

VIRGINIA BOARD OF DENTISTRY
BRIEFS
January 2020

BOARD MEMBERS

Augustus A. Petticolos, Jr., DDS
President/BRIEFS Editor

Sandra J. Catchings, DDS
Vice-President

Nathaniel C. Bryant, DDS
Secretary

Patricia B. Bonwell, RDH

Jamiah Dawson, DDS

Perry E. Jones, DDS

Mike Nguyen, DDS

Tammy C. Ridout, RDH

James D. Watkins, DDS

EXECUTIVE DIRECTOR
Sandra K. Reen

EMAIL
denbd@dhp.virginia.gov

WEB PAGE
www.dhp.virginia.gov/dentistry

PHONE: (804) 367-4538

FAX: (804) 698-4266

ADDRESS
9960 Mayland Drive
Suite 300
Henrico, VA 23233

EFFECTIVE JULY 1 2020, ELECTRONIC PRESCRIPTIONS ARE REQUIRED FOR ANY PRESCRIPTION FOR A CONTROLLED

SUBSTANCE THAT CONTAINS AN OPIOID as provided in §54.1-3408.2 of the [Drug Control Act](#). The Act does permit the Board to grant a one-time waiver of the electronic prescription requirement, which cannot exceed one year. The Board can only grant a waiver if the requesting dentist demonstrates economic hardship, technological limitations that are not reasonably within his control, or other exceptional circumstances. The Board will establish its procedures for addressing waiver requests at its **March 13, 2020 meeting**. Waiver requests will not be accepted until the needed procedures are in place.

LICENSE RENEWAL NOTICES, for dentists, dental hygienists, dental assistant II registrants and related permits, will be sent out the first week in February to all licensees who currently hold an active license. These renewals will be for twelve months **through March 2021**. The renewal applications require licensees and registrants to certify they are familiar with the laws and regulations governing practice in the Commonwealth of Virginia. Review the [laws and regulations](#).

The **PROPOSED CHANGE TO LICENSE RENEWAL IN BIRTH MONTHS** is in the final stage of the promulgation process. The [proposal](#) also includes tracking annual continuing education requirements by birth month. The Board anticipates changing the renewal schedule in 2021. To implement the transition, renewal fees will be prorated based on the number of months it will take from March 31, 2021 to each licensee's birth month in 2022. For example, a licensee born in January will renew in March of 2021 and his license will come up for renewal in January of 2022 while a licensee born in October will also renew in March 2021 and his license will come up for renewal in October 2022.

At its **March 13, 2020 meeting** the Board will address a petitioner's request for regulatory amendments to require **CERTIFICATION FOR DENTAL ASSISTANTS** in infection control procedures and in radiation health and safety. The petitioner reports these courses are offered by the Dental Assisting National Board (DANB).

The Board's **REGULATORY-LEGISLATIVE COMMITTEE** is meeting on February 28th to consider proposing an amendment to the statutory definition of dentistry to include A1C testing in the scope of the practice of dentistry. The proposal will be discussed by the Board at its **March 13, 2020 meeting**.

The Board's **EXAM COMMITTEE** is meeting on January 31st to address the content and scoring requirements for **Dental Clinical Competency Exams** to be accepted for licensure in Virginia. The changes proposed by the Exam Committee will be discussed by the Board at its **March 13, 2020 meeting**.

ONGOING REGULATORY ACTIONS

- I. Advertising Dental Specialties** - This action will modify section 18VAC60-21-80(G) of the Regulations Governing the Practice of Dentistry on false, deceptive and misleading advertising. It responds to public comment challenging the legality of the language on specialty advertising and to Board Counsel's advice that the current regulation would not withstand a court challenge. The proposed action will remove the language addressing advertising a dental specialty and replace it with language which prohibits unsubstantiated claims of professional superiority and publishing an advertisement that is not in compliance with §54.1-2718 of the *Code of Virginia* which addresses practice names and specialty advertising. The Governor's office review is in progress.
- II. Requirements For Administration Of Sedation And Anesthesia** - This action amends Part VII of the Regulations Governing the Practice of Dentistry addresses public comment requesting greater clarity and consistency in the provisions for the various levels of sedation. In response to the comments, the Board convened a Regulatory Advisory Panel to review these regulations and recommend changes. The revised regulations being advanced by the Board amend numerous provisions to: allow exceptions to certain requirements for special needs patients; clarify delegation to certified registered nurse anesthetists; address monitoring requirements; address patient evaluation; expand equipment requirements; clarify the requirements for minimal sedation and require a three-person treatment team for moderate sedation. The Governor's Office review is in progress.
- III. Dental Assistant II (DAII) Education Requirements** - The Board has advanced rulemaking to modify the DAII education provisions in response to public comment and subsequent recommendations made by a Regulatory Advisory Panel (RAP). The RAP recommended revision and expansion of the education requirements to focus on evaluation of competency rather than relying on completion of a specified number of hours. A new section is added to establish requirements for the staffing and management of DAII educational programs. **This action is in the proposed stage and is open for [public comment](#). The comment period ends on March 20, 2020. A public hearing will be held at the beginning of the March 13, 2020 Board meeting.**
- IV. Handling Fee/Returned Check Fee** - In response to advice from the Office of the Comptroller the fee for dishonored checks and returned checks is being increased from \$35 to \$50. This is a Fast-Track action which is under review by the Secretary of Health and Human Resources.
- V. Technical Corrections** - As a result of overlapping regulatory actions the renewal fee for mobile clinic/portable dental operations was inadvertently left out of the current regulations. This is a Fast-Track action which is under review by the Governor's Office.
- VI. Remote Supervision Practice Protocols** - This action is underway to replace the current Emergency Regulations without any changes. The remote supervision protocols of the Department of Behavioral Health and Developmental Services and the Department of Health are adopted by reference as regulations. The emergency regulations went into effect on October 1, 2019 and will expire on March 31, 2021. The current action is now being reviewed by the Department of Planning and Budget.

DID YOU KNOW?

Every Patient Record

- Did you know that every patient's record shall include for every treatment the diagnosis and options discussed, including the risks and benefits of treatment or nontreatment and the estimated cost of treatment options? 18VAC60-21-90(B)(3) of the Regulations Governing the Practice of Dentistry.

Requirements for Direction and General Supervision

- Did you know in all instances and on the basis of his/her diagnosis, a licensed dentist assumes ultimate responsibility for determining with the patient or his representative the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter and the Code. 18VAC60-21-120(A)

Opioid Prescriptions

- Did you know that due to the higher risk of fatal overdose when opioids are prescribed with benzodiazepines, sedative hypnotics, carisoprodol, and tramadol, the dentist shall only co-prescribe these substances when there are extenuating circumstances and shall document in the patient record a tapering plan to achieve the lowest possible effective doses if the medications are prescribed? 18VAC60-21-103(C) of the Regulations Governing the Practice of Dentistry.

Moderate Sedation Record Requirements

- Did you know that a dentist who administers moderate sedation shall document in the patient's record, the patient's height and weight or, if appropriate, the body mass index? 18VAC60-21-291.D(2) of the Regulations Governing the Practice of Dentistry.

COMPLAINTS, DISCIPLINE, AND OTHER BOARD ACTIONS

From July 1, 2019 to December 31, 2019, the Board received 238 complaints against its licensees and closed 211 cases. Of the 211 cases closed, 123 were closed with no violation and 29 were closed as undetermined. The outcomes in the remaining cases included 34 advisory letters; 3 confidential consent agreements; and 10 consent orders. During this time period, the Board held 3 formal hearings and 11 informal conferences. The formal hearings concluded with:

- Two dentists being denied reinstatement because their license was revoked in another state and had not been reinstated as required by §54.1-2408 of the Code of Virginia.
- Another dentist was reinstated and placed on indefinite suspension with the suspension stayed conditioned upon compliance with the terms for practice set out in the Board Order. After 3 years, if there is no violations of the order, the dentist may then petition for an unrestricted license.

The allegations the Board addressed in the 11 informal conferences and 10 consent orders included:

- Failing to properly diagnosis and treat a fracture in the mandible, a dry socket and a failing implant.
- Failing to document a diagnosis to support treatment.
- Failing to maintain monitoring results of a patient's vital signs and physiological measures when administering sedation.
- Failing to maintain proper equipment and training regarding sedation.
- Allowing an individual who had not completed a radiation safety course to expose radiographs.
- Improper billing regarding high noble crown vs. semi-precious metal crown.
- Failing to provide proper notice of practice closing to current patients.
- Allowing Dental Assistants I to use a scaler to perform scaling and calculus removal.
- Failing to maintain records regarding the diagnosis and options discussed, including the risks and benefits of treatment or nontreatment.

The Board closed 2019 with 211 open cases at various stages in the case adjudication process.

Board Notices and Orders issued to licensees are posted online for public viewing. There are two portals for accessing these documents. To find out if there is public information on specific licensees, use this link to [License Lookup](#). Use this link to see all the [Case Decisions](#) issued in the last 90 days, a link on this page is also provided to search for older case documents in a specified date range. Please note that a licensee's public record may include the records of proceedings in which a finding of "no violation" was made. Always click on the "Yes" link to see if the licensee was exonerated or disciplined. "No" means no public documents are available.