

VIRGINIA BOARD OF DENTISTRY
BOARD BUSINESS MEETING

PERIMETER CENTER, 9960 MAYLAND DRIVE, SECOND FLOOR CONFERENCE CENTER, HENRICO, VA 23233

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**VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING MINUTES
December 9, 2021**

CALL TO ORDER: The meeting of the Virginia Board of Dentistry was called to order at 9:13 a.m., on December 9, 2021, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, Board Room 4, 9960 Mayland Drive, Henrico, VA 23233.

PRESIDING: Nathaniel C. Bryant, D.D.S., President

MEMBERS PRESENT: Patricia B. Bonwell, R.D.H., PhD
Sidra Butt, D.D.S.
Sutan E. Chaudhry, D.D.S.
Jamiah Dawson, D.D.S.
Alf Hendricksen, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.

MEMBERS ABSENT: Dagoberto Zapatero, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Jamie C. Sacksteder, Deputy Executive Director
Donna M. Lee, Discipline Case Manager
Sally Ragsdale, Executive Assistant

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

OTHERS PRESENT: James E. Schliessmann, Senior Assistant Attorney General
Rebecca Smith, Adjudication Specialist
Gabriel Martin, Court Reporter (virtual attendance)
Glenn H. Silver, Esquire, Respondent's Counsel

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

**Rodney Mayberry, D.D.S.
Case No.: 207945** Dr. Mayberry was present with legal counsel in accordance with the Notice of the Board dated August 6, 2021.

Dr. Bryant swore in the witnesses.

Following Mr. Schliessmann's opening statement and presentation of the Commonwealth's exhibits, Mr. Silver objected to the exhibits. Dr. Bryant overruled Mr. Silver's objections and admitted into evidence Commonwealth's Exhibits 1-7.

Following Mr. Silver's opening statement, Dr. Bryant admitted into evidence Respondent's Exhibit A.

Testifying on behalf of the Commonwealth were the following witnesses:

- Julia Turner, DHP Senior Investigator
- Ronald Houser, DHP Senior Inspector
- Dr. Michael Trahos
- Dr. Husam Alathari
- Christopher Bowers, HPMP
- Marie-Noelle Berkhof, Behavioral Health Intake Coordinator, INOVA Hospital
- Dr. Andrea Lubeck

Dr. Mayberry testified on his own behalf.

Mr. Schliessmann and Mr. Silver provided closing statements.

Closed Meeting:

Dr. Bonwell moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) and § 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Rodney Mayberry, D.D.S. Additionally, she moved that Board staff, Ms. Reen, Ms. Sacksteder, Ms. Lee, Ms. Ragsdale, and Board counsel, 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. Bonwell moved to certify that the Board heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

DECISION:

Dr. Bonwell moved to accept the Findings of Facts and Conclusions of Law as presented by the Commonwealth, amended by the Board, and read by Mr. Rutkowski. Following a second, a roll call vote was taken. The motion passed.

Mr. Rutkowski reported that Dr. Mayberry's right to renew his dental license to practice dentistry in the Commonwealth of Virginia is indefinitely suspended for a period of not less than two years from the date of entry of the Order.

Dr. Bonwell moved to accept the Board's decision as read by Mr. Rutkowski. Following a second, a roll call vote was taken. The motion passed.

ADJOURNMENT:

With all business concluded, the Board adjourned at 4:28 p.m.

Nathaniel C. Bryant, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date

**VIRGINIA BOARD OF DENTISTRY
BUSINESS MEETING MINUTES
December 10, 2021**

- TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 9:07 a.m., on December 10, 2021 at the Perimeter Center, 9960 Mayland Drive, in Board Room 4, Henrico, Virginia 23233.
- PRESIDING:** Nathaniel C. Bryant, D.D.S., President
- MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD., Vice President
Jamiah Dawson, D.D.S., Secretary
Sidra Butt, D.D.S.
Sultan E. Chaudhry, D.D.S.
Alf Hendricksen, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Dagoberto Zapatero, D.D.S.
- STAFF PRESENT:** Sandra K. Reen, Executive Director of the Board
Jamie C. Sacksteder, Deputy Executive Director
Donna Lee, Discipline Case Manager
Sally Ragsdale, Executive Assistant
David C. Brown, D.C., Agency Director, Department of Health Professions
Barbara Allison-Bryan, M.D., Deputy Director, Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
- COUNSEL PRESENT:** James E. Rutkowski, Assistant Attorney General
- ESTABLISHMENT OF A QUORUM:** With nine members of the Board present, a quorum was established.
- Dr. Bryant welcomed Dr. Hendricksen and Dr. Butt as new Board members; and Sally Ragsdale as the new Executive Assistant to Ms. Reen.
- Ms. Reen read the emergency evacuation procedures.
- PUBLIC COMMENT:** Dr. Bryant explained the parameters for public comment and opened the public comment period. Dr. Bryant also stated that written comment was received from Trey Lawrence, which was included in the agenda package.
- Marla Brutton, D.D.S Applicant –** Ms. Brutton explained that she failed the diagnostic section in the CITA exam; however, she passed this section in the CDCA exam. She requested that the Board approve combining the two scores reports so she could receive her Virginia dental license since CITA and CDCA both administer the ADEX examination.

Alexander T. Vaughan, D.D.S., Dental Director, Virginia Total Sleep – Dr. Vaughan stated that it is within the scope of the practice of dentistry for dentists to order and dispense home sleep apnea tests, but not to make a diagnose based on the test results. He said his practice has treated over 1,000 patients for sleep apnea and 98% were referred by sleep physicians. Dr. Vaughan expressed his support for convening an advisory panel to discuss this issue as proposed by the Regulatory-Legislative Committee. He also offered to serve on the panel.

Michael Pagano, D.D.S., Virginia Total Sleep – Dr. Pagano stated the ADA has provided updated language to stating that home sleep study tests are within the scope of the practice of dentistry. He said sleep apnea can be dangerous to a person's health and that Virginia Total Sleep collaborates with physicians to on providing treatment to patients. Dr. Pagano offered to serve on a committee to further discuss this subject.

APPROVAL OF MINUTES:

Dr. Bryant asked if there were any edits or corrections to the September 10, 2021 Business Meeting minutes and the September 10, 2021 Formal Hearing minutes. Hearing none, Dr. Bonwell moved to approve the minutes as presented. The motion was seconded and passed.

DIRECTOR'S REPORT:

Dr. Brown welcomed the new Board members, stating that serving as a Board member is a rewarding and important service to their profession. He added that the purpose of the Board is to protect the public and not the profession. He went on to say there is a new security service provider for the building, RMC Events. He said that the second floor audio system will be upgraded in the spring of 2022. Dr. Brown also said the functions of DHP, which is licensing and regulating health professions, will not change during the transition to Governor-elect Youngkin's administration.

Dr. Allison-Bryan reported on the latest COVID-19 data regarding immunization in Virginia. She acknowledged that cases are going up a little; and there are still individuals who are not getting vaccinated. She said the Omicron variant does appear to be highly contagious, but less virulent; and, the vaccines contributes to milder cases. She confirmed that there are two oral agents which are very close to release. She encouraged everyone to get vaccinated.

LIAISON & COMMITTEE REPORTS:

CITA Update – Ms. Lemaster stated that she and Dr. Dawson attended the CITA meeting in Florida on October 9, 2021. She referred to the written report in the agenda package stating that: new exam software is in development; the CDCA-WREB merger, is expected to be completed in 2022 with a 2023 effective date; and the future merger of CDCA-WREB-CITA is anticipated.

Report on Regulatory-Legislative Committee Meetings – Dr. Bonwell clarified that the first topic to address is the Committee's recommendation to convene an advisory panel to develop proposed language on the role of dentists in addressing sleep apnea. Ms. Yeatts clarified that advisory panels address development of regulations and recommended changing the

terminology to either an ad-hoc committee or workgroup to gather information on sleep apnea and the role of dentists. Following discussion, Mr. Martinez moved to accept the Committee's recommendation to convene a workgroup to address the role of dentists in addressing sleep apnea. The motion was seconded and passed.

Dr. Bryant asked if there was a motion to accept the Committee's recommendation to establish a workgroup to discuss in-person examinations of patients receiving active appliances. During discussion, it was noted that a patient can always choose to see a dentist in person. Dr. Bonwell explained that the Committee was asked to form a workgroup to discuss whether a patient receiving an active appliances should be seen by a dentist in person as opposed to relying on teledentistry. Ms. Sacksteder read the relevant section of the May 17, 2021 Regulatory-Legislative Committee Meeting minutes. Following discussion, Dr. Zapatero moved to accept the Committee's recommendation to establish a workgroup to discuss in-person examinations of patients receiving active appliances. The motion was seconded and passed.

**LEGISLATION,
REGULATION, AND
GUIDANCE:**

Status Report on Regulatory Actions Chart. Ms. Yeatts reviewed the updated Regulatory Actions. The following proposed regulations are currently at the Governor's Office:

- amendment to restriction on advertising dental specialties;
- training and supervision of digital scan technicians;
- technical correction to fees; and
- removal of pulp capping as a delegable task for a DAI.

She said the waiver for e-prescribing would be approved February 2, 2022. She said there is a Public Hearing scheduled for February 18, 2022 for Training in Infection Control.

Guidance Document 60-27: Sedation Inspections and Permits - Ms. Yeatts stated this is a new guidance document that was proposed by the Regulatory Committee with the changes highlighted. Dr. Bonwell moved to adopt the guidance document. The motion was seconded and passed.

Guidance Document 60-7: Delegation to Dental Assistants - Ms. Yeatts explained this guidance document was reviewed by the Regulatory Committee and the proposed revisions are shown in red. Dr. Dawson moved to adopt the revised guidance document. The motion was seconded and passed.

Proposed Policy on Meetings Held with Electronic Participation – Ms. Yeatts stated that during the COVID-19 pandemic an Emergency Order allowed electronic meetings. She stated this is a written policy for holding meetings of the Board with electronic participation by some of its members and the public. Dr. Bonwell moved to adopt the policy on Meetings Held with Electronic Participation. The motion was seconded and passed.

**BOARD DISCUSSION
TOPICS:**

Consideration of Public Comment - Ms. Reen explained that Ms. Bruten is requesting that the Board allow Board staff to combine two score cards from two testing agencies to determine if she meets the clinical examination requirements for dental licensure in Virginia. She referred to Guidance Document 60-25, which requires an applicant to submit a detailed score report documenting passage of an acceptable examination. After discussion, the Board decided to adhere to the current policy as set forth in Guidance Document 60-25.

Discussion of Dental Assistants Using Scalers – Ms. Reen asked the Board for guidance on how to inform the dental community about the Board's change in policy regarding dental assistants using scalers. The Board recommended that the message be disseminated to dental associations, dental hygiene associations, schools, and current licensees. Dr. Bonwell, Dr. Dawson, and Ms. Lemaster volunteered to assist with drafting the message which will be presented to the Board for approval.

Policy on Recovery of Disciplinary Costs (Guidance Document 60-17) – Ms. Reen stated the Board adopted the 2021 guidance document, then elected not to enforce based on Dr. Brown's concern that Dentistry is the only board authorized to impose disciplinary costs Ms. Reen explained that: the VDA requested the enabling statute; the Board currently has a healthy cash balance; and, the Board is reducing its fees as license renewals are being changed to 2022 birth months. Ms. Reen said the Board can decide not to impose these costs or keep the option open and not implement it this year. She recommended that the Board not implement the policy for at least the next two years. Dr. Dawson moved to defer implementing the Policy on Recovery of Disciplinary Costs for two years. The motion was seconded and passed.

**BOARD COUNSEL
REPORT:**

During its September 2021 meeting, the Board asked Mr. Rutkowski to research if dentists can prescribe antibiotics without a DEA license. Mr. Rutkowski reported that a DEA registration is required for Schedule II through V controlled substances only and is not needed to prescribe antibiotics.

**DEPUTY EXECUTIVE
DIRECTOR'S REPORT:**

Ms. Sacksteder reviewed the disciplinary Board report on case activity from January 1, 2021 to October 31, 2021, giving an overview of the actions taken and a breakdown of the cases closed with violations.

**EXECUTIVE DIRECTOR'S
REPORT:**

Information Needs – Ms. Reen provided the Board with a Cash Balance report as of June 30, 2021 and said she will provide updates in future agenda packages.

**BOARD MEMBERSHIP –
INSIGHTS AND
DISCUSSION**

Dr. Bryant explained he wants to reinforce the importance of the work of the Board by concluding meetings with an open discussion. This discussion included an exercise on appropriate questioning. He said the Dental Review Coordinator is retiring in January and Board members will be called on to review more cases for probable cause until the position is filled and the new person is trained. He encouraged the Board members to be diligent and thorough when reviewing cases. Discussion followed about conferring with

staff; and, reviewing cases regularly after meetings and proceedings with staff present.

Dr. Brown added that the Agency has prepared training available and asked the Board members to notify Ms. Reen of their training interests and she will pass the information on to the appropriate people.

Dr. Bryant demonstrated the appropriate way to ask questions of respondents during IFCs and hearings.

Mr. Rutkowski reminded the Board that decorum is important; He recommended not thanking witnesses for coming to formal hearings because they are issued a subpoena to appear; He also asked that, while on breaks, Board members to be cognizant of that laughter should be limited.

ADJOURNMENT:

With all business concluded, the Board adjourned at 11:58 a.m.

Nathaniel C. Bryant, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date

**VIRGINIA BOARD OF DENTISTRY
FORMAL HEARING MINUTES
December 10, 2021**

CALL TO ORDER: The meeting of the Virginia Board of Dentistry was called to order at 12:40 p.m., on December 10, 2021, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, Board Room 4, 9960 Mayland Drive, Henrico, VA 23233.

PRESIDING: Nathaniel C. Bryant, D.D.S., President

MEMBERS PRESENT: Sidra Butt, D.D.S.
Sutan E. Chaudhry, D.D.S.
Jamiah Dawson, D.D.S.
Alf Hendricksen, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Dagoberto Zapatero, D.D.S.

MEMBERS ABSENT: Patricia B. Bonwell, R.D.H., PhD

STAFF PRESENT: Sandra K. Reen, Executive Director
Jamie C. Sacksteder, Deputy Executive Director
Donna M. Lee, Discipline Case Manager
Sally Ragsdale, Executive Assistant

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

OTHERS PRESENT: Lori L. Pound, J.D., Adjudication Consultant
Alina Robertson, Court Reporter (virtual attendance)
Michael L. Goodman, Esquire, Respondent's Counsel
Nora T. Ciancio, Esquire, Respondent's Counsel

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

**James N. Rhodes, D.D.S.
Case No.: 210918** Dr. Rhodes was present with legal counsel in accordance with the Notice of the Board dated September 2, 2021.

Dr. Bryant swore in the witnesses.

Following Ms. Pound's opening statement, Dr. Bryant admitted into evidence Commonwealth's Exhibits 1-6.

Following Mr. Goodman's opening statement, Dr. Bryant admitted into evidence Respondent's Exhibit A.

Testifying on behalf of the Commonwealth was Amy Ressler, HPMP, Program Administrator Director.

Testifying on behalf of the Respondent were the following witnesses:

- Dr. Alan Zeno
- Tim Little, Jr.
- Dr. Rhodes
- Mary Rhodes

Ms. Pound and Mr. Goodman provided closing statements.

Closed Meeting:

Dr. Dawson moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) and § 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of James Rhodes, D.D.S. Additionally, she moved that Board staff, Ms. Reen, Ms. Sacksteder, Ms. Lee, Ms. Ragsdale, and Board counsel, 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. Dawson moved to certify that the Board heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

DECISION:

Dr. Dawson moved to accept the Findings of Facts and Conclusions of Law as presented by the Commonwealth, amended by the Board, and read by Mr. Rutkowski. Following a second, a roll call vote was taken. The motion passed.

Mr. Rutkowski reported that Dr. Rhodes is issued a monetary penalty of \$500.00 and Dr. Rhodes' dental license is suspended which will be stayed upon submission of proof of entry into the Health Practitioners' Monitoring Program within 30 days from the date of entry of the Order.

Dr. Dawson moved to accept the Board's decision as read by Mr. Rutkowski. Following a second, a roll call vote was taken. The motion passed.

ADJOURNMENT:

With all business concluded, the Board adjourned at 3:38 p.m.

Nathaniel C. Bryant, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date

**VIRGINIA BOARD OF DENTISTRY
REGULATORY-LEGISLATIVE COMMITTEE MEETING MINUTES
February 18, 2022**

- TIME AND PLACE:** The meeting of the Regulatory-Legislative Committee was called to order at 1:02 p.m., on February 18, 2022
- CALL TO ORDER:** Dr. Bonwell called the meeting to order.
- COMMITTEE MEMBERS PRESENT:** Patricia B. Bonwell, R.D.H., PhD, Chair
J. Michael Martinez de Andino, J.D.
Alf Hendricksen, D.D.S.
Jamiah Dawson, D.D.S.
- COMMITTEE MEMBERS ABSENT:** Joshua Anderson, D.D.S
- OTHER PARTICIPATING BOARD MEMBERS PRESENT:** Nathaniel C. Bryant, D.D.S.
- STAFF PRESENT:** Sandra K. Reen, Executive Director, Board of Dentistry
Jamie C. Sacksteder, Deputy Executive Director, Board of Dentistry
Sally R. Ragsdale, Executive Assistant, Board of Dentistry
Erin Barrett, JD, Senior Policy Analyst, Department of Health Professions
- WORKGROUP PARTICIPANTS PRESENT:** Dr. James Vick representing the VCU School of Dentistry
Dr. Michael Ellis representing the Northern VA Dental Society
Dr. Elsa Matthew representing the VA Academy of Sleep Medicine
Dr. Alex Vaughan representing the Virginia Dental Association
Ms. Kristen D. Robbins representing the Commonwealth Dental Hygienist Society
Dr. Bill Crutchfield representing the Virginia Association of Orthodontists
Ms. Carol A. Walsh, representing the Virginia Dental Assistants Association
- ESTABLISHMENT OF A QUORUM:** With five members of the Committee present, a quorum was established.

Ms. Reen addressed the emergency evacuation procedures.
- PUBLIC HEARINGS:** Dr. Bonwell explained that there are two public hearings today to receive comments on proposed amendments and that copies of the proposed amendments are on the back table. Dr. Bonwell explained the parameters for public comment. She then added that electronic comment can be posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov or sent by email to Elaine.Yeatts@dhp.virginia.gov. All comments will be considered before the Board adopts final regulations at its meeting

scheduled on **June 10, 2022**. Dr. Bonwell stated the comment period on proposed regulations for **Training in Infection Control for Dental Assistants** will close on **March 4, 2022**; and, the comment period on proposed regulations for **Digital Scan Technicians** will close on **April 1, 2022**.

**PUBLIC HEARING
INFECTION CONTROL:**

Dr. Bonwell opened the public comment period to receive comments on proposed amendments relating to **Training in Infection Control for Dental Assistants**.

Misty Mesimer stated she is a certified dental assistant, a registered dental hygienist, an allied dental educator and the author of the petition for rulemaking to require dental assistants to be certified in infection control. She explained the substandard practices she is aware of including recycling sterilization products and misunderstanding of sterilization indicators to explain the importance of training dental assistants. Then Ms. Mesimer read a message she received from a colleague asking questions and expressing concerns about the unsafe sterilization practices in her dental office such as wiping down syringes but not changing the tips with holes in them and cold sterilizing and reusing disposable syringes and tips. Ms. Mesimer concluded by asking the Board to reconsider the "training within 60 days" clause in the proposed regulations and require training when hired so dental assistants are informed about the need to make decisions about infection control.

Debra Vernon spoke on behalf of the Virginia Dental Assistants Association, stating she has worked in private and government practices for 40 years. She said the only way to prevent infections is to be knowledgeable about current guidelines for safe practice. She stated that most of the responsibility for infection control lies with the dental assistant. She said she is an advocate for adoption of certification requirements in infection control for dental assistants.

Tracey Martin spoke on behalf of the Virginia Dental Hygienists Association and for another dental hygienist, Amanda Hill. She expressed their support for requiring certification in infection control as a needed minimum standard for dental assistants.

Dr. Bonwell concluded the hearing on **Training in Infection Control for Dental Assistants**.

**PUBLIC HEARING
DIGITAL SCAN
TECHNICANS:**

Dr. Bonwell opened the public comment period to receive comments on proposed regulations for **Digital Scan Technicians**.

Mercer May, who spoke on behalf of Smile Direct Club, stated the proposed regulations are not consistent with the enacted statute. He said the legislative intent is that 3D photography such as digital scans is not the practice of dentistry. He explained that it was never the intent of the law for a dentist to train and supervise a digital scan technician or to require a digital scan work order. He said the terms "supervision" and "direction" have different meaning and requested clarification to recognize that taking a digital scan is an administrative task. He said there is no requirement for a digital scan work order and that there is limited availability of training.

Glana Noreki, who spoke on behalf of the American Association of Orthodontist, said the AAO supports requiring the dentist to inspect the appliance before the delivery of the appliance. She asked for clarification of the provision for work orders, asking if work orders are required for all digital scans or only those scans done by a digital scan technician. She also asked the Board to not consider legislative intent and to review the law as written.

Dr. Bonwell concluded the public hearing at 1:36 p.m.

PUBLIC COMMENT:

Dr. Bonwell explained that the Committee will now receive public comment on agenda items. She added that written comments were distributed to the Board members and copies were available on the back table for the public.

Dr. Mike Pagano, a member of the American Academy of Sleep Medicine, voiced his support for dentists ordering home sleep studies. He said that a physician should treat sleep apnea, but there are multiple reasons and benefits for dentists to order home testing. He cautioned the Board against regulating the sensors and limiting dentists' ability to order home sleep studies.

APPROVAL OF MINUTES:

Dr. Bonwell asked if there were any edits or corrections to the October 22, 2021 Regulatory-Legislative Committee Meeting minutes. Dr. Hendricksen moved to approve the minutes as presented. The motion passed.

DISCUSSION WITH WORKGROUP ON SERVICES RELATED TO SLEEP STUDIES AND SLEEP APNEA:

Dr. Bonwell thanked the participants for serving on the Workgroup on Services Related to Sleep Studies and Sleep Apnea and asked Ms. Reen to begin the conversation by addressing the information she collected from other boards about provisions on sleep testing and treatment.

Ms. Reen reported that she did a quick, limited survey to obtain information on other states' actions addressing sleep testing. She said the responses received were included as information that may be helpful to the Board in its consideration of a dentist's role in addressing sleep disorders.

Dr. Bonwell asked Dr. Vick to begin the discussion. He reported that VCU does not have an official policy. He stated a diagnosis must come from a physician or a qualified radiologist. He said it is within the scope of practice for dentists to initiate a sleep study and dentists should be able to order a sleep study. In response questions, Dr. Vick replied he has had extensive training at Walter Reed Medical Center; that dentists should review the appliance after fabrication to see how it performs. He added that take home sleep studies are useful.

Dr. Ellis stated that he is an orthodontist with a specialty in sleep study. He said sleep apnea is a medical disorder and that a physician should order testing and read the results. He indicated that there are only two organizations that can certify a dentist as a sleep specialist. In response to questions, Dr. Ellis explained about the certification he received which required over 20 hours of training, a presentation to a panel after treating

20 patients, and taking a 4 hour test. He spoke against taking weekend courses for certification. He stated that he supports the initial order coming from a doctor then the dentists can make the device. He suggested that when the initial order is placed a follow up order can be placed at the same time. He strongly supported doctors and dentists working together on this issue and dentists placing a follow up order for a home sleep study as recommended by the treating physician.

Dr. Matthew stated she did not support dentists ordering a home sleep test. She believes it is outside the scope of dentistry. She does support collaboration between dentists and doctors. She commented that it's not just the matter of ordering a sleep test, but also reviewing patient history, labs and medications, as well as consistency in the equipment used. She earned her qualifications for certification in sleep medicine by completing a year of fellowship training and passing an exam. She supported the need for efficacy studies and a calibration study done by a dentist. She stressed the importance of the follow up sleep studies being the same type of test as used in the initial sleep study. She noted that sometimes the patient is being treated for multiple issues and should periodically return to a physician.

Dr. Vaughan addressed the history of sleep apnea diagnosis, calibration and efficacy as well as treatment and the definitions of terms used in addressing the surrounding issues. He said that calibration and efficacy is the same test and that dentists are often diagnosing, ordering, treating and dispensing. He shared that any physician can order a sleep study test without having received special training, and referred to study results that indicated no statistical difference in the knowledge of sleep apnea between general dentists and physicians. He expressed concerns about over treatment and support for dentists ordering a home sleep study, 2 night studies, requiring more education, and having a medical doctor interpret the results.

Ms. Walsh supports dentists being able to order home sleep tests because more people go routinely to the dentist than doctor. She stated that the results should go to a sleep specialist.

Ms. Robbins supports the collaboration between dentist and doctors. She believes that doctors should order the home sleep study not dentists. She commented that more education is needed for dentists and dental hygienists so that the patient is screened and treated properly for sleep disorders.

Dr. Crutchfield stated airway is an important issue, it is life and quality of life. He believes it should be ordered by the person trained and educated in the area. He cautioned the Board against allowing dentists to order sleep studies because he has seen what corporations have done promoting Invisalign and night guards. He is not supportive of dentists ordering sleep studies.

Dr. Bonwell thanked the participants for their participation and explained that the information they provided will be addressed at the next Board Business meeting on March, 11, 2022.

Dr. Bonwell asked the Committee members to let Ms. Reen know if they are available on May 20, 2022 to convene the planned workgroup for discussion of In-Person Examinations of Patients Receiving Active Appliances.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 3:37 p.m.

Patricia B. Bonwell, R.D.H., PhD, Chair

Sandra K. Reen, Executive Director

Date

Date

**Meeting Report for February 18, 2022
Regulatory-Legislative Committee Meeting
Presented by Dr. Bonwell, Committee Chair**

- I. Work study group provided input on sleep medicine/disorders/apnea**
 - A. There were mixed opinions shared by the work group members about the scope of practice for dentists ordering home sleep study tests.**
 - B. The committee made no recommendation to present to the Board regarding dentists ordering home sleep study tests or the scope of practice regarding sleep medicine/disorder/apnea.**

JUL 14 2021

Approved

**VIRGINIA BOARD OF DENTISTRY
BUSINESS MEETING MINUTES
March 19, 2021**

TIME AND PLACE: The virtual meeting of the Virginia Board of Dentistry was called to order at 10:00 a.m., on March 19, 2021.

CALL TO ORDER: Dr. Petticolas 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 Board is convening today's meeting virtually to consider such regulatory and business matters as are presented on the agenda necessary for the board to discharge its lawful purposes, duties, and responsibilities.

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

BOARD MEMBERS PRESENT VIRTUALLY: Augustus A. Petticolas, Jr., D.D.S., President
Patricia B. Bonwell, R.D.H., PhD
Nathaniel C. Bryant, D.D.S.
Sultan E. Chaudhry, D.D.S.
Jamiah Dawson, D.D.S.
Perry E. Jones, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Dagoberto Zapatero, D.D.S.

BOARD MEMBERS ABSENT: Sandra J. Catchings, D.D.S.

STAFF PRESENT VIRTUALLY: Sandra K. Reen, Executive Director of the Board
Jamie C. Sacksteder, Deputy Executive Director
Donna Lee, Discipline Case Manager
David C. Brown, D.C., Director, Department of Health Professions
Barbara Allison-Bryan, M.D., Chief Deputy Director, Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
Richard Archer, D.D.S., M.S. Board Consultant

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 nine members of the Board present, a quorum was established.

Dr. Petticolas welcomed the new Board member, Dr. Zapatero.

PUBLIC COMMENT:

Dr. Petticolas explained the parameters for public comment and opened the public comment period. He stated that written comments were received from Mr. Trey Lawrence, Kannan Ramar, M.D., and Ms. Jessica Bui, which were included in the agenda package. He further stated that written comments received from Mr. Brett Seigel, Dr. James Watkins, Ms. Jessica Bui, Dr. Dag Zapatero, Dr. Erika Mason, Dr. David Schwartz, and Dr. Alexander Vaughan were sent by email to Board members and the Public Participation list and will be posted with the draft minutes.

Jessica L. Bul, Executive Director, Southern Regional Testing Agency, Inc. (SRTA) – Ms. Bui stated that SRTA has a long standing history with Virginia and it does fulfill the requirements that Virginia has for licensure. She stated that competition is good for students and it allows them to choose which examination they would like to take. Ms. Bui also stated that by only allowing one testing agency, it could hinder the acceptance of applicants to Virginia and she hoped that Virginia would remain inclusive and accept SRTA as a testing exam.

Brett Seigel, VCU ASDA Chapter President Elect - Mr. Seigel said the ASDA chapter at VCU takes the position of moving dental licensure from live patient board exams to non-live patient exams due to the negative impact of using human subjects in clinical licensing examinations. Mr. Seigel stated that ASDA believes an ideal licensure exam does not use human subjects in a live clinical testing scenario; is psychometrically valid and reliable in its assessment; is reflective of the scope of current dental practice; and is universally accepted.

Dr. Gerry Walker, SRTA President – Dr. Walker stated that competition is good across any endeavor. He also stated that using only one agency to test would make a monopoly; and students should be allowed to choose what testing examination they want to take.

Bruce D. Horn, D.D.S., WREB Dental Examination Director – Dr. Horn commented that WREB has been accepted in Virginia for more than 20 years. He stated that the current WREB exam meets and in some areas exceeds the requirements for Virginia licensure. He emphasized that portability for candidates is not equivalent to accepting just one examination and that the ADEX exam is not given everywhere. He said WREB would like to continue to be accepted in Virginia for initial licensure candidates offered to make a presentation to the Board to answer any questions or concerns.

Jason R. Bierig, General Counsel for WREB - Mr. Bierig said the Board is considering withdrawal of acceptance of the WREB exam because of concerns about WREB's system for scoring the exam; and the proposition that if one licensure exam is accepted in all states there is no reason to accept other exams in Virginia. He stated he believed the Board did not consider the correct score reports WREB sent to the

Board. He explained that accepting only one exam is contrary to the goal of portability and would also eliminate competition. He asked the Board to continue accepting their exam and requested a discussion between WREB and the Board to address their concerns.

Erika Mason, D.D.S. – Dr. Mason addressed her concerns about the letter from the American Academy of Sleep Medicine (AASM) which asks the Board to change or incorporate some rules to not allow dentists to use a home sleep test for the treatment of patients with obstructive sleep apnea. She said the AASM had misrepresented the article the American Academy of Dental Sleep Medicine (AADSM) provided. Dr. Mason said that dentists do not want to use the home sleep test for diagnostic purposes, but as something that would benefit the patient to make sure they receive proper treatment and is good for their health. Dr. Mason encouraged having further discussion about this issue before making any determinations about changing laws or regulations.

Alexander T. Vaughan, D.D.S., Dental Director of Virginia Total Sleep – Dr. Vaughan stated that the AASM letter was sent to all state Boards. The AADSM found that only ordering the home sleep test was within the scope of dentistry. The AASM is focused on testing and the interpretation of that test; however, the AADSM is focused on ordering the administration of testing, which is within the scope of the practice of dentistry. Dr. Vaughan encouraged the Board to either take no action with respect to the letter received from AASM or consider appointing a regulatory advisory panel composed of the stakeholders and specialties so that information could be provided from both sides to address the regulatory issue. Dr. Vaughan offered to assist the Board in discussion of this subject.

APPROVAL OF MINUTES: Dr. Petticolas asked if there were any edits or corrections to any of the four sets of draft minutes included in the agenda package. Dr. Jones moved to approve the four sets of minutes. Following a second, a roll call vote was taken. The motion passed.

DHP DIRECTORS' REPORTS: Dr. Brown reported that the General Assembly passed legislation to allow pharmaceutical processors, which are regulated by the Board of Pharmacy, to distribute cannabis flower or botanical cannabis. This bill is anticipated to be signed into law, which will increase the demand for the product. Legislation was also introduced to legalize possession of marijuana in Virginia.

Dr. Brown said the Governor is relaxing some of the COVID restrictions and added that in the near future the Boards may be able to hold in-person meetings and hearings.

Dr. Allison-Bryan reported that communities in Virginia are now open to the 1C category for vaccination and that the goal of the President and the Governor is to allow any adult who wants to get the vaccine to do so by May 1, 2021.

Dr. Allison-Bryan reviewed legislation which increased the type of eligible vaccinators in the Commonwealth. She explained that dentists are not able to give the vaccine in their dental office, and she encouraged anyone interested in participating as a volunteer vaccinator to go to the Virginia Department of Health's website to read about the qualifications and guidelines.

**CONSIDERATION OF
PUBLIC COMMENT:**

Dr. Petticolas deferred discussion of the written comments received regarding the **American Association of Dental Boards (AADB)** to Ms. Reen's report on the AADB mid-year meeting later on the agenda.

Dr. Petticolas called for discussion of the comments received from **AASM** and **AADSM** regarding ordering home sleep tests. Mr. Rutkowski advised the Board to consider the definition of the practice of dentistry in the Code of Virginia. Ms. Reen said the Board's position has been that a dentist can refer patients for a sleep study, but only a medical doctor can make a diagnosis; then the medical doctor can refer a patient for dental treatment to address sleep apnea. Ms. Yeatts confirmed that sleep studies fall within the scope of the practice of medicine and dentists are allowed to make referrals, but not a diagnosis. After discussion, Dr. Bonwell moved to refer this matter to the Regulatory-Legislative Committee for discussion. Following a second, a roll call vote was taken. The motion passed.

Dr. Petticolas deferred discussion of the written and verbal comments regarding licensure examinations received from representatives of **ASDA**, **SRTA** and **WREB** to the Exam Committee report later on the agenda.

**LIAISON & COMMITTEE
REPORTS:**

Update on ADEX - Dr. Bryant stated he had no updates to present.

Exam Committee Report – Dr. Bryant provided an overview of the Committee's work on exam acceptance including the difference between conjunctive and compensatory scoring then addressed each motion advanced by the Committee for Board action.

Dr. Bryant moved that the Board only accept examination results which meet the scoring content, passing score and the listed required components for licensure by examination as stated in the second recommendation on page 46 of the agenda. Following a second, Dr. Petticolas called for discussion. Discussion followed on delaying action on the motion to follow up on the comments received from testing agencies on compensatory scoring. Then a roll call vote on the Committee's motion was taken. The motion passed.

Dr. Bryant moved that the Board only accept the ADEX Dental Exam for licensure by examination as address in the recommendation on page 46 of the agenda. Following a second, Dr. Bryant asked Ms. Sacksteder and Dr. Archer to address this motion. Ms. Sacksteder explained that

the testing agencies' testing booklets were the source of the information she provided to the Committee for discussion. Dr. Archer stated there would be enough lead time for dental students to be aware of the change in Virginia and that dental students will have access nationwide with most being able to take the exam at their respective dental schools. Discussion followed about accepting all exams that meet the content requirements adopted in the first motion then a roll call vote on the Committee's motion was taken. The motion passed.

Dr. Bryant introduced the next motion by reading the requirements for a passing score, exam content and practice experience for licensure by endorsement as specified in the third recommendation on page 46 and continued on page 47 of the agenda. He then moved that the Board continue to accept, for dental licensure by endorsement, passage of the exams given by the 5 testing agencies which meet the specified requirements. Following a second, the floor was opened for discussion. Hearing none, a roll call vote was taken. The motion passed.

Dr. Bryant stated the Committee is recommending a grace period then moved that the Board adopt January 1, 2023 as the effective date for acceptance of only ADEX exam results for dental applicants by examination. Following a second, the floor was opened for discussion. Hearing none, a roll call vote was taken. The motion passed.

Dr. Bryant reviewed the information considered by the Committee on the equivalency of the dental hygiene exams administered by the 5 testing agencies which he said should be considered before addressing the motion on accepting only the ADEX exam. He went on to address the scoring and content requirements addressed on page 47 and 48 of the agenda. Then Dr. Bryant moved that the Board only accept the ADEX exam as recommended. The motion was seconded and the floor was opened for discussion. Questions about limiting acceptance to one exam were raised and addressed. Ms. Sacksteder said the motion to be addressed is the recommendation on required components and scoring. Dr. Petticolas agreed and the motion on the ADEX exam was withdrawn.

Dr. Bryant moved that the Board only accept the exam results for dental hygiene licensure by exam which include the required components and scoring requirements addressed at the bottom of page 47 and on page 48 of the agenda. The motion was seconded and the floor was opened for discussion. A question about the possibility of licensing challenges was addressed, then a roll call vote was taken. The motion passed.

Dr. Bryant moved to only accept the ADEX examination for dental hygiene licensure by examination as addressed in the recommendation on page 47. The motion was seconded. Discussion followed regarding accepting tests from all five testing agencies since they are currently equivalent, being restricted by law to being a member of only one testing agency and about having a voice in exam development. The discussion

included Mr. Rutkowski's explanation that the testing agencies are all corporations and there would be a conflict in being a member of two organizations delivering the same product. A roll call vote was taken. The motion passed.

Dr. Bryant moved that the Board continue to accept for dental hygiene licensure by endorsement passage of the exams given by the 5 testing agencies which meet all the requirements specified in the first full recommendation on page 48, including the practice requirement. Following a second, the floor was opened for discussion. Hearing none, a roll call vote was taken. The motion passed.

Dr. Bryant moved that the Board adopt January 1, 2023 as the effective date for acceptance of only ADEX exam results for dental hygienists applying by examination. Following a second, the floor was opened for discussion. Hearing none, a roll call vote was taken. The motion passed.

Dr. Bryant read the proposed definitions advanced by the Committee for "Clinical Competency Exam", "Compensatory Scoring", "Conjunctive Scoring" and "Substantially Equivalent" as addressed at the bottom of page 48 and the top of page 49 to be addressed in a guidance document for applicants. Dr. Bryant moved adoption of the definition of each of these terms. Following a second, the floor was opened for discussion. Hearing none, a roll call vote was taken. The motion passed.

Dr. Bryant asked if the terms needed to be addressed in regulations. Ms. Yeatts said that definitions in regulations can only define terms that are actually used in the regulations. Since these terms are not in the regulations, she recommended that a comprehensive guidance document be completed to include these definitions and presented to the Board for review at its next meeting. Dr. Petticolas requested that Ms. Yeatts, Ms. Reen and Ms. Sacksteder create a guidance document with the definitions to present to the Board at its next meeting.

Dr. Bryant read the recommendation on page 49 which addresses the proposed requirements for score cards then asked Ms. Yeatts if this information should be provided in a guidance document. Ms. Yeatts confirmed that would be appropriate. Dr. Bryant then moved that the Board adopt the recommendations for acceptable score cards as addressed on page 48 of the agenda for dental and dental hygiene applications. Following a second, the floor was opened for discussion. Hearing none, a roll call vote was taken. The motion passed.

Ms. Yeatts recommended that a guidance pertaining to the acceptable score cards be addressed in a guidance document and presented to the Board at its next meeting. Mr. Rutkowski agreed, explaining that the Board has the authority to address the exams it will accept.

Dr. Bryant stated that the Exam Committee wanted to ask Board Counsel and Ms. Yeatts if the changes in requirements adopted by the Board for clinical exam acceptance need to be addressed in regulations or in a guidance document and application instructions. Ms. Yeatts clarified the difference between a guidance document and a regulation and advised that it is not necessary to take regulatory action because the Board has the authority to determine which clinical exams are acceptable for licensure. Mr. Rutkowski concurred with Ms. Yeatts and added there is a statute that requires a candidate to pass a clinical examination acceptable to the Board. He stated that the Board can approve the examination and it does not have to go through regulations. Dr. Bryant moved that the changes in examination requirements adopted by the Board for clinical exam acceptance be addressed in a guidance document and application instructions. Following a second, the floor was opened for discussion. Dr. Bryant clarified for new members that guidance documents can be changed. A roll call vote was taken. The motion passed.

Dr. Petticolas asked if the motions adopted on dental hygiene exam content and on only accepting ADEX for licensure by examination were in conflict. Ms. Yeatts responded that she sees them as complementary.

Board of Health Professions – Ms. Reen reported that Dr. Catchings attended her first meeting and the draft minutes are provided for review.

Regulatory-Legislative Committee – Ms. Reen said the Committee recommended initiating a fast-track action to remove pulp capping from the scope of practice for DAs II. She added that there are 32 DAs II with approval to perform pulp capping who will need to be addressed. Ms. Yeatts pointed out that a fast track action would not be appropriate in this situation and the standard process will take about 2 years. Mr. Rutkowski agreed. After discussion, Dr. Chaudhry moved that a NOIRA be initiated to remove pulp capping from the scope of practice and training requirements of DAs II. The motion was seconded and the floor was opened for further discussion. Ms. Yeatts said that she was concerned about removing the ability to do pulp capping from people already authorized to do this function. She said the process can be started. Opposition to grandfathering and a question about increasing the education requirements were discussed. Ms. Yeatts said the process could be started now and added that new regulations for DAs II will go into effect March 31, 2021. A roll call vote was taken. The motion passed.

Update on CITA – The annual meeting will be in October in Florida. Dr. Petticolas suggested that a Board member should attend who intends to administer this exam. Ms. Lemaster indicated she would be interested in attending the CITA meeting.

Executive Committee Report - Dr. Petticolas referred to the draft minutes of the March 5, 2021 Committee meeting then moved to adopt

the following 2 amendments to the Bylaws on pages 61 and 65 which address conducting Board business during an emergency:

- **Article V. Committees, #1-Executive Committee** – add letter “f” to read “Address urgent matters which adversely affect either the timely licensing of applicants or the continuity of board operations while a State of Emergency is in effect and documented efforts to convene a quorum of the Board have failed due to disruption of electronic communications and/or the ability to safely travel in the Commonwealth.”
- **Article VI. Executive Director, #2 Duties** – modify subsection “e” to add “Keep a record of efforts to convene a meeting of the Board during a State of Emergency to include methods of contact; a summary of the information provided; a summary of the responses of each member; and an explanation of why efforts to contact a member were unsuccessful.”

Following a second, the floor was opened for discussion. Dr. Bonwell asked about the duplicate lettering on page 64 in number 4. Special Conference Committees which should read “a, b, c, d, e, and f”. There was consensus to include this change in the motion. A roll call vote was taken. The motion passed.

**LEGISLATION AND
REGULATION:**

Status Report on Regulatory Actions Chart. Ms. Yeatts reviewed the status of Regulatory Actions, noting that the sedation and anesthesia regulations went into effect on February 17, 2021 and the comment period for the 2 NOIRAs - on training and supervision of digital scan technicians and on training of DAs in infection control - ends on March 31, 2021. She gave an overview of the standard 3-stage process for the adoption and promulgation of regulations. She also described the steps in the approval process and stated that sometimes it can take up to 2 years before a regulation is final.

Petition for Rulemaking – Regulations Governing the Practice of Dental Assistants. - Ms. Yeatts reviewed the petition to amend regulations to create a pathway for dental assistants with 5-10 years of experience to take the Certified Restorative Functions Dental Assistant exam and have the employing dentist observe and approve their capabilities to practice as a Dental Assistant II. She explained the possible actions and responded to questions. Mr. Martinez moved to deny the petitioner’s request for rulemaking at this time. Following a second, the floor was opened for further discussion. Hearing none, a roll call vote was taken. The motion passed.

**BOARD COUNSEL
REPORT:**

Mr. Rutkowski did not have any report for the Board.

**DEPUTY EXECUTIVE
DIRECTOR'S REPORT:**

Ms. Sacksteder reviewed her disciplinary report on case activity for January 1, 2020 to December 31, 2020 and for January and February of 2021, giving an overview of the actions taken and a breakdown of the cases closed with violations.

**EXECUTIVE DIRECTOR'S
REPORT:**

AADB Mid-Year Meeting – Ms. Reen stated the meeting was held virtually and was well organized with a focus on continuing education, adding that there was no business conducted. She noted the public comments received from three organizations expressing concerns regarding the new for-profit corporation sponsorships instituted by the AADB and the potential conflicts of interest these appear to have created. Dr. Bryant expressed concerns about maintaining the relationship. Dr. Brown commented that all DHP boards have national associations where each state has a representative except dentistry because AADB is not organized to represent the boards. He said that there needs to be a meeting of boards to create a national association for boards. Dr. Petticolas said the letter raised a significant issue. Discussion followed on actions the Board could take. The consensus of the Board was to send a letter to every state and a copy to the 3 organizations, AADB and the ADA expressing concerns about AADB serving the interests of companies rather than the Boards. Ms. Reen was directed to draft a letter outlining the Board's concerns, share it with the Board members for review, and then provide the final letter for signature by Dr. Petticolas.

CODA Accreditation Site Visit Scheduled in Virginia – Ms. Reen informed the Board that when CODA does an accreditation in Virginia, they like to have a Board representative present. She reported that Dr. Dawson was selected by CODA to be the Board representative for the site visit in Abingdon which will be conducted in April.

Dentistry's Licensees and Registrants – Ms. Reen reviewed the number of licensees and license types that make up the total number of 15,181 licensees.

When a Dentist Dies Guide – Ms. Reen asked if the Board would be interested in creating a guidance document to explain what to do with patient records and other factors to consider if a dentist dies. Mr. Rutkowski confirmed there is no statutory provisions on how to handle the records when a licensee passes away. By consensus the Board asked Ms. Reen, along with Mr. Rutkowski and Mr. Martinez, to prepare a guidance document to present to the Board at its next meeting.

Board Member Training - Ms. Reen invited recommendations on possible training topics of interest to the Board members that could be addressed in future board meetings.

Board, but not Boring:

Dr. Allison-Bryan was unable to make her presentation due to technical difficulties. Dr. Allison-Bryan agreed to provide the presentation at the Board's next meeting.

Virginia Board of Dentistry
Board Business Meeting
March 19, 2021

ADJOURNMENT: With all business concluded, the Board adjourned at 2:09 p.m.

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

July 13, 2021
Date

Sandra K. Reen
Sandra K. Reen, Executive Director

July 15, 2021
Date

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions
As of March 1, 2022**

Board of Dentistry	
Chapter	Action / Stage Information
[18 VAC 60 - 21] Regulations Governing the Practice of Dentistry	<p><u>Amendment to restriction on advertising dental specialties</u> [Action 4920]</p> <p>Proposed - At Governor's Office for 898 days</p>
[18 VAC 60 - 21] Regulations Governing the Practice of Dentistry	<p><u>Training and supervision of digital scan technicians</u> [Action 5800]</p> <p>Proposed - Register Date: 1/31/22 Comment period ends: 4/1/22</p>
[18 VAC 60 - 21] Regulations Governing the Practice of Dentistry	<p><u>Technical correction</u> [Action 5198]</p> <p>Fast-Track - At Governor's Office for 835 days</p>
[18 VAC 60 - 21] Regulations Governing the Practice of Dentistry	<p><u>Waiver for e-prescribing</u> [Action 5382]</p> <p>Final - Register Date: 1/3/22 Effective: 2./2/22</p>
[18 VAC 60 - 30] Regulations Governing the Practice of Dental Assistants	<p><u>Removal of pulp capping as a delegable task for a DAI</u> [Action 5728]</p> <p>NOIRA - Register Date: 1/31/22 Comment ends: 3/2/22</p>
[18 VAC 60 - 30] Regulations Governing the Practice of Dental Assistants	<p><u>Training in infection control</u> [Action 5505]</p> <p>Proposed - Register Date: 1/3/22 Comment period ends: 4/1/22</p>

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Agency

Department of Health Professions

Board

Board of Dentistry

Chapter

Regulations Governing the Practice of Dental Assistants [18 VAC 60 - 30]

Action: Removal of pulp capping as a delegable task for a DAI**Notice of Intended Regulatory Action (NOIRA)**

Action 5728 / Stage 9269

 [Edit Stage](#)
 [Withdraw Stage](#)
 [Go to RIS Project](#)
Documents

Preliminary Draft Text	None submitted	Sync Text with RIS
<input checked="" type="checkbox"/> Agency Background Document	5/28/2021	Upload / Replace
<input checked="" type="checkbox"/> Governor's Review Memo	12/30/2021	
<input checked="" type="checkbox"/> Registrar Transmittal	12/30/2021	

Status

Public Hearing	Will be held at the proposed stage
Exempt from APA	No, this stage/action is subject to Article 2 of the <i>Administrative Process Act</i>
DPB Review	Submitted on 5/28/2021 Policy Analyst: Jini Rao Review Completed: 6/10/2021
Governor's Review	Review Completed: 12/30/2021 Result: Approved
Virginia Registrar	Submitted on 12/30/2021 The Virginia Register of Regulations Publication Date: 1/31/2022 <input checked="" type="checkbox"/> Volume: 38 Issue: 12
Comment Period	<input checked="" type="checkbox"/> In Progress! Ends 3/2/2022 Currently 0 comments

Contact Information

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This person is the primary contact for this board.

This stage was created by Elaine J. Yeatts on 05/28/2021 at 3:42pm

This stage was last edited by Elaine J. Yeatts on 05/28/2021 at 3:43pm

**Board of Dentistry
Report of the 2022 General Assembly**

HB 80 Healthcare Regulatory Sandbox Program; established, report, sunset date.

Chief patron: Davis

Summary as passed House:

Healthcare Regulatory Sandbox Program; established. Requires the Department of Health to establish the Healthcare Regulatory Sandbox Program to enable a person to obtain limited access to the market in the Commonwealth to temporarily test an innovative healthcare product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the Commonwealth. Under the Program, an applicant requests the waiver of certain laws, regulations, or other requirements for a 24-month testing period, with an option to request an additional six-month testing period. The bill provides application requirements, consumer protections, procedures for exiting the Program or requesting an extension, and recordkeeping and reporting requirements. The bill requires the Department to provide an annual report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health that provides information regarding each Program participant and that provides recommendations regarding the effectiveness of the Program. The bill has an expiration date of July 1, 2027.

02/14/22 House: Read third time and passed House (54-Y 46-N)

02/14/22 House: VOTE: Passage (54-Y 46-N)

02/16/22 Senate: Constitutional reading dispensed

02/16/22 Senate: Referred to Committee on Education and Health

02/23/22 Senate: Assigned Education sub: Health Professions

HB 192 Opioids; repeals sunset provisions relating to prescriber requesting information about a patient.

Chief patron: Hodges

Summary as introduced:

Prescription of opioids; sunset. Repeals sunset provisions for the requirement that a prescriber registered with the Prescription Monitoring Program request information about a

patient from the Program upon initiating a new course of treatment that includes the prescribing of opioids anticipated, at the onset of treatment, to last more than seven consecutive days.

02/08/22 Senate: Constitutional reading dispensed

02/08/22 Senate: Referred to Committee on Education and Health

02/16/22 Senate: Assigned Education sub: Health Professions

02/24/22 Senate: Reported from Education and Health (15-Y 0-N)

02/25/22 Senate: Constitutional reading dispensed (39-Y 0-N)

HB 213 Optometrists; allowed to perform laser surgery if certified by Board of Optometry.

Chief patron: Robinson

Summary as passed House:

Optometrists; laser surgery. Allows an optometrist who has received a certification to perform laser surgery from the Board of Optometry (the Board) to perform certain types of laser surgery of the eye and directs the Board to issue a certification to perform laser surgery to any optometrist who submits evidence satisfactory to the Board that he (i) is certified by the Board to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents pursuant to Code requirements and (ii) has satisfactorily completed such didactic and clinical training programs provided by an accredited school or college of optometry that includes training in the use of lasers for the medically appropriate and recognized treatment of the human eye as the Board may require.

The bill also requires the Board to adopt regulations (a) establishing criteria for certification of an optometrist to perform permitted laser surgeries and (b) requiring optometrists to register annually with the Board and to report information regarding any disciplinary action, malpractice judgment, or malpractice settlement against the provider and any evidence that indicates the provider may be unable to engage safely in the practice of his profession. The bill also requires optometrists certified to perform laser surgery to report certain information regarding the number any types of laser surgeries performed and the conditions treated, as well as any adverse treatment outcomes associated with the performance of such laser surgeries to the Board, and requires the Board to report such information to the Governor and the Secretary of Health and Human Resources annually.

02/23/22 House: Enrolled
02/23/22 House: Bill text as passed House and Senate (HB213ER)
02/23/22 House: Signed by Speaker
02/23/22 Senate: Signed by President
02/24/22 House: Impact statement from DPB (HB213ER)

HB 244 Regulatory Budget Program; DPB to establish a continuous Program, report.

Chief patron: Webert

Summary as passed House:

Department of Planning and Budget; Regulatory Budget Program; report. Directs the Department of Planning and Budget, under the direction of the Secretary of Finance, to establish a continuous Regulatory Budget Program with the goal of setting a two-year target for each executive branch agency subject to the Administrative Process Act to (i) reduce regulations and regulatory requirements, (ii) maintain the current number of regulations and regulatory requirements, or (iii) allow regulations and regulatory requirements to increase by a specific amount over a two-year period. The bill requires the Secretary of Finance to report to the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules on the status of the Program no later than October 1 of each odd-numbered year. Finally, the bill provides that the Department, in consultation with the Office of the Attorney General, shall, by March 1, 2023, issue guidance for agencies regarding the Program and how an agency can comply with the requirements of the Program.

02/15/22 House: Reconsideration of passage agreed to by House
02/15/22 House: Passed House (63-Y 36-N)
02/15/22 House: VOTE: Passage #2 (63-Y 36-N)
02/16/22 Senate: Constitutional reading dispensed
02/16/22 Senate: Referred to Committee on General Laws and Technology

HB 444 Virginia Freedom of Information Act; meetings conducted through electronic meetings.

Chief patron: Bennett-Parker

Summary as introduced:

Virginia Freedom of Information Act; meetings conducted through electronic meetings.

Amends existing provisions concerning electronic meetings by keeping the provisions for electronic meetings held in response to declared states of emergency, repealing the provisions that are specific to regional and state public bodies, and allowing public bodies to conduct all-virtual public meetings where all of the members who participate do so remotely and that the public may access through electronic communications means. Definitions, procedural requirements, and limitations for all-virtual public meetings are set forth in the bill, along with technical amendments.

02/01/22 House: Read second time and engrossed

02/02/22 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

02/02/22 House: VOTE: Block Vote Passage (98-Y 0-N)

02/03/22 Senate: Constitutional reading dispensed

02/03/22 Senate: Referred to Committee on General Laws and Technology

HB 555 Health care providers; transfer of patient records in conjunction with closure, etc.

Chief patron: Hayes

Summary as introduced:

Health care providers; transfer of patient records in conjunction with closure, sale, or relocation of practice; electronic notice permitted. Allows health care providers to notify patients either electronically or by mail prior to the transfer of patient records in conjunction with the closure, sale, or relocation of the health care provider's practice. Current law requires health care providers to provide such notice by mail.

02/23/22 House: Enrolled

02/23/22 House: Bill text as passed House and Senate (HB555ER)

02/23/22 House: Signed by Speaker

02/23/22 Senate: Signed by President

02/24/22 House: Impact statement from DPB (HB555ER)

HB 1359 Health care; consent to services and disclosure of records.

Chief patron: Byron

Summary as passed House:

Health care; consent to services and disclosure of records. Provides that an authorization for the disclosure of health records shall remain in effect until (i) the authorization is revoked in writing to the person in possession of the health record subject to the authorization, (ii) any expiration date set forth in the authorization, or (iii) the person in possession of the health record becomes aware of any expiration event described in the authorization, whichever occurs first, and that a revocation shall not be effective to the extent that the person in possession of the health record released health records prior to such revocation.

The bill also provides that authorization for the release of health records shall include authorization for the person named in the authorization to assist the person who is the subject of the health record in accessing health care services, including scheduling appointments for the person who is the subject of the health record and attending appointments together with the person who is the subject of the health record.

The bill also provides that every health care provider shall make health records of a patient available to any person designated by a patient in an authorization to release medical records and that a health care provider shall allow a spouse, parent, adult child, adult sibling, or other person identified by a person to make an appointment for medical services on behalf of another person, regardless of whether the other person has executed an authorization to release medical records.

02/16/22 Senate: Constitutional reading dispensed

02/16/22 Senate: Referred to Committee on Education and Health

02/17/22 House: Impact statement from DPB (HB1359H1)

02/23/22 Senate: Assigned Education sub: Health Professions

02/25/22 Senate: Senate subcommittee amendments and substitutes offered

SB 317 Out-of-state health care practitioners; temporary authorization to practice.

Chief patron: Favola

Summary as passed Senate:

Out-of-state health care practitioners; temporary authorization to practice; licensure by reciprocity for physicians; emergency. Allows a health care practitioner licensed in another state or the District of Columbia who has submitted an application for licensure to the appropriate health regulatory board to temporarily practice for a period of 90 days pending

licensure, provided that certain conditions are met. The bill directs the Department of Health Professions to pursue reciprocity agreements with jurisdictions that surround the Commonwealth to streamline the application process in order to facilitate the practice of medicine. The bill requires the Department of Health Professions to annually report to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions the number of out-of-state health care practitioners who have utilized the temporary authorization to practice pending licensure and have not subsequently been issued full licensure. The bill contains an emergency clause.

EMERGENCY

02/25/22 House: Read third time

02/25/22 House: Committee substitute agreed to 22106790D-H1

02/25/22 House: Engrossed by House - committee substitute SB317H1

02/25/22 House: Passed House with substitute (99-Y 0-N)

02/25/22 House: VOTE: Passage (99-Y 0-N)

SB 590 Dentistry, license to teach; foreign dental program graduates.

Chief patron: Pillion

Summary as introduced:

License to teach dentistry; foreign dental program graduates. Allows the Board of Dentistry to grant, without examination, a faculty license to teach dentistry in an accredited dental program to a graduate of a dental school or college or the dental department of an institution of higher education in a foreign country that has been granted a certification letter from the dean or program director of an accredited dental program confirming that the applicant has clinical competency and clinical experience that meet the credentialing standards of the dental school with which the applicant is to be affiliated. The provisions of the bill expire on July 1, 2025.

02/14/22 Senate: Passed Senate (40-Y 0-N)

02/22/22 House: Placed on Calendar

02/22/22 House: Read first time

02/22/22 House: Referred to Committee on Health, Welfare and Institutions

02/24/22 House: Reported from Health, Welfare and Institutions (22-Y 0-N)

2022 SESSION

INTRODUCED

22100987D

SENATE BILL NO. 590
Offered January 12, 2022
Prefiled January 12, 2022

A BILL to amend and reenact § 54.1-2713 of the Code of Virginia, relating to license to teach dentistry; foreign dental program graduates.

Patron—Pillion

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2713 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2713. Licenses to teach dentistry; renewals.

A. Upon payment of the prescribed fee and provided that no grounds exist to deny licensure pursuant to § 54.1-2706, the Board may grant, without examination, a faculty license to teach dentistry in a dental program accredited by the Commission on Dental Accreditation of the American Dental Association to any applicant who meets one of the following qualifications:

1. Is a graduate of a dental school or college or the dental department of an institution of higher education, has a current unrestricted license to practice dentistry in at least one other United States jurisdiction, and has never been licensed to practice dentistry in the Commonwealth; or

2. Is a graduate of a dental school or college or the dental department of an institution of higher education, has completed an advanced dental education program accredited by the Commission on Dental Accreditation of the American Dental Association, and has never been licensed to practice dentistry in the Commonwealth; or

3. Is a graduate of a dental school or college or the dental department of an institution of higher education in a foreign country and has been granted a certification letter from the dean or program director of an accredited dental program confirming that the applicant has clinical competency and clinical experience that meet the credentialing standards of the dental school with which the applicant is to be affiliated.

B. The dean or program director of the accredited dental program shall provide to the Board verification that the applicant is being hired by the program and shall include an assessment of the applicant's clinical competency and clinical experience that qualifies the applicant for a faculty license.

C. The holder of a license issued pursuant to this section shall be entitled to perform all activities that a person licensed to practice dentistry would be entitled to perform and that are part of his faculty duties, including all patient care activities associated with teaching, research, and the delivery of patient care, which take place only within educational facilities owned or operated by or affiliated with the dental school or program. A licensee who is qualified based on educational requirements for a specialty board certification shall only practice in the specialty for which he is qualified. A license issued pursuant to this section shall not authorize the holder to practice dentistry in nonaffiliated clinics or in private practice settings.

D. Any license issued under this section shall expire on June 30 of the second year after its issuance or shall terminate when the licensee leaves employment at the accredited dental program. Such license may be renewed annually thereafter as long as the accredited program certifies to the licensee's continuing employment.

2. That the provisions of this act shall expire on July 1, 2025.

INTRODUCED

SB590

2/22/22 8:21

Agenda Item: Board Consideration of Guidance Document on Content of Examination

Included in your agenda package are:

Copy of petition for rule-making

Copy of current Guidance document 60-25

Copy of regulation for Licensure by Credentials

Board discussion:

- Whether to consider amendments to Guidance Document 60-25 or take other action in response to petition

Robert Koski
116 North Belnord Avenue
Baltimore, MD 21224

February 9, 2022

Virginia Board of Dentistry
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, VA 23233-1463

To the Virginia Board of Dentistry:

Introduction: My name is Robert Koski. I am currently applying for a license to practice dentistry in Virginia. I am submitting this Petition for Rule-making for your consideration.

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

I am petitioning you today to consider amending Guidance Document 60-25: Policy on DENTAL CLINICAL COMPETENCY EXAMINATION REQUIREMENTS FOR LICENSURE, adopted June 11, 2021.

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

I propose excluding the requirement for the Diagnostic Skills Examination, DSE, (ADEX = CDCA and CITA) or the Comprehensive Treatment Planning, CTP, (WREB) for applicants who passed their appropriate regional examination prior to the adopted date June 11, 2021 and who have been in full-time dental practice, faculty, or education programs since that time. There are three reasons to adopt this proposed amendment that directly benefit the Commonwealth of Virginia.

First, applicants who meet the above criteria have competence in the evaluation, diagnosis, and treatment of dental conditions and the prevention of dental diseases, fulfilling the intention of the current guidance. If they have been in clinical practice they have practical experience developing those skills or are in an advanced education program developing the skills. Virginia is missing out on qualified dentists who want to serve its population.

Second, requiring an additional portion of a licensure examination is an expensive, time-consuming, and unnecessary addition for this pool of applicants. This single portion of the examination would cost \$990 (CDCA) or approximately \$500 plus travel expenses (WREB) in addition to the hours spent preparing and studying. This added expense to prove what is demonstrated through practical, real-world experience discourages otherwise qualified dentists from practicing in Virginia. This money would be better spent opening and operating a dental practice or otherwise contributing to the Virginia economy.

Third, this is a self-limiting amendment. Guidance Document 60-25 states that effective January 1, 2023 that the Board will only accept applicants by examination who have completed an ADEX exam (that

includes the DSE) and only applicants by credentials who have completed a clinical competency component. This gives all applicants one year to adjust and prepare for the examination while still allowing qualified dentists to practice prior to the change.

Personally, I am an active-duty member of the United States Air Force and have been in practice since my graduation from dental school in 2018. I am currently licensed in the state of Texas (#34346) and earned an Advanced Education in General Dentistry certificate following a one-year residency at Offutt AFB, NE. Following residency, I practiced general dentistry at both the 96th Dental Squadron at Eglin AFB, FL and the 1st Special Operations Medical Group at Hurlburt Field, FL. This is documented in my open application. I am now residing in Baltimore, MD where I am completing a master's degree in Applied Health Informatics at Johns Hopkins University sponsored by the Air Force. Following completion of the program, I will work at the Defense Health Agency Headquarters in Falls Church, VA. I am also working toward a fellowship in the Academy of General Dentistry, with more than 150 hours completed toward the 500-hour requirement. I feel that these experiences qualify me far beyond a single day, computer-based examination of simulated dental cases. There are certainly other dentists who, like me, wish to obtain Virginia licensure between now and the 2023 deadline who are equally, if not more qualified than I am.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

The Virginia Board of Dentistry has the legal authority to take the action requested per § 54.1-2400 of the Code of Virginia.

Please consider adopting this amendment. If you have any questions or concerns, please contact me via U.S. Mail at the address above or by email at robert.koski1@gmail.com. Thank you for your consideration.

Sincerely,



Robert Koski

**Virginia Board of Dentistry
Policy on
DENTAL CLINICAL COMPETENCY EXAMINATION
REQUIREMENTS FOR LICENSURE**

Notice of Policies on Acceptable Clinical Examinations Effective January 1, 2023

Effective January 1, 2023, the Board will only accept from applicants who apply for licensure by examination, the **ADEX Exam**, for dental applicants. This policy applies to all examinations completed in calendar year 2023 and thereafter, regardless of the dates portions of the examination were taken.

Effective January 1, 2023, the Board will only accept from dental applicants who apply for licensure by credentials, a Clinical Competency Exam that is substantially equivalent to the required clinical exam components. This policy applies to all examinations completed regardless of the date or dates an examination was taken.

Acceptable Clinical Examinations Effective March 19, 2021

Definitions to Applied Terms

- **“Clinical Competency Exam”** means a formal test of knowledge and competence in the evaluation, diagnosis, and treatment of dental conditions and the prevention of dental diseases which includes live patient and/or manikin based testing methods to demonstrate the skills needed to safely provide care and treatment of patients.
- **“Compensatory Scoring”** is a scoring methodology which allows for strong performance in one content area to compensate for poor performance in another content area as long as the overall score meets the performance standard.
- **“Conjunctive Scoring”** is a scoring methodology which requires that performance standards be met for each specified content area.
- **“Substantially Equivalent”** means any examination taken for another jurisdiction which is equivalent in content and degree of difficulty, respectively, to those requirements for licensure by examination.

Dental Applications by Examination

Every candidate who examines with CDCA, CITA, CRDTS, SRTA, or WREB shall pass each individual component listed below with only conjunctive scoring (not compensatory scoring) with a **minimum passing score of 75%** for each of the following required components for an exam to be accepted by the Board:

- **Diagnostic Skills Examination;**
- **Endodontics**, including access opening of a posterior tooth and access, canal instrumentation, and obturation of an anterior tooth;
- **Fixed prosthodontics**, including an anterior crown preparation and two posterior crown preparations involving a fixed partial denture factor;
- **Periodontics**, including scaling and root planing;
- **Restorative**, including a class II amalgam or composite preparation and restoration, and a class III composite preparation and restoration.

Dental Applications by Credentials

The Board will only accept from dental applicants who apply for licensure by credentials, a Clinical Competency Exam that is substantially equivalent to the required clinical exam components for licensure by examination (includes CDCA, CITA, CRDTS, SRTA, and WREB). Every candidate shall pass each individual component with only conjunctive scoring (not compensatory scoring) with a **minimum passing score of 75%** for each of the following required components for an exam to be accepted by the Board:

- **Diagnostic Skills Examination (ADEX = CDCA and CITA) or Comprehensive Treatment Planning (WREB).** Based on review of the respective 2021 Candidate Examination Guides, SRTA and CRDTS do not have an exam component that is substantially equivalent to the Diagnostic Skills Examination or the Comprehensive Treatment Planning;
- **Endodontics**, including access opening of a posterior tooth and access, canal instrumentation, and obturation of an anterior tooth;
- **Fixed prosthodontics**, including an anterior crown preparation and two posterior crown preparations involving a fixed partial denture factor;
- **Periodontics**, including scaling and root planing;
- **Restorative**, including a class II amalgam or composite preparation and restoration, and a class III composite preparation and restoration.
- Every candidate shall have been in continuous clinical practice in another jurisdiction of the United States or in federal civil or military service for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in another jurisdiction of the United States (i) as a volunteer in a public health clinic, (ii) as an intern, or (iii) in a residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant. 18VAC60-21-210.B.4

Acceptable Score Cards and Reports for Dental Licensure

- An original and detailed score card or report is required from the testing agency documenting passage of a clinical competency examination. Candidate's score cards are not acceptable. All score cards or reports must be requested by the applicant. The original and detailed score card or report must be mailed to the Board. Or, the applicant must contact the testing agency to request that the test results be made available to the Virginia Board of Dentistry via online access portal. For WREB you must request an IPR detailed report. The Board does not accept certificates or Canadian exams.
- Score cards shall show conjunctive scoring of the required clinical competency exam components. The score cards must show a pass (equivalent to at least a score of 75%) or a fail.
- Applicants shall submit score cards for each attempt of a clinical competency exam. If an applicant has failed any clinical competency exam, a score card is still required to be submitted. The applicant shall notify the Board of all previously failed attempts of any clinical competency exam.

- Applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or take clinical continuing education as evidence of continuing competence that meets the requirements of 18VAC60-21-250 unless they demonstrate that they have maintained clinical, ethical, and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure. 18VAC60-21-210 (B) (4)

Excerpts of Applicable Laws and Regulations Addressing Clinical Examinations

- **Dental Applicants**
 - “An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant . . . has successfully completed a clinical examination acceptable to the Board.” Va. Code §54.1-2709(B)(iv).
 - “The Board may grant a license to practice dentistry to an applicant licensed to practice in another jurisdiction if he . . . meets the requirements of subsection B.” Va. Code §54.1-2709(C)(i).
 - Dental licensure by examination. All applicants for licensure by examination shall have:
Passed a dental clinical competency examination that is accepted by the board. 18VAC60-21-210(A)(1)(b).
 - Dental licensure by credentials. All applicants for licensure by credentials shall: have successfully completed a clinical competency examination acceptable to the board. 18VAC60-21-210(B)(2).

Virginia Administrative Code
Title 18. Professional And Occupational Licensing
Agency 60. Board Of Dentistry
Chapter 21. Regulations Governing the Practice of Dentistry

18VAC60-21-210. Qualifications for an unrestricted license.

A. Dental licensure by examination.

1. All applicants for licensure by examination shall have:

- a. Successfully completed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations; and
- b. Passed a dental clinical competency examination that is accepted by the board.

2. If a candidate has failed any section of a clinical competency examination three times, the candidate shall complete a minimum of 14 hours of additional clinical training in each section of the examination to be retested in order to be approved by the board to sit for the examination a fourth time.

3. Applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or take continuing education that meets the requirements of 18VAC60-21-250 unless they demonstrate that they have maintained clinical, ethical, and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure.

B. Dental licensure by credentials. All applicants for licensure by credentials shall:

1. Have passed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations;
2. Have successfully completed a clinical competency examination acceptable to the board;
3. Hold a current, unrestricted license to practice dentistry in another jurisdiction of the United States and be certified to be in good standing by each jurisdiction in which a license is currently held or has been held; and
4. Have been in continuous clinical practice in another jurisdiction of the United States or in federal civil or military service for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in another jurisdiction of the United States (i) as a volunteer in a public health clinic, (ii) as an intern, or (iii) in a residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 5, eff. December 2, 2015.

Website addresses provided in the Virginia Administrative Code to documents incorporated by reference are for the reader's convenience only, may not necessarily be active or current, and should not be relied upon. To ensure the information incorporated by reference is accurate, the reader is encouraged to use the source document described in the regulation.

As a service to the public, the Virginia Administrative Code is provided online by the Virginia General Assembly. We are unable to answer legal questions or respond to requests for legal advice, including application of law to specific fact. To understand and protect your legal rights, you should consult an attorney.

3/2/2022

Virginia Board of Dentistry
Policy on
DENTAL HYGIENE CLINICAL COMPETENCY EXAMINATION
REQUIREMENTS FOR LICENSURE

Notice of Policies on Acceptable Clinical Examinations Effective January 1, 2023

Effective January 1, 2023, the Board will only accept from applicants who apply for licensure by examination, the ADEX Exam, for dental hygiene applicants. This policy applies to all examinations completed in calendar year 2023 and thereafter, regardless of the dates portions of the examination were taken.

Effective January 1, 2023, the Board will only accept from dental hygiene applicants who apply for licensure by credentials, a Clinical Competency Exam that is substantially equivalent to the required clinical exam components. This policy applies to all examinations completed regardless of the date or dates an examination was taken.

Acceptable Clinical Examinations Effective March 19, 2021

Definitions to Applied Terms

- **“Clinical Competency Exam”** means a formal test of knowledge and competence in the evaluation, diagnosis, and treatment of dental conditions and the prevention of dental diseases which includes live patient and/or manikin based testing methods to demonstrate the skills needed to safely provide care and treatment of patients.
- **“Compensatory Scoring”** is a scoring methodology which allows for strong performance in one content area to compensate for poor performance in another content area as long as the overall score meets the performance standard.
- **“Conjunctive Scoring”** is a scoring methodology which requires that performance standards be met for each specified content area.
- **“Substantially Equivalent”** means any examination taken for another jurisdiction which is equivalent in content and degree of difficulty, respectively, to those requirements for licensure by examination.

Dental Hygiene Applications by Examination

Every candidate who examines with CDCA, CITA, CRDTS, SRTA, or WREB shall pass each individual component listed below with only conjunctive scoring (not compensatory scoring) and a minimum passing score of 75% for each of the following required components for an exam to be accepted by the Board:

- **Treatment Clinical Examination**, including calculus detection and removal, periodontal pocket depth measurements, and tissue management.
- **Computer Simulated Clinical Examination**, including assessing various levels of diagnosis and treatment planning knowledge, skills, and abilities.

Dental Hygiene Applications by Credentials

The Board will only accept from dental hygiene applicants who apply for licensure by credentials, a Clinical Competency Exam that is substantially equivalent to the required clinical exam components for licensure by examination (includes CDCA, CITA, CRDTS, SRTA and WREB). Every candidate shall pass each individual component with only conjunctive scoring (not compensatory scoring) and a minimum passing score of 75% for each of the following required components for an exam to be accepted by the Board:

- **Treatment Clinical Examination**, including calculus detection and removal, periodontal pocket depth measurements, and tissue management.
- **Computer Simulated Clinical Examination**, including assessing various levels of diagnosis and treatment planning knowledge, skills, and abilities.
- Be currently licensed to practice dental hygiene in another jurisdiction of the United States and have clinical, ethical, and active practice for 24 of the past 48 months immediately preceding application for licensure. 18VAC60-25-150.2

Acceptable Score Cards and Reports for Dental and Dental Hygiene Licensure

- An original and detailed score card or report is required from the testing agency documenting passage of a clinical competency examination. Candidate's score cards are not acceptable. All score cards or reports must be requested by the applicant. The original and detailed score card or report must be mailed to the Board. Or, the applicant must contact the testing agency to request that the test results be made available to the Virginia Board of Dentistry via online access portal. For WREB you must request an IPR detailed report. The Board does not accept certificates or Canadian exams.
- Score cards shall show conjunctive scoring of the required clinical competency exam components. The score cards must show a pass (equivalent to at least a score of 75%) or a fail.
- Applicants shall submit score cards for each attempt of a clinical competency exam. If an applicant has failed any clinical competency exam, a score card is still required to be submitted. The applicant shall notify the Board of all previously failed attempts of any clinical competency exam.
- Applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or take clinical continuing education as evidence of continuing competence that meets the requirements of 18VAC60-25-190 unless they demonstrate that they have maintained clinical, ethical, and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure. 18VAC60-25-140.C.

Excerpts of Applicable Laws and Regulations Addressing Clinical Examinations

- **Dental Hygiene Applicants**
 - An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant has successfully completed a clinical examination acceptable to the Board. §54.1-2722.B (iv)
 - The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he meets other qualifications as determined in regulations promulgated by the Board. §54.1-2722. C (iv)
 - An applicant for dental hygiene licensure by credentials shall have successfully completed a clinical competency examination substantially equivalent to that required for licensure by examination. 18VAC60-25-150.4

Virginia Administrative Code
Title 18. Professional And Occupational Licensing
Agency 60. Board Of Dentistry
Chapter 25. Regulations Governing the Practice of Dental Hygiene

18VAC60-25-150. Licensure by credentials.

An applicant for dental hygiene licensure by credentials shall:

1. Have graduated from or have been issued a certificate by a CODA or CDAC accredited program of dental hygiene;
2. Be currently licensed to practice dental hygiene in another jurisdiction of the United States and have clinical, ethical, and active practice for 24 of the past 48 months immediately preceding application for licensure;
3. Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;
4. Have successfully completed a clinical competency examination substantially equivalent to that required for licensure by examination;
5. Not have committed any act that would constitute a violation of § 54.1-2706 of the Code; and
6. Have successfully completed the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to the board.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 32, Issue 5, eff. December 2, 2015; amended, Virginia Register Volume 32, Issue 8, eff. January 28, 2015.

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Virginia Department of
Health Professions
 Board of Dentistry
 Disciplinary Board Report

Today's report reviews the January –February 2022 case activity

January – February 2022

The table below includes all cases that have received Board action since January 1, 2022 through February 28, 2022

Year 2022	Cases Received	Cases Closed No/Violation	Cases Closed W/Violation	Total Cases Closed
Jan	27	34	6	40
Feb	27	14	13	27
TOTALS	54	48	19	67

Closed Case with Violations consisted of the following:

Patient Care Related:

- **12 Standard of Care: Diagnosis/Treatment:** Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also, include failure to diagnose/treat& other diagnosis/treatment issues.
- **4 Business Practice Issues:** Advertising, default on guaranteed student loan, solicitation, records, inspections, audits, self-referral of patients, required to report not filed, prescription blanks, or disclosure.
- **1 Standard of Care-Surgery:** Improper/unnecessary performance of surgery, improper patient management, and other surgery-related issues
- **1 Inability to Safely Practice:** Impairment due to the use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions.
- **1 Compliance:** Violation of a board order term or probation violation
- **1 Unlicensed Activity:** Practicing a profession or occupation without holding a valid license as required by statute or regulations.

CCA's

There were **6** CCA's issued from January 1, 2022 to February 28, 2022. The CCA's issued consisted of the following violations:

- **6 Business Practice Issues:** Recordkeeping