

**Department of Health Professions
Board of Health Professions
REGULATORY RESEARCH COMMITTEE
July 30, 2013**

TIME AND PLACE: The meeting was called to order at 10:07 a.m. on Tuesday, July 30, 2013, Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 4, Henrico, VA, 23233.

PRESIDING OFFICER: Irene Farquhar, Chair

MEMBERS PRESENT: Irene Farquhar
Yvonne Haynes
Maureen Clancy

MEMBERS NOT PRESENT: Allison Gregory
Charlotte Markva

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director for the Board
Laura Jackson, Operations Manager

OTHERS PRESENT: There were no others present.

QUORUM: A quorum was established with three members in attendance.

AGENDA: The agenda was approved by Ms. Haynes, properly seconded by Ms. Clancy. All were in favor.

PUBLIC COMMENT: There was no public comment.

BOARD EXECUTIVE DIRECTOR: Dr. Carter reviewed the dental hygienist workplan with the committee. On properly seconded motion by Ms. Haynes, the committee voted to approve the study workplan. (See attached.)

COMMITTEE CHAIR: Dr. Farquhar advised written comment pertaining to the Review of Potential Pharmacy Technician Scope of Practice Barriers to the Development of Effective Team Approaches to Healthcare Delivery in Virginia would be accepted until August 16, 2013 at 5:00 p.m.

NEW BUSINESS: Dr. Carter informed the committee of the latest expansion of the CVS and Walgreens models. The Walgreens model is now going into on-site health care.

Dr. Carter advised the committee that an email had been received by the Board regarding a request for sunrise review of Music Therapists. The inquirer has been advised of the policies and procedures requirements for formal proposal to the Board. At this time, the proposal has not been received.

ADJOURNMENT:

With the public hearing complete, the meeting adjourned at 11:12 a.m.

Irene Farquhar, Ph.D.
Chair

Elizabeth A. Carter, Ph.D.
Executive Director for the Board

**VIRGINIA BOARD OF HEALTH PROFESSIONS
VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS**

STUDY WORKPLAN

**Review of Potential Dental Hygienist Scope of Practice Barriers to the Development of
Effective Team Approaches to Healthcare Delivery in Virginia**

Background and Authority

At the February 15, 2011 meeting of the Virginia Board of Health Professions, the Secretary of Health and Human Resources requested the Board's assistance in addressing Virginia's health reform issues. The Secretary's request followed the publication in December 2010 of the Virginia Health Reform Initiative Advisory Council's (VHRI) findings and recommendations.

Led by Secretary Hazel and commissioned in August of 2010 by Governor Robert F. McDonnell, VHRI's charge is to develop recommendations for implementing health reform in Virginia and to search for innovative solutions to meet Virginia's needs in 2011 and beyond. To date, six VHRI task forces have been formed to address the following key interrelated issues: Medicaid Reform, Service Delivery and Payment Reform, Technology, Insurance Reform, Purchaser Perspectives, and, of greatest relevance to the Department and Board, Capacity.

The Capacity Task Force noted in the December VHRI report that health workforce capacity must be increased to ensure all Virginians have access to affordable and high quality care. Even now before increased coverage from federal health reform takes effect, there are many medical, dental, and mental health underserved areas throughout across the state. And, looming shortages are predicted for most health service providers due to increases in Virginia's population size and age, alone. With increased coverage slated to go into effect in 2014, the gap between supply and demand can be expected to only worsen without help.

The Capacity Task Force viewed that effective capacity could be reached with increases in health professional supply, expanded use of technology to reach underserved areas, optimizing efforts to re-organize health care delivery through teams that effectively deploy non-physicians, and permitting health professionals to practice up to the evidence-based limits of their education and training in ways not currently possible with existing scope of practice and supervisory restrictions. To inform these approaches, the Task Force further recommended multi-dimensional studies which include reviews of promising team practice approaches and examination of how current scope of practice limits may needlessly restrict Virginia's ability to take full advantage of best practice team models of care delivery.

The Board of Health Professions is authorized by the General Assembly with a variety of powers and duties specified in §§54.1-2500, 54.1-2409.2, 54.1- 2410 *et seq.*, 54.1-2729 and 54.1-2730 *et seq.* of the *Code of Virginia*. Of greatest relevance here is §54.1-2510 (1), (7), and (12) enable the Board to evaluate the need for coordination among health regulatory boards, to advise on matters relating to the regulation or deregulation of health care professions and occupations, and to examine scope of practice conflicts involving professions and advise on the nature and degree of such conflicts.

Thus, the Board determined at its May 3, 2010 meeting that it can most effectively assist VHRI and the Capacity Task Force by objectively examining the aforementioned current scope of practice limits in light of the latest evidence-based policy research and available data related to safety and effectiveness. With the assistance of member Boards and invited input from experts and public and private stakeholders, this review will aim to identify barriers to safe healthcare access and effective team practice that may exist due to current scope of practice limits and will determine the changes, if any, that should be made to scope of practice and regulatory policies to best enable effective team approaches for the care of Virginia's patients. The goal is not to replace physicians with non-physicians but to lessen unnecessary restrictions to ease the burden on practitioners and better ensure access to healthcare through strengthened health professional teams.

The Board referred the project to the Regulatory Research Committee and directed that the first review address scope of practice issues in Virginia relating to Nurse Practitioners and following reviews to focus on Pharmacists and Pharmacy Technicians. Legislation has since been enacted Nurse Practitioners and Pharmacists to expand practice authority in collaboration with physicians. All reviews are to consider scope of practice issues in the perspective of their potential role in team health care delivery models that have evidence of effectiveness in helping to address workforce shortage. The current review focuses on the existing regulation of Dental Hygienists, including their education and training, and the evolution of the profession nationally. Subsequently, the Committee will determine future professions to be highlighted based upon the evolving evidence related to effective team models and the workforce research findings for professions under review by the DHP Healthcare Workforce Data Center and Virginia Health Workforce Development Authority.

Methods

Throughout the review, it is understood that the Board will strive to work in concert with the efforts of its member Boards, the VHRI Capacity Task Force, the Department's Healthcare Workforce Data Center, the Health Care Workforce Development Authority, and others working to assist the Secretary in these matters.

In keeping with constitutional principles, Virginia statutes, and nationally recognized research standards, the Board has developed a standard methodology to address key issues of relevance in gauging the need for regulation of individual health professions. The specifics are fully described in the Board's *Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions*, available from the Board's website:

http://www.dhp.virginia.gov/bhp/bhp_guidelines.htm) under Guidance Document **75-2 Appropriate Criteria in Determining the Need for Regulation of Any Health Care Occupation or Professions, revised February 1998**. (Hereinafter this is referred to as "the Policies and Procedures"). The Policies and Procedures will be employed in this study and modified as deemed appropriate by the Committee. It is understood that the Policies and Procedures' seven evaluative criteria apply most directly to determining *whether* a profession should be regulated and to what degree. But, they also provide a standard conceptual framework with proscribed questions and research methods that have been employed for over two decades to successfully address key policy issues related to health professional regulation. The seven Criteria typically used in sunrise review studies are as follows:

- 1. Risk of Harm to the Consumer**
- 2. Specialized Skills and Training**
- 3. Autonomous Practice**

4. **Scope of Practice**
5. **Economic Costs**
6. **Alternatives to Regulation**
7. **Least Restrictive Regulation**

Since Dental Hygienists are already licensed in Virginia, the first five Criteria will chiefly guide the study. This study will provide background information on the qualifications and scopes of practice of Dental Hygienists in Virginia and elsewhere and on major existing and described emerging health delivery models.

The following provide the chief questions recommended to be addressed:

Background

1. What are the current qualifications that Virginia's Dental Hygienists must demonstrate to become licensed? Do they differ from other states?
 - a. What are the educational or training requirements for entry into each profession? (sample curricula) Which programs are acceptable? How are these programs accredited? By whom?
 - b. What are the minimal competencies (knowledge, skills, and abilities) required for entry into the profession? As determined by whom?
 - c. Which examinations are used to assess entry-level competency?
 - i. Who develops and administers the examination?
 - ii. What content domains are tested?
 - iii. Are the examinations psychometrically sound – in keeping with *The Standards for Educational and Psychological Testing*?
2. How do Dentists and Dental Hygienists maintain continuing competency? Does it differ in other states?
3. What is the Scope of Practice in Virginia for Dentists? For Dental Hygienists? How does it differ from other states?
4. Describe existing team delivery models of care that utilize Dentists and Dental Hygienists in Virginia and elsewhere.
5. Based upon the emerging literature, describe existing and anticipated team delivery models that may evolve as a result of the federal health reform and the potential role(s) for Dentists and Dental Hygienists in those models.

Risk of Harm to the Consumer

1. What are the typical functions performed and services provided by Dentists and Dental Hygienists in Virginia and elsewhere?
2. Is there evidence of harm from either Dentists or Dental Hygienists with expanded scopes of practice relative to that in Virginia? If any,
 - a. To what can it be attributed (lack of knowledge, skills, characteristics of the patients, etc)?
 - b. How is the evidence documented (Board discipline, malpractice cases, criminal cases, other administrative disciplinary actions)?

- c. Characterize the type of harm (physical, emotional, mental, social, or financial)
 - d. How does this compare with other, similar health professions, generally?
3. Does a potential for fraud exist because of the inability of the public to make informed choice in selecting a competent practitioner?
 4. Does a potential for fraud exist because of the inability for third party payors to determine competency?
 5. Is the public seeking greater accountability of this group?

Specialized Skills and Training

NOTE: The following are in addition to the qualification-related questions previously posed for the “Background” section of the evaluation.

1. Are there currently recognized or emerging specialties/levels within this profession?
 - a. If so what are they? How are they recognized? By whom and through what mechanism?
 - b. Are they categorized according to function? Services performed? Characteristics of clients/patients? Combination? Other?
 - c. How can the public differentiate among these specialties or levels?

Autonomous Practice

1. What is the nature of the judgments and decisions that Dental Hygienists currently entitled to make in practice in Virginia? Does this differ in states with more expanded scope of practice? If so, how?
2. Which functions, if any, are typically performed by Dental Hygienists in Virginia are **unsupervised** (i.e., neither directly monitored nor routinely checked)?
 - a. What proportion of the practitioner’s time is spent in unsupervised activity?
 - b. Who is legally accountable or civilly liable for acts performed with no supervision?
3. Which functions are performed **only under supervision** in Virginia?
 - a. Is the supervision *direct* (i.e., the supervisor is on the premises and responsible) or *general* (i.e., the supervisor is responsible but not necessarily on the premises)?
 - b. How frequently is supervision provided? Where? And for what purpose?
 - c. Who is legally accountable or civilly liable for acts performed under supervision?
4. Describe the nature of supervision.
5. Describe the typical work settings, including supervisory arrangements and interactions of the practitioner with other regulated and unregulated occupations and professions.

Scope of Practice

1. Which existing functions of this profession in Virginia are **similar to** those performed by other professions? Which profession(s)?
2. What additional functions, if any, are performed by these professions in other states?

3. Which functions of this profession are **distinct from** other similar health professions in Virginia? Which profession(s)? In other states?

Economic Costs

1. What are the range and average incomes of members of each of these professions in the Commonwealth? In adjoining states? Nationally?
2. If the data are available, what are the typical fees for service provided by these professions in Virginia? In adjoining states? Nationally?
3. Is there evidence that expanding the scope of practice would
 - a. Increase the cost for services?
 - b. Increase salaries for those employed by health delivery organizations?
 - c. Restrict other professions in providing care?
 - d. Other deleterious economic effects?
4. Address issues related to supply and demand and distribution of resources including discussion of insurance reimbursement.

The following steps are recommended for this review

1. Conduct a comprehensive review of the pertinent policy and professional literature.
2. Review and summarize available relevant empirical data as may be available from pertinent research studies, malpractice insurance carriers, and other sources.
3. Review relevant federal and state laws, regulations and governmental policies.
4. Review other states' relevant experiences with scope and practice expansion and team approaches to care delivery.
5. Develop a report of research findings, to date, and solicit public comment on reports and other insights through hearing and written comment period.
6. Publish second draft of the report with summary of public comments.
7. Develop final report with recommendations, including proposed legislative language as deemed appropriate by the Committee.
8. Present final report and recommendations to the full Board for review and approval.
9. Forward to the Director for review and comment.
10. Upon approval from the Director forward to the Secretary for final review and comment.
11. Prepare the final report for publication and electronic posting and dissemination to interested parties.

Timetable and Resources

This study will be conducted with existing staff and within the budget for FY2014 and according to the following tentative timetable:

July 30, 2013	Draft Workplan reviewed by Regulatory Research Committee
October 15, 2013	Staff update and 1 st draft of Report to Committee
November 7, 2013	Public Hearing and Committee meeting
November 18, 2013	Public Comment Deadline
January 13, 2014	2 nd Draft Report e-mailed to Committee for review and posting to website.