Virginia Department of Health Professions

AGENDA
SEPTEMBER 13, 2019
BOARD ROOM 4

Meeting of the Board of Dentistry

Perimeter Center, 9960 Mayland Drive, Second Floor, Henrico, VA 23233

ANNOUNCEMENT REGARDING PUBLIC COMMENT

The **NOIRA*** public comment period for each of the following regulatory actions is closed:

- Administration of sedation anesthesia
- Use of Dental Specialties
- Education and training of dental assistants II

The Board cannot accept comments on these actions at this meeting.

There will be another public comment period during the **Proposed**** stage on each of these regulatory actions. The comment period will be posted on the Regulatory Town Hall and sent to the Board's Public Participation List.

The Comment period on Changing the Renewal Schedule to Birth months opens on September 16, 2019 and closes on November 15, 2019. A Public Hearing on this action will be held on October 18, 2019.

Standard Three Stage Process

1. **Notice of Intended Regulatory Action (NOIRA):** The public receives notification that a regulatory change is being considered, along with a description of the changes being considered. Once this stage is published in *The Virginia Register of Regulations* and appears on the Town Hall, there is at least a 30-day period during which the agency receives comments from the public. The agency reviews these comments as it develops the proposed regulation.

2. **Proposed:** The public is provided with the full text of the regulation, a statement explaining the substance of the regulatory action, and an Economic Impact Analysis (EIA) prepared by the Department of Planning and Budget. Once the proposed stage is published in *The Virginia Register of Regulations* and appears on the Town Hall, there is at least a 60-day public comment period. Based on the comments received, the agency may modify the proposed text of the regulation. The agency also provides a summary of comments that have been received during the NOIRA period, and the agency's response.

3. **Final:** The public is provided with the full text of the regulation, this time with an explanation of any changes made to the text of the regulation since the proposed stage. Once the final stage is published *The Virginia Register of Regulations* and appears on the Town Hall, there is a 30-day final adoption period.

Unapproved

VIRGINIA BOARD OF DENTISTRY
MINUTES
June 21, 2019

TIME AND PLACE:	The meeting of the Board of Dentistry was called to order at 9:01 a.m. on June 21, 2019, at the Department of Health Professions, 9960 Mayland Drive, Suite 201, Board Room 4, Henrico, Virginia 23233.
PRESIDING:	Tonya A. Parris-Wilkins, D.D.S., President
BOARD MEMBERS PRESENT:	Augustus A. Petticolas, Jr., D.D.S., Vice President Sandra J. Catchings, Secretary Patricia B. Bonwell, R.D.H., PhD Nathaniel C. Bryant, D.D.S. Jamiah Dawson, D.D.S. Tammy C. Ridout, R.D.H. James D. Watkins, D.D.S.
BOARD MEMBERS ABSENT:	Perry E. Jones, D.D.S. Carol R. Russek, J.D.
STAFF PRESENT:	Sandra K. Reen, Executive Director of the Board David Brown, D.C., DHP Director Barbara Allison-Bryan, M.D., DHP Chief Deputy Director Donna Lee, Discipline Case Manager Deborah Southall, Discipline Case Manager Tracey Arrington-Edmonds, Licensing Manager
COUNSEL PRESENT:	James E. Rutkowski, Assistant Attorney General
ESTABLISHMENT OFA QUORUM:	With eight members of the Board present, a quorum was established.
	Ms. Reen read the emergency evacuation procedures.
PUBLIC COMMENT:	Dr. Parris-Wilkins explained the parameters for public comment and opened the public comment period. Hearing none, she stated that written comment was received from Dr. Zapatero regarding the operation of SmileDirectClub in Virginia.
APPROVAL OF MINUTES:	Dr. Parris-Wilkins asked if there were corrections to any of the posted minutes. Dr. Petticolas moved to approve the following minutes as published: March 14, 2019; March 15, 2019; March 25, 2019; and April 18, 2019. The motion was seconded and passed.

DIRECTOR'S REPORT: Dr. Brown informed the Board about the following:

- The Department of Health Profession's (DHP) website has a new look that is more user friendly for applicants, licensees and the public. He added that the new format will be expanded to all the boards' webpages.
- DHP will be convening two legislatively mandated workgroups this summer addressing: (1) the practice of telemedicine and (2) barriers to licensure in Virginia for foreign-trained medical doctors.
- The Virginia Board of Pharmacy is now regulating five pharmaceutical processors who will be producing and dispensing Cannabidiol (CBD) and THC-A oil by the end of the year.

2019 WORKFORCE REPORT: Yetty Shobo, Deputy Executive Director, Board of Health Professions and the Healthcare Workforce Data Center, gave a presentation on the latest workforce data on dentists and dental hygienists licensed in Virginia, and answered questions about the statistical data.

Ms. Shobo noted that a dental hygiene survey question asked about working under remote supervision and 974 hygienists responded they worked under remote supervision at their primary work location. She suggested that the hygienists misunderstood the term because the number of positive responses appears to be too high given the limited practice locations for this level of supervision.

Following discussion, the Board agreed by consensus to add the definition of remote supervision and the practice locations set out in the Code of Virginia to the 2020 survey.

SANCTION REFERENCE POINTS: Dr. Parris-Wilkins stated that Neal Kauder, President of Visual Research, Inc., made a presentation at the Board's March meeting regarding the proposed SRP manual that included reducing the number of worksheets from three to one. She said the new worksheet was discussed by an Ad-Hoc Committee and Ms. Reen was asked to address the proposed decline in agreement rate with Visual Research.

Dr. Parris-Wilkins asked Mr. Kauder to address the proposed worksheet. Mr. Kauder reviewed an agreement rate analysis chart which shows over time that the rate of agreement with the three worksheets declined significantly. He explained that the proposed worksheet addresses the three case types and lists the factors that add points to the score.

Following discussion, Dr. Petticolas moved to adopt the proposed SRP worksheet as presented. The motion was seconded and passed.

Dr. Kauder then asked which of the three monetary penalty options he should use in the updated SRP manual. Dr. Watkins moved to adopt the option that shows 68% accuracy with the new worksheet. The motion was seconded and passed.

LIAISON/COMMITTEE REPORTS:

South Regional Testing Agency (SRTA). Dr. Watkins stated that SRTA is still working on the merger with CITA. He noted that all the 2020 exams were scheduled by CITA and former SRTA examiners are doing the CITA exams. He recommended that the Board decide at its September meeting if it wants to be a member of CITA because the last annual meeting of SRTA will be held in August 2019.

Board of Health Professions (BHP). Dr. Watkins did not attend the last meeting in May; therefore, he did not have a report.

Regulatory-Legislative Committee Meeting. Dr. Petticolas stated that the Committee met on May 17, 2019 and the draft minutes are in the agenda packet.

ADEX. Dr. Bryant stated that the meeting will be held in August 2019.

JCNDE. Dr. Bryant stated that the meeting will be held June 26, 2019.

BOARD DISCUSSION/ ACTION:

Dental Interstate Licensing Compact. Dr. Parris-Wilkins reported that the Council of State Governments (CSG) is currently exploring funding for a dental licensure compact so any further work will be pending funding.

Silver Diamine Fluoride. Dr. Parris-Wilkins stated she attended a continuing education course and was asked about whether or not Virginia has special language or guidance for Silver Diamine Fluoride. Following discussion, the Board agreed by consensus that current regulatory language should apply and no action was necessary.

Adoption of 2020 Board Meeting Calendar. Dr. Parris-Wilkins asked if there were any requests for changes to the calendar. Mr. Rutkowski noted a conflict with the March 13, 2020 Board meeting and agreed to see if another assistant attorney general could substitute for him. Dr. Petticolas moved to adopt the 2020 Board Meeting Calendar as presented. The motion was seconded and passed.

EXECUTIVE DIRECTOR'S REPORT/ BUSINESS:

Regulatory Actions. Ms. Reen reported that the following proposed regulations are currently under review by the Secretary of Health and Human Resources:

- amendment to restriction on advertising dental specialties;
- amendment to the administration of sedation and anesthesia; and
- education and training for Dental Assistants II.

She added that the proposed regulation for changing the renewal schedule is at the Governor's Office and the proposed regulation for acceptable clinical examination content is under review at the Department of Planning and Budget.

Protocols for Remote Supervision. Ms. Reen reviewed the amendments to §54.1-2722 of the Code of Virginia and presented the protocols submitted by the Virginia Department of Health (VDH) and Department of Behavioral Health and Developmental Services (DBHDS) addressing practice by hygienists under remote supervisions in these agencies. She explained that the Board needs to adopt the protocols and amend section18VAC60-25-40 of the Regulations Governing the Practice of Dental Hygiene as an emergency action to comply with the Code amendments.
Dr. Bonwell moved to adopt the amendment to 18VAC60-25-40 as an emergency regulation. The motion was seconded and passed.
Dr. Petticolas moved to adopt the protocols from VDH and DBHDS for the practice by remote supervision for dental hygienists employed by VDH and DBHDS. The motion was seconded and passed.

Technical Correction to Fees; Renewal & Reinstatement. Ms. Reen explained section 18VAC60-21-40 in the Dentistry regulations needs to be amended to restore fee types, which were inadvertently omitted when Chapter 21 was adopted. In addition, amendments are proposed to reduce the fee for reactivation of an inactive license/registration and to establish the renewal date for mobile clinics or portable dental operations. Dr. Petticolas moved to adopt the proposed amendments to 18VAC60-21-40, 18VAC60-21-220 and 18VAC60-21-240 of the Regulations Governing the Practice of Dentistry. The motion was seconded and passed.

Exempt Regulations. Ms. Reen reviewed the adoption of two exempt actions needed to implement new laws. She reviewed the proposed regulatory provisions for restricted volunteer practice, and for the administration of drugs by dental hygienists under remote supervision which are required to conform to changes being made in the Code of Virginia. Dr. Dawson moved to adopt the

amendments to Chapter 21 as it relates to restricted volunteer practice and to Chapter 25 as it relates to the administration of topical drugs by dental hygienists under remote supervision. The motion was seconded and passed.

DISCIPLINARY ACTIVITY REPORT:

Ms. Reen provided an overview of the disciplinary activity report. She also sought the Board's advice on how to handle sanctioning for licensees practicing with an expired license, and stated that currently Guidance Document 60-6 is used to address the issue. Following discussion, Dr. Petticolas moved to withdraw Guidance Document 60-6 and requested that staff propose other options to monitor licensees practicing with an expired license, and present them to the Board for consideration. The motion was seconded and passed.

REVENUE, EXPENDITURES, CASH BALANCE ANALYSIS:

Ms. Reen reviewed Dentistry's Analysis which recommends a one-time reduction in renewal fees and said the needed reduction is already being addressed in the regulatory action to change renewals to birth months.

DUPLICATE WALL CERTIFICATE:

Ms. Reen reported that "duplicate" wall certificates show the names of the members serving on the Board when the duplicate is requested. She asked if outgoing members should have the choice of a new certificate or the traditional wooden plaque as their recognition for service on the Board. She added a member can purchase a wall certificate at any time. By consensus, the Board agreed to give each member the choice of a new wall certificate or a plaque at the end of their term on the Board.

BOARD PARTICIPATION WITH AADB:

Ms. Reen said a decision on participation was deferred to this meeting. She reported the elected president was dismissed from the presidency and the president-elect was elevated to the president of AADB by its Board of Directors. She asked if it is worthwhile to send Board members and staff to the annual meeting being held in October. During discussion, Ms. Reen said usually she and two Board members attend the meeting and have voting privileges. Following discussion, Dr. Petticolas moved that the Board send the usual representation to the AADB meeting in October. The motion was seconded and passed.

NEW BOARD STAFF INTRODUCTIONS:

Ms. Reen introduced and welcomed Deborah Southall, Discipline Case Manager, and Tracey Arrington-Edmonds, Licensing Manager, to the Board's staff.

BOARD MEMBER CONCERNS:

Dr. Bryant expressed concern that there are no sanction guidelines for applicants and Board members to follow in addressing reinstatement applications. Mr. Rutkowski advised against creating

any guidelines which would obligate future Board members to follow in deciding a case when each case should be decided on its own. He added that the findings of fact and conclusions of law in an order gives an applicant guidance on why reinstatement was not granted.

Dr. Bryant asked why testing agencies cannot compensate a Board member who serves as an examiner. Mr. Rutkowski responded that compensation beyond actual expenses would violate the Conflict of Interest law.

ADJOURNMENT: With all business concluded, the meeting was adjourned at 12:02 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 – TELEPHONE CONFERENCE CALL

CALL TO ORDER: The meeting of the Board of Dentistry was called to order at 10:39 a.m., on August 9, 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:
Sandra J. Catchings, D.D.S.
Jamiah Dawson, D.D.S.
Augustus A. Petticolas, Jr., D.D.S.
Tammy C. Ridout, R.D.H.
Carol R. Russek, J.D.
James D. Watkins, D.D.S.

MEMBERS ABSENT:
Patricia B. Bonwell, R.D.H., PhD
Nathaniel C. Bryant, D.D.S.
Perry E. Jones, D.D.S.

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

STAFF PRESENT:
Sandra K. Reen, Executive Director
Tracey Arrington-Edmonds, Licensing Manager

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

James O. Glaser, D.D.S.
Case No.: 192266

The Board received information from Ms. Bennett in order to determine if Dr. Glaser's 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. 192266. Additionally, Dr. Petticolas moved that Ms. Reen, Ms. Arrington-Edmonds, 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: Dr. Petticolas moved that the Board summarily suspend Dr. Glaser'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/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 11:30 a.m.

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

Sandra K. Reen, Executive Director

Date

Date

Sanctioning Reference Points Instruction Manual

Board of Dentistry

Guidance Document 60-2
Adopted October 2005
Revised September 2012
Revised December 2015
Revised September 2019

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Table of Contents

General Information

Overview & Background

The Virginia Board of Health Professions has spent the last 15 years studying sanctioning in disciplinary cases. This ongoing effort examines all 13 health regulatory boards. Focusing on the Board of Dentistry (BOD), this manual contains background on the project, the goals and purposes of the Sanctioning Reference Points (SRP) system, and a revised worksheet with offense and respondent factors that are scored in order to help Board members determine how similarly situated respondents have been treated in the past.

This SRP system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Virginia Board of Dentistry. Moreover, the worksheet and sanctioning thresholds have not been tested or validated on any other groups of persons. Therefore, they should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The current SRP system is comprised of a single worksheet which scores case type and a number of offense and respondent factors identified using quantitative and qualitative analyses and built upon the Department's effort to maintain consistency in sanctioning over time. Although the original Dentistry SRP Manual was adopted in October 2005, the information and guidance in this manual is based on a more recent set of disciplinary cases, those sanctioned from 2017-2018. The ability to reanalyze more recent disciplinary violations keeps the SRP system more accurate and reflective of current board sanctioning practices.

Goals

The Board of Health Professions and the Board of Dentistry cite the following purposes and goals for establishing Sanctioning Reference Points:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for the Board and those involved in proceedings
- Neutralizing sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Constraining the influence of undesirable factors—e.g., Board member ID, overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for probation services and terms

Methodology

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive approach). A normative approach reflects what policymakers feel sanction recommendations should be, as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments. This approach combines information from past practice with policy adjustments, in order to ensure and maintain a system that better reflects current sanctioning practice. The SRP manual adopted in 2005 was based on a descriptive approach with a limited number of normative adjustments. This study was conducted in a similar manner; however, it draws on data covering a more recent historical time period (2017-2018) and relies on the full Board's input to inform SRP system modifications. For example, after viewing available data and options, the board integrated ranges for monetary penalties into the sanctioning recommendation thresholds on the SRP worksheet.

Qualitative Analysis

Whenever SRP worksheet changes are considered, researchers conduct in-depth personal interviews with board members and staff. Researchers also consult with representatives from the Attorney General's office, DHP's enforcement staff, and the Executive Director of BHP as needed. The interview results help to build consensus regarding the purpose and utility of SRPs and help to further guide the SRP data analysis. Additionally, interviews help ensure that factors board members consider when sanctioning are included during the quantitative phase of the study. In addition, factors scored on previous worksheets are always examined for their continued relevance and degree of sanctioning influence. The dynamic nature and basic framework of the SRP system infers that some factors will be excluded, changed, or replaced with new factors or scores that are more relevant to the current sanctioning practices of the board.

Quantitative Analysis

In 2005, researchers collected detailed information on all BOD disciplinary cases ending in a violation between 1996 and 2004; nine years of sanctioning data. Over 100 different factors were collected on each case in order to describe the case attributes board members identified as potentially impacting sanction decisions. Researchers used data available through the DHP's case management system combined with primary data collected from case files. The case files contained investigative reports, board notices, board orders, and all other documentation that is made available to board members when deciding a case sanction.

A comprehensive database was created to analyze the factors that were identified as potentially influencing sanctioning decisions. Using statistical analysis to construct a "historical portrait" of past sanctioning decisions, the relevant factors along with their relative weights were derived. Those factors and weights were formulated into a sanctioning worksheet, which became the SRPs. The current worksheet represents a revised analysis to update the worksheet factors and scores in order to represent the most current sanctioning practice.

Offense and respondent factors such as respondent impairment at the time of the incident, patient injury, financial or material gain, prior board violations, and past substance abuse are scored. Although many factors, both "legal" and "extra-legal," may explain sanction variation, only those "legal" factors the Board felt should consistently play a role in a sanctioning decision are included on the final worksheet. By using this system, the hope is to achieve more neutrality in sanctioning by making sure the same set of "legal" factors are considered in every case.

Wide Sanctioning Ranges

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Boards with a sanctioning model that encompasses roughly 71% of historical practice. This means that approximately 29% of past cases receive sanctions either higher or lower than what the reference points indicate. This is an important feature of the system, as it recognizes that aggravating and mitigating factors play a legitimate role in sanctioning. The wide sanctioning ranges allow the Board to individualize sanctions within the broader SRP recommended range to fit the circumstances of each unique case.

Voluntary Nature

The SRP system should be viewed as a decision-aid to be used by the Board of Dentistry. Sanctioning within the SRP ranges is totally voluntary, meaning that the system is viewed strictly as a tool and the Board may choose any sanction outside the recommendation.

It should be noted that the instructions and the use of the SRP system fall within current DHP and BOD policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Board and are specified within existing Virginia statutes. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or regulations supersede any worksheet recommendation.

The Board maintains complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Board is not provided with the appropriate coversheet and worksheet in every case eligible for scoring. A coversheet and worksheet are to be completed in cases resolved by Informal Conferences and may be completed for Pre-Hearing Consent Orders. The coversheet and worksheet will be referenced by Board members during Closed Session after a violation has been determined.

Worksheets Not Used In Certain Cases

The SRPs will not be applied in any of the following circumstances:

Formal Hearings — SRPs will not be used in cases that reach a Formal Hearing level.

Mandatory Suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the licensee must be suspended. The sanction is defined by law and is therefore excluded from the SRPs system.

Compliance/Reinstatements – The SRPs should be applied to new cases only.

Action by another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Board of Dentistry, the Board often attempts to mirror the sanction handed down by the other Board. The Virginia Board of Dentistry usually requires that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply as the case has already been heard and adjudicated by another Board.

Confidential Consent Agreements (CCAs) – CCAs may be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner, §54.1-2400 (14). SRPs will not be used in cases settled by CCA.

Certain Pre-Defined Sanctions – The Sanctioning Reference Points system does not apply to certain cases that have already been assigned pre-determined actions as set by the health regulatory board. The Board of Dentistry has adopted Guidance Documents in the areas of:

- Auditing Continuing Education and Sanctioning for Failure to Meet the Requirements (Guidance document 60-5)
- Sanctioning for Practicing with an Expired License (Guidance document 60-6)
- Sanctioning for Failure to Comply with Advertising Guidelines (Guidance document 60-10)
- Sanctioning for Failure to report to the Prescription Monitoring Program (Guidance document 60-21)
- Sanctioning for Failure to Comply with Insurance and Billing Practices (Guidance document 60-22)

Case Selection When Multiple Cases Exist

When multiple cases have been combined into one "event" (one order) for disposition by the Board, only one coversheet and worksheet should be completed and it should encompass the entire event. If a case (or set of cases) has more than one case type, only one case type is selected for scoring according to the offense group which appears highest on the following table. For example, a respondent found in violation for Practicing Beyond the Scope and Improper Treatment would receive 30 points, since Standard of Care is above Business Practice Issues in the Case Type Group column and receives more points. If an offense type is not listed, the most analogous offense type is used.

Sanctioning Reference Points Case Type Table

Case Type Group	Included Case Categories	Applicable Points
Inability to Safely Practice	• Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions	50
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)	30
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	20

Completing the Coversheet and Worksheet

Ultimately, it is the responsibility of the Board to complete the SRP coversheet and worksheet in all applicable cases. The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the board and the respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. Additionally, the manual, including the blank coversheet and worksheet, can be found on the Department of Health Professions web site: www.dhp.virginia.gov (paper copy also available on request).

Scoring Factor Instructions

To ensure accurate scoring, instructions are provided for scoring each factor on the SRP worksheet. When scoring a worksheet, the numeric values assigned to a factor on the worksheet *cannot be adjusted*. The scores can only be applied as 'yes or no'- with all or none of the points applied. In instances where a scoring factor is difficult to interpret, the Board members have final say in how a case is scored.

Using Sanctioning Thresholds to Determine a Specific Sanction

The Board of Dentistry worksheet has four scoring thresholds with increasing point values and respectively increasing sanction severities. The table here shows the historically used sanctions for each threshold. The column to the left, "Worksheet Score," contains the threshold scores located at the bottom of the worksheet. The column to the right, "Available Sanctions," shows the specific sanction types that each threshold level covers. After considering the sanction recommendation, the Board may fashion a more detailed sanction(s) based on individual case circumstances.

Sanctioning Reference Points Threshold Table

Worksheet Score	Available Sanctions
0 - 40	• No Sanction
41 - 99	• Monetary Penalty • Continuing Education (CE)
100 - 150	• Reprimand

151 or more	• Probation
	• The following terms:
	  ◦ cease and desist
	  ◦ quarterly self-reports
	  ◦ HPMP
	  ◦ oversight by supervisor/monitor
	  ◦ chart/record review
	  ◦ prescribing restrictions
	  ◦ practice restriction
	  ◦ mental/physical evaluation
	  ◦ prescribing log
	  ◦ audit/inspection of practice
	  ◦ quarterly job performance evaluations
	• Stayed Suspension
	• Revocation
	• Suspension
	• Surrender
	• Refer to Formal Hearing

Sanctioning Reference Points

Coversheet, Worksheet, & Instructions

SRP Coversheet for the Board of Dentistry

Adopted September 2019

Case Number(s): | | | | | | | | | | | | | | | | | | |

Respondent Name: _____ First _____ Last

License Number: _____

Case Type:
___ Inability to Safely Practice
___ Standard of Care
___ Business Practice Issues

Sanctioning Recommendation:
___ No Sanction
___ Monetary Penalty/Continuing Education
___ Reprimand
___ Probation/Loss of License/Refer to Formal

Imposed Sanction(s):
___ No Sanction
___ Reprimand
___ Monetary Penalty: $_____ enter amount
___ Probation: _____ duration in months
___ Stayed Suspension: _____ duration in months
___ Refer to Formal
___ Accept Surrender
___ Revocation
___ Suspension
___ Other sanction: _____
___ Terms: _____

Was imposed sanction a departure from the recommendation? ___No ___Yes, give reason below

Reasons for Departure from Sanction Grid Result (if applicable): _____

_____

_____

Worksheet Preparer's Name: _____

Date Worksheet Completed: _____

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

SRP Worksheet for the Board of Dentistry

Adopted September 2019

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	N/A
41 - 99	Monetary Penalty/Continuing Education	$0 - $2,000
100 - 150	Reprimand	$2,000 - $3,000
151 or more	Probation/Loss of License/Refer to Form	$3,000 or more

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

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 – 50 Points
- Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions

Standard of Care – 30 Points
- 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 – 20 Points
- 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 type group (see pg. 7).

Step 4: Sanction Recommendation – The Total Worksheet Score corresponds to the sanctioning recommendations located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the middle column and the recommended monetary penalty in the right column. For instance, a Total Worksheet Score of 70 is recommended for "Monetary Penalty/Continuing Education."

Step 5: Coversheet – Complete the coversheet including the SRP sanction threshold result, the imposed sanction, and the reasons for departure if applicable.

UNAPPROVED - DRAFT

BOARD OF DENTISTRY
MINUTES of the NOMINATING COMMITTEE MEETING

Friday, June 21, 2019

Perimeter Center
9960 Mayland Drive, Suite 200
Richmond, VA 23233
Board Room 4

CALL TO ORDER:	The meeting was called to order at 1:30 p.m.
PRESIDING:	Tonya Parris-Wilkins, D.D.S., Chair
MEMBER PRESENT:	James D. Watkins, D.D.S.
MEMBER ABSENT:	Carol Russek, J.D.
STAFF PRESENT:	Sandra K. Reen, Executive Director for the Board
QUORUM:	With two members present, a quorum was established.
NOMINATIONS:	The Committee discussed possible candidates and agreed by consensus to nominate Dr. Petticolas for president, Dr. Catchings for vice-president and Dr. Bryant for secretary-treasurer.
ADJOURNMENT:	With all business concluded, the Committee adjourned at 1:45 p.m.

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

Sandra K. Reen, Executive Director

Date

Date

REPORT OF THE BOARD OF HEALTH PROFESSIONS MEETING OF AUGUST 20, 2019

FULL BOARD MEETING BEGAN AT 10AM

-----Public Comment

-----Approval of Minutes

-----Director's Report by Dr. Brown

New Board member orientation in October
DHP website is being constantly updated

-----Legislative and Regulatory Report by Ms. Yeatts

2020 Session to have a Bill to amend the Code of Virginia by amending 54.1-2405, relating to notification to patients of a practitioner's closure, sale or relocation of practice. The term "*either electronically or* by mail" is to be added to language in Section A.

-----Executive Director's Report given by Dr. Carter

Board Budget
Agency statistics/performance
Board mission statement

-----Healthcare Workforce Data Center update given by Dr. Carter

-----Committee Reports

Regulatory Research committee reported that the study to regulate Music Therapists was completed and committee recommends & motions acceptance to regulate them under the Board of Counseling. Motion passed.

-----Individual Board reports were made.

-----New Business

-----Next Full Board meeting is Monday, November 4, 2019

-----Meeting adjourned at 12:25pm

REPORT BY JAMES D. WATKINS, DDS

REPORT OF 44TH ANNUAL MEETING OF SOUTHERN REGIONAL TESTING AGENCY

HELD AUGUST 2-3, 2019 AT THE LANSDOWNE RESORT & SPA IN LEESBURG, VIRGINIA

-----The SRTA Finance committee, chaired by Dr. Bob Hall of Virginia meet at 9am on Friday morning.

-----The SRTA Board of Directors met on Friday afternoon, August 2nd to discuss the finances of the organization and the merger issues with CITA. After extensive discussion and opinions for each member of the Board, the decision was made to recommend to the general assembly that merger talks cease and SRTA continue as an independent testing agency.

The General Assembly met on Saturday, August 3rd at 8am.
-----President Dr. George Martin of Arkansas introduced guests present which included SRTA attorney, Mr. Barry Dorans, Esq.
-----State Board introductions were made for member states of Alabama, Arkansas, South Carolina, Tennessee, Virginia and West Virginia. Associate members were present from Georgia, Kentucky and Mississippi.
-----ACKNOWLEGEMENT OF A QUORUM PRESENT WAS MADE BY SECRETARY.
-----The only committee reports made were from the Finance Committee and the Board of Directors as NO other committees met or were expected to report due to the pending merger with CITA.
-----REMAINDER OF THE MEETING WAS A DISCUSSION OF THE PROS AND CONS OF SRTA/CITA MERGER.

----- A final vote was made by the general assembly to terminate the merger discussions as there did not seem to be continued support from the CITA officers to proceed as they have not moved forward with any of SRTA requests and especially since they sent NO ONE to this meeting. SRTA will continue to administer exams as usual to schools by request as well as move forward on development of a NON-PATIENT based examination (letter dated August 15th from Dr. Martin is in this agenda package).

-----Meeting adjourned at 12:30pm

Report by Dr. James D. Watkins

Southern Regional Testing Agency, Inc.
4698 Honeygrove Road, Suite 2 | Virginia Beach, Virginia 23455-5934
Tel. (757) 318-9082 | Fax (757) 318-9085 | www.srta.org

August 15, 2019

Dear Fellow SRTA Members,

SRTA held its 44th Annual General Assembly meeting on August 3, 2019 to discuss the agency's future course of action. Several options were presented during the General Assembly: Continue merger discussions with CITA, develop an alternative examination, or dissolve the agency. The proposed changes presented by CITA at the 12th hour caused much concern and angst among the board members and officers. During the open board of directors meeting held on Friday, August 2nd, many associate members attended and listened to the discussion and were able to voice their concerns as well.

After much deliberation during the General Assembly, the board of directors and the membership voted that it was not advisable at this time for SRTA to continue its merger with CITA. Many of us have been involved with SRTA for a very long time and pride ourselves with this organization, especially for the morals and values we follow. These were among the contributing factors into our decision.

Instead, we have voted to explore different avenues of test development for a non-patient-based examination as an alternative to the patient-based examinations being offered now in both dental and dental hygiene. While we begin development for a non-patient-based examination, SRTA will continue to offer both the dental and dental hygiene patient-based licensure examination. We have been exploring this non-patient-based option for the past few years and believe this would be the most opportune time to jump into this development.

SRTA will maintain the strong integrity and values as we always have and will continue to offer a quality examination.

If you have any questions or concerns, please feel free to reach out to me or the SRTA office. Thank you for your continued support for SRTA.

Sincerely,

George C. Martin, DDS
President

SRTA Dental Hygiene Exam Committee Conference Call

July 24, 2019 at 7:30 PM

Presented by: Patricia B. Bonwell, RDH, PHD
VA Board of Dentistry Member

A. Discussed differences in bylaws between SRTA and CITA

B. Discussed changes in Dental Clinical Board Exam landscape
1. Trend tends to be a move away from a patient based clinical exam.
2. CT passed legislation that no patient can be used in a dental clinical board exam
2. OSCE
a. go to state option to use the ADA's OSCE
b. WVA used in a mock board exam and liked it

C. Discussed CITA changing its LOI
1. If merge, SRTA will no longer exist
2. Strong possibility of SRTA pulling out of merger
a. consensus was that if CITA did adopt new LOI, would support pulling out of merger
b. this will be discussed/voted on at the upcoming SRTA annual meeting along with other possible options
1) administering new exam format as SRTA

SOUTHERN REGIONAL TESTING AGENCY, INC. 44TH ANNUAL MEETING

August 2-3, 2019, Lansdowne Resort & Spa, Leesburg, VA

Report presented by Augustus A. Petticolas, Jr., D.D.S.

FINANCE COMMITTEE/ August 2, 2019

This meeting was convened by Chairman Dr. Bob Hall. Various financial reports were presented, discussed and agreed upon for submission to the General Assembly.

Highlights: Current assets are $1.3 million in checking, savings and investments. $600,000.00 in fixed assets. Projected: $310,000.00 loss in this fiscal year and $421,640.61 in projected loss for the next fiscal year. With this scenario SRTA will be defunct in three years. Dr. Hall commented: "If we are going to reinvent ourselves, we have three years to do it."

A wide-ranging discussion was then had, following are some of the comments:

"Our options (SRTA) are: 1) Continue as we are. 2) Dissolve now. 3) Let CITA absorb us. 4) Make a better test and market it."

"ADEX would have to approve a merger of SRTA and CITA. Right now, CITA has the contract with ADEX."

"In 2015 SRTA had a botched ADEX exam. SRTA's General Assembly made an emotional vote to drop ADEX." SRTA has since sought to reestablish a relationship with ADEX."

At the conclusion of the last Annual Meeting it was voted that SRTA would continue to pursue a new relationship with ADEX. After due diligence and a required exchange of funds, it became obvious that there were not enough votes from ADEX to approve SRTA's application. SRTA's application was tabled, effectively killing the application.

Also, at the conclusion of the last Annual Meeting it was voted that SRTA would pursue merger talks with CITA. SRTA officials engaged in serious talks with CITA, met in Atlanta over a 2- day period, met in Atlanta for a second two- day meeting. An agreement between the two organizations was developed and put in writing. This agreement was formalized with a letter of intent. Time went by, 6 months no answer, 8 months no answer. Finally, there was a renegotiation. Dr. Martin signed the new agreement, again, nothing happened. Then SRTA received a revised letter of intent (CITA had not signed the letter that had been agreed upon). This new letter included a lot of last- minute changes which in effect rendered the previous discussion not a merger but an outright acquisition. That is where the matter stood as of August 2, 2019. Further, it was noted that ADEX would have to approve a merger of SRTA and CITA and this was not likely to happen.

Further points raised:

"Students are seeking patient-less exams and have become a powerful lobby (ADSA) in the testing arena."

"Students are also focused on portability of licensure."

"More and more states are accepting patient-less exams."

"State of Connecticut has passed a law saying no more live patients as of 2021."

"The strategy now is to go to the State Legislatures to outlaw live patients."

"I think they are after our assets, but they don't care about us."

"I am against the patient-less exam."

"In the past we made an emotional decision to leave ADEX. Let's give it a shot to see if we can develop a patient-less exam. I don't want to give up."

"I don't want to see SERTA give up after 42 years. I don't see a need to pursue ADEX anymore."

"Let's develop a patient-less exam for hygiene."

"Our goal is to test to be sure students are minimally competent. I think if we go with the merger we'll emerge as one stronger agency. My fear is that our money will run out before we develop anything. I think patient-less exams will come but not in our time. Let's not squander our resources."

"I would hate to see us squander our resources."

"I think we have 3 options: merge, not merge, dissolve."

"I am excited about the new teeth and the patient-less exam."

"I have no doubt that we could quickly develop a mannequin exam. We are good technically but poor in promoting ourselves."

"I don't think their core values match ours. I am excited about the new teeth and new exams."

"My history with these discussions is fairly new; however, I think the negotiations with CITA are essentially over."

Options were again reviewed:

1) Accept CITA's latest offer,
2) Stay like we are (limp along trying to get some of our schools back),
3) Dissolve, give assets to schools of our member states,
4) Continue the negotiation (see if we can get shared leadership),
5) Develop a non- patient-based exam.

Comment: "Their core values do not reflect ours (integrity,honesty). The examiners are like us, the organization is not.

The meeting was adjourned with a consensus to present the Finance Committee's report and associated discussions to the General Assembly.

GENERAL ASSEMBLY MEETING Saturday, August 3, 2019

The General Assembly was called to order by President, Dr. George Martin.

Following are the actions of the General Assembly:

MOTION: Made by Dr. Bob Carter for SRTA to continue to offer its existing exams and explore variations of 0,1 or 2 live patients. Seconded by Dr. Jim Watkins. **Motion passed.**

AMENDMENT: 0,1, OR 2 procedures on live patients. **Motion to amend passed.**

MOTION: Made by Dr. Chuck Holt to continue to negotiate with other testing agencies/organizations to develop a hybrid examination. (reference the first motion) Seconded by Marlene Fullilove. **Motion passed.**

MOTION: Made by Dr. Chuck Holt to seek exclusivity with Acadental, with a financial amount to be determined by the Board. Seconded by Dr. Marc Muncy. **Motion passed.**

MOTION: Made by Dr. Susan King to respond to CITA's latest offer by stating we would like to renegotiate in terms of leadership, control of funds, voting privileges of members. Seconded by Dr. Chuck Holt. **Motion failed.**

MOTION: Seek a PR firm to market our offerings. **Motion passed.**

The General Assembly was then adjourned.

These are the occurrences of the Finance Committee and the General Assembly to the best of my recollections. I invite clarifications and corrections from other members of our delegation.

Respectfully submitted,

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

August 26, 2019

ADEX Conference August 9-10, 2019

The ADEX conference was held in Chicago, IL at the Airport Rosemont Hilton. The conference is held yearly to review and make improvements to the ADEX exam that is administered to candidates for licensure in various states. The ADEX exam is accepted by 46 states at the present time with 2 more states considering accepting the exam as one of the prerequisites to licensure.

Changes were made in the various disciplines that are examined, but most of the changes were more on the administrative side and not the substance of the areas being reviewed. One of the potential changes that will impact the examination as a whole, though not in the immediate future, is the use of manikin teeth with artificial decay present. This is being developed by the CDCA testing agency as an alternative to the use of live patients.

There will be many factors to consider with the implementation of this approach, such as; running a parallel exam with live patients for states that only accept the use of live patients as a requirement for licensure, and development of a comparable artificial tooth. There is a major push, particularly from the ADA, to eliminate live patient testing due to an apparent ethical concerns. The big question is, if it is unethical to use live patients during an exam for graduating senior dental students and dentist, why is it not unethical to use live patients for 1st, 2nd, 3rd, and 4th year dental students during dental school training?

Dr. Nathaniel Bryant

Joint Commission of the National Dental Board Examination (JCNDBE)

The JCNDBE met on June 26, 2019 in Chicago, IL at the ADA Building. The meeting was held to give an update on the status of the new National Board for dental students. Part one and two have been combined into a single examination, and 2021 will be the date the examination become effective.

2020 will be the last year that students can take part two as a separate entitiy. The beta testing showed positive success rates and positive feedback from the students that participated in the testing. The success rate figures were not available at the meeting.

Agenda Item: Regulatory Actions - Chart of Regulatory Action
As of August 23, 2019

Dentistry
9/13

Chapter		Action / Stage Information
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Change in renewal schedule [Action 49 Proposed - *At Governor's Office for 8*
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Amendment to restriction on advertisi specialties [Action 4920] Proposed - *At Secretary's Office for 1*
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Administration of sedation and anest 5056] Proposed - *At Secretary's Office for 134 days*
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Technical correction [Action 5198] Fast-Track - *DPB Review in progress* [Stage 8622]
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	Content of acceptable examination [Action 5281] Fast-Track - *At Governor's Office for 11 days*
[18 VAC 60 - 21]	Regulations Governing the Practice of Dentistry	(E) Volunteer practice of dentistry [Action 5324] Final - *Register Date: 8/5/19* *Effective: 8/4/19*
[18 VAC 60 - 25]	Regulations Governing the Practice of Dental Hygienists	Protocols for remote supervision of VDH and DBHDS dental hygienists [Action 5323] Emergency/NOIRA - *At Secretary's Office for 23 days*
[18 VAC 60 - 25]	Regulations Governing the Practice of Dental Hygienists	(E) Administration of Schedule VI fluorides; remote supervision [Action 5332] Final - *Register Date: 8/5/19* *Effective: 9/4/19*
[18 VAC 60 - 30]	Regulations Governing the Practice of Dental Assistants	Education and training for dental assistants II [Action 4916] Proposed - *At Secretary's Office for 112 days*

Agenda Item: Adoption of Regulation for Waiver of Electronic Prescribing by Emergency Action

Included in agenda package:

Copy of HB2559 – Amendments to Code to require electronic prescribing of an opioid by July 1, 2020

Draft of amendments

Staff note:

Enactment clause on HB2559 requires adoption of regulations within 280 days, so the Board must amend by an emergency action.

Action: Adoption of emergency regulations and a Notice of Intended Regulatory Action (NOIRA) to replace the emergency regs

CHAPTER 664

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 March 21, 2019

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.

Project 6114 - none

BOARD OF DENTISTRY

Waiver for e-prescribing

18VAC60-21-107. Waiver for electronic prescribing.

A. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription as consistent with § 54.1-3408.02 of the Code of Virginia.

B. Upon written request, the board may grant a one-time waiver of the requirement of subsection A of this section, 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.

Agenda Item: Report on petition for rulemaking

Included in your agenda package are:

A copy of a petition from Dr. Zapatero

A copy of the request to withdraw the petition

Board action:

There is no action required because the petitioner has withdrawn his request.

Virginia.gov Agencies | Governor

Secretariat **Health and Human Resources**

Agency **Department of Health Professions**

Board **Board of Dentistry**

Edit Petition

Petition 301

Petition Information	
Petition Title	Requirements for doctor/patient relationship and use of digital scans
Date Filed	6/4/2019 [Transmittal Sheet]
Petitioner	Dagoberto Zapatero
Petitioner's Request	Amendments to clarify that a digital scan is the equivalent of a final impression if used to fabricate an appliance to be inserted into a patient's mouth and to specify that a patient/doctor relationship should be established in a face-to-face encounter.
Agency's Plan	The petition will be published on June 24, 2019 in the Register of Regulations and also posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov to receive public comment ending July 23, 2019. The request to amend regulations and any comments for or against the petition will be considered by the Board at the first scheduled meeting after close of comment, which will be September 13, 2019. The petitioner will receive information on the Board's decision after that date.
Comment Period	Ended 7/23/2019 98 comments
Agency Decision	Take no action [Transmittal Sheet]
Response Date	9/4/2019
Agency Decision Summary	On August 28, 2019, the Board received a request from the petitioner to withdraw his petition. Therefore, the Board will not take action on this petition.

Contact Information	
Name / Title:	Sandra Reen / *Executive Director*
Address:	9960 Mayland Drive Suite 300 Richmond, 23233
Email Address:	sandra.reen@dhp.virginia.gov
Telephone:	(804)367-4437 FAX: (804)527-4428 TDD: ()-

From: Dr. Dag Zapatero <dag@starfishdental.com>
Sent: Wednesday, August 28, 2019 8:04 AM
To: Sandra Reen <sandra.reen@dhp.virginia.gov>
Subject: Request for petition 301 to be withdrawn

Dear Ms. Reen,

I respectfully request that my petition 301 dealing with "Requirements for doctor/patient relationship and use of digital scans" be **withdrawn**at this time.

Respectfully,
Dag zapatero, DDS
--

Starfish Dental
Dag Zapatero, DDS | 3020 Shore Drive | Virginia Beach, VA 23451
office. 757.481.3893 | fax 757.481.0425 | www.Starfishdental.com

BOARD DISCUSSION ITEMS

Clear Aligner Therapy

- Do our Board regulations/ VA Code statutes, contain language to make it clear that a patient who will receive "clear aligner" tooth movement treatment must have a VA dentist perform a physical "exam" prior to treatment?
- What minimal "records" are required?
- What is the definition of the minimal standard for a dental exam done prior to clear aligner treatment? Is it different than a dental exam for an emergency? Is it different than a periodic exam? Can such an exam be billed to insurance?
- Do-it-yourself (DYI) clear aligners are being sold with minimal or no physical exam. Is that ok in VA?
- What "language" can make it clear that clear aligner treatment should reasonably include a "physical exam". Is a phone "exam" sufficient?

Intraoral Digital Scanning

- In order for an intraoral digital implant scan to be taken, the implant healing abutment must be removed. A "lab" specific "scan body" must then be placed using an implant specific wrench. A "verification" radiographic image is taken. The intraoral digital scan is taken. The procedure is then reversed. An implant specific wrench is used to unscrew the scan body, and the healing abutment is screwed directly back onto the implant. Removal of the implant healing abutment is done directly in the mouth. Typically, an implant specific "wrench" is used. This can be a very challenging procedure.
- The digital scan is similar to an intraoral camera picture series. The risk to the patient is less that a mouth mirror used for an exam.
- The risk of removing a healing abutment, placing and holding a wrench, placing a scan body and replacing the healing abutment are "high risk" procedures. The "wrench" alone is similar to a pin placement tool, restorative post, etc. It would be very difficult to impossible to use a "rubber dam' for healing abutment removal. The risk of aspiration or swallowing one of these objects is high.
- Question: Can a Dental Assistant (D1 or D2) or Hygienist be delegated to remove and replace a healing abutment, implant scan body?

CBCT

Many Drs do not own a CBCT unit but they may want to have a 3D image rather than a 2D image to use for diagnosis, surgical planning, implant planning, implant placement, airway evaluation, TMJ evaluation. Orthodontic evaluation, etc. "Brick and Mortar" CBCT diagnostic centers can be very expensive and CBCT imaging from these centers often use "medical grade" 3D imaging which produces many times the micro sieverts of radiation exposure vs the very small amount of radiation of a "dental" Field of View (FoV) CBCT. Drs often have a "friend or colleague" who has a CBCT. The treating Drs will send his patient to the "friend's" office to have the CBCT taken.

Question: The Dr requesting the CBCT will see the patient for the treatment. He will bill the patient for the exam that he will perform. The second Dr takes the CBCT scan. Is he then "responsible" for reading the scan data? Can he bill the patient for an "exam"? Is it clear to VA dentists how to handle "outsourcing" CBCT scans?