New Provisions for Remote Supervision of Dental Hygienists

"Remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services, but such dentists may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active license by the Board and who has a dental practice physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; or women, infants, and children (WIC) program.

Under the Board’s review are the continuing education course requirements needed in order to practice under remote supervision. Click here for the full text of the 2017 remote supervision statute and read §54.1-2722.F.

Use of Dental Ultrasonic Scalers is Restricted

Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and non-surgical lasers shall only be delegated to licensed dental hygienists. For more information on duties only delegable to dental hygienists please review section 18VAC60-21-140 Delegation to dental hygienists in the Regulations Governing the Practice of Dentistry.

Dental Law Examination

The Board is constructing a dental law examination to be taken by applicants for initial licensure and for reinstatement. The examination, consisting of multiple choice questions, will test the applicant’s knowledge of the laws and regulations governing the practice of dentistry in the Commonwealth of Virginia.
Addressing the Opioid Crisis in Dental Practices

On September 26, 2014, Governor McAuliffe signed Executive Order 29 establishing the Governor’s Task Force on Prescription Drug and Heroin Abuse. The Task Force recommended immediate steps to address a growing and dangerous epidemic of prescription opioid and heroin abuse in Virginia. On November 21, 2016, Governor McAuliffe announced that the State Health Commissioner declared the opioid addiction crisis in Virginia a Public Health Emergency. These actions led to legislation which made changes to the Prescription Monitoring Program and added new requirements for dental practice.

As mandated, the Board issued emergency regulations, *Prescribing Opioids for Pain Management*, on April 24, 2017. These regulations were amended effective July 21, 2017 to allow courses taken after April 24, 2017 to meet the requirement for 2 hours of continuing education (CE) on pain management. A dentist who prescribes Schedules II through IV controlled substances must take the course by March 31, 2019 and thereafter must complete a 2 hour course every two years. CE hours required to prescribe controlled substances may be included in the 15 hours required for license renewal. Follow this link to review the current emergency regulations.

New legal requirements for reporting opioid prescribing and dispensing to the Prescription Monitoring Program (PMP) are now in effect as addressed in Chapter 25.2 of the Code of Virginia. Follow this link to review the full text of this statute. The requirements include:

- **Posting Notice of Participation in the PMP.** Dentists who request information from the program about a patient or prospective patient are required to post a sign that can be easily viewed by the public that he may access information contained in the program files on all Schedule II, III or IV prescriptions dispensed to a patient. In lieu of posting a sign, the dentist may provide a written notice to the patient, or may obtain written consent from the patient.

- **Accessing the PMP when Prescribing Opioids.** Dentists registered with the PMP or a qualified delegate he has authorized to access PMP information pursuant to § 54.1-2523.2 are required to check the PMP when starting a new course of treatment to a patient that includes the prescribing of opioids for more than seven consecutive days. The purpose of the check is to determine what, if any, other covered substances are currently prescribed to the patient. *A dentist is not required to check the PMP in any of the following circumstances:*
  1. The opioid is prescribed to a patient currently receiving hospice or palliative care;
  2. The opioid is prescribed to a patient as part of treatment for a surgical or invasive procedure and such prescription is for no more than 14 consecutive days;
  3. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;
  4. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;
  5. The PMP is not operational or available due to temporary technological or electrical failure or natural disaster; or
  6. The prescriber is unable to access the PMP due to emergency or disaster and documents such circumstances in the patient's medical record.

- **Disclosure of PMP Information.** The Director of the Department of Health Professions is granted the authority includes releasing information about a specific recipient to a consulting prescriber for the purpose of establishing the treatment history and information on a specific recipient to a consulting dispenser for the purpose of establishing a prescription history. The law also allows a prescriber to include PMP information in the recipient's medical record for the purpose of establishing the treatment history.

- **24-hour Reporting to Prescription Monitoring Program (PMP).** *Beginning January 1, 2017,* dentists must report to the PMP any opioids dispensed within 24 hours or the dispenser's next business day, whichever comes later.
Complaints, Discipline, and Other Board Actions

This is an overview of the Board’s case activity from July 1, 2016 to June 30, 2017. The notices and orders issued to licensees can be reviewed online. For information on a specific licensee go to License Lookup. For cases closed with an Order in a specified time period go to Case Decisions. It is important to note that "Yes" beside a name in License Lookup means that there is information that must be available to the public. This includes case decisions with a finding of “no violation” so you should click on the "Yes" link to see the case decision. "No" means there are no documents posted.

Number of Cases. The Board received 401 complaints against its licensees and closed 448 cases. On June 30, 2017, the Board had 264 open cases at various stages in the case adjudication process. Of the 448 cases closed, 203 were closed with no violation found and 71 were closed as undetermined.

Number of Actions. The Board held 6 formal hearings and 36 informal conferences; entered into 26 Consent Orders in lieu of proceeding to an administrative hearing; closed 36 cases with a Confidential Consent Agreement; and closed 84 cases with Advisory Letters. In addition, two summary suspension cases were settled with Consent Orders.

Two Summary Suspension Cases. One Consent Order addressed a dentist’s inability to safely practice due to health issues which led to standard of care violations. The other Consent Order addressed a dentist’s inability to safely practice because of negligence in the administration of anesthesia to a pediatric patient and the subsequent failure to respond appropriately to an emergency situation.

Six Formal Hearing Cases. The outcome of two of the formal hearings was denial of reinstatement applications based on allegations of substance abuse and failure to demonstrate continuing competency. Another formal hearing addressed a reinstatement application following a mandatory suspension of a dentist as a result of improper prescribing of controlled substances and standard of care violations. Reinstatement was granted with terms. The Board also conducted a formal hearing based on the standard of care allegations concerning the placement of implants and recordkeeping allegations. A formal hearing was also held to address allegations of substance abuse and willful refusal to cooperate with an investigation of the Board. Finally, the Board denied licensure to an applicant at a formal hearing as a result of providing false information on an application and standard of care violations in another state.

Thirty-Six Informal Conferences. The allegations addressed in these conferences included:

- Failing to ensure proper sterilization of dental instruments;
- Failing to post dental licenses in plain view of patients;
- Practicing on an expired dental license;
- Performing treatment on teeth which was not supported by radiographs and/or treatment notes;
- Failing to notify and/or refund patients’ credit balances on their accounts;
- Billing patients and their insurance companies multiple times for the same treatment;
- Failing to entirely remove the roots of a tooth during extraction and subsequently failing to inform the patient and/or refer the patient to a specialist;
- Permitting a dental assistant to use a Cavitron on dental patients to remove calculus or cement;
- Improperly prescribing controlled substances to patients; and
- Failing to obtain consent for treatment rendered.

For a detailed explanation of the Disciplinary Process for Licensed Health Professionals, click here.