

**VIRGINIA BOARD OF DENTISTRY
REGULATORY-LEGISLATIVE COMMITTEE MEETING MINUTES
October 22, 2021**

TIME AND PLACE: The meeting of the Regulatory-Legislative Committee was called to order at 1:00 p.m., on October 22, 2021.

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

COMMITTEE MEMBERS PRESENT: Jamiah Dawson, D.D.S.
J. Michael Martinez de Andino, J.D.

COMMITTEE MEMBERS ABSENT: Alf Hendricksen, D.D.S.

OTHER PARTICIPATING BOARD MEMBERS: Nathaniel C. Bryant, D.D.S.

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

COUNSEL PRESENT: James E. Rutkowski, Assistant Attorney General

ESTABLISHMENT OF A QUORUM: With four Board members present, a quorum was established.
Ms. Reen read the emergency evacuation procedures.

PUBLIC COMMENT: Dr. Bonwell explained the parameters for public comment and opened the public comment period. Dr. Bonwell also stated that written comments were distributed to the Board members and copies were placed on the table for the public.

Alexander T. Vaughan, D.D.S., Dental Director, Virginia Total Sleep – Dr. Vaughan stated he reviewed the summary of findings contained in the Board's agenda and noted that in 2017 the ADA adopted a statement that laid out the role that dentists can play in the screening and treatment of sleep related breathing disorders which was amended last week and has not yet been published. He said the American Academy of Dental Sleep Medicine and the ADA are in full agreement that ordering and administration of home sleep apnea testing is within the scope of the practice of dentistry, and that the diagnosis of sleep apnea is performed by physicians. Dr. Vaughan brought two FDA approved home sleep apnea tests to show the Committee and demonstrated the finger test. He suggested that an advisory panel be convened to advise the Board on developing a regulation regarding sleep apnea testing.

APPROVAL OF MINUTES: Dr. Bonwell asked if there were any edits or corrections to the May 17, 2021 minutes. Mr. Martinez moved to approve the minutes as presented. The motion was seconded and passed.

REGULATORY ACTIONS CHART: Ms. Yeatts reported that she and Ms. Reen communicated with the Governor's Office this week about the long period of time the regulations for amendment of the restriction on advertising dental specialties and the action on making a technical correction have been pending. She also stated the regulations on training in infection control were advanced to the Office of the Secretary of Health and Human Resources for review.

COMMITTEE DISCUSSION/ACTION: **Report on Sleep Studies/Diagnosis/Testing** – Ms. Yeatts and the Committee commended Ms. Schultz on the charts and information she provided for consideration regarding sleep studies.

Ms. Schultz reviewed and answered questions regarding the information she gathered from the various states pertaining to whether or not it is within the scope of practice for dentists to order home sleep apnea tests.

Ms. Yeatts stated she recently attended a meeting of the Advisory Board on Polysomnographic Technology, and it was determined that dentists can be a part of the treatment for patients with sleep apnea, and that dentists cannot diagnose sleep apnea because there are multiple physical aspects that must be considered.

Dr. Allison-Bryan explained home tests are very simple tests and very few physicians would accept the results to determine sleep apnea. She stated a physician would do different tests and reminded the Committee that a home test is not the same as a polysomnography. She supported having dentists and physicians work together to treat patients.

After discussion, the Committee agreed by consensus to recommend that the Board convene an advisory panel to develop proposed language on the role of dentists in addressing sleep apnea.

Discussion of Dental Assistants Using Scalers - Ms. Sacksteder discussed the chart addressing the policies gathered from Virginia's surrounding states which address the use of a scaler to remove cement and the level of dental assistant that could perform that task.

Ms. Reen stated that the majority of public comments received on this topic were from dental hygienists who are opposed to dental assistants using scalers. The Committee discussed that dental assistants could remove cement by using floss, wipes, and non-cutting instruments.

Dr. Bryant moved to recommend that in Guidance Document 60-7 under the subheading "Restorative Services" where it reads "remove excess cement from coronal surface of teeth" add the words "by using a non-cutting instrument". The motion was seconded and passed.

Proposed Update Guidance Document 60-7 – Delegation to Dental Assistants - Ms. Reen said this is an opportunity to identify any other proposed changes or updates in this document, noting that it was last

updated in 2018. Dr. Bryant proposed the following additional changes:

- Under the subheading "Restorative Services" delete the words "rubber dams: place and remove";
- Under the subheading "Hygiene" the sentence that reads "polish coronal portion of teeth with rotary hand piece and rubber prophylaxis cup or brush" delete the word "rotary" and replace it with "slow speed";
- Under the heading "Duties that may be delegated to dental assistants I and II under indirect supervision of a dental hygienist" the sentence that reads "polish coronal portion of teeth with rotary hand piece and rubber prophylaxis cup or brush" delete the word "rotary" and replace it with "slow speed"; and
- Under the heading "Duties that may only be delegated to dental assistants II under direct supervision of a dentist" the sentence that reads "apply base and cavity liners/perform pulp capping procedures" add the word "indirect" after the word "perform".

Mr. Martinez moved to recommend that Guidance Document 60-7 be adopted as amended. The motion was seconded and passed.

Proposed Guidance Document on Sedation Inspections and Permits – Ms. Sacksteder introduced this draft guidance document, stating it was discussed and developed by an advisory committee which included dentists and inspectors who undergo or conduct sedation inspections. She then asked for discussion.

Ms. Yeatts proposed the following edits:

- Under the heading "Periodic Office Inspection for Administration of Sedation and Anesthesia", in the second bullet, add the word "a" after the words "if there was".
- Under the heading "Periodic Office Inspection for Administration of Sedation and Anesthesia, in the third bullet, first sentence, after the word "their" add the word "preliminary". In the second sentence; delete the word "shall" and insert the words "should attempt to". Revise the fourth sentence to read "The inspector will note corrections in his final report."
- Under the heading "OMS Requirement", in the first bullet, delete the word "shall" and insert the word "does". In the second bullet, first sentence, delete the word "shall" and insert the word "must". In the second bullet, second sentence, delete the word "shall" and insert the word "must". In the third bullet, delete the word "shall" and insert the word "must".

Dr. Dawson moved to recommend to the Board that the amended Guidance Document on Sedation Permits be adopted. The motion was seconded and passed.

Proposed Workgroup - Dr. Bonwell asked the Committee to return to the May 17, 2021 Minutes on page 2 in the agenda book. She pointed out the discussion of forming a workgroup to discuss a regulatory proposal that would allow patients receiving active appliances, including orthodontics, be examined in person by a dentist. She stated Ms. Reen did not receive any names of prospective participants for the workgroup. After discussion, it was agreed by consensus to address this at the next Board meeting.

NEXT MEETING: No date scheduled.

ADJOURNMENT: With all business concluded, the Committee adjourned at 2:45 p.m.

Patricia B. Bonwell

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

2-18-2022

Date

Sandra K. Reen

Sandra K. Reen, Executive Director

February 18, 2022

Date