia that are set to begin July 1, 2021, one member shall be appointed for a term of two years, two members shall be appointed for a term of three years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Counseling shall be for a term of four years, as provided in § 54.1-3503 of the Code of Virginia.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

[H 2493]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2722 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2722. License; application; qualifications; practice of dental hygiene.

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health. A dental hygienist providing such services shall practice pursuant to a protocol adopted by the Commissioner of Health on September 23, 2010, having been developed jointly by (i) the medical directors of the Cumberland Plateau, Southside, and Lenowisco Health Districts; (ii) dental hygienists employed by the Department of Health; (iii) the Director of the Dental Health Division of the Department of Health; (iv) one representative of the Virginia Dental Association; and (v) one representative of the Virginia Dental Hygienists' Association. Such protocol shall be adopted by the Board as regulations.

A report of services provided by dental hygienists pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted by the Department of Health to the Virginia Secretary of Health and Human Resources annually. Nothing in this section shall be construed to authorize or establish the independent practice of dental hygiene.

F. For the purposes of this subsection, "remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active license by the Board and who has a dental practice physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; or women, infants, and children (WIC) program.

A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer topical oral fluorides, *topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry* under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. No dental hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that he does not have a dentist of record whom he is seeing regularly.

After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision may provide further dental hygiene services following a written practice protocol developed and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.

A dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances, shall either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist shall develop a diagnosis and treatment plan for the patient, and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The supervising dentist shall review a patient's records at least once every 10 months.

Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer.

§ 54.1-3408. Professional use by practitioners.

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

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

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the

control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

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

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

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

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

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

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

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

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

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

implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

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

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

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

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

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

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

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

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

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

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of

administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his

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

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 54.1-3408.02, as it shall become effective, and 54.1-3410 of the Code of Virginia, relating to electronic transmission of certain prescriptions; exceptions.

[H 2559]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3408.02, as it shall become effective, and 54.1-3410 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3408.02. (Effective July 1, 2020) Transmission of prescriptions.

A. Consistent with federal law and in accordance with regulations promulgated by the Board, prescriptions may be transmitted to a pharmacy as an electronic prescription or by facsimile machine and shall be treated as valid original prescriptions.

B. Any prescription for a controlled substance that contains an ~~opiate~~ *opioid* shall be issued as an electronic prescription.

C. The requirements of subsection B shall not apply if:

1. The prescriber dispenses the controlled substance that contains an opioid directly to the patient or the patient's agent;

2. The prescription is for an individual who is residing in a hospital, assisted living facility, nursing home, or residential health care facility or is receiving services from a hospice provider or outpatient dialysis facility;

3. The prescriber experiences temporary technological or electrical failure or other temporary extenuating circumstance that prevents the prescription from being transmitted electronically, provided that the prescriber documents the reason for this exception in the patient's medical record;

4. The prescriber issues a prescription to be dispensed by a pharmacy located on federal property, provided that the prescriber documents the reason for this exception in the patient's medical record;

5. The prescription is issued by a licensed veterinarian for the treatment of an animal;

6. The FDA requires the prescription to contain elements that are not able to be included in an electronic prescription;

7. The prescription is for an opioid under a research protocol;

8. The prescription is issued in accordance with an executive order of the Governor of a declared emergency;

9. The prescription cannot be issued electronically in a timely manner and the patient's condition is at risk, provided that the prescriber documents the reason for this exception in the patient's medical record; or

10. The prescriber has been issued a waiver pursuant to subsection D.

D. The licensing health regulatory board of a prescriber may grant such prescriber, in accordance with regulations adopted by such board, a waiver of the requirements of subsection B, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

§ 54.1-3410. When pharmacist may sell and dispense drugs.

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the

prescription was written, except for those drugs dispensed to a patient in a hospital pursuant to a chart order; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

E. (Effective July 1, 2020) ~~No pharmacist shall dispense a controlled substance that contains an opiate unless the prescription for such controlled substance is issued as an electronic prescription.~~ *A dispenser who receives a non-electronic prescription for a controlled substance containing an opioid is not required to verify that one of the exceptions set forth in § 54.1-3408.02 applies and may dispense such controlled substance pursuant to such prescription and applicable law.*

2. That the Board of Medicine, the Board of Nursing, the Board of Dentistry, and the Board of Optometry shall promulgate regulations to implement the provisions of this act regarding prescriber waivers to be effective within 280 days of its enactment.

3. That the Secretary of Health and Human Resources shall convene a work group of interested stakeholders, including the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Dental Association, the Virginia Association of Health Plans, and the Virginia Pharmacists Association, to evaluate the implementation of the electronic prescription requirement for controlled substances and shall report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022. The work group's report shall identify the successes and challenges of implementing the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid.

Agenda Item: Regulatory Actions - Chart of Regulatory Actions

Board	Board of Dentistry	
Chapter		Action / Stage Information
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Change in renewal schedule [Action 4975] Proposed - *DPB Review in progress* [Stage 8498]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Amendment to restriction on advertising dental specialties [Action 4920] Proposed - *DPB Review in progress* [Stage 8500]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Administration of sedation and anesthesia [Action 5056] Proposed - *DPB Review in progress* [Stage 8502]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Prescribing opioids for pain management [Action 4778] Final - *Register Date: 2/4/19* Effective date: 3/6/19
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Technical correction [Action 5198] Final - *At Agency* [Stage 8499]
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	Education and training for dental assistants II [Action 4916] Proposed - *AT Attorney General's Office* [Stage 8508]

Agenda Item: Board Action on Technical Correction to Regulation

Staff note:

Renewal fees for a faculty license and a mobile clinic were inadvertently omitted from subsection B of section 40 when Chapter 20 was divided into four separate chapters and Chapter 21, Regulations Governing the Practice of Dentistry was promulgated in 2015. The application fees for those entities were included in subsection A, and the renewal fees for those entities were included in subsection H, which set out a renewal fee reduction for 2016. Subsequently, those entities were also included in the renewal fee reduction for 2018. There has been no change in renewal fees for those entities, but there is a need to correct the error by including them on the list found in subsection B for renewals and in subsection C for late renewal fees. Additionally, the renewal date for mobile clinics/portable operations was omitted from section 240.

Board action:

Adoption of a final regulation to make a technical correction.

Logged in as
Elaine J. Yeatts

Final Text

Action: Technical correction
Stage: Final 12/19/18 12:54 PM

18VAC60-21-40. Required fees.

A. Application/registration fees.

1. Dental license by examination	$400
2. Dental license by credentials	$500
3. Dental restricted teaching license	$285
4. Dental faculty license	$400
5. Dental temporary resident's license	$60
6. Restricted volunteer license	$25
7. Volunteer exemption registration	$10
8. Oral maxillofacial surgeon registration	$175
9. Cosmetic procedures certification	$225
10. Mobile clinic/portable operation	$250
11. Moderate sedation permit	$100
12. Deep sedation/general anesthesia permit	$100

B. Renewal fees.

1. Dental license - active	$285
2. Dental license - inactive	$145
3. Dental temporary resident's license	$35
4. Restricted volunteer license	$15
5. Oral maxillofacial surgeon registration	$175
6. Cosmetic procedures certification	$100
7. Moderate sedation permit	$100
8. Deep sedation/general anesthesia permit	$100
9. Dental faculty license	$285
10. Mobile clinic/portable operation	$150

C. Late fees.

1. Dental license - active	$100

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

D. Reinstatement fees.

1. Dental license - expired	$500
2. Dental license - suspended	$750
3. Dental license - revoked	$1000
4. Oral maxillofacial surgeon registration	$350
5. Cosmetic procedures certification	$225

E. Document fees.

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

F. Other fees.

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

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

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

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

Part V
Licensure Renewal

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

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

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

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

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

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

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

~~E.~~G. Reinstatement procedures.

1. Any person whose license or permit has expired for more than one year or whose license or permit has been revoked or suspended and who wishes to reinstate such license or permit shall submit a reinstatement application and the reinstatement fee. The application must include evidence of continuing competence.

2. To evaluate continuing competence, the board shall consider (i) hours of continuing education that meet the requirements of subsection H of 18VAC60-21-250; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a clinical competency examination accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.

3. The executive director may reinstate such expired license or permit provided that the applicant can demonstrate continuing competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code and Part II (18VAC60-21-50 et seq.) of this chapter.

DISCUSSION OF A DENTAL LICENSING COMPACT

Background

The Council of State Governments ("CSG") convened a meeting regarding the prospects for an occupational licensure compact for the dental profession on February 12 and 13, 2019. The purpose of the meeting was to discuss the current state of occupational licensure compacts, efforts within the dental profession that are underway, and how best to move forward. CSG covered the hotel and transportation costs of the participants through its Department of Labor Occupational Licensure Grant. The meeting was held at the offices of the National Council of State Boards of Nursing in Chicago, IL. The participants were:

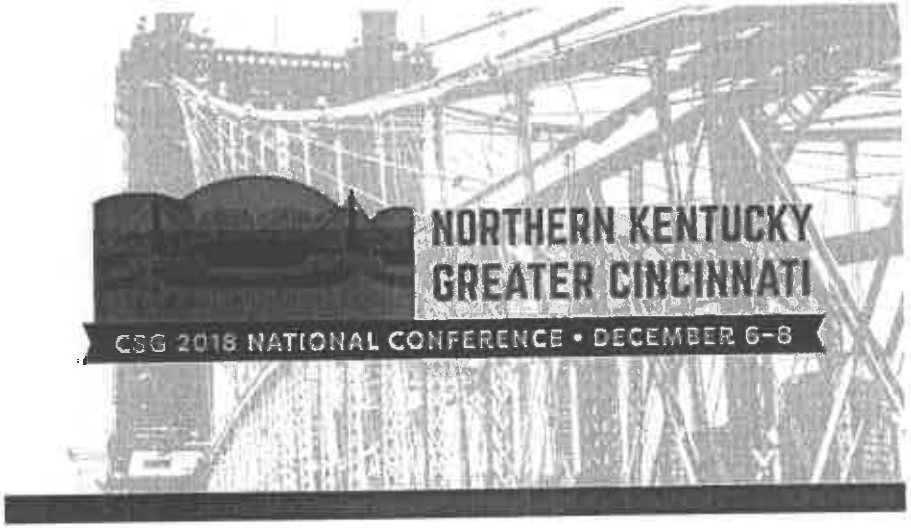
- 5 CSG staffers
- 5 ADA representatives
- 2 ADHA representatives
- 2 ADEA representatives
- 2 ASDA representatives
- 2 ADSO representatives
- 1 AADB representative
- 1 NLC representative
- 1 NC attorney for the Speech and Language Board
- 1 AADA representative – Sandra Reen.

Information on Compacts Addressed

- Some compacts are agreements to expedite state licensure (Medicine) others provide practice privileges in multiple states (Nursing)
- Compacts are tailored to each profession to reduce barriers to portability and establish uniform standards for licensure
- Compacts address some FTC concerns
- Compacts include a national database – nursys.com a good model, AADB's voluntary database was offered
- Are critical for emergency/crisis/disaster management
- Stages for development of a compact are:
    - Convening an advisory group of approximately 20 individuals which meets two or three times over a period of several months to develop a set of recommendations as to what the final compact should look like – macro level discussion – meets 2 to 3 times over several months
    - Drafting team of 5 to 8 compact and issue experts craft language for the compact based on the advisory group's recommendations, circulates the draft for comment and revises the draft then submits it to the advisory group for final review – meets 3 to 4 times over 10 to 14 months
    - Education of legislators, state by state technical assistance and briefings for state officials – occurs before and during state legislative sessions
    - Enactment occurs when a predetermined number of states join the compact – it was suggested that a minimum of 12 states should be committed
    - Transition includes standard startup activities, planning meetings of member states, establishing forms, rules and operational standards
- Estimated cost for starting a dental compact was about $750,000
- CSG has grant funding and can pursue additional grants

Meeting Outcomes

- Everyone in attendance agreed that formation of a dental compact for dentists and dental hygienists should be explored
- Advisory Group should include more current representatives of Boards of Dentistry:
    - Another board exec
    - A legal representative of a board, board counsel or assistant attorney general
    - Up to 3 current sitting board members – preferably experience in an independent board, a board in an umbrella agency and/or a citizen member, and
- A state legislator/dentist



NORTHERN KENTUCKY
GREATER CINCINNATI

Interstate Compacts: A Tested Solution to Today's Policy Issues

What is an Interstate Compact?

- **A legislatively enacted agreement between states in their sovereign capacity as states**
- **Allows states to respond to national priorities with one voice**
- **Retains collective state sovereignty over issues belonging to states**
- **Simple, versatile, proven, and effective**

Common Uses of Interstate Compacts

- Boundary Disputes
  - Virginia-Tennessee Boundary Agreement of 1803
  - Arizona-California Boundary Compact of 1963
  - Missouri-Nebraska Compact of 1990
  - Virginia-West Virginia Boundary Compact of 1998
- Environmental and Pollution Control
  - Low Level Radioactive Waste Compacts
  - Ohio River Valley Water Sanitation Compact

Common Uses of Interstate Compacts

- Crime Control and Corrections
  - Interstate Compact for Adult Offender Supervision
- Child Welfare
  - Interstate Compact for the Placement of Children
- Manage Shared Natural Resources
  - Use and allocation of interstate rivers and river basins
  - Land use planning
- Insurance
  - Interstate Insurance Product Regulation Compact

Common Uses of Interstate Compacts

- Regional Economic Development and Transportation
  - Port Authority of New York and New Jersey
  - Delaware River Port Authority
- Education
  - Military Children Compact
  - Midwestern Higher Education Compact
- Mutual Aid
  - Emergency Management Assistance Compact
  - Three regional EMACs with Canadian province members

Common Uses of Interstate Compacts

- Occupational Licensure
  - Interstate Medical Licensure Compact
  - Physical Therapist Compact
  - Nurse Licensure Compact, APRN Compact
  - REPLICA
  - PsyPact

Evolving Compact Landscape

- Unified approach to shared problems
- Threat of a federally mandated solution – unfunded, rigid mandates
- Advances in technology – we live in an increasingly mobile world
- Distrust of federal government
- Fill void left by federal inaction
- Proven track record

Interstate Compacts in the U.S. Constitution

Compacts between states are authorized under Art. I, Sec. 10, Cl. 3 of the U.S. Constitution:

> **No state shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State . . . .**"

Consent is required only if the compact could impair the federalist structure of the United States.

U.S. Steel Corp. v. Multi-State Tax Comm'n, 434 U.S. 452 (1978).

Interstate Compacts in History

Interstate Compacts in History

Interstate Compacts in History

"No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled . . ."

Articles of Confederation of 1781, art. VI.

Interstate Compacts in History

Interstate Compacts in History

"No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled . . ."
Articles of Confederation of 1781, art. VI.

"No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another state. . . ."
U.S. Constitution, art. I, sec. 10, cl. 3.

Interstate Compacts in History

- *Green v. Biddle*, 21 U.S. (8 Wheat.) 1 (1823).
- *Hinderlider v. La Plata River & Cherry Ditch Co.*, 304 U.S. 92 (1938).
- *West Virginia ex rel. Dyer v. Sims*, 341 U.S. 22 (1951).
- *Virginia v. Tennessee*, 148 U.S. 503 (1893).
- *U.S. Steel Co. v. Multistate Tax Comm'n*, 434 U.S. 452 (1978).
- New York v. Wilcox, 189 N.Y.S. 724 (N.Y. Sup. Ct. 1921).

Interstate Cooperation Generally

- Non-Compact Administrative Agreements
- Uniform Laws
- Reciprocal Legislation
- Federal Financial Assistance
- CSG, NGA, NCSL ("Big 7")
- Joint Legislative Sessions
- Joint Attorneys General Actions and Settlements
- Original Jurisdiction in the Supreme Court
- Interstate Compacts

Compact v. Non-Compact Agreement

- Is this a Compact?
  - *e.g.*, RGGI, EZ-Pass, SBAC, UCRP, FSMTB
- Factors to consider
  - Reciprocal obligations
  - Government function or proprietary arrangement
  - "State" action v. agency or agency officials' actions
  - Authority/Powers Granted
  - Binding
  - Interpret as a statute and as a contract

Compacts v. Uniform Laws

- How uniform do you want or need?
  - Text
  - Interpretation and Application
- Ease of Amendment
- Ease of Withdrawal

Key Benefits of Interstate Compacts

- Effectiveness and efficiency
  - Economies of scale
- Flexibility and autonomy compared to national policy
  - "One size *does not* fit all"
- Dispute resolution between or among the states
- State and federal partnership
- Cooperative behaviors leading to "win-win" solutions

Recurring Issues with Interstate Compacts

- What is it?
- Continuing need for education
- ...
- ...
- ...

NCIC's Proven Development Process

Phase I Development	Phase II Education and Enactment	Phase III Transition and Operation
ADVISORY GROUP • Approx. 20 state officials, stakeholders & issue experts • Examines issues, current policy, best practices, and alternate structures • Establishes recommendations for the content of the compact	**EDUCATION** • Develop legislative resource kit • Develop informational internet site with state-by-state tracking and support documents • Convene "National Briefing" to educate legislators and key state officials	**TRANSITION** • Enactment threshold met • Notify states • Appoint Interim Executive Board • Establish interim committees • Convene first compact commission meeting • Develop information systems
DRAFTING TEAM • 5 to 8 state officials, stakeholders, and issue experts • Crafts compact based on recommendations • Circulates draft compact to states and stakeholders for comment	**STATE SUPPORT** • Develop network of "champions" • Provide on-site technical support and assistance • Provide informational testimony to legislative committees	**OPERATION** • On-going state control and governance • Staff support • Annual assessment/ funding • Annual business meeting • Maintain and oversee information system, enhance and upgrade
FINAL PRODUCT • Drafting team considers comments and incorporates into compact • Final product sent to advisory group • Released to states for consideration	**STATE ENACTMENTS** • Track and support state enactments • Prepare for transition and implementation • Provide support as requested	

Typical Governance Structure

- Sub-federal, supra-state government entity with voting representatives from each member state
- Committees, including an executive committee responsible for making day-to-day decisions
- Authority to hire staff responsible for implementing the policies and procedures established by the commission
- Commissions serve the member states and are tasked with acting on their behalf and not on the behalf or particular groups or organizations

Sampling of National Compacts

- Emergency Management Assistance Compact
- Military Children Compact Commission (MIC3)
- Interstate Compact for Adult Offender Supervision (ICAOS)
- Interstate Compact for Juveniles (ICJ)
- Drivers License Compact
- Interstate Compact for the Placement of Children (ICPC)*

Medical Licensure Compacts

- Enhanced Nurse Licensure Compact (eNLC) – 31 states (25)
- APRN – 3 states (10)
- EMS Licensure Compact (REPLICA) – 16 states (10)
- Medical Licensure Compact – 27 states (20)
- Physical Therapists Compact – 21 states (10)
- PsyPact – 7 states (7)*

Why License Reciprocity (Healthcare*)

- Mobile society (patients and practitioners)
- Support spouses of relocating military families
- Increase access to health care services, especially in rural areas
- Enhance the states' ability to protect the public's health and safety
- Enhance the exchange of licensure, investigatory, and disciplinary information between member states
- Technological advancements
- Rising populations – seniors and veterans
- Practical advancement for current and future generations

* Why license reciprocity for your profession?

Advantages of Occupational Licensure Compacts

- Agreement on uniform licensure requirements; uniform statutory authority and regulations
- A data system adequate to allow electronic processing of interstate licensure and streamlined sharing of data and information
- FBI Fingerprint Based Criminal Background Checks
- Streamlined disciplinary matters
- National office and staff to interface with external stakeholders and national organizations and coordinate with other interstate compacts

Advantages of Occupational Licensure Compacts

Compacts are a state-based approach to multi-state licensure that uses a vehicle for interstate collaboration that is provided for in the U. S. Constitution:

- State licensure processes remain in place
- Licensees voluntarily become part of a compact
- State practice acts are not impacted

Compacts: Myths v. Reality

Myth: Interstate compacts are a takeover of state policy

Compacts: Myths v. Reality

Reality: States negotiate compact policies and can avoid "takeovers". Compacts preserve state prerogatives and minimize or obviate federal intervention

Compacts: Myths v. Reality

Myth: Interstate compacts are owned or controlled by outside organizations

Compacts: Myths v. Reality

Reality: Compacts are governed by statutorily created governance structures as determined by the member states through the terms of the compact.

Compacts are an instrument of interstate cooperation governed by representatives appointed by the member states and represent the member state.

Compacts: Myths v. Reality

Myth: Compact commission rules and bylaws thwart state sovereignty

Compacts: Myths v. Reality

Reality: Rules written by a compact commission apply only to the specific compact procedures implementing the interstate extension of member state authority across state lines

Disciplinary Board Report for March 15, 2019

Today's report reviews the final totals for the 2018 calendar year case activity and 2019 case activity through February 28, 2019, then addresses the Board's disciplinary case actions for the second quarter of fiscal year 2019 (October 1, 2018 – December 31, 2018).

Calendar Year 2018

The table below includes all cases that have received Board action since January 1, 2018 through December 31, 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	44	48	3	51
June	39	52	3	55
July	40	28	8	36
August	72	38	4	42
September	159	147	3	150
October	113	92	2	94
November	52	59	2	61
December	27	31	2	33
Totals	**680**	**599**	**51**	**650**

Calendar 2019	Cases Received	Cases Closed No/Violation	Cases Closed W/Violation	Total Cases Closed
January	33	20	1	21
February 28th	33	33	1	34
Totals	**66**	**53**	**2**	**55**

Q2 FY 2019

Updated information will be distributed at the Board Meeting.

License Suspensions

There were two summary suspensions of dental licenses between November 17, 2018 and February 28, 2019.

OMS Audits

Twenty-six OMS Cosmetic Procedure Audits were completed and are in the process of being reviewed by an expert.

Licensing Numbers

Dentist – 7230 Active
330 Inactive

Dental Hygienist - 5848 Active
231 Inactive

Dental Assistant II - 26 Active
1 Inactive

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?