

VIRGINIA BOARD OF DENTISTRY
REGULATORY-LEGISLATIVE COMMITTEE MEETING
AGENDA
FRIDAY, OCTOBER 22, 2021

<u>TIME</u>		<u>PAGE</u>
1:00 p.m.	Call to Order – Dr. Patricia B. Bonwell, Vice-President, Chair	
	Public Comment – Dr. Bonwell	
	Approval of Minutes	
	• May 17, 2021	1-3
	Regulatory Action Chart – Ms. Yeatts	4
	Committee Discussion/Action	
	• Report on Sleep Studies/Diagnosis/Testing – Ms. Yeatts/Ms. Schultz	5-41
	• Discussion of Dental Assistants Using Scalers – Ms. Sacksteder	42
	• Propose Update Guidance Document 60-7 – Delegation to Dental Assistants – Ms. Reen	43-44
	• Propose Guidance Document on Sedation Inspections and Permits – Ms. Sacksteder	45-46
	Next Meeting	
	Adjourn	

**VIRGINIA BOARD OF DENTISTRY
REGULATORY-LEGISLATIVE COMMITTEE MEETING MINUTES
May 17, 2021**

TIME AND PLACE: The virtual meeting of the Regulatory-Legislative Committee was called to order at 1:33 p.m., on May 17, 2021.

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

Consistent with Amendment 28 to HB29 (the Budget Bill for 2018-2020) and the applicable provisions of § 2.2-3708.2 in the Freedom of Information Act, the Committee is convening today's meeting virtually to consider such regulatory and business matters as are presented on the agenda necessary for the Committee to discharge its lawful purposes, duties, and responsibilities.

Dr. Catchings provided the Board members, staff, and the public with contact information should the electronic meeting be interrupted.

**COMMITTEE MEMBERS
PRESENT VIRTUALLY:** Sandra J. Catchings, D.D.S., Chair
Patricia B. Bonwell, R.D.H., PhD
Sultan Chaudhry, D.D.S.
J. Michael Martinez de Andino, J.D.

**OTHER PARTICIPATING
BOARD MEMBERS
PRESENT VIRTUALLY:** Augustus A. Petticolas, Jr., D.D.S.

**STAFF PRESENT
VIRTUALLY:** Sandra K. Reen, Executive Director, Board of Dentistry
Jamie C. Sacksteder, Deputy Executive Director
Donna M. Lee, Discipline Case Manager, Board of Dentistry
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
Rebecca Schultz, Policy Specialist, Department of Health Professions

**COUNSEL PRESENT
VIRTUALLY:** James E. Rutkowski, Assistant Attorney General

**ESTABLISHMENT OF A
QUORUM:** A roll call of the Board members and staff was completed. With all members of the Committee present, a quorum was established.

PUBLIC COMMENT: Dr. Catchings explained the parameters for public comment and opened the public comment period. Dr. Catchings also stated that the Committee did not receive any written comments.

Gianna Nawrocki, American Association of Orthodontists (AAO) – Ms. Nawrocki reiterated that the AAO and VAO should not be included in any potential regulations as sponsors that have an approved program available for digital scan technicians.

APPROVAL OF MINUTES: Dr. Catchings asked if there were any edits or corrections to the April 23, 2021 minutes. Dr. Bonwell moved to approve the minutes as presented. Following a second, a roll call vote was taken. The motion passed.

TRAINING AND SUPERVISION OF DIGITAL SCAN TECHNICIANS:

Dr. Catchings stated that the Committee was meeting today to address the concerns and questions that were raised following the April 23, 2021 meeting regarding the proposed regulations for digital scan technicians.

Ms. Reen addressed the Committee regarding the feedback she received from them pertaining to the proposed regulations for digital scan technicians, and she also reminded the Committee that the law went into effect in July of 2020.

Ms. Yeatts stated that the Committee expressed concerns about requiring that a physical exam be performed by a dentist. She reviewed with the Committee the definition of teledentistry and explained how it would be implemented with digital scan technicians.

After discussion, by consensus, the Committee requested that a workgroup be formed to discuss legislative proposals to the regulation that would allow patients receiving active appliances, including orthodontics, be examined in person by a dentist before delivery. The Committee was instructed to send Ms. Reen an email with the names of prospective participants for the workgroup.

Ms. Reen discussed the digital scan flowchart with the Committee. She also reviewed 18VAC60-21-10, which outlines the definitions, and 18VAC60-21-165, the proposed digital scan regulations.

- **18VAC60-21-10(C) “Remote Supervision”** – Dr. Petticolas moved that the word “supervising” be changed to “directing” for the sentence referring to digital scan technician. Following a second, a roll call vote was taken. The motion passed.

- **18VAC60-21-165(D)(3)** – Dr. Catchings moved that the words “used in reliance on” be deleted and replaced with the word “for”. Following a second, a roll call vote was taken. The motion passed.

Mr. Martinez moved that the Committee recommend to the Board adoption of 18VAC60-21-10 and 18VAC60-21-165 as amended. Following a second, a roll call vote was taken. The motion passed.

PROPOSED WORK ORDER REQUIREMENTS:

Ms. Reen explained the necessity for a proposed guidance document to serve as a template for scans and laboratory work order forms that will show the contents that must be required on the forms.

Dr. Bonwell moved that the Committee recommend to the Board adoption of the proposed Guidance Document titled Approved Template For Scans and Laboratory Work Order Forms. Following a second, a roll call vote was taken. The motion passed.

SLEEP APNEA:

Ms. Reen informed the Committee that she and other staff members had a conversation with William Harp, Executive Director for the Board of Medicine, regarding dentists and sleep apnea testing. She stated that Dr. Harp advised that if a patient goes to a licensed polysomnographer, it is under the direction of a medical physician and he would make the diagnosis. She further stated that Dr. Harp acknowledged there are benefits to patients for dentists to order sleep apnea tests, it is appropriate, and it increases access to care for patients.

After discussion, by consensus, the Committee directed Board staff to conduct discovery research on sleep apnea testing, home sleep tests, polysomnographer tests, and regulations in other states with regard to sleep apnea.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 3:27 p.m.

Sandra J. Catchings, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions
As of October 13, 2021**

Board of Dentistry		
Chapter		Action / Stage Information
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Amendment to restriction on advertising dental specialties</u> [Action 4920] Proposed - <i>At Governor's Office for 759 days</i>
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Training and supervision of digital scan technicians</u> [Action 5600] Proposed - <i>At Governor's Office for 3 days</i>
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Technical correction</u> [Action 5198] Fast-Track - <i>At Governor's Office for 696 days</i>
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	<u>Waiver for e-prescribing</u> [Action 5382] Final - <i>At Secretary's Office for 9 days</i>
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	<u>Removal of pulp capping as a delegable task for a DAII</u> [Action 5728] NOIRA - <i>At Governor's Office for 125 days</i>
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	<u>Training in infection control</u> [Action 5505] Proposed - <i>DPB Review in progress – 34 days</i>

Report on Sleep Studies, Diagnosis and Testing

Can Dentists Order Home Sleep Apnea Tests?

(HSATs Cannot be Ordered by Dentists Under Medicare)

- HSAT Ordering Prohibited for Dentists
- HSAT Ordering Not Addressed by State Rules
- HSAT Ordering Only Allowed for Titration



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State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
AL	Alabama Dental Practice Act	Dental Scope of Practice Citation: Section §34-9-6	Board of Dental Examiners of Alabama 5346 Stadium Trace Pkwy, Suite 112 Hoover, AL 35244 1-205-985-7267	It is not within dental scope of practice to order or administer a home sleep apnea test.	Statement from Board of Dental Examiners: “The Board opines that it is outside the scope of practice for a dentist to order a sleep study or prescribe a CPAP as a result of interpreting a sleep study.”
AK	Statutes and Regulations Dentists and Dental Hygienists	Dental Scope of Practice Citation: Sec.08.3 6.360	Alaska Board of Dental Examiners 550 West Seventh Avenue, Suite 1500 Anchorage, AK 99501-3567 1-907-269-8160	State does not address whether dentists can order home sleep apnea tests.	Comment from Board of Dental Examiners: “We have always allowed dentists to make sleep appliances as long as their patient has had a sleep study from an MD or other reputable source and been diagnosed with sleep apnea. We haven’t felt the need to regulate it at this point.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
AZ	Arizona Statutes affecting Dental Board Licensees	Dental Scope of Practice Citation: ARS – 32- 1202	Arizona State Board of Dental Examiners 4205 North 7th Avenue, Suite 300 Phoenix, AZ 85013 1-602-242-1492	State does not address whether dentists can order home sleep apnea tests.	<p>Comment from Board of Dental Examiners:</p> <p>“The Arizona Board does not have any specific statutes or rules regarding sleep apnea.”</p> <p>“The Board's statutes and rules would still apply to licensees who engage in unprofessional conduct.”</p>
AR	Arkansas Dental Practice Act	Dental Scope of Practice Citation: A.C.A. § 17-82-102	Arkansas State Board of Dental Examiners 101 East Capitol Avenue, Suite 111 Little Rock, AR 72201 1-501-682-2085	State does not address whether dentists can order home sleep apnea tests.	<p>In response to AADSM inquiry, the Board of Dental Examiners referred to the law stated in ACA 17-82-102:</p> <p>“(i) The evaluation, diagnosis, prevention, and treatment by nonsurgical, surgical, or related procedures of diseases, disorders, and conditions of the oral cavity, maxillofacial area, and the adjacent and associated structures and their impact on the human body, but not for the purpose of treating diseases, disorders, and conditions unrelated to the oral cavity, maxillofacial area, and the adjacent and associated structures”</p>

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
CA	Dental Practice Act - California Business & Professions Code	Dental Scope of Practice Citation: Section 1625-1636.6	Dental Board of California 2005 Evergreen Street, Suite 1550 Sacramento, CA 95815 1-877-729-7789	State does not address whether dentists can order home sleep apnea tests.	Comment from Dental Board: “The scope of practice for dentists in California is defined in Business & Professions Code Section 1625. It has been understood that the Medical Board of California views the diagnosis and treatment of sleep apnea to be the practice of medicine; but that a physician may refer a patient with sleep apnea to a dentist for treatment if the physician determined that the sleep apnea was the result of a problem with the teeth, gums, jaws, and associated structures.”
CO	Colorado Revised Statutes - Dentists and Dental Hygienists Practice Act	Dental Scope of Practice Citation: § 12-35-103	Colorado Dental Board 1560 Broadway, Suite 1360 Denver, CO 80202 1-303-894-7690	State does not address whether dentists can order home sleep apnea tests.	Comment from Dental Board: The response referred providers to board website here . “We don't have any further information on the topic.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
CT	Connecticut Statutes - Chapter 379 Dentistry	Dental Scope of Practice Citation: Chapter 379: Sec. 20-123	Connecticut State Dental Commission 410 Capitol Avenue, MS #13PHO P.O. Box 340308 Hartford, CT 06134-0308 1-860-509-7603 (Menu Option 4)	State does not address whether dentists can order home sleep apnea tests.	AADSM is currently working with the State Dental Commission which is considering whether to clarify its guidance on the ordering of HSATs.
DE	Delaware Code, Title 24, Chapter 11 Dentistry and Dental Hygiene	Dental Scope of Practice Citation: Title 24: §1101	Board of Dentistry and Dental Hygiene 861 Silver Lake Blvd. Dover, DE 19904 1-302-744-4500	State does not address whether dentists can order home sleep apnea tests.	Comment from Board of Dentistry and Dental Hygiene: The response referred to website here . “Currently, the Delaware Board of Dentistry and Dental Hygiene does not have any law or regulations regarding sleep medicine.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
DC	DC Municipal Regulations for Dentistry	Dental Scope of Practice Citation: Chapter 12 Section 3-1201.02	District of Columbia State Board of Dentistry 899 North Capitol Street, NE Washington, DC 20002 1-202-442-5955	State does not address whether dentists can order home sleep apnea tests.	The DC Board of Dentistry has not provided the AADSM with any comments about HSAT use by dentists.
FL	Florida Statutes, Title XXXII, Chapter 466 Dentistry, Dental Hygiene, and Dental Laboratories	Dental Scope of Practice Citation: 466.003	Florida Board of Dentistry 4052 Bald Cypress Way Bin C-08 Tallahassee, FL 32399-3258 1-850-488-0595	State does not address whether dentists can order home sleep apnea tests.	The Florida Board of Dentistry has not provided the AADSM with any comments about HSAT use by dentists.

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
GA	Georgia Dental Law (Title 43, Chapter 11) Georgia Board of Dentistry Policy Manual	Dental Scope of Practice Citation: § 43-11-1	Georgia Board of Dentistry 2 Peachtree Street, NW Atlanta, GA 30303 1-404-651-8000	A dentist may not order a sleep study. Home sleep studies should be ordered and interpreted only by a licensed physician.	Comment from the Board of Dentistry: The response referred providers to this text in the Dentistry Policy Manual: Depending upon the diagnosis of the type and severity, one possible treatment option for obstructive apnea is the use of oral appliances. The design, fitting and use of oral appliances and the maintenance of oral health related to the appliance falls within the scope of practice of dentistry. The continuing evaluation of a person's sleep apnea, the effect of the oral appliance on the apnea, and the need for, and type of, alternative treatment does not fall within the scope of dentistry.

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
HI	Hawaii Revised Statutes, Title 25, Chapter 448 – Dentistry	Dental Scope of Practice Citation: 448-1	Hawaii State Board of Dental Examiners King Kalakaua Building 335 Merchant Street, Rm. 301 Honolulu, Hawaii 96813 1-808-586-3000	State does not address whether dentists can order home sleep apnea tests.	<p>Comment from the Board of Dental Examiners:</p> <p>“The Board of Dentistry (“Board”) currently does not have any statutes or rules that govern sleep apnea devices/oral appliances. However, the Board has policies which state that a licensed dentist would perform a complete dental examination, take the necessary oral x-rays, take impressions of the teeth, fittings, and a bite record and send this information to a dental laboratory to be constructed.</p> <p>Furthermore, it is the Board's understanding that the procedures performed in the fitting of the oral appliances are considered within the scope of practice of dentistry. The construction of the oral appliances when sent to a dental laboratory would be exempt from the practice of dentistry.</p>

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
ID	Idaho Statutes, Title 54, Chapter 9 Professions, Vocations, and Businesses: Dentists	Dental Scope of Practice Citation: Title 54-901	Idaho State Board of Dentistry 350 N. 9th Street, Suite M-100 Boise, Idaho 83720 1-208-334-2369	Dentists can order home sleep apnea tests.	Comment from the Board of Dentistry, responding to AADSM questions on HSAT: “There is nothing in the statutes or the administrative rule which directly addresses the issue. Of course, dentists can provide patients with OAT [Oral Appliance Therapy] but my understanding is it takes a physician to make the diagnosis.”
IL	Illinois Compiled Statutes: Illinois Dental Practice Act	Dental Scope of Practice Citation: 225 ILCS 25/1 – Section 17	Illinois Department of Financial and Professional Regulation – Dental Professions 320 West Washington Street, 3rd Floor Springfield, IL 62786 1-217-785-0800	State does not address whether dentists can order home sleep apnea tests.	The Illinois Department of Financial and Professional Regulation has not provided the AADSM with any comments about HSAT use by dentists.

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
IN	Indiana Code Title 25. Professions and Occupations § 25-14-1-23	Dental Scope of Practice Citation: IC 25-14-1-23	Indiana State Board of Dentistry 402 W. Washington Street, W072 Indianapolis, Indiana 46204 1-317-234-2054	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: “The State Board of Dentistry does not have any statute or rules regarding on treating sleep apnea.”
IA	Code of Iowa, Title IV, Chapter 153 Dentistry	Dental Scope of Practice Citation: 153.13	Iowa Dental Board 400 SW 8th Street, Suite C Des Moines, IA 50309-4686 1-515-281-5157	State does not address whether dentists can order home sleep apnea tests.	Comment from Dental Board: “The Iowa Dental Board does not specifically have rules addressing dental sleep medicine. Services provided within the scope of practice of dentistry must fall within the definition of the practice of dentistry as established in Iowa Code Section 153. ”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
KS	Kansas Dental Practices Act - Statutes, Regulations, and Related Laws Pertaining to Dentists and Dental Hygienists	Dental Scope of Practice Citation: 65-1422	Kansas Dental Board 900 SW Jackson, Room 509 Topeka, KS 66612 1-785-296-6400	State does not address whether dentists can order home sleep apnea tests.	AADSM is currently working with the State Dental Board which is considering how to clarify its guidance on the ordering of HSATs.
KY	Kentucky Revised Statutes, Chapter 313 Dentists and Dental Specialists	Dental Scope of Practice Citation: 313.010	Kentucky Board of Dentistry 312 Whittington Parkway, Suite 101 Louisville, Kentucky 40222 1-502-429-7280	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: "Kentucky's rules are pretty silent on the issue of sleep apnea." Refer to Chapter 313 of the Revised Statues for more information.

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
LA	Louisiana Laws Governing the Practice of Dentistry as Authorized Under Chapter 9, Title 37, Dental Practice Act	Dental Scope of Practice Citation: §751	Louisiana State Board of Dentistry 365 Canal Street, Suite 2680 New Orleans, LA 70130 1-504-568-8574	Dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: “The Louisiana State Board of Dentistry met on July 10, 2020 and addressed the four questions you posed in your January 10, 2020 letter. The Board answered all four questions in the affirmative.” <ul style="list-style-type: none"> ▪ Dispense portable monitors when ordered by physicians for patients at risk for sleep apnea? ▪ Order portable monitors for patients identified by the dentist as being at risk for sleep apnea? ▪ Use a portable monitor to help determine the optimal effective position of a patient’s oral appliance? ▪ To order a portable monitor to verify the effectiveness of an oral appliance?

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
ME	Maine Revised Statutes, Title 32, Chapter 143: Dental Professions	Dental Scope of Practice Citation: §18371	Maine Board of Dental Practice 143 State House Station 161 Capitol Street Augusta, Maine 04333-0143 1-207-287-3333	State does not address whether dentists can order home sleep apnea tests.	<p>Comment from the Board of Dental Practice:</p> <p>“At its March 13, 2020 meeting, the Maine Board of Dental Practice (“the Board”) reviewed and discussed correspondence received by Dr. Nancy Addy, President of the American Academy of Dental Sleep Medicine, dated January 10, 2020, requesting clarification regarding a dentist’s scope of practice to treat sleep apnea with oral appliance therapy.</p> <p>It may be helpful to note that the Board does not provide practice or legal advice; however, it does attempt to highlight and clarify its existing statutes and rules when appropriate. To that end, the Board considered in detail your questions related to a dentist ordering and dispensing portable monitors to treat patients for sleep-related breathing disorders in consultation/coordination with physician care.</p> <p>A dentist’s scope of practice is identified in statute and licensees are required to provide services in a competent and ethical manner (see: 32 M.R.S. §18371). There are a variety of dentally-related products on the market, but it is up to the individual licensee to make sure that the use of the product is within their scope of practice and that they are competent to utilize the product in the delivery of care.”</p>

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
MD	Dental Practice Act	Dental Scope of Practice Citation: § 4-101	Maryland State Board of Dental Examiners 55 Wade Avenue/Tulip Drive Catonsville, MD 21228 1-410-402-8501	Dentists can order home sleep apnea tests.	Comment from Board of Dental Examiners: “DDS/DMD may order screening tests including sleep study. The diagnosis of sleep apnea must be done by a physician. Appliances constructed for sleep apnea treatment must be under physician order.”
MA	Dental Practice Act	Dental Scope of Practice Citation: 2.03	Massachusetts Board of Registration in Dentistry 239 Causeway St., Suite 500, 5th Floor Boston, MA 02114 1-800-414-0168	Dentists are not currently prohibited from ordering home sleep apnea tests.	Comment from Board of Registration in Dentistry: “The Board’s governing statutes and regulations do not address the use of oral appliances to treat dental sleep apnea as it is more a standard of care question than regulatory. However, to my knowledge the Board has not been asked to address this issue during my seven-year tenure as ED nor has it considered a complaint filed against a dentist for inappropriately prescribing or fabricating a defective oral appliance, etc.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
MI	Michigan Public Health Code, Part 166 Dentistry	Dental Scope of Practice Citation: 333.166 01	Michigan Board of Dentistry P.O. Box 30004 Lansing, MI 48909 517-373-1820	State does not address whether dentists can order home sleep apnea tests.	The Michigan Board of Dentistry has not provided the AADSM with any comments about HSAT use by dentists.
MN	Minnesota Statutes, Chapter 150A. Dentistry	Dental Scope of Practice Citation: 150A.05	Minnesota Board of Dentistry 2829 University Ave SE, Suite 450 Minneapolis MN 55414-3249 1-612-617-2250	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: “Minnesota allows dentists to make and monitor appliances and treatments, but we require a MD diagnosis of the sleep apnea.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
MS	Mississippi Dental Practice Act	Dental Scope of Practice Citation: § 73-9-3	Mississippi State Board of Dental Examiners 600 East Amite Street, Suite 100 Jackson, MS 39201-2801 1-601-944-9622	Dentists can order home sleep apnea tests.	Comment from Board of Dental Examiners: “Is it within the scope of practice for dentists to order and overnight pulse oximetry to determine the presence of sleep apnea? Yes. At its 07/31/2015 meeting, the Board determined that it is within the scope of practice for dentists to order an overnight pulse oximetry to determine the potential presence of sleep apnea.”
MO	Missouri Revised Statutes, Chapter 332, title XXII, Occupations and Professions	Dental Scope of Practice Citation: 332.071	Missouri Dental Board 3605 Missouri Boulevard P.O. Box 1335 Jefferson City, MO 65102-1335 1-573-751-0293	State does not address whether dentists can order home sleep apnea tests.	Comment from the Missouri Dental Board: “ I have attached a link to the Missouri Dental Board’s statute regarding the practice of dentistry. A dentist cannot diagnose sleep apnea, but they can create appliances used to treat sleep apnea. Regarding the equipment used by dentists, the Board does not regulate equipment.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
MT	Montana Code Annotated, Title 37 Chapter 4 Dentistry and Dental Hygiene	Dental Scope of Practice Citation: 37-4-101	Montana Board of Dentistry P.O. Box 1728 Helena, MT 59624-1728 1-406-444-5711	State does not address whether dentists can order home sleep apnea tests.	Comment from Board of Dentistry: The Board of Dentistry indicated that they have no additional clarification to the rules and statutes already published and refer to the Definitions -- Practice of Dentistry .
NE	Nebraska Statutes Relating to Dentistry Practice Act	Dental Scope of Practice Citation: 38-1115	Nebraska Board of Dentistry 301 Centennial Mall South Lincoln, Nebraska 68509-5026 1-402-471-2118	State does not address whether dentists can order home sleep apnea tests.	The Nebraska Board of Dentistry has not provided the AADSM with any comments about HSAT use by dentists.

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
NV	Nevada Revised Statute Chapter 631 - Dentistry, Dental Hygiene, and Dental Therapy	Dental Scope of Practice Citation: 631.215	Nevada State Board of Dental Examiners 6010 S. Rainbow Blvd., Suite A-1 Las Vegas, NV 89118 1-702-486-7044	State does not address whether dentists can order home sleep apnea tests.	The Nevada State Board of Dental Examiners has not provided the AADSM with any comments about HSAT use by dentists.
NH	New Hampshire Statutes, Chapter 317-A – Dentistry	Dental Scope of Practice Citation: 317-A:20	New Hampshire Board of Dental Examiners 121 South Fruit Street Concord, NH 03301 1-603-271-2152	State does not address whether dentists can order home sleep apnea tests.	Comment from Board of Dental Examiners: “Our rules do not currently address dental appliances for sleep apnea. It may have been discussed briefly, but currently nothing to warrant any rule changes.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
NJ	New Jersey State Board of Dentistry Laws	Dental Scope of Practice Citation: 45:6-19	New Jersey State Board of Dentistry P.O. Box 45005 Newark, New Jersey 07101 1-973-504-6405	Dentists cannot order or interpret the home sleep apnea test, or screen, treatment plan or diagnose sleep apnea patients.	From the Board of Dentistry: “The Board reviewed correspondence from Sara R. Gallagher, Vice-Chair, Board of Polysomnography, questioning whether the dental scope of practice allows the performance of home sleep testing. The Board repeated its prior determination that a dentist cannot order or interpret the home sleep test, or screen, treatment plan or diagnose sleep apnea patients. The Board noted that the sleep apnea issue has been referred to a committee of the Board to draft a regulatory proposal.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
NY	New York Education Law, Article 133, Dentistry and Dental Hygiene [and Registered Dental Assisting]	Dental Scope of Practice Citation: § 6601	New York State Board of Dentistry 89 Washington Avenue, 2 nd Floor West Wing Albany, NY 12234 518-474-3817	Dentists cannot order or interpret home sleep apnea tests.	Comment from the Board of Dentistry: “The physician can request or write orders for the dentist to fabricate an oral appliance for sleep apnea, but the physician would have to order the portable monitor and verify the effectiveness of the oral appliance.”
NC	North Carolina General Statutes, Chapter 90, Article 2, Dentistry	Dental Scope of Practice Citation: § 90-29	North Carolina State Board of Dental Examiners 2000 Perimeter Park Dr., Suite 160 Morrisville, NC 27560 1-919-678-8223	Dentists cannot use HSAT for screening.	From NC Dental Board Newsletter: In the Dental Board’s opinion, being involved in diagnosing OSA, including dispensing home sleep tests, would fall outside the scope of the practice of dentistry and would violate the Board’s statutes and regulations. However, a dentist can perform initial or preliminary screening for OSA, including identifying certain risk factors, and make referrals to other appropriate medical providers to diagnose and treat this potential medical condition. Determining whether to utilize home sleep tests as part of a potential diagnosis should be done by appropriate medical provider to whom the patient is referred. If a physician diagnoses a patient with OSA, a properly trained dentist may work with the physician to fabricate a dental appliance for the patient to treat the condition.

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
ND	North Dakota Century Code, Title 43, Chapter 28 - Dentists	Dental Scope of Practice Citation: 43-28-01	North Dakota Board of Dental Examiners P.O. Box 7246 Bismarck, ND 58507 1-701-258-8600	State does not address whether dentists can order home sleep apnea tests.	<p>Comment from the Board of Dental Examiners:</p> <p>ND laws regarding scope of practice for dentists may be found in the NDCC 43-28-01(7).</p> <p>“7. "Practice of dentistry" means examination, diagnosis, treatment, repair, administration of local or general anesthetics, prescriptions, or surgery of or for any disease, disorder, deficiency, deformity, discoloration, condition, lesion, injury, or pain of the human oral cavity, teeth, gingivae, and soft tissues, and the diagnosis, surgical, and adjunctive treatment of the diseases, injuries, and defects of the upper and lower human jaw and associated structures.</p> <p>Further guidance may be found in NDCC 43-28-18(22).</p> <p>“22. Failed to practice within the scope of that dentist's education or advanced training as recognized by the board, the American dental association, or other professional entity recognized by the board.”</p>

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
OH	Ohio Dental Practice Act	Dental Scope of Practice Citation: 4715.01	Ohio State Dental Board 77 S. High Street, 17th Floor Columbus, Ohio 43215-6135 1-614-466-2580	Dentists cannot order a home sleep apnea test.	<p>Comment from the Dental Board</p> <p>“If you are a dentist can you order a take home sleep test? (NO)</p> <p>Can you use a home sleep test to decide if your device is working? (NO)”</p> <p>Position Statement: Role of the Dentist in the Treatment of Sleep-related Breathing Disorders</p>
OK	Oklahoma Statutes, Title 59, Chapter 7 - Dentistry, The State Dental Act	Dental Scope of Practice Citation: Title 59. Chapter 7	Oklahoma State Board of Dentistry 2920 N. Lincoln Blvd., Suite B OKC, OK 73105 1-405-522-4844	State does not address whether dentists can order home sleep apnea tests.	<p>Comment from the Board of Dentistry:</p> <p>“We do not have any specific rules or statutes that specifically refer to “sleep dentistry”. A licensed dentist in the State of Oklahoma may treat an individual that has been previously diagnosed with sleep apnea, with appliances as long as they are acting with the general standard of care within dentistry.”</p>

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
OR	Oregon Dental Practice Act - Compilation of Statutes and Administrative Rules	Dental Scope of Practice Citation: 679.010	Oregon Board of Dentistry 1500 SW 1st Ave., Suite 770 Portland, OR 97201 1-971-673-3200	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: “It is the Board’s position that the diagnosis of Sleep Related Disordered Breathing (SRDB) or Obstructive Sleep Apnea (OSA) is outside the scope of the practice of dentistry, and the diagnosis must be made by a physician prior to oral appliance therapy by a dentist. ...dentists legally are not in a position to diagnose sleep disordered breathing and sleep apnea; a physician must make the diagnosis and then prescribe oral appliance therapy before the dentist can treat it.”
PA	Pennsylvania Dental Law	Dental Scope of Practice Citation: 63 P.S. §120	Pennsylvania State Board of Dentistry One Penn Center 2601 N. 3rd Street Harrisburg, PA 17110 1-717-783-7162	State does not address whether dentists can order home sleep apnea tests.	Comment from the State Board of Dentistry: “The Board's Laws and Regulations are available on our website at www.dos.pa.gov/dent . The Board has no specific regulations addressing sleep apnea.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
RI	Rhode Island General Laws, Chapter 5-31.1 - Dentists and Dental Hygienists	Dental Scope of Practice Citation: § 5-31.1-1	Rhode Island Board of Dentistry 3 Capitol Hill Providence, RI 02908 1-401-222-5960	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: “Rhode Island Dental Rules and Regulations are silent on sleep apnea and oral appliances.”
SC	South Carolina Code of Laws, Title 40, Chapter 15, Dentists, Dental Hygienists, and Dental Technicians	Dental Scope of Practice Citation: 40-15-70§ 5-31.1-1	South Carolina Board of Dentistry 110 Centerview Dr. Columbia, SC 29210 1-803-896-4300	State does not address whether dentists can order home sleep apnea tests.	The South Carolina Board of Dentistry has not provided the AADSM with any comments about HSAT use by dentists.

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
SD	South Dakota Laws, Title 36, Chapter 6A - Dentists, Dental Hygienists and Dental Auxiliaries	Dental Scope of Practice Citation: 36-6A-32	South Dakota State Board of Dentistry 1351 N. Harrison Ave. Pierre, SD 57501 1-605-224-1282	It is within the scope of a dentist's practice to order a sleep apnea study.	Comment from the Board of Dentistry: "Pursuant to a diagnosis of sleep apnea by a medical doctor, a dentist may provide dental services in addressing a diagnosis of sleep apnea if it is within the scope of the dentist's relevant education, training, and experience. SDCL § 36-6A-32.4. This advisory opinion was rendered by the Board upon submission of a written request. Although advisory opinions are not judicially reviewable and do not have the force and effect of law, they do serve as a guideline for dentists who wish to engage in safe dental practices. This advisory opinion was adopted at the meeting of the South Dakota Board of Dentistry on June 17, 2016."
TN	Tennessee Code Title 63 Professions of the Healing Arts, Chapter 5 Dentists	Dental Scope of Practice Citation: 63-5-108	Tennessee Board of Dentistry 710 James Robertson Parkway Nashville, TN 37243 1-615-532-5073	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: "This [oral appliance therapy and dental sleep medicine] is not specifically addressed by the statutes and rules of the Board of Dentistry."

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
TX	Texas Dental Practice Act - Chapter 251. General Provisions Relating to Practice of Dentistry	Dental Scope of Practice Citation: 251.003	Texas State Board of Dental Examiners 333 Guadalupe, Tower 3, Suite 800 Austin, TX 78701-3942 1-512-463-6400	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dental Examiners: Referred to Texas Admin. Code Rule §108.12, Dental Treatment of Obstructive Sleep Apnea
UT	Utah Code Title 58, Chapter 69 - Dentist and Dental Hygienist Practice Act	Dental Scope of Practice Citation: 58-69-102	Utah Dental Board 160 East 300 South Salt Lake City, Utah 84111 1-801-530-6628	State does not address whether dentists can order home sleep apnea tests.	Comment from the Dental Board: “Utah law and rule does not specifically address specific health conditions. The scope of practice for licensees is defined within the practice acts and the definitions of the practice. I would refer you to 58-67-102 and the definition of the practice of medicine and 58-69-102 for the definition of the practice of dentistry. Licensees must practice within their respective scope of practice and meet the standard of care.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
VT	Vermont Statutes, Title 26, Chapter 12 - Dentists, Dental Hygienists, and Dental Assistants	Dental Scope of Practice Citation: § 561	Vermont State Board Dental Examiners 89 Main Street, 3rd Floor Montpelier VT 05620-3402 1-802-828-2363	State does not address whether dentists can order home sleep apnea tests.	The Vermont Board of Dental Examiners has not provided the AADSM with any comments about HSAT use by dentists.
VA	Code of Virginia, Title 54.1, Chapter 27 – Dentistry	Dental Scope of Practice Citation: § 54.1-2711	Virginia Board of Dentistry Perimeter Center 9960 Mayland Drive, Suite 300 Henrico, VA 23233-1463 (804) 367-4538	Dentists cannot order a home sleep apnea test.	Comment from the Board of Dentistry: “The advice given to me by the Board’s attorney, in response to previous inquiries from dentists about testing patients for sleep apnea, is that a Virginia dentist may refer a patient to a polysomnographic technologist for a sleep study but a Virginia dentist cannot conduct sleep studies. The technologist is required to report sleep study results to the supervising physician who could refer the patient to a dentist for dental treatment.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
WA	Revised Code of Washington, Chapter 18.32 – Dentistry	Dental Scope of Practice Citation: 18.32.020	Washington State Board of Dentistry P.O. Box 1099 Olympia, WA 98507-1099 1-360-236-4700	State does not address whether dentists can order home sleep apnea tests.	Comment from the State Board of Dentistry: “Washington State laws do not call out specific procedures or modalities that dentists may use to practice dentistry. We do have a definition of dentistry in RCW 18.32.020, link below.” https://app.leg.wa.gov/RCW/default.aspx?cite=18.32.020
WV	West Virginia Code, Chapter 30, Article 4 - West Virginia Dental Practice Act	Dental Scope of Practice Citation: §30-4-9	West Virginia Board of Dentistry 1319 Robert C. Byrd Drive Crab Orchard, WV 25827 1-877-914-8266	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dentistry: “The Standard of Care in WV is the dentist requires a diagnosis from a sleep study made by an MD. Once there is a diagnosis an appliance can be made by the dentist and any adjustments necessary to the appliance. The Dentist must work in conjunction with the MD for the patient’s sleep apnea.”

State Dental Board Information and Status of Home Sleep Apnea Testing Regulations

State	Dental Sleep Rules and Regulatory Links	Law Citation	Dental Board Contact Information	Home Sleep Apnea Test Status	State Dental Board Comments
WI	Wisconsin Statutes and Annotations - Chapter 447 - Dentistry Examining Board	Dental Scope of Practice Citation: 447.01	Wisconsin Dental Board 1400 East Washington Avenue, Room 112 Madison, WI 53703 1-608-266-2112	State does not address whether dentists can order home sleep apnea tests.	Position Statement from the Wisconsin Dental Board Website: Sleep Related Breathing Disorders Dentistry Examining Board Position Statements
WY	Dental Practice Act	Dental Scope of Practice Citation: 33-15-114	Wyoming Board of Dental Examiners 2001 Capitol Ave, Room 103 Cheyenne, WY 82002 1-307-777-7387	State does not address whether dentists can order home sleep apnea tests.	Comment from the Board of Dental Examiners: “The Board had determined in 2018 that the treatment of sleep apnea without a medical consultation and diagnosis is outside the scope of practice of dentistry in Wyoming.”

Summary of Findings

Q1: What is the dentist's role in ordering sleep apnea testing and/or home sleep tests?

Q2: What is the dentist's scope of practice?

A: Overwhelmingly, most states' Boards of Dentistry which have addressed this issue state that diagnosis of sleep apnea is outside the scope of practice of a dentist. Most dental boards have also refused to answer whether it is completely within or outside the scope of dentistry to order home sleep tests. For those that suggested it could be considered within the scope of dentistry to order such tests, the response seemed to be individual-specific, meaning it is up to the dentist to decide whether they have the training for ordering such sleep tests.

Of concern, it is absent from almost every state's BOD's regulations whether it could result in disciplinary action for a dentist to order a sleep test without also suggesting such patient follow-up with a physician. It seems that if a dentist cannot *diagnose* sleep apnea, then they also cannot rule it out by ordering a sleep test or constructing an appliance (which is treatment of a diagnosis) without receiving official diagnosis from a physician. Thus, it seems that a dentist ordering a sleep test based on suspicion of sleep apnea should at least suggest the patient to send those results to a physician or someone trained to interpret the results.

See also [Obstructive Sleep Apnea: The Role of Dentists in the Treatment of Snoring and Obstructive Sleep Apnea with Oral Appliances](#), College of Dental Surgeons of BC (Published 2014).

See also [Intraoral Devices for Snoring and/or Obstructive Sleep Apnea – Class II Special Controls Guidance Document for Industry and FDA](#), FDA (issued 2002, current as of 2018).

To see which states license polysomnography professionals, click [here](#).

States that do not address the issues in law or regulations and have no position statement: Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, D.C., Florida, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington.

The remaining states have been summarized below, including some states which do not directly address the issues but which have broad scope of practice laws or other relevant information:

State Summaries

Alabama

It seems clearly outside the scope of dentistry to diagnose sleep apnea. It is less clear whether dentists may order sleep apnea testing or home sleep tests. Dentists and their personnel may fit appliances for sleep apnea and snoring.

The Alabama Board of Dental Examiners has not posted an official position on this issue. The Alabama Dental Practice Act, including the Section regulating Dentists' Scope of Practice (§ 34-9-6) does not address the dentist's role in diagnosing, treating, or assisting in sleep testing or sleep apnea. In early 2020, the Board opined that it was within the scope of practice for a dentist to order/administer a home sleep test but outside the scope to diagnose sleep apnea. However, in February 2021, the Board opined it was outside the scope of practice for dentists to order sleep studies or prescribe CPAPs as a result of interpreting a sleep study.

The regulations do not address whether Dentists may order home sleep apnea tests. The regulations do conceive of dentists and their allied personnel being allowed to make impressions for and insert devices into a patient’s mouth that are used to treat sleep apnea or snoring: [270-x-3-.10\(2\)\(t\),\(w\) Duties of Allied Dental Personnel](#).

Allied dental personnel are dental hygienists, dental assistants and dental laboratory technicians. Subject to the prohibition that no intra-oral procedure can be performed unless **under the direct supervision** of a duly licensed dentist as defined by Board rule, the following allied dental personnel may perform the following:

... (2) **Dental Assistants and Dental Hygienists:** ... (t) Insert into the mouth of the patient dentures, partial dentures, removable orthodontic appliances, prostheses, **devices to treat sleep apnea or anti-snoring devices**, or any other structures and make adjustments outside the mouth of the patient to the dentures, prostheses (fixed or removable), removable orthodontic appliances, prosthetic appliances, bridges, or other structures pursuant to written or verbal instructions or directions from the dentist; provided, however, 1. That before such prostheses (fixed or removable), removable orthodontic appliances, or other structures are delivered to the patient leaving the dental office with such removable orthodontic appliances, prostheses (fixed or removable) or other structures the dentist shall personally consult with the patient, examine such prostheses (fixed or removable), removable orthodontic appliances, or other structures, and make such additional adjustments as may be required; and 2. That final placement and cementation of all fixed appliances, fixed prostheses and other fixed structures shall be performed by the dentist.

(w) **Make final impressions for removable and fixed prostheses, orthodontic appliances, retainers, devices to treat sleep apnea or anti-snoring devices**, and medicament/whitening delivery trays. However, before said impressions may be used for the manufacture of prostheses and appliances, the dentist shall examine and approve such impressions for accuracy.

California

The Medical Board laws and regulations seem to prohibit persons outside the medical professions from treating, diagnosing, and caring for patients with sleep and wake disorders. However, physicians may refer patients with sleep apnea to dentists for treatment if it is the result of a problem with teeth, gums, jaws, and associated structures.

California also requires polysomnographers to register with the Board.

“A registered polysomnographic trainee, technician or technologist is required to work under the supervision of a physician and surgeon who shall remain available, either in person or through telephonic or electronic means, at the time that services are provided. The polysomnographic shall pass a national certifying exam, credentials issued by a national accrediting agency approved by the Board and background check.” Specific requirements are found in Business & Professional Codes §§3575 through 3579.

Georgia

The Georgia Board of Dentistry has specifically answered these questions regarding the relevance of the dental profession in treating, diagnosing, and ordering tests for sleep apnea in its [Adopted Board Policies](#) There are no statutes or regulations in Georgia that authorize dentists to treat sleep apnea or order home tests.

The rule prescribed by the Board is as follows:

Depending upon the diagnosis of the type and severity, one possible treatment option for obstructive apnea is the use of oral appliances. The design, fitting and use of oral appliances and the maintenance of oral health related to the appliance falls within the scope of practice of dentistry. The continuing evaluation of a person’s sleep apnea, the effect of the oral appliance on the apnea, and the need for, and type of, alternative treatment do not fall within the scope of dentistry. Therefore, the prescribing of sleep apnea appliance does not fall within the scope of the practice of dentistry. It is the position of the Board

that a dentist may not order a sleep study. Home sleep studies should only be ordered and interpreted by a licensed physician. Therefore, only under the orders of a physician should a dentist fabricate a sleep apnea appliance for the designated patient and conduct only those tasks permitted under O.C.G.A. Title 43, Chapter 11.

Idaho

Idaho's statutes suggest that dentists shall only be engaged in diagnosis and treatment of diseases with respect to the teeth, gums, alveolar process, jaws, or adjacent tissues of another person. See Idaho's BOD rules [here](#).

54-901. DEFINITION -- PRACTICE OF DENTISTRY. The practice of dentistry is the doing by one (1) person, for a direct or indirect consideration, of one or more of the following **with respect to the teeth, gums, alveolar process, jaws, or adjacent tissues of another person**, namely: Examining for diagnosis, treatment, extraction, repair, replacement, substitution, or correction; Diagnosing of disease, pain, injury, deficiency, deformity or physical condition; Treating, operating, prescribing, extracting, repairing, taking impressions, fitting, replacing, substituting, or correcting; Administering anesthetics or medicaments in connection with any of the foregoing.

Iowa

Neither the Board of Dentistry nor the Board of Medicine mentions sleep apnea.

The BOD specifies that the practice of dentistry includes diagnosis and treatment of conditions or diseases of the oral cavity and maxillofacial area (including associated structures of the jaws and gums) **which methods by education, background experience, and expertise are common to the practice of dentistry.** This suggests that whether dentists are allowed to be engaged in the diagnosis or treatment of sleep apnea (including ordering home tests) may depend on whether it is common for dentists to perform such acts in Iowa and whether their education and training has prepared them for the actions they take.

153.13 "Practice of dentistry" defined.

For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of dentistry: 1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry. 2. Persons who perform examination, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, **which methods by education, background experience, and expertise are common to the practice of dentistry.** 3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this subsection, "tooth whitening" means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

Kansas

Neither the Board of Dentistry nor the Board of Medicine mentions sleep apnea.

However, Kansas offers several branches of dentistry that are engaged in the diagnosis and treatment of the oral and maxillofacial regions and their functions. **Perhaps it can be inferred from these professions that certain dentists in Kansas may diagnose, treat, or order tests for the diagnosis and treatment of sleep apnea.**

71-2-2. Branches of dentistry:

The recognized branches of dentistry for which application may be made for a specialist's certificate shall be the following: dental public health, endodontics, oral and maxillofacial pathology, oral and

maxillofacial radiology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, and prosthodontics. These branches of dentistry shall be defined as follows:

(a) “Dental anesthesiology” means that branch of dentistry dealing with the advanced use of anesthesia, sedation, and pain management to facilitate dental procedures and surgery.

(b) “Dental public health” means that branch of dentistry relating to the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. Dental public health is the form of dental practice that serves the community rather than the individual patients. This branch of dentistry is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

(c) “Endodontics” means that branch of dentistry concerning the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. The study and practice encompass the basic and clinical sciences, including the biology of the normal pulp; the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular conditions.

(d) **“Oral and maxillofacial pathology” means that branch of dentistry concerning the nature, identification, and management of diseases affecting the oral and maxillofacial regions.** This branch is a science that **investigates the causes, processes, and effects of these diseases.** The practice of oral and maxillofacial pathology **includes the research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, and other examinations.**

(e) “Oral and maxillofacial radiology” means that branch of dentistry concerning the production and interpretation of images and data produced by all forms of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region.

(f) **“Oral and maxillofacial surgery” means that branch of dentistry concerning the diagnosis and the surgical and adjunctive treatment of disease, injuries, and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.**

(g) “Orthodontics,” which shall include “dentofacial orthopedics,” means that branch of dentistry concerning the diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orofacial structures.

(h) “Pediatric dentistry” means the branch of dentistry that is the age-defined specialty providing both primary and comprehensive prevention and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

(i) “Periodontics” means that branch of dentistry concerning the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function, and esthetics of these structures and tissues.

(j) “Prosthodontics” means that branch of dentistry concerning the **diagnosis, treatment planning, rehabilitation, and maintenance of the oral function, comfort, appearance, and health of patients with clinical conditions associated with missing or deficient teeth or oral and maxillofacial tissues, or both, using biocompatible substitutes.**

Maine

Maine has a very broadly, written scope of practice rule. The response of the Maine Board of Dental Practice indicates that the scope of practice of dentistry is somewhat individual-specific.

§ 18371. Dentist. Scope of Practice:

A dentist, faculty dentist, limited dentist or resident dentist may:

A. Perform a dental operation or oral surgery or dental service of **any** kind...;

B. Obtain impressions of a human tooth, teeth or jaws and perform a phase of an operation incident to the replacement of a part of a tooth;

C. Supply artificial substitutes for the natural teeth and furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, **appliance or any other structure to be worn in the human mouth;**

D. Place dental appliances or structures in the human mouth and adjust or attempt or profess to adjust the same;
E. Furnish, supply, construct, reproduce or repair or profess to the public to furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth;
F. **Diagnose or profess to diagnose, prescribe for and treat or profess to prescribe for and treat disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure; ...**

Massachusetts

The Board here stated that it is a *standard of care* question, rather than a *regulatory* issue. In other words, so long as dentists are appropriately qualified, the Board appears to conceive that it may be okay for some dentists to order home sleep tests but should know when the role of a physician is more appropriate.

Michigan

Michigan statutes require dentists to refer patients to other professionals when the services needed by a patient exceed the scope of dental practice. § 333.16657.

§ 333.16601:

...(d) "Practice of dentistry" means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts....

Mississippi

The Board believes that dentists are authorized to order overnight pulse oximetry to *determine the potential presence of sleep apnea*.

Mississippi allows for dentists to obtain specialty licenses in Oral and Maxillofacial Pathology, Oral and Maxillofacial Surgery, and Prosthodontics under [Board Rule 1.7](#).

§ 73-9-3--"DENTISTRY" DEFINED:

"Dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body; provided by a dentist, within the scope of his or her education, training and experience, in accordance with the ethics of the profession and applicable law...

New Mexico

The AADSM chart does not address New Mexico, perhaps because New Mexico has adopted AADSM guidelines in their rules as included below:

16.5.14.9 GUIDELINES FOR DENTISTS TREATING SLEEP-RELATED BREATHING DISORDERS:

A. Dentists treating patients that have been diagnosed by a physician with sleep-related breathing disorders, including, but not limited to, primary snoring, upper airway resistance syndrome or obstructive sleep apnea are to follow these guidelines published by the American dental association, the American academy of dental sleep medicine and American academy of sleep medicine.

(1) the role of dentistry in the treatment of sleep-related breathing disorders” (American dental association).

(2) “dental sleep medicine standards for screening, treating and managing adults with sleep-related breathing disorders” (American academy of dental sleep medicine).

(3) “clinical practice guideline for the treatment of obstructive sleep apnea and snoring with oral appliance therapy: an update for 2015” (Joint statement, American academy of sleep medicine and American academy of dental sleep medicine).

B. Dentists cannot diagnose sleep related breathing disorders, but are a vital partner in treating these conditions in collaboration with medical colleagues.

North Carolina

The North Carolina BOD considers it within the scope of dentistry to fabricate and delivery sleep apnea appliances but makes no mention about diagnosis of sleep apnea or ordering of tests.

However, the Board has responded that diagnosis is beyond the scope of dentistry and that dentists may perform “initial or preliminary screening for OSA” but then must make referrals to other appropriate medical providers.

21 NCAC 16G .0103 PROCEDURES PROHIBITED

Those procedures that require the professional education and skill of a dentist and shall not be delegated to a dental hygienist include: ... (24) fabricating or delivering sleep apnea appliance;...

Ohio

The Ohio State Dental Board has published a [position statement](#), prohibiting dentists from ordering home sleep tests.

Oregon

Oregon has laws allowing for the practice of polysomnography under the direction of a qualified medical director, who must be a physician and have special knowledge in the diagnosis and treatment of sleep disorders. [ORD 688.800](#).

Pennsylvania

Penn Medicine specifically states that for CPAP machines, “A Penn sleep medicine physician will determine the amount of air pressure used for each patient’s individual needs,” and that for oral appliance therapy, “A Penn maxillofacial specialist will fit patients with their oral appliance.”

The Penn Sleep Apnea Program is part of the Penn Sleep Center where physician's work to treat patients with mild, moderate and severe sleep apnea. Experts across multiple disciplines work together to create treatment plans that can include sleep medicine treatment and surgical approaches. These experts include:

- Pulmonologists
- Otorhinolaryngologists
- Oral and maxillofacial surgeons
- Head and neck surgeons

South Dakota

South Dakota has answered this question in an advisory opinion:

Whether it is within the scope of practice for a dentist to be able to order a sleep study, diagnose sleep apnea, or treat sleep apnea pursuant to a diagnosis by a medical doctor.

It is the opinion of the Board of Dentistry (“Board”) that it is within the scope of a dentist to order a sleep apnea study. Pursuant to a diagnosis of sleep apnea by a medical doctor, a dentist may provide dental services in addressing a diagnosis of sleep apnea if it is within the scope of the dentist’s relevant education, training and experience. SDCL § 36-6A-32.4.

This [advisory opinion](#) was rendered by the Board upon submission of a written request. Although advisory opinions are not judicially reviewable and do not have the force and effect of law, they do serve as a guideline for dentists who wish to engage in safe dental practices. This advisory opinion was adopted at the meeting of the South Dakota Board of Dentistry on June 17, 2016.

Texas

It is clearly within the scope of dentistry to fabricate oral appliances for treatment of OSA, but only in collaboration with a physician.

22 Tex. Admin. Code § 108.12:

- (a) A dentist shall not independently diagnose obstructive sleep apnea (OSA). A dentist may fabricate an oral appliance for treatment of OSA only in collaboration with a licensed physician. A dentist shall be responsible for monitoring and maintaining the oral appliance to ensure the patient's dental health, while the physician should be responsible for monitoring the patient's medical condition.
- (b) A dentist who treats OSA, as described above, shall complete, during the first year of treating OSA, 12 hours of minimum basic education in sleep-disordered breathing from an educational venue (a combination of didactic and clinical education). For each subsequent year that a dentist treats OSA, the dentist shall complete 3 hours of education in sleep-disordered breathing.
- (c) A dentist treating a patient for OSA shall comply with the Dental Practice Act and Board Rules, including but not limited to provisions related to fair dealing, standard of care, records, and business promotion.
- (d) A dentist shall maintain records as required by the Dental Practice Act and Board Rules including, but not limited to records related to treatment planning, recommendations and options, informed consent, consultations and recommended referrals, and post treatment recommendations.

22 Tex. Admin. Code § 108.12

The provisions of this §108.12 adopted to be effective June 11, 2014, 39 TexReg 4428; Amended by Texas Register, Volume 41, Number 31, July 29, 2016, TexReg 5547, eff. August 7, 2016

Vermont

In 2018, Vermont State Dental Society held a [continuing education course](#) for dentists for 6 CEUs on the screening and treatment of obstructive sleep apnea. Thus, dentists in Vermont may reasonably believe it is within the scope of dental practice for them to treat and screen OSA. One of the learning objectives included “how to interpret a polysomnogram.” The unofficial [minutes](#) of the Board of Dental Examiners’ March 11, 2020 meeting approved a motion for Attorney Gilman to draft a response to the questions posed by AADSM.

West Virginia

The West Virginia Board of Dentistry, in 2016, punished a dentist for malpractice related the dentist’s diagnosing and treating a patient with OSA. The Board, in part of its final [Order](#), stated, “In the event the Respondent wishes to resume the practice of diagnosing and treating sleep apnea of any form or degree, the Respondent shall enroll in and successfully...”

Use of a Scaler by DAs by State

<u>State</u>	<u>Allowable use of a scaler to remove cement</u>	<u>Non-Allowable Use of a scaler to remove cement</u>	<u>Levels of DA's</u>	<u>Notes</u>
DC	unknown- can remove cement but does not state if use of a scaler is allowable.		Level I DA (no additional training) and Level II DA (additional training)	<ul style="list-style-type: none"> Level 1 and Level 2 DA can remove excess cement from around orthodontic bands under direct supervision of an orthodontist. Does not specify what instrument can be utilized to remove the cement. Level 2 DA can removed excess and permanent cement from a crown under direct supervision. Does not specify what instrument can be utilized to remove the cement.
Kentucky		Does not allow dental assistants to remove cement with any instrument	Dental Auxiliary (no additional education), Registered Dental Assistant (additional education), Registered Dental Assistant qualified in coronal Polishing (additional education), Registered Dental Assistant in IV Placement (additional education)	
Maryland	unknown- can remove cement but does not state if use of a scaler is allowable.		DA's (no additional education), DA's in General Duties (additional education, and DA's in Orthodontics (additional education)	<ul style="list-style-type: none"> DA in general duties can remove permanent cement from crown, under direct supervision, but does not specify the use of what type of instrument to remove the cement. DA in Qualified Orthodontics can remove excess cement around orthodontic bands under direct supervision but does not specify instrument can be utilized to remove the cement.
North Carolina	DA II's can remove cement with the use of a scaler supragingivally, under direct control or supervision.		DA1 (no additional education), DA II in training (receiving education), DA II (additional education)	
Pennsylvania		Does not allow dental assistants to remove cement with any instrument	Dental Assistant (not additional education), Expanded Function Dental Assistant (Additional Education)	
South Carolina	unknown- can remove cement but does not state if use of a scaler is allowable.		Dental Assistant (no additional education), Expanded Duty Dental Assistant (additional education)	An EDDA can remove permanent cement from supragingival surfaces but does not specify the use of what type of instrument to remove the cement.
Tennessee	Practical DAs and Registered DAs to perform expanded duties are allowed to remove cement excess from supragingival surface of teeth by hand instruments only, under direct supervision.		Practical Dental Assistant (receiving training and education), Registered Dental Assistant (no additional education), Registered Dental Assistant to perform expanded duties (additional education)	The regulations do not define "hand instruments".
West Virginia		Dental Assistants can removing excess cement from coronal surfaces of teeth without the use of rotating, power-driven or <u>scaling instruments</u> , under direct supervision.	Dental Assistant (No additional Education), Dental Assistant Qualified in Expanded Duties (additional education), <i>Qualified Monitor</i> (Sedation and additional education)	

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

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

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

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

Virginia Board of Dentistry Sedation Permits

Applicants for Permit

- Applicants must complete an application for permit in either moderate or deep sedation/general anesthesia. Applicants for a permit for the administration of sedation and anesthesia shall identify every location that the applicant will be administering sedation and anesthesia.
- The permit holder shall notify the Board within 30 days of any changes in address of facilities or any additional facilities to be added to the permit (please note that a pre-permit inspection shall occur if there are any additional facilities that were not pre-inspected).
- Once the application is deemed complete, an employee of the Department of Health Professions (inspector) will conduct an announced inspection(s) at all applicable locations.

Pre-permit Inspection

- An employee of the Department of Health Professions (inspector) will conduct an announced inspection, at all applicable locations, to review compliance with required sedation equipment 18VAC60-21-291 (B) and 18VAC60-21-301 (C); appropriate training of staff 18VAC60-21-260.H (2), 18VAC60-21-260 (I), 18VAC60-21-260 (J), 18VAC60-21-290 (D) (E), 18VAC60-25-100, and 18VAC60-21-300 (C); physical plant requirements 18VAC60-21-60.A (1); and drug control act requirements §54.1-3404.
- If an applicant is compliant with all applicable regulations, then the applicant will receive a permit. However, if the applicant is found to be in non-compliance with applicable regulations, then the applicant will receive a report listing the non-compliance. Depending upon the non-compliance, the applicant will be required to submit evidence of the correction or another announced inspection will be scheduled. When the applicant is in compliance, the applicant will receive a permit.

Periodic Office Inspection for Administration of Sedation and Anesthesia

- Periodic Office Inspections will be announced if there was no previous disciplinary action taken by the Board. The announcement of the inspection will occur approximately 5 business days or less prior to the inspection.
- Periodic Office Inspections that are unannounced will occur if there was previous disciplinary action taken by the Board.
- The permit holder will receive a copy of their onsite inspection report with listed deficiencies at the time of inspection. The permit holder shall correct and provide proof of correction of those deficiencies to the inspector within 15 business days. The inspector may grant an extension, for up to an additional 10 business days.

Recordkeeping

- The permit holder shall comply with all applicable regulations regarding sedation recordkeeping (18VAC-21-260 (C) (D) (K), 18VAC60-21-291(D) (E) 18VAC60-21-301 (E) (G)).
- The permit holder shall document within the patient record the intended level of sedation for each patient and each procedure.

OMS Requirements

- The requirement for a sedation permit shall not apply to an oral and maxillofacial surgeon (OMS) who maintains membership in AAOMS and who provides the board with reports that result from the periodic office examinations required by AAOMS (18VAC60-21-300 (A)).

- An OMS shall hold a sedation permit if not a member of AAOMS. If the OMS holds a sedation permit and then becomes a member of AAOMS, the OMS shall notify the Board within 30 days of becoming a member of AAOMS.
- An OMS, that is a member of AAOMS, shall submit AAOMS office examination reports to the Board within 30 days of receipt.

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