

**VIRGINIA BOARD OF DENTISTRY
MINUTES OF REGULATORY/LEGISLATIVE COMMITTEE
December 3, 2008**

- TIME AND PLACE:** The meeting of the Regulatory/Legislative Committee of the Board of Dentistry was called to order at 1:05 P.M. on December 3, 2008 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Richmond, Virginia.
- PRESIDING:** James D. Watkins, D.D.S., Chair
- BOARD MEMBERS PRESENT:** Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.
- BOARD MEMBERS ABSENT:** Myra Howard
- STAFF PRESENT:** Sandra K. Reen, Executive Director
Huong Vu, Administrative Assistant
- OTHERS PRESENT:** Howard M. Casway, Senior Assistant Attorney General
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
- ESTABLISHMENT OF A QUORUM:** With three members of the Board present, a quorum was established.
- PUBLIC COMMENT:** **Roger Wood, DDS** of the Virginia Dental Association stated that the VDA is not opposed to increasing the number of dental hygienists a dentist might supervise above two. He also commented that there should be no limit on the number of Dental Assistants II.
- Kelly Williams, RDH** of the Virginia Dental Hygienist Association commented that the VDHA is in favor of taking away the limitation of two dental hygienists per dentist.
- Michelle Bernard**, a dental career instructor at Danville Public Schools spoke on behalf of the high school dental careers instructors in Virginia who recommended that:
- the titles “Dental Assistant I” and “Dental Assistant II” be changed to “Dental Assistant” and “Expanded Duty Dental Assistant” respectfully.
 - assistants should be certified by the Dental Assisting National Board before taking expanded function courses,
 - currently practicing dental assistants be grandfathered in as dental assistants II,
 - the Board maintain a registry of radiology exam completers, and

- the Board should approve all VDOE Dental Careers programs and issue credentials to program completers.

Ali Zarrinfar, DDS, president of the Academy of General Dentistry commented that the Academy is glad that the regulatory process is underway because Dental Assistants II will be a great addition to the dental team.

MINUTES:

Dr. Watkins asked if the Committee had reviewed the minutes of the October 29, 2008 meeting. Ms. Pace moved to accept the October 29, 2008 minutes. The motion was seconded and passed.

DENTAL ASSISTANT REGULATIONS:

Notice of Intended Regulatory Action (NOIRA) – Ms. Reen reported that 1174 comments were received and noted that more than 1,000 were against allowing DAsII to do scaling and about 100 were in favor. She then summarized the other recommendations that were made regarding:

- duties to be included,
- better utilization of dental hygienists,
- the ratio per dentist,
- use of ultrasonic devices, and
- allowing trained dental assistants from other states to register.

Ms. Yeatts advised that the Board could not grandfather in current dental assistants because the enabling statute does not authorize that action. She also advised that the Board could not change the designations “dental assistant I” and “dental assistant II” because these are the designations established by the statute.

Delegable Or Non-Delegable Duties – Dr. Watkins indicated that the Committee would be working from the current regulations to address the scope of practice of DAsII. He then led a discussion of the nondelegable duties in 18VAC60-20-190. It was agreed that the following items would be deleted or amended for delegation to DAsII:

6. pulp capping procedures -delete
8. would be amended to allow placing, packing and carving amalgam
10. taking impressions for master casts to be used for prosthetic restoration of teeth or oral structures - delete
11. would be amended to allow final cementation of crowns and bridges after fitting and adjustment by the dentist, and
12. placement of retraction cord – delete

The Committee considered delegation of item number 9 on orthodontic bonds and bands but decided against it. Dr. Watkins advised that, once the regulations are in draft form, a proposal would be sent to the dental specialty organizations for feedback on delegable duties for DAsII. The duties in 18VAC60-20-220 were reviewed and none were identified for delegation to DAsII. Dr. Watkins clarified for Ms. Yeatts that the new

regulatory section on duties of DAsII would only address the items amended or deleted in 18VAC60-20-190. He also indicated that a guidance document listing what could be delegated to DAsI should follow after the regulations are in place.

Levels of Supervision – Ms. Reen handed out a discussion draft for consideration of adopting three levels of supervision – direct, indirect and general. It was agreed that the definition of “direct supervision” should specify that this level applies to non-hygiene duties and that a reference to 18VAC60-20-220 should be added to make the application of this level of supervision clear. Ms. Pace moved to include the definitions in the proposed regulations. The motion was seconded and passed.

In response to questions from the audience, the Committee discussed allowing dental hygienists to perform the duties that might be delegated to DAsII and increasing the number of dental hygienists a dentist might supervise. Ms. Yeatts asked Mr. Casway if that was possible since the NOIRA only addressed regulating DAsII. Mr. Casway said he thought changes for dental hygienists could be included so the Board could properly align duties as it addresses the addition of DAsII. Dr. Levin moved to allow properly trained dental hygienists to also perform the duties to be delegable to DAsII, The motion was seconded and passed. Ms. Pace moved to increase the number of dental hygienists a dentist might supervise to four. The motion was seconded then following discussion amended to increase the number of DAsII a dentist might supervise to four as well. The motion passed.

Training – Dr. Watkins then asked for recommendations on the training that should be required for the duties identified. Dr. Levin suggested that the educators be asked to make recommendations for the program. Dr. Watkins agreed and asked staff to send requests to community colleges with accredited dental assisting programs. Ms. Reen noted that in the interest of time, the Committee might ask the Board for its feedback on the delegable duties at its December 12, 2008 meeting to facilitate making the request to the schools.

Dr. Watkins asked if there were other topics that needed to be covered for these regulations. None were identified. Ms. Reen said staff will prepare a proposed draft of the regulations for the February 25, 2009 meeting of the committee.

PERIODIC REVIEW OF REGULATIONS:

Results of Review of Licensing Provisions - Dr. Watkins asked if the Committee had any further input before the licensing section was developed into proposed regulations. No issues were raised so Ms. Reen advised that staff would develop proposed regulatory language for the next meeting.

Discussion of Process - Dr. Watkins asked if the Committee was comfortable with continuing the review process used for licensing for the other parts of the regulations. It was agreed to follow the same process and Ms. Reen agreed to begin work on the next part.

**MATTERS ASSIGNED
BY THE BOARD:**

Clarifying Role of Assistants with Sedation and Anesthesia – Ms. Reen noted that this issue and the next one have generated a lot of contact to the Board since they were addressed in a formal hearing last year. She advised that the needed clarification should be done as part of the regulatory review of the sedation and analgesia rules.

Clarifying Terms “Administering” and “Monitoring” – Dr. Watkins noted that it might be helpful to issue a Guidance Document on these issues since the regulatory review process will take some time. Members of the audience encouraged getting guidance out as soon as practical. Ms. Pace moved that a guidance document be issued. The motion was seconded and passed.

Address the practice of oral sedation - Ms. Reen handed out the Petition for Rulemaking from Mr. Bitting that was referred to the Committee for consideration in regulatory review. She recommended deferring discussion on the recommendations until work on the sedation and anesthesia regulations is begun.

Review limitation of 2 Hygienists per Dentist – Dr. Watkins noted that this subject was addressed in the discussion of dental assistant regulations.

ADJOURNMENT:

Dr. Watkins announced that the Committee would conclude for the day. He stated that the date of the next meeting will be on Wednesday, February 25, 2009 at 1:00 p.m. and adjourned the meeting at 4:10 p.m.

James D. Watkins, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date