

UNAPPROVED

**BOARD OF DENTISTRY
MINUTES OF REGULATORY–LEGISLATIVE COMMITTEE
Friday, October 14, 2016**

- TIME AND PLACE:** The meeting of the Regulatory-Legislative Committee of the Board of Dentistry was called to order on October 14, 2016 at 9:05 a.m. at the Department of Health Professions, 9960 Maryland Drive, Suite 201, Board Room 4; Henrico, Virginia.
- PRESIDING:** Bruce S. Wyman, D.M.D., Chair
- COMMITTEE MEMBERS PRESENT:** John M. Alexander, D.D.S.
Tonya A. Parris-Wilkins, D.D.S.
Augustus A. Petticolos, Jr., D.D.S.
Tammy C. Ridout, R.D.H
- OTHER BOARD MEMBERS PRESENT:** James D. Watkins, D.D.S.
- ESTABLISHMENT OF QUORUM:** All members of the Committee were present.
- STAFF PRESENT:** Sandra K. Reen, Executive Director
Kelley W. Palmatier, Deputy Executive Director
Christine M. Houchens, Licensing Manager
Elaine Yeatts, DHP Policy Analyst
- PUBLIC COMMENT:** Misty Mesimer, Program Director-Dental Assisting/Assistant Professor from Germanna Community College, said the DAII courses offered at Germanna have now received accreditation through the Virginia Community College System which allows students to earn college credit as well as receive student loans for these courses. She supported changing the DAII eligibility requirements to a competency based model. She advised against using the DANB Expanded Functions Exam because it doesn't cover all the duties delegable in Virginia.
- Lori Turner, DAU Instructor at VCU School of Dentistry, stated that currently VCU does not have a DAII program but that there is interest. She supported moving to a competency based program which addresses the classification levels of procedures. She said dentists should be calibrated in teaching the procedures to ensure better understanding of competence of DAII's.
- APPROVAL OF MINUTES:** Dr. Wyman asked for a motion on the May 6, 2016 minutes. Ms. Ridout's motion to accept the minutes as presented was seconded and passed.

**REMOTE SUPERVISION LAWS
AND REGULATIONS:**

Terry Dickinson, DDS, VDA Executive Director, presented the recommended changes to the law governing remote supervision of dental hygienists which have been agreed to by the VDHA and the VDA. He said the current employment provision was changed to allow the clinics and facilities where remote supervision is allowed to employ the dental hygienist. He added that the current dental home language was simplified and the current medically compromised and periodontal disease provision was replaced with having a written protocol for addressing medical conditions and the presence of oral disease. In response to a question, Dr. Dickinson confirmed that the VDHA has seen and agreed to the proposed changes. Elaine Yeatts congratulated the VDA and VDHA for working collaboratively and that she believes this will accomplish the initial intended goals. Ms. Reen said the Committee might accept the proposed changes by the VDA/VDHA as information, recommend that the Board support the proposed legislation, or identify any issues with the proposal the Board should address. She added the VDA/VDHA proposed language does address the three issues the Board identified in developing regulations to implement the remote supervision statute. Ms. Ridout's motion to recommend support of the proposed changes was seconded and passed.

**STATUS REPORT ON
LEGISLATION AND
REGULATORY
ACTIONS:**

Ms. Yeatts reported that two regulatory actions will go into effect on November 16, 2016:

- The action amending Chapters 21 and 25 to include the new definition of remote supervision, the limitation on employment of dental hygienists for practice under remote supervision, and the delegation of duties under such supervision to conform to changes in §54.1-2722 and §54.1-2724 of the Code of Virginia.
- The action amending 18VAC60-21-430 to expand the exemptions for registration of mobile dental clinics to conform to changes in § 54.1-2708.3 of the Code of Virginia.

Ms. Yeatts reported that the action to change the requirement for posting a DEA permit to require that such a permit be maintained in a readily retrievable manner at each practice location is currently under review by the Department of Planning and Budget. She also stated the amendment of the Public Participation Guidelines to afford interested persons the right to be accompanied by and represented by counsel or other representative in making comments to the Board is pending publication as final regulations.

**DISCUSSION ON POSSIBLE
REVISIONS TO THE
REQUIREMENTS FOR DENTAL
ASSISTANT II REGISTRATION**

Dr. Wyman said the question before the Committee is whether it wants to recommend either keeping the DAII regulations as they are or to amend them. Following extensive discussion of the reported barriers to obtaining registration under the current

regulations, the Committee agreed to pursue amendment of the regulations.

Ms. Mesimer responded to questions about the recognition of the DAII coursework by the Virginia Community College System and gave an overview of Germanna's program. She noted that the cost of the program is a major factor for enrollment and that the students can now receive financial aid because the courses qualify for college credit hours. She added that students are hesitant to enroll in the program because of the uncertainty of job prospects. She stressed the need to calibrate dentists who supervise the clinical experience.

Ms. Turner responded to questions about the expanded function dental assistant (EFDA) program requirements in Pennsylvania where she is registered as an EFDA. She discussed how she would convert the Board's current regulations to a competency based model. She recommended that an externship be evaluated on the number of procedures that need to be performed correctly. She also commented on the importance of dental oversight by dentists who have completed mandatory calibration exercises to guide the assessment of students. She added that the DAII requirements cannot be higher than requirements for dental students and noted that the needed chairside skills and techniques for CDAs are different from those needed by dental hygienists. She said, in Pennsylvania, DAIIs are employed in mostly high end practices of all practice types because it allows the dentist to see more patients. She added that her experience was that patients did not have qualms about being treated by an EFDA.

The Committee agreed by consensus that the education requirements should be changed to a competency based model as recommended in forums and in public comment. Ms. Yeatts advised that the Committee must take into account that other states regulate all dental assistants but Virginia doesn't. Dr. Petticolas moved that the Regulatory Advisory Panel be convened to review the DAII regulations and recommend changes to the regulations for consideration by the Committee. The motion was seconded and passed.

REVIEW ISSUES WITH IMPLEMENTATION OF THE FOUR CHAPTERS

Dr. Wyman called for discussion of the questions and statements of concern staff have received from licensees since issuance of the four chapters of regulations. The topics were addressed as follows:

- 18VAC60-21-30.B, 18VAC60-25-20.B, and 18VAC60-30-20.B, which require posting a license or registration, do appear to permit a licensee or registrant to post the wallet size license issued by the Board. Ms. Ridout made a motion to

recommend this interpretation to the Board. The motion was seconded and passed.

- 18VAC60-21-30.B, 18VAC60-25-20.B, and 18VAC60-30-20.B, which require posting a license or registration, do not address the exemptions in §§54.1-2721 and 54.1-2727 of the Code of Virginia for volunteer practice. The committee agreed by consensus to recommend that these sections be amended to reference the exemptions as proposed by Yeatts.
- Ms. Yeatts advised against incorporating the CDC Guidelines by reference in the regulations and recommended consideration of a guidance document. A motion by Dr. Parris-Wilkins to address safe and sanitary practice through a guidance document was seconded and passed.
- The Committee agreed by consensus to recommend that 18VAC60-21-100 should be interpreted to require reporting within 15 days of any emergency treatment related to local anesthesia is. It was also agreed by consensus to recommend that “or” be inserted between sedation and anesthesia in this section.
- By consensus, Ms. Yeatts was asked to research and propose terminology to replace the terms “gingival curettage” and “non-surgical” in 18VAC60-21-130, 18VAC60-21-140, and 18VAC60-25-40 for consideration by the Board.
- The inconsistency in regulatory provisions addressing dental hygiene practice in 18VAC60-21-140, 18VAC60-25-40, 18VAC60-21-291, and 18VAC60-21-30, and also in Guidance Document 60-4 related to treating patients under sedation and anesthesia was discussed. A motion by Dr. Alexander to recommend requiring a three-person treatment team for conscious/moderate sedation was seconded and passed. By consensus, Ms. Yeatts was asked to propose language addressing when a dental hygienist is allowed to treat patients who are sedated for consideration by the Board.
- Ms. Yeatts stated she would correct the regulatory citations in 18 VAC 60-21-280 as a technical amendment which does not require Board action.

NEXT MEETING:

Ms. Reen said she would work on scheduling the Regulatory Advisory Panel meeting for early January.

ADJOURNMENT:

With all business concluded, Dr. Wyman adjourned the meeting at

**Virginia Board of Dentistry
Regulatory-Legislative Committee Meeting
October 14, 2016**

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11:48 a.m.

Bruce S. Wyman, D.M.D. Chair

Sandra K. Reen, Executive Director

Date

Date