

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

2008 JUL 15 AM 8:55

SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Board of Dental Examiners TITLE NUMBER: 5

CITE AUTHORITY: §30-4-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES NO

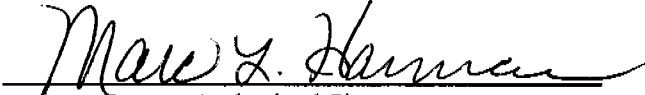
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Rule for the West Virginia Board of Dental Examiners

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 15, 2008

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Marc L. Harman, Executive Secretary
West Virginia Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827
(304)252-8266

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

same as above

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

~~Filed a Notice of Comment period June 4, 2008.~~

b. Date of hearing or comment period:

Comment period ended July 9, 2008, at 12:00 Noon

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

July 15, 2008

d. Attach findings and determinations and reasons:

Attached yes

SUMMARY OF PROPOSED RULE

TITLE 5 LEGISLATIVE RULE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

SERIES 1 RULE FOR THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

This rule updates the definitions of specialty fields of dentistry including Endodontics; Oral Pathology; Orthodontics and Dentofacial Orthopedics; Pediatric Dentistry; Periodontics and Prosthodontics.

Proposes that dental assistants who have completed a specific amount of time in practice, perform supragingival and coronal polishing on children under 21 years of age.

Proposes rules for the general supervision of dental hygienists in private practice who have completed a specific amount of time in practice.

Proposes rules for public health practice by dental hygienists, sponsored by a licensed dentist, who have completed a specific amount of time in practice.

Proposes changes to the current continuing education requirements for dentists and dental hygienists as well as develops continuing education requirements for special volunteer licensees.

**STATEMENT OF CIRCUMSTANCES
CONCERNING A PROPOSED RULE**

**TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS**

**SERIES 1
RULE FOR THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS**

This rule updates the definitions of specialty fields of dentistry including Endodontics; Oral Pathology; Orthodontics and Dentofacial Orthopedics; Pediatric Dentistry; Periodontics and Prosthodontics. The West Virginia Academy of Pediatric Dentistry requested the Board update the definition of Pediatric Dentistry, the Board agreed to do so and updated all specialty definitions.

Proposes dental assistants who have completed a specific amount of time in practice, perform supragingival and coronal polishing on children under 21 years of age. Assistants will have to complete a Board approved course to perform this function.

Proposes rules for the general supervision of dental hygienists in private practice who have completed a specific amount of time in practice. A permit will be necessary for a hygienist to practice under general supervision and a three hour course in the identification and prevention of medical emergencies shall be required for continuing education. This portion of the rule is required to implement the access to care intent of Senate Bill 13 passed during the 2008 legislative session.

Proposes rules for public health practice by dental hygienists, sponsored by a licensed dentist, who have completed a specific amount of time in practice. A permit will be necessary for a hygienist to participate in public health practice and be sponsored by a licensed dentist. A public health hygienist shall complete twenty-six hours of continuing education every two years instead of twenty hours normally required. Three hours must be in the identification and prevention of medical emergencies and three hours in general public health content. This portion of the rule is required to

implement the access to care intent of Senate Bill 13 passed during the 2008 legislative session.

Proposes changes to the current continuing education requirements for dentists and dental hygienists as well as develops continuing education requirements for special volunteer licensees. Special volunteer licenses are being implemented as the result of House Bill 4129 of the 2008 legislative session.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rule for the West Virginia Board of Dental Examiners

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Dental Examiners

Address: 1319 Robert C. Byrd Drive
PO Box 1447
Crab Orchard, WV 25827

Phone Number: (304)252-8266 Email: wvbde@suddenlinkmail.com

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The fiscal impact of 8.2; 8.4; and 8.5 is unknown at this time and can not be determined until fully implemented. The remainder of the rule should have little fiscal impact.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

| FISCAL YEAR | | | |
|-----------------------------|--|-------------------------------------|---|
| Effect of Proposal | Current Increase/Decrease (use "-") | Next Increase/Decrease (use "-") | Fiscal Year (Upon Full Implementation) |
| 1. Estimated Total Cost | 0.00 | 0.00 | 0.00 |
| Personal Services | 0.00 | 0.00 | 0.00 |
| Current Expenses | 0.00 | 0.00 | 0.00 |
| Repairs & Alterations | 0.00 | 0.00 | 0.00 |
| Assets | 0.00 | 0.00 | 0.00 |
| Other | 0.00 | 0.00 | 0.00 |
| 2. Estimated Total Revenues | 0.00 | 0.00 | 0.00 |

Rule Title: _____

Rule Title: Rule for the West Virginia Board of Dental Examiners

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

We can not determine at this time how many dental assistants might complete the requirements for the proposed polishing duty under section 8.2. Therefore, we can not accurately predict the amount of revenue increase if any.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

We anticipate minimal impact as a result of these rules, particularly for general supervision of dental hygienists. Also, we are unable to determine how many dental hygienists may participate in public health practice or how many dental assistants will complete requirements to perform the proposed polishing duty.

Date: 6/02/2008

Signature of Agency Head or Authorized Representative

Mark L. Harrison

TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

2008 JUL 15 AM 8:55

SERIES 1
RULE FOR THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

WEST VIRGINIA STATE

§5-1-1. General.

1.1. Scope. This rule regulates the W. Va. Board of Dental Examiner's proceedings and carries out the purposes and enforces the provisions of W. Va. Code §§30-1-1 et seq and 30-4-1 et seq which are applicable to the W. Va. Board of Dental Examiners.

1.2. Authority. -- W. Va. Code §30-4- 5 & 6.

1.3. Effective Date. --

1.4. Filing Date. --

1.5. Certification. -- This rule is certified authentic by the President and Secretary of the W. Va. Board of Dental Examiners by Certification No. II.

1.6. Amend. -- This rule amends W. Va. Board of Dental Examiners Rule 5CSR1, W. Va. Administrative rules, W. Va. Board of Dental Examiners which became effective on July 1, 2005 April 1, 2008.

§5-1-2. Definitions.

2.1. "Dental public health" is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. For the purposes of this rule the term "community" is used in a restricted sense and relates to the people of a particular region having common organization or interests and living in the same place under the same laws. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with research, and the application of the findings of research, and with the

administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

2.2. "Endodontics" is that area of dentistry dealing with the morphology physiology and pathology of the human etiology, histopathology, diagnosis, preventions, and treatment of the diseases of the dental pulp and their sequelae periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

2.3. "Oral and maxillofacial surgery" is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial regions.

2.4. "Oral pathology" is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management embraces both morphologic and clinical study of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of An oral pathologist pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations. is a person who, through special study and training, is qualified to diagnose and otherwise study tumors and lesions, both local and systemic, of the oral regions.

2.5. "Orthodontics and dentofacial orthopedics" is the dental specialty that includes the diagnosis, prevention, interception, and

correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orofacial structures, dental and oral anomalies by changing positions of teeth and jaw relationship by the use of appliances; correction of causative habits; or corrective muscular exercises, in order to establish normal function of the masticating mechanism and to encourage a normal development of the jaws and associated tissues.

2.6. "Pediatric dentistry" is an age defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and the prevention, control and treatment of the oral and dental diseases of children through adolescence, also including persons with special health care needs.

2.7. "Periodontics" is that specialty of dentistry which encompasses the prevention, control diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of these structures and tissues.

2.8. "Prosthodontics" is that dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral restoration of masticatory function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient in part or as a whole through the designing and construction of removable dental prosthetic appliances known as artificial dentures, which are supported wholly or in part by the soft tissues of the mouth and not permanently attached to the natural teeth and/or oral and maxillofacial tissues using biocompatible substitutes.

§5-1-3. Official seal.

3.1. General. The Board's official seal shall affix by way of stamp or embossing and shall contain somewhere on the seal the word "seal" and W. Va. Board of Dental Examiners.

§5-1-4. Corporate practice of dentistry.

4.1. Qualifications. Only duly licensed dentists eligible to practice in the State of W. Va. may form a dental corporation. The dentists shall file a written application with the Board of Dental Examiners on a form prescribed by the Board. A fee shall accompany each application, no part of which is returnable. If the Board finds that the signers are duly licensed dentists or if there are more than one, that all of the signers of the applications are duly licensed dentists, the Board shall notify the Secretary of State that a Certificate of Authorization has been issued to the individual or individuals signing the application, to form a dental corporation. Provided, however, that there is compliance with the applicable provisions of W. Va. Code §31-1-1, concerning corporations generally.

§5-1-5. Specialties.

5.1. Specialist General Qualifications. A licensee may apply to the Board for a certificate of qualification in a specialty of dentistry if the licensee can satisfactorily prove to the State Board of Dental Examiners that he or she possesses the following general qualifications, in excess of those required for the completion of a general course of study as given in a dental school or college recognized by the State Board:

- (a) Membership in the American Dental Association or the National Dental Association;
- (b) An exemplary record of professional ethics; and
- (c) Requisite training. All training requirements for qualifications of each specialty shall be approved by the Counsel on Dental Education of the American Dental Association.

5.2. Specialist General Limitations. A person certified by the W. Va. State Board of Dental Examiners as a specialist has the following limitations:

- (a) The licensee shall limit his or her practice of dentistry only to the specialty in which he or she is licensed and in which he or she holds

himself out to the general public as a specialist;
and

(b) The licensee shall limit his or her listing in the telephone directory to the specialties in which he or she has an office or offices.

5.3. Specialty Fields Licensed by the W. Va. Board of Dental Examiners. The Board may issue certificates of qualification in the following specialties:

(a) Dental public health. -- In order to qualify for certification in this specialty, the licensee shall have a minimum of one full-time academic year of at least eight calendar months each of graduate or post-graduate education, internship or residency.

(b) Endodontics. -- In order to qualify for certification in this specialty, the licensee shall have a minimum of two full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship or residency.

(c) Oral and maxillofacial surgery. -- In order to qualify for certification in this specialty, the licensee shall have a minimum of three full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship or residency.

(d) Oral pathology. -- In order to qualify for certification in this specialty, the licensee shall have a minimum of two full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship or residency.

(e) Orthodontics and dentofacial orthopedics. -- In order to qualify for certification in this specialty, the licensee shall have a minimum of two full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship or residency.

(f) Pediatric dentistry. -- In order to qualify for certification in this specialty, the

licensee shall have a minimum of two full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship or residency.

(g) Periodontics. -- In order to qualify for certification in this specialty, the licensee shall have a minimum of two full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship or residency.

(h) Prosthodontics. -- In order to qualify for certification in this specialty, the licensee shall have a minimum of two full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship or residency.

§5-1-6. Issuance of temporary and/or special permits.

6.1. General. The Board may issue a temporary permit to practice dentistry or dental hygiene. Temporary and/or special permits may only be granted pursuant to a board meeting with a quorum of members present. Nothing in this rule prohibits the practice of dentistry or dental hygiene by persons licensed in another state who, at the request of an approved dental school or any regularly organized dental society, may give a clinic at the school or at a scientific meeting of the dental society for the purpose of advancing the professional knowledge of members of the dental profession or members of the student body of a dental school.

6.2. Temporary Permit. The Board of Dental Examiners may issue a temporary permit to practice dentistry or dental hygiene to graduates of schools of dentistry or dental hygiene approved by the Board who are certified to the board of directors of dental clinics established by law, by the chief executive of any hospital or sanitarium licensed or operated by the State or by the chief dental officer of the health department of the State. The permits terminate sixty days after the date that the first examination required for a license to practice dentistry is administered or

when the holder of the permit ceases to be employed by the person certifying him or her.

6.3. Dental Intern or Dental Residency Permit. The Board of Dental Examiners may issue a dental intern or dental residency permit to graduates of dental schools approved by the Board who are not licensed to practice dentistry in this State and who have not failed an examination for a license to practice dentistry in this State. An applicant for a permit shall be certified to the Board by the director or a hospital operated or licensed by the State which maintains a dental intern or residency program. The permit shall authorize the holder of the permit to serve as a dental intern or a dental resident for a period of not more than one year in any hospital licensed or operated by the State which maintains an established dental department under the supervision of a licensed dentist. The holder of a permit shall function under the supervision of the dental staff of the hospital and shall limit his or her practice to patients selected by the hospital. The holder of a permit is not entitled to receive any fee or other compensation other than the salary paid by the hospital. Permits may be revoked by the Board for cause and expire at the end of one year or on the date the dental internship or residency is discontinued, whichever first occurs.

6.4. Teaching Permits. The Board of Dental Examiners may issue teaching permits to persons who are graduates of a school of dentistry or dental hygiene approved by the Board where those persons are not licensed to practice dentistry or dental hygiene in this State. The permit shall be issued only upon the certification of the dean of a dental school located in this State that the applicant is a bona fide member of the staff of that school. The permits are valid for one year and may be reissued by the Board in its discretion. The holder of a permit may perform all operations which a person licensed to practice dentistry or dental hygiene in this State may perform, but only within the facilities of the dental school and as an adjunct to his or her teaching functions in the school.

§5-1-7. Suspension or revocation of a license.

7.1. Board Meeting. Prior to the suspension or revocation of a license, a majority of the Board shall meet with a quorum voting for revocation or suspension of the license.

7.2. Notice. The Board shall notify the licensee concerning a revocation or suspension at least thirty (30) days prior to the hearing. The notice shall contain grounds for the revocation or suspension and notify the licensee that he or she may appear with witnesses and be heard in person, by counsel, or by both. The notice shall also contain the time and place of the hearing concerning the suspension or revocation. The notice shall also contain a statement informing the licensee that the Board will receive any evidence the licensee may wish to offer, that the licensee will be given the opportunity to cross-examine any witnesses appearing before the Board, and that the Board will receive any statement the licensee may desire to make to them.

7.3. Publicity. The Board shall give no advance publicity prior to the hearing, during the hearing or prior to its decision concerning a licensee's suspension or revocation of a license.

7.4. Service of Notice. The Board may serve notice by delivering a copy of the notice in writing to the party in person; or if he or she cannot be found, by delivering the copy at his or her usual place of abode, and giving information of its purport, to the spouse, or to any other person found there who is a member of the licensee's family and above the age of sixteen years; or if neither the spouse nor any other person is found there, and the licensee is not found, leaving the copy posted at the front door of the place of abode. Any sheriff or constable shall serve a notice within his or her county and make return of the manner and time of service; for a failure to do so he or she shall forfeit twenty dollars. The return, or a similar return by any other person who verified it by affidavit, is evidence of the manner and time of service.

7.5. Service by Publication. Any notice to a

person not residing in this State may be served by the publication of the notice once a week for three successive weeks in a newspaper published in this State.

7.6. Hearing. The Board may compel the attendance of witnesses and administer oaths. A stenographic report of a proceeding to suspend or revoke a license shall be made at the expense of the Board and a transcript of the hearing retained in the Board's file. The Board shall make a written report of its findings, which constitute part of the record and a copy of the findings shall be filed with the Secretary of State.

7.7. Review by Circuit Court and Supreme Court of Board's Decision on Suspension and Revocation of License. A person having his or her license suspended or revoked may, within thirty days after the decision of the Board, present a petition in writing to the circuit court of the county in which the person resides, or to the judge of the court in vacation, praying for the review and reversal of the decision. Before presenting his or her petition to the court or judge, the petitioner shall mail copies of the petition to the president and secretary, respectively, of the Board. Upon receipt of the copy, the secretary shall immediately transmit to the clerk of the court the record of the proceedings before the Board. The court or judge shall fix a time for the review of the proceedings at his or her earliest convenience. Notice in writing of the time and place of the hearing shall be given to the president and secretary of the Board at least ten days before the date set for the hearing. The court or judge shall, without a jury, hear and determine the case upon the record of the proceedings before the Board. The court or judge may enter an order affirming, revising, or reversing the decision of the Board if it appears that the decision was clearly wrong. Prior to the entry of the order, no order shall be made or entered by the court to stay or supersede any suspension, revocation or cancellation of any certificate, license, registration or authority. The judgement of the Circuit Court may be reviewed upon appeal in the Supreme Court of Appeals.

§5-1-8. Expanded duties of dental hygienists and dental assistants.

8.1. General. Licensed dentists may assign to their employed dental hygienists or assistants intraoral tasks as set out in this section for dental hygienists or assistants, subject to the following conditions:

(a) The performance of intraoral tasks by dental hygienists or assistants shall be under the direct supervision of the employer-dentist;

(b) The following procedures may not be assigned to a dental hygienist or assistant or to any other person not licensed to practice dentistry:

(1) Diagnosis, treatment planning and prescription (including prescriptions for drugs and medicaments or authorizations for restorative, prosthodontic or orthodontic appliances); or

(2) Surgical procedures on hard and soft tissue within the oral cavity or any other intraoral procedure that contributes to or results in an irremediable alteration of the oral anatomy; and

(c) The licensed dentist assigning expanded duties to a dental hygienist or assistant is solely responsible for evaluating the dental hygienist or assistant to determine that he or she is competent to handle assigned duties. Further, no licensed dentist shall assign additional duties to a dental hygienist or assistant until he or she is assured that the dental hygienist or assistant is fully competent and completely qualified to perform the assigned expanded duty or duties.

8.2. Expanded duties of dental assistants. The following duties and/or intra-oral tasks may be assigned by a licensed dentist to a dental hygienist and/or assistant in the licensed dentist's employment, provided that under no circumstances can an assistant use a power-driven instrument of any type intra-orally except as specifically set forth hereinafter:

(a) Placing, exposing, developing, and

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mounting dental radiographs;

- (b) Placing and removing rubber dams;
- (c) Charting existing restorations and missing teeth;
- (d) Holding and removing materials, trays, strips, and sutures previously placed in the patient's mouth by the dentist;
- (e) Removing excess cement from coronal surfaces of teeth without the use of rotating, power-driven or scaling instruments;
- (f) Taking impressions for study cast and pouring models;
- (g) Recording medical and dental histories for interpretation by the supervising dentist;
- (h) Providing pre- and post-treatment instructions;
- (i) Viewing the oral cavity and reporting the symptoms/problems to the supervising dentist;
- (j) Performing pulp vitality testing (thermal or electrical) with a final evaluation by the supervising dentist;
- (k) Inserting and adjusting athletic mouth guards and bleaching trays with a final evaluation by the supervising dentist;
- (l) Removing periodontal dressings with a final evaluation by the supervising dentist;
- (m) Placing and removing matrices after a final evaluation by the supervising dentist;
- (n) Applying topical anesthetic agents with prior approval by the supervising dentist;
- (o) Applying topical anticariogenic agents after successful completion of a board-approved course and examination and with prior approval of the supervising dentist;

(p) Applying pit and fissure sealants after successful completion of a board-approved course and examination and with a final evaluation by the supervising dentist;

(q) Applying cavity liners and bases with a final evaluation by the supervising dentist;

(r) Removing soft tissue dressings with a final evaluation by the supervising dentist;

(s) Fabricating and cementing temporary crowns and bridges with a final evaluation by the supervising dentist;

(t) Placing and removing temporary restorations by a non power-driven method with a final evaluation by the supervising dentist;

(u) Taking intra- and extra-oral photographs;

(v) Chemical conditioning of the tooth to accept a restoration and/or bracket by topical application after successful completion of a board-approved course and examination;

(w) Using a power-driven hand piece with rubber cup and/or brush only for preparing a tooth for accepting a restoration and/or appliance, which shall in no way be represented to the patient as a prophylaxis, after successful completion of a board-approved course and examination;

(x) Placing retraction cords for crown impressions after successful completion of a board-approved course and examination and with prior approval of the supervising dentist;

(y) Taking final impressions for fixed or removable prosthesis and/or appliance with a final evaluation by the supervising dentist;

(z) Checking for loose orthodontic appliances with a final evaluation by the supervising dentist;

(aa) Taking orthodontic

measurements with a final evaluation by the supervising dentist;

(bb) Fitting bands and brackets prior to final cementation and/or bonding by the supervising dentist;

(cc) Bending archwires with a final evaluation by the supervising dentist at the time of placement;

(dd) Placing or removing temporary space maintainers, orthodontic separating devices, ligatures, brackets and bands with a final evaluation by the supervising dentist at the time of placement or removal, after completion of a board-approved course and examination;

(ee) Removing loose or broken bands, brackets or archwires when directed by the supervising dentist; and

(ff) Visually monitoring a nitrous oxide analgesia unit. Two years after the effective date of this rule, a dental assistant or hygienist must have successfully completed a board-approved course and examination in order to perform this duty. Thereafter, the assistant or hygienist must maintain current certification in accordance with the American Red Cross' or the American Heart Association's Cardio-Pulmonary Resuscitation (CPR) program.

(gg) A dental assistant who has completed two (2) years and at least three thousand (3,000) hours of clinical experience in a dental office, as attested to by the supervising dentist, and who has successfully completed either the restorative expanded duties course or orthodontic expanded duties course required by the West Virginia Board of Dental Examiners, may perform supragingival and coronal polishing on children under age 21 years of age using a slow speed hand piece with a rubber cup after successfully completing a course approved by the Board.

8.3. Expanded duties of dental hygienists. In addition to and including those duties set forth in

subsection 8.2 of this section, the following duties and/or intraoral tasks may be assigned by a licensed dentist to a dental hygienist in the licensed dentist's employment:

(a) Supra - and subgingival scaling of teeth;

(b) Polishing of coronal and/or exposed surfaces of teeth;

(c) Dental health education;

(d) Nutritional counseling;

(e) Examining and recording periodontal findings;

(f) Scaling excessive cement from the surfaces of teeth and restorations;

(g) Performing clinical examinations and diagnostic tests of teeth and surrounding tissues and recording findings for interpretation by a supervising dentist (including such procedures as restorative chartings, caries activity test, cytology smears, salivary analysis and smears, endodontic cultures, vitality test, etc.);

(h) Placing of subgingival medicaments, fibers, chips, etc.;

(i) Finishing and polishing restorations with a slow speed hand piece;

(j) Debridement and/or root planing of teeth;

(k) Applying bleaching agents after successful completion of a board-approved course;

(l) Placing periodontal dressings with a final evaluation by the supervising dentist; and

(m) Administration of infiltration and block anesthesia after successful completion of a board-approved course and of a regional board examination and under the direct supervision of a

licensed dentist.

8.4. General Supervision of Dental Hygienists. A dental hygienist may provide, for not more than fifteen (15) consecutive business days or not more than three (3) consecutive weeks, preventive dental hygiene services to patients when the supervising dentist is not physically present at the location at which the services are provided if all of the following requirements are met:

(a) The dental hygienist shall apply to the Board of Dental Examiners for a general supervision permit. The application will be submitted on a form to be supplied by the Board. The application fee shall be equal to the fees charged for expanded duties certificates.

(b) The dental hygienist shall have two (2) years and three thousand (3,000) hours of clinical dental hygiene experience.

(c) The dental hygienist shall provide proof of successful completion of a three (3) hour course in the identification and prevention of medical emergencies as part of continuing education credits for licensure every two years.

(d) The supervising dentist shall have examined the patient, including medical history review, diagnosis and treatment planning, not more than twelve months prior to the date the dental hygienist provides the dental hygiene services to the patient. No patient may be treated two (2) consecutive times by a dental hygienist under general supervision without a licensed dentist conducting an examination.

(e) The dental hygienist shall comply with written protocols or written standing orders established by the supervising dentist, including an updated medical history, informs the patient or parent or guardian of a child and documents in the patient record that dental hygiene services were provided under general supervision.

(f) The dental hygienist shall consult with the supervising dentist or an attending physician if a significant change has occurred in the patient's

medical history to determine that the patient is in a medically stable condition prior to receiving dental hygiene services.

(g) The supervising dentist shall not have more than three (3) dental hygienists treating patients under general supervision in dental offices or treatment facilities at any one time when the dentist is not physically present.

(h) The following procedures may be performed by a dental hygienist with no supervision of a licensed dentist:

(1) Dental health education;

(2) Nutritional counseling;

(3) Preparing a generalized oral screening with subsequent referral to a dentist; and

(4) Applying fluoride.

(i) The following procedures may be performed by a dental hygienist when practicing under general supervision:

(1) Placing, exposing, developing, and mounting dental radiographs;

(2) Charting existing restorations and missing teeth;

(3) Taking impressions for study cast and pouring models;

(4) Recording medical and dental histories;

(5) Applying topical anesthetic agents;

(6) Applying topical anticariogenic agents;

(7) Applying pit and fissure sealants following diagnosis within four (4) months by the supervising dentist;

(8) Checking for and removal of loose

orthodontic bands and loose brackets;

(9) Taking intra- and extra-oral photographs;

(10) Complete dental prophylaxis, which may include supra- and subgingival scaling of teeth and polishing of coronal and/or exposed surfaces of teeth;

(11) Dental health education;

(12) Nutritional counseling;

(13) Examining and recording periodontal findings;

(14) Scaling excessive cement from the surfaces of teeth and restorations;

(15) Performing clinical examinations and diagnostic tests of teeth and surrounding tissues, including but not limited to restorative chartings, caries activity test, cytology smears, salivary analysis and smears, endodontic cultures, vitality tests, and recording findings for interpretation by a supervising dentist;

(16) Placing of subgingival medicaments, fibers, chips, etc.;

(17) Finishing and polishing restorations with a slow speed hand piece;

(18) Debridement and/or root planing of teeth; and

(19) Applying bleaching agents after successful completion of a board-approved course.

(j) The dental hygienist may practice under general supervision, consistent with conditions outlined above, in the following settings; private dental offices, hospitals, schools, correctional facilities, jails, community clinics, long term care facilities, nursing homes, home health agencies, group homes, state institutions under the Department of Health and Human Resources,

public health facilities, homebound settings and Accredited Dental Hygiene Education programs.

(k) Facilities utilized for oral prophylaxis, sealant placement, or both, shall have adequate lighting, suction and isolation of teeth.

(l) The dental hygienist shall submit an annual report to the West Virginia Board of Dental Examiners of services rendered while practicing under general supervision in all settings other than a private dental office or Accredited Dental Hygiene Education program. The supervising dentist shall review and sign this report.

(m) All applications and reporting forms shall be provided by the West Virginia Board of Dental Examiners.

(n) No person shall do any of the following:

(1) Practice dental hygiene in a manner that is separate or otherwise independent from a supervising dentist;

(2) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services; and

(3) Administer local anesthesia under general supervision.

8.5. Public Health Practice of Dental Hygienists. A dental hygienist may engage in public health practice rendering all services provided in subsection 8.4. (i) of this section allowed under General Supervision and as further defined below:

(a) The dental hygienist shall submit application to the West Virginia Board of Dental Examiners for Public Health Practice. The application fee shall be equal to the fees charged for expanded duties certificates.

(b) The dental hygienist shall have two (2) years and three thousand (3,000) hours of clinical dental hygiene experience.

(c) The dental hygienist shall, in addition to the twenty (20) hours required for dental hygiene licensure, complete six (6) hours of continuing education during each continuing education cycle which must include three (3) hours in medical emergencies and three (3) hours in general public health content.

(d) The dental hygienist and supervising dentist shall submit an annual report to the West Virginia Board of Dental Examiners of services rendered.

(e) The dental hygienist, in cooperation with the supervising dentist, shall have a written plan for referral, recording conditions that should be called to the attention of the dentist.

(f) A licensed dentist may not supervise more than four (4) dental hygienists engaged in public health practice.

(g) Facilities utilized for oral prophylaxis, sealant placement, or both, shall have adequate lighting, suction and isolation of teeth.

(h) The dental hygienist may engage in public health practice, consistent with conditions outlined above, in the following settings: hospitals, schools, correctional facilities, jails, community clinics, long term care facilities, nursing homes, home health agencies, group homes, state institutions under the Department of Health and Human Resources, public health facilities, homebound settings and Accredited Dental Hygiene Education programs.

(i) All applications and reporting forms shall be provided by the West Virginia Board of Dental Examiners.

(j) The following procedures may be performed by a dental hygienist with no supervision of a licensed dentist:

(1) Dental health education;

(2) Nutritional counseling;

(3) Preparing a generalized oral screening with subsequent referral to a dentist;

(4) Applying flouride;

(5) Charting existing restorations and missing teeth;

(6) Recording medical and dental histories;

(7) Examining and recording periodontal findings ; and

(8) Complete dental prophylaxis, which may include supra- and subgingival scaling of teeth and polishing of coronal and/or exposed surfaces of teeth. The dental hygienist shall have a written order from a licensed dentist prescribing such treatment.

(k) No person shall do any of the following:

(1) Practice dental hygiene in a manner that is separate or otherwise independent from a supervising dentist;

(2) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services; and

(3) Administer local anesthesia under public health practice permit.

§5-1-9. Designation of testing bodies.

9.1. The Board designates for dental and dental hygiene license testing the following Boards:

(1) The Joint Commission on National Dental Examinations for the written examination; and

(2) The North East Regional Board of Dental Examiners for the clinical examination or any other state and/or regional clinical examination.

§5-1-10. Continuing education requirements.

10.1. Hours Required Biennially. Each licensed dentist shall complete biennially not less than thirty five (35) hours of continuing education. Each licensed dental hygienist shall complete biennially not less than twenty (20) hours of continuing education.

10.2. Approved Providers.

(a) The Continuing Education course must be offered by a Board approved provider.

(b) The Board approves any course or program sponsored by the following providers, or their constituent or component organizations for credit:

- (1) An accredited dental or dental hygiene school;
- (2) The American Dental Association;
- (3) A National Dental Association;
- (4) The American Dental Hygienists' Association;
- (5) The National Dental Hygiene Association;
- (6) The American Medical Association;
- (7) The American Hospital Association;
- (8) The American Red Cross;
- (9) The American Heart Association;
- (10) American Dental Association recognized specialty societies;
- (11) The Academy of General Dentistry;

(12) The Veteran's Administration;

(13) The United States Uniformed Services;

(14) The U. S. Department of Health and Human Services;

(15) The W. Va. Department of Health and Human Resources;

(16) The W. Va. Dental Association;

(17) The W. Va. Dental Hygienists' Association; and

(18) Agencies of the United States Department of Justice; and

~~(18)~~ (19) Study Clubs: "Study Club" means a group of at least five (5) dentists or dental hygienists who do the following:

(i) Organize for the purpose of scientific study;

(ii) Operate under the direction of elected officers;

(iii) Maintain written by-laws;

(iv) Conduct regular meetings;

and

(v) Maintain written attendance records of all meetings.

(c) Providers not identified in subdivision (b) of this subsection may petition the Board for approval of continuing education that they offer. The Board may approve other sponsors of continuing education credits. The Board's approval expires after two consecutive years and must be renewed. The course or program must be designed to enhance the licensee's clinical knowledge and ability to treat dental patients.

(d) Courses or programs that are not approved for continuing education credit for license renewal include, but are not limited to, those on the subjects of estate planning, money management, personal finance, personal business matters, cultural subjects, personal health and recreation, politics, memory training, and speed reading.

(e) The board may excuse a licensee from all or any part of continuing education requirements due to unusual circumstance, emergency or special hardship.

10.3. Record Keeping, Reporting, & Monitoring:

(a) It is the responsibility of each dentist and dental hygienist to maintain ~~and compile~~ accurate records relating to ~~all~~ continuing education courses he or she has successfully completed.

(b) The records and information pertaining to each year shall be maintained for a period of six (6) years.

(c) A licensee shall report all continuing education courses on the form provided by the Board. ~~The licensee shall submit records relating to continuing education courses to the Board at the time of license renewal.~~

(d) The Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

(1) A licensee who fails to successfully complete an audit of continuing education records may be subject to disciplinary action, which may include but is not limited to, an immediate cease and desist from practice notice, notice of formal hearing and/or monetary assessments or fines.

(e) Each dentist and dental hygienist shall submit to the Board by February 1, 1996, and every two years thereafter documentation of satisfactory completion of the required hours of

continuing education during the previous two years.

10.4. Criteria.

(a) The Board shall not give continuing education credit for identical courses taken during the same continuing education reporting period.

(b) The Board shall give one hour of credit for each hour of attendance and an hour of attendance is defined as fifty (50) minutes.

(c) At least two (2) hours of continuing education shall be related to any one or combination of the following subjects during each continuing education reporting period :

(1) infection control and/or occupational hazards;

(2) oral effects of tobacco use; or

(3) oral effects of substance abuse.

(d) A current certification for a ~~Health Care Provider/Basic Life Support~~ comprehensive basic life support course for a health care provider that includes: resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation. A CPR certificate shall be obtained through ~~recognized by~~ the American Heart Association health care provider course, ~~or the~~ American Red Cross professional rescuer course, ~~or an equivalent course.~~ Certification shall be required each continuing education period, and such certification ~~will~~ may be counted as continuing education credits.

(e) Courses or re-certifications completed on the Internet will not be accepted for basic life support courses unless the course includes a skills examination with a certified instructor.

(f) Continuing education hours or other

education requirements required by board consent decrees or orders shall not be used to satisfy continuing education requirements for license renewal.

10.5. Continuing Education for Anesthesia certificate holders.

(a) Class 2 anesthesia certificate holders must complete at least 6 hours of continuing education credits and class 3 and class 4 anesthesia permit holders must complete 16 hours of credits in one or more of the following areas:

- (1) oral or nitrous oxide sedation;
- (2) conscious sedation;
- (3) general anesthesia;
- (4) physical evaluation;
- (5) medical emergencies;
- (6) monitors and use of monitoring equipment;
- (7) pharmacology; or
- (8) advanced cardiac life support, ~~pediatric advanced life support or advanced trauma life support~~ (maximum of 8 hours credit);
- (9) pediatric advanced life support (maximum of 8 hours credit); and
- (10) advanced trauma life support (maximum of 8 hours credit).

(b) Courses or re-certifications completed on the Internet will not be accepted for basic life support courses unless the course includes a skills examination with a certified instructor.

No Courses or re-certifications completed on the Internet will not be accepted for advanced cardiac life support, pediatric advanced life support or advanced trauma life support.

(c.) These continuing education credits earned will count for part of the 35 hours required for each biennial period. This requirement is effective for the biennial period beginning February 1, 2008 through January 31, 2010.

10.6. Categories of Credit. The licensee may select areas of study within the following categories, not to exceed the maximum number of hours in each category.

(a) Educational and scientific courses - One hundred percent (100%) of the requirement may be obtained by Educational and scientific courses given by permanent or Board-approved biennial sponsors.

(b) Supervised self-instruction - Fifty percent (50%) of the requirement may be obtained in this category. Supervised self-instruction shall include a testing mechanism supplied by a permanent or Board approved biennial sponsor. The licensee shall complete a test and demonstrate a level of comprehension before the Board will award credit. Tests shall be graded by the sponsor and results returned to the licensee. Supervised self-instruction includes, but is not limited to:

- (1) Graded audio/video courses;
 - (2) Graded correspondence courses;
- and
- (3) Graded computer courses.

(c) Non-supervised self-instruction - A maximum of ten percent (10%) of the requirement may be obtained in the category. Non-supervised self-instruction includes, but is not limited to:

- (1) Home study - journals and publications;
- (2) Correspondence programs;
- (3) Educational television;
- (4) Audio/video programs;

- (5) Scientific exhibits; and
- (6) Study clubs other than biennial sponsors.

(d) Scientific papers, publications, and scientific presentations - A maximum of ten percent of the requirement may be obtained in the category of papers, publications, and scientific presentations; A maximum of ten percent (10%) may also be obtained for original scientific papers authored by the licensee and published in a scientific professional journal, and the original presentation of papers, essays, or formal lectures to recognized groups of fellow professionals.

(e) Teaching and research appointments - A maximum of ten percent (10%) of the requirement may be obtained in this category. Licensees involved in teaching or research activities at an accredited dental or dental hygiene institution facility, dental assisting program, dental laboratory technology program, or a part time faculty or research appointment in such facility or program may also receive a maximum ten percent (10%) of the requirement.

(f) Original table clinics and scientific exhibits - A maximum of ten percent (10%) of the requirement may be obtained in the category of original table clinics and scientific exhibits.

(g) Course subjects on billing, office management, practice building, insurance reimbursement, communication skills, courses on how to use dental software, programs, and/or dental equipment are limited to a maximum of ten percent (10%) of the requirement whether individually or in any combination.

(g)(h) The Board recognizes successful completion of the following written examinations, as may be administered by the following agencies, as satisfying the number of required hours of continuing education in the applicable reporting period:

(1) North East Regional Board's (NERB) Dental Hygiene Comprehensive

Examination (for hygienists only);

(2) NERB's Diagnosis and Oral Radiology plus Comprehensive Treatment Planning Examinations;

(3) Academy of General Dentistry's Fellowship Examination;

(4) Examinations leading to recognized Specialty Boards' Diplomate status;

(5) National Board - All parts, successfully completed;

(6) Central Regional Dental Testing Agency's Written Examinations;

(7) Southern Regional Testing Agency's Written Examinations;

(8) Western Regional Examining Board's Written Examination; and

(9) any other written exam approved by the Board.

(h) Compliance: Compliance with this rule is required for all licensees seeking license renewal beginning February 1, 1994, and biennially thereafter.

10.7. Dental Committee and Indigent Care Participation.

(a) The Board recognizes those individuals that are serving, (as elected, or appointed members), on national, state and local dental, or dental hygiene boards, councils or committees and allows one (1) hour of continuing education credit for every four (4) hours of meeting time to those individuals. This amount cannot exceed more than Five (5) hours of the total biennial requirement for each classification of licensee.

(b) Dentists may earn up to five (5) hours and Dental Hygienists may earn up to three (3) hours of continuing education credit requirements, per biennial period, for providing dental care to

indigent patients. One-half (.5) hour credit will be allowed for every hour of documented treatment.

10.8. ~~Recent graduates licensed within one (1) year of a continuing education reporting period are not required to fulfill continuing education requirements for~~ A licensee is exempt from continuing education requirements and is considered in compliance on the date of the end of the first continuing education reporting period following the licensee's initial licensure. Retired or disabled dentists or dental hygienists are not required to fulfill continuing education requirements.

(a) Continuing education will not be required for a dentist who is a graduate student in an approved dental specialty program, dental internship or residency program, or related dental or medical degree program offered by an approved organization, but must complete the healthcare provider/basic life support certification pursuant to 10.4.(d) of this section.

10.9. Penalties for Violation.

(a) The Board shall not renew the license of any licensee who fails to meet the requirements of this section.

(b) A licensee who has been found to have not fulfilled the continuing education requirements of the Board shall be required to pay a penalty as set by the Board's fee schedule 5CSR3 and has six (6) months in which to satisfy the requirements.

(c) A false statement on a renewal form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code §30-4-20.

§5-1-11. Practice of dentistry under trade name or firm name.

11.1. A person shall not practice, or offer or undertake to practice, dentistry under any firm name or trade name, or under any name other than

his or her own true name: Provided, that nothing in this section prohibits the practice of dentistry by a partnership, corporation and/or professional limited liability company under a firm name containing nothing but the surname of every member who is a duly licensed dentist.

§5-1-12. Annual information and renewal notice; reinstatement; penalty fees; waiver of payment of fee on retirement or disability; change of address.

12.1. Annual information and renewal notice; reinstatement and penalty fees.

(a) On or before the first day of February of each year, every dentist licensed to practice dentistry in this state, and every dental hygienist licensed to practice dental hygiene in this state, shall transmit to the secretary of the board upon a form prescribed by the board, his or her signature, post-office address, office address, serial number of his or her license certificate, whether he or she has been engaged during the preceding year in the active and continuous practice of dentistry or dental hygiene, as the case may be, whether within or without this state, and any other information required by the board, together with an information and renewal fee.

(b) Upon receipt of the required information and the payment of the proper renewal fee, the board shall issue a renewal certificate authorizing him or her to continue the practice of dentistry or the practice of dental hygiene in this state for a period of one year from the first day of February.

(c) Upon failure of any licensee to submit the required information and pay the annual renewal fee as required by the statutory date, the board shall attempt to notify the licensee in writing by mailing to his or her last registered address a notice of the requirements of this section apprising him or her of the fact that his or her license to practice will be suspended on the statutory date: Provided, that the Board's failure to mail or receive the notice shall not affect the suspension of his or her license.

(d) A license to practice dentistry or dental hygiene granted under the authority of WV Code §30-4-1 et. seq. shall be suspended for failure to renew on the first day of May if the licensee fails to secure a current renewal certificate by that day. Any licensee whose license is suspended by reason of the failure, neglect or refusal to secure the proper renewal certificate may have his or her license reinstated by the board at any time within six months from the date of the suspension of the license upon the payment of the proper renewal fee and a penalty fee as set by the board's fee schedule 5CSR3. If the licensee does not apply for renewal of his or her license as required by this section within six months, that person shall, at the discretion of the board, file an application for and take the examinations provided in W. Va. Code §30-4-1 et. seq. if he or she desires to practice dentistry or dental hygiene in this state.

12.2. Waiver of payment of fee on retirement or disability status.

(a) The board may waive the annual payment of the renewal fee required by this section, and issue a retired renewal certificate to any West Virginia licensee who is presently retired from active practice, or to any West Virginia licensee who has retired for reasons of physical disability, so long as the retirement continues: Provided, that the licensee shall provide the board with the information required by this section. Upon leaving a retired status the Board may require re-examination.

12.3. Change of Address.

(a) Every licensed dentist or dental hygienist within thirty days of changing their place of residence or their place of practice or establishing additional offices shall furnish the secretary of the board with his or her new addresses.

§5-1-13. Special Volunteer License Continuing Education Requirements.

13.1. Each dentist or dental hygienist licensed as a volunteer shall complete continuing education biennially.

13.2. Approved Providers.

(a) The Continuing Education course must be offered by a Board approved provider.

(b) The Board approves any course or program sponsored by the providers as set forth in section 5.1.10.2 (b) of this rule.

13.3. Record Keeping, Reporting, & Monitoring:

(a) It is the responsibility of each dentist and dental hygienist to maintain accurate records relating to continuing education courses he or she has successfully completed.

(b) The records and information pertaining to each year shall be maintained for a period of six (6) years.

(c) A licensee shall report all continuing education courses on the form provided by the Board.

(d) The Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

(e) Each dentist and dental hygienist shall submit to the Board by February 1, 2010, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

13.4. Criteria

(a) The Board shall not give continuing education credit for identical courses taken during the same continuing education reporting period.

(b) At least two (2) hours of continuing education shall be related to infection control.

(c) A current certification for a comprehensive basic life support course for a health care provider that includes: resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation. A CPR certificate shall be obtained through the American Heart Association health care provider course, the American Red Cross professional rescuer course, or an equivalent course. Certification shall be required each continuing education period, and such certification may be counted as continuing education credits.

13.5. Categories of Credit. The licensee may select areas of study within the following categories, not to exceed the maximum number of hours in each category.

(a) Educational and scientific courses - One hundred percent (100%) of the requirement may be obtained by Educational and scientific courses given by permanent or Board-approved biennial sponsors.

(b) Supervised self-instruction - Fifty percent (50%) of the requirement may be obtained in this category. Supervised self-instruction shall include a testing mechanism supplied by a permanent or Board approved biennial sponsor. The licensee shall complete a test and demonstrate a level of comprehension before the Board will award credit. Tests shall be graded by the sponsor and results returned to the licensee. Supervised self-instruction includes, but is not limited to:

(1) Graded audio/video courses;

(2) Graded correspondence courses;

and

(3) Graded computer courses.

(c) Compliance: Compliance with this rule is required for all volunteer licensees seeking

license renewal beginning February 1, 2010, and biennially thereafter.

13.6. Penalties for Violation.

(a) The Board shall not renew the license of any licensee who fails to meet the requirements of this section within six (6) months from the date the licensee is found to have not fulfilled the continuing education requirements of the Board.

(b) A false statement on a renewal form or continuing education reporting form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code §30-4-20.

STATEMENT CONCERNING COMMENTS RECEIVED

AND AMENDMENT MADE TO THE PROPOSED RULE

The West Virginia Board of Dental Examiners approved the filing of the original proposed rule on May 16, 2008, during a special meeting of the Board. Numerous stake holders were in attendance at that meeting and the Board held an open discussion period and allowed all stake holders an opportunity to present their opinions to the Board.

The Board subsequently approved the original filing which opened a public comment period as evidenced by numerous comments filed with the Board representing many individuals and groups expressing a variety of concerns about the proposed rule.

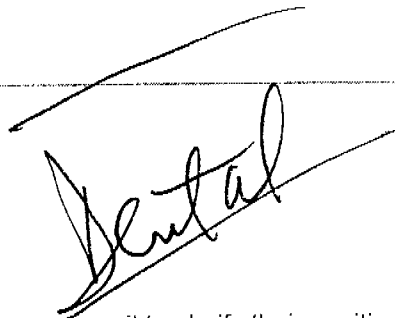
The Board at it's May meeting had declined to include 8.2 (gg) as part of an emergency rule in spite of intense pressure from the West Virginia Dental Association. The lobbying on this issue continued through the comment period. However, the Board still declined to make this provision part of its emergency rule.

Other comments dealing with the more broad and liberal approach that was exhibited in the Board's original filing were considered by the Board and in fact many of the suggestions were adopted. Most notable was a narrowing of the list of functions dental hygienists could perform under public health practice and without supervision. The Board did clarify several functions that hygienists can perform in public health settings with no supervision. Further, the Board considered comments of the Office of Oral Health, (DHHR), and removed the Director of that office as a sponsoring dentist.

The Board engaged in a full, free, and open debate prior to approving these amendments, which reflects a more conservative and cautious approach to the issue of general and no supervision of dental hygienists.

Judy Cooper

From: Nancy Tyler [ntyler1@mail.wvnet.edu]
Sent: Friday, June 13, 2008 11:52 AM
To: Judy Cooper
Subject: dental board rule



Chairman Perdue and Delegate Hatfield asked me to send you an e-mail to clarify their position on the emergency rule recently adopted by the Board of Dental Examiners. It is their understanding that the Board has submitted an emergency rule that expands the scope of practice of the dental hygienists to allow practice in the community without direct supervision of the hygienist under certain training requirements. It is also their understanding that the Board intends to submit a different rule for the rulemaking process that includes the expansion of the dental assistant's scope of practice. This addition to the rule was never discussed by the Legislature. The expansion of the dental hygienists scope of practice has been discussed for the last five legislative sessions and is widely supported by the Legislature. Chairman Perdue and Delegate Hatfield wanted to make their position known so that there would be no effort to add the dental assistant expansion to the emergency rule that is currently being evaluated. Thank you for your consideration.

If you have any questions, please call me because Delegate Hatfield will be out of town for the next two weeks and Chairman Perdue is working long hours at this time and is difficult to reach. Thank you.

Nancy Tyler
Staff Counsel for the House Health Committee
304-340-3345

The Honorable Betty Ireland
Secretary of State
1900 Kanawha Blvd., East
Charleston, WV 25305

June 16th, 2008

Dear Secretary Ireland,

As President of WVDA which represents over 75% of the dentists in West Virginia and as many affiliate hygiene members as WVDHA, I respectfully request that you disapprove the "emergency rule" filed by the board of Dental Examiners and return it to the board for revision.

I was in attendance at the May 15th, 2008 meeting; following is a list of reasons why I would like your disapproval:

1. WVDA agreed on draft #2 NOT #3 (#3 was given to Richard Stevens less than three days prior to the meeting---WVDA had no knowledge as to who amended it).
2. Dr. Chuck Smith, our representative, was only given 5 minutes to explain the differences in the two drafts. The Board was not adequately informed of the differences between drafts #2 and #3. I feel the board hastily passed the #3 draft because of pressure from various members of the House of Delegates.
3. WVDA's Draft #2 provides a safer dental atmosphere for the people of West Virginia than does the Board's draft #3---there are more restrictions in the "private office" (8.4) where patients are monitored more closely as compared to the public sector (8.5).
4. WVDA feels that 8.2 should be included in the "emergency rule".
 - a) Dental Assistants currently do 80% of coronal polishing for placing a filling or braces.
 - b) Presently 34 states permit coronal polishing
 - c) No adverse incidents have been reported (same instruments used as a battery operated tooth brush).
 - d) Coronal polishing is NOT a cleaning---only about a 2-5 minute procedure on 45 minute to an hour appointment. This is NOT intended to replace the need for a hygienist.
 - e) This will improve access to dental health care to children where dental hygienists are in short supply.

Thank you for consideration to send the EMERGENCY RULE back to the Board for revision.

Sincerely,



W. Craig Wilcox, D.D.S., F.A.G.D.

WEST VIRGINIA DENTAL ASSOCIATION

2016 1/2 Kanawha Boulevard, East • Charleston, WV 25311

TEL: (304) 344-5246

FAX: (304) 344-5316

SPECIAL URGENT REQUEST OF WVDA EXECUTIVE COUNCIL

WVDA officers and Executive Council delegates are requested to FAX the Secretary of State a personal letter requesting she disapprove the Board of Dental Examiners "emergency rule" and return it to the Board for revisions.

The emergency rule filed with the Secretary by the Board is flawed. It not only contains conflicts with the dental law, it has contradictions within the rule itself. It has more restrictions for general supervision of hygienists in the dental office than it does for hygienists practicing in the public health setting where no dentists practice. Hygienists are permitted to provide services other than preventive services without a dentist examining the patient. It circumvents the scope of practice of dentists by allowing hygienists to perform procedures requiring a diagnosis and treatment plan by a dentist. It permits hygienists to provide services without benefit of a dentist interpreting an X-ray, which a hygienist is not licensed to do, to determine if a patient has visually undetectable decay, fractured or cracked teeth. Without coordination of dental services to meet the needs of the patient, which the law permits only by dentists, hygienists acting independently can place a patient at risk for adverse outcomes, according to the ADA who analyzed the emergency rule.

The Board may have reacted hastily in approving the emergency rule under some duress when they were informed that if they didn't pass it as presented "the wrath of the Legislature would come down on the Board." Some members say they did not have sufficient time to review the rule before the meeting when it was approved.

Another reason to write the Secretary is that her office has been told, presumably by the lobbyist for hygienists, that dentists want assistants to perform coronal polishing because they are "cheap labor." The Secretary needs to hear from dentists that coronal polishing is only part of a prophylaxis procedure and will not replace dental hygienists in dental practices or reduce their pay. She also needs to hear that dentists in rural areas do not have an adequate supply of hygienists to employ, thus, assistants trained to provide this service will free the dentist to provide restorative and other services to more people.

Please begin your letter with this statement: "You are respectfully requested to disapprove the emergency rule filed with your Office by the Board of Dental Examiners on June 4, and return it to the Board for revisions so that it is in the best interest of the public."

The remaining content of your letter can be taken from the above, or you can elect to FAX her the one sentence requesting she disapprove the emergency rule. Address your letter as follows:

The Honorable Betty Ireland
Secretary of State
1900 Kanawha Blvd., East
Charleston, WV 25305

FAX: 304-558-0900

Dear Secretary Ireland:

MARK C. KILCOLLIN, D.D.S.
P.O. Box 618
Union, West Virginia 24983
Telephone: (304) 772-3333

The Hon. Betty Ireland
Secretary of State
1900 Kanawha Blvd. E.
Charleston, WV 25303

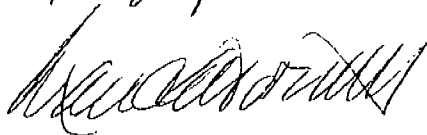
Dear Sec. Ireland:

I am respectfully requesting that you disapprove the emergency rule filed with your office by the West Virginia Board of Dental Examiners.

Please return it to the Board for a more thorough discussion and detailed restructuring.

I support the expanded use of Hygienists and also the expanded use of properly trained dental assistants.

Respectfully,





Drs. Lacy, Weidman & Hazey III
Specialists in Orthodontics

Gregory A. Lacy, D.D.S., M.S.
Alvin F. Weidman, D.D.S., M.S.
Michael A. Hazey III, D.D.S., M.S.

To Whom It May Concern,

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(g)" of your Proposed Rule 5CSR1.

Sincerely,

Michael A. Hazey III
Michael A. Hazey III, D.D.S., M.S.



J. A. PALMER, D.D.S., M.S.

HAWLEY BLDG. MAIN STREET SUITE 930 • WHEELING, WV 26003 • (304) 232-6666
119 TAYLOR AVENUE • WEIRTON, WV 26062 • (304) 797-1417

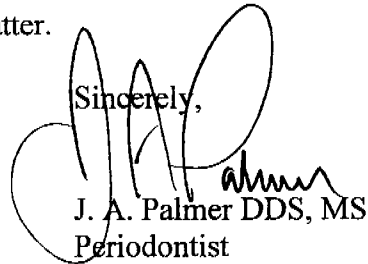
WV Board of Dental Examiners
1319 Robert C. Byrd Dr.
PO Box 1447
Crab Orchard, WV 25827

Dr Sirs:

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "gg" of your Proposed Rule 5CSR1.

Thank you for your attention to this matter.

Sincerely,



J. A. Palmer DDS, MS
Periodontist

JUN 1 6 2008



SISSONVILLE DENTAL CARE CENTER

P.O. Box 13485

Sissonville, WV 25360

Telephone: (304) 984-0052

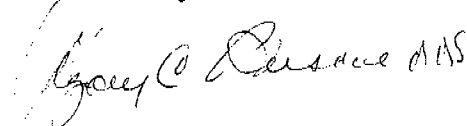
June 13, 2008

*Board of Dental Examiners
1319 Robert C. Byrd Drive
Crab Orchard, WV 25827*

To Whom It May Concern:

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSR1. There is a need to have this approved as soon as possible.

Sincerely,


Gregory C. Briscoe, D.D.S.

JUN 16 2008



Dr. Vivian French, DDS

139 Seventh Avenue
South Charleston, WV 25303

(304) 744-4670

June 13, 2008

Board of Dental Examiners
1319 Robert C. Byrd Drive.
P.O. Box 1447
Crab Orchard, WV 25827

Dear Sir,

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed rule 5CSR1

Sincerely,

A handwritten signature in cursive script that reads "Vivian French, DDS". The signature is written in black ink and is positioned above the printed name.

Vivian French

JUN 16 2008



West Virginia University
SCHOOL OF DENTISTRY

June 13, 2008

Board of Dental Examiners
1319 Robert C. Byrd Drive
PO Box 1447
Crab Orchard WV 25827

RE: Proposed Rule 5CSR1 “(gg)”

To whom it may concern:

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in “(gg)” of your Proposed Rule 5CSR1.

With the shortage of dental hygienists in the rural dental offices, allowing the assistants to perform supragingival and coronal polishing would benefit not only the dentists but also the children of West Virginia and improve access to care.

Again, I support Proposed Rule 5CSR1 “(gg)”.

Sincerely,

Richard L Meckstroth DDS
Chairman – Dental Practice & Rural Health

JUN 16 2008

Department of Dental Practice and Rural Health

G110 Health Sciences North
PO Box 9415
Morgantown, WV 26506-9415

Phone: 304-293-5912
Fax: 304-293-8561

Equal Opportunity/Affirmative Action Institution



Bowen Dental Associates

Dr. Gary Bowen II, DDS
Dr. Stacy L. Bowen, DDS

June 15, 2008

Board of Dental Examiners
1319 Robert C. Byrd Drive
PO Box 1447
Crab Orchard, WV 25827

Dear Board,

I believe that the proposed rules are a very good idea, especially in rural areas. Therefore, I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSR1.

Sincerely,

Gary Bowen, DDS

JUN 17 2008

Jane A. Johnson, D.D.S.

June 16, 2008

Board of Dental Examiners
1319 Robert C. Byrd Drive
PO Box 1447
Crab Orchard, WV 25827

Dear Members of the Board of Dental Examiners,

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing on children under 21 years of age to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSR1.

Sincerely,

A handwritten signature in cursive script that reads "Jane A. Johnson".

Jane A. Johnson, D.D.S.

JUN 17 2008

H. Darrell Milem, D.D.S.

305 N. Sturmer Street
Belington, WV 26250

304-823-2100



June 13, 2008

Board of Dental Examiners
1319 Robert C. Byrd Drive
P.O. BOX 1447
Crab Orchard, WV 25827

Having read and fully understanding the implications of Proposed Rule 5CSR1, I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSR1.

What a blessing and relief this will be to all dental offices in remote areas. It is becoming increasingly difficult to have a dental hygienist. My hygienist comes from Morgantown which is 48 miles away and some days when our "Human Service Patients are NO SHOW my practice "bites the dust" because I pay her a fixed salary.

Last year because of a number of "factors" our practice so the "lowest" income to date.

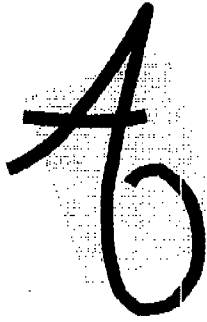
It is becomingly increasingly difficult to recruit any dental care professionals in the more rural areas.

Thanks for thinking of us who are not in Charleston, Huntington, Wheeling, etc.

Very professionally yours,


H. Darrell Milem, D.D.S.
1975 WVU Graduate

JUN 17 2008



ANDERSON

ORTHODONTICS

Anissa Monseau Anderson, DDS, MS

June 17, 2008

West Virginia Board of Dental Examiners
1319 Robert C. Byrd Drive
P.O. Box 1447
Crab Orchard, WV 25827

Dear Board of Dental Examiners:

I **support** your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSR1.

Thank you for your time and service.

Sincerely,

Anissa Monseau Anderson, DDS, MS

Anissa Monseau Anderson, DDS, MS

126 Asbury Circle
Wheeling, WV 26003
June 15, 2007

West Virginia Board of Dental Examiners
1319 Robert C. Byrd Drive
PO Box 1447
Crab Orchard, WV 25827

In response to the newsletter regarding emergency rules 5CSRI and proposed rules 5CSRI, I feel that 8.4 and 8.5 are a step in the right direction regarding issues for access to dental care in West Virginia. By limiting the Registered Dental Hygienist to applying pit and fissure sealants 1 time within a 4 month period following diagnosis by a Dentist can certainly sacrifice the standard of care for our patients. (8.4 j7 and 8.5 i). This can be found to be true in patients who for some reason have not retained the integrity of the initial sealant due to poor retention or a teeth grinding habit.

With emergency rules 8.4 and 8.5 opening the doors for access to care, it does not come without checks and balances. Registered Dental Hygienists who wish to practice under general supervision in 8.4 need to apply for a permit that requires the signature of a supervising Dentist, 3 hours of continuing education for medical emergencies every 2 years, inform patient or parent that services provided are under general supervision, file annual report with WVBODE for services rendered under general supervision, maintain current CPR, document and report continuing education and renew license with a fee annually. Notification is also required by WVBODE for changes in name, address and employment.

In reference to (gg) under proposed rules pertaining to the new duty assigned to the dental assistant, some clarification is required. It is a fact that a number of states permit this particular duty, and as stated at the WVBODE meeting on May 16, 2008..."Will allow access to care in offices where there is no Dental Hygienist." Might I compare the process of acquiring this new duty to the process the Registered Dental Hygienist must go through to practice the licensed skills he/she is performing, but under general supervision?

JUN 18 2008

REGISTERED DENTAL HYGIENIST-general supervision

Apply for permit

Signature of Dentist on application

3 hr CE course on medical emergencies every 2 years

Inform patient/parent services to be performed under general supervision

File annual report to WVBODE for services rendered under general supervision

Maintain current CPR

Pay yearly license renewal

Notify WVBODE of changes in name, address and place of employment

Attend/document continuing education

May work under general supervision for no more than 15 consecutive business days

1 year experience and 1000 hours

Only 3 Dental Hygienists may work under general supervision for 1 supervising dentist

DENTAL ASSISTANT-coronal/supragingival polishing under the age of 21

2 years experience and 3000 hours clinical experience

Complete restorative expanded duties course or orthodontic expanded duties course

There is no stipulation regarding the number of assistants in any given office who can perform coronal/supragingival polishing for any length of time.

Whereas; an office can only have 3 Dental Hygienists who can practice under general supervision for 15 consecutive business days. Direct hands-on patient care in the case of the dental assistant doesn't require any of the following stipulations: current CPR certification, medical terminology, ability to check/monitor vitals, certificate signed by the Dentist, application to WVBODE, a means of tracking these assistants on an annual basis, the need for infection control or continuing education, training in oral hygiene instruction or filing an annual report with the WVBODE for this new duty.

Not all dental assistants in West Virginia have training other than at the dental chair.

As a clinical Dental Hygienist and educator for the last 27 years, I have treated numerous patients under the age of 21 with supragingival and subgingival calculus. I am having a difficult time understanding how coronal and supragingival polishing may constitute as a dental prophylaxis

according to the ADA code definition. Hard deposits harbor bacteria that can cause gingival inflammation with the possibility of future periodontal issues. Does (gg) lay the groundwork for these types of problems? The chronological age of 21 designates an individual as a legal adult. I was taught that an adult dentition consists of 28 permanent teeth, which a majority of patients have by the age of 13 or 14.

My comments and concerns come from the heart of someone who loves the profession of Dental Hygiene. I would only ask that you consider some of my points and work on the logistics of (gg) that will not compromise the standard of care for our patients. I appreciate the time and effort put forth by the West Virginia Board of Dental Examiners regarding 8.4 and 8.5.

Respectfully,

A handwritten signature in cursive script that reads "Mary Ann Yandrich, RDH". The signature is written in black ink and is positioned above the typed name.

Mary Ann Yandrich RDH

Board of Dental Examiners

To Whom It May Concern:

*I support your proposed rule allowing detists to
delegate supragingival and coronal polishing to
dental*

*assistants who have met the qualifications in "(gg)"
of*

your Proposed Rule 5CSR1.

*Thankyou,
Dr. Carolyn Devito, DDS*

JUN 19 2008

C. Richard Gerber, D.D.S.

314 BARKWILL STREET
ST. MARYS, WEST VIRGINIA 26170

TELEPHONE (304) 684-2204

June 17, 2008

WV Board of Dental Examiners
1319 Robert C. Byrd Drive
P.O. Box 1447
Crab Orchard, WV 25827

Ladies and Gentlemen of the Board:

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSRI.

Sincerely,



C. Richard Gerber, D.D.S.

JUN 19 2008

David A. Najjar, D.D.S.
FAMILY DENTISTRY

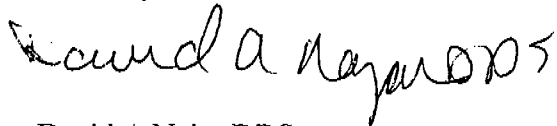
June 18, 2008

David A Najjar DDS
1514 North Walker Street
Princeton, WV 24740
304-487-3711

Board of Dental Examiners
1319 Robert C. Byrd Drive
P.O. Box 1447
Crab Orchard, WV 25827

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSR1.

Sincerely,



David A Najjar DDS

JUN 19 2008



W. CHRISTOPHER TAYLOR, D.D.S.

208 Leon Sullivan Way
Charleston, WV 25301

(304) 342-1181
Fax (304) 342-4009

1014 Sixth Avenue
St. Albans, WV 25177

(304) 727-0382
Fax (304) 729-0012

June 16, 2008

Board of Dental Examiners
1319 Robert C. Byrd Drive
P. O. Box 1447
Crab Orchard, WV 25827

Attention: Board of Dental Examiners

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your Proposed Rule 5CSR1.

Sincerely,

W. Christopher Taylor, D.D.S.

JUN 19 2008



Gregory T. Harvey, D.D.S.
Designing Confident Smiles For Brighter Tomorrows
Celebrating 15 Years of Excellence

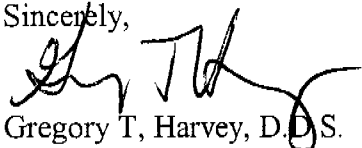
Board of Dental Examiners
1319 Robert C Byrd Dr.
PO Box 1447
Crab Orchard, WV 25827

Dear Sirs:

I support the proposed ruling allowing dentists to delegate supraginival and coronal polishing to dental assistants who have met the qualifications in "gg" of your Proposed Rule 5CSR1.

I believe that these expanded duties would be in the best interest of our patient.

Sincerely,



Gregory T, Harvey, D.D.S.

JUN 19 2008

114 Beckley Plaza Mall
Beckley, WV 25801
tel: 304.253.0506
fax: 304.253.0276
e-mail: admin@drgregharvey.com
www.drgregharvey.com

WV Board of Dental Examiners
1319 Robert C. Byrd Drive
P.O. Box 1447
Crab Orchard, WV. 25827

June 16, 2008

Dear Sirs:

I support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of you Proposed Rule 5CSR1.

Sincerely,



Thane S. Farmer, D.D.S., M.A.G.D.

JUN 19 2008



JOHN M. FALBO, D.D.S.
DANIEL K. MONDAY, D.D.S.

*General & Cosmetic
Dentistry*

1213 Virginia Street, East • Charleston, WV 25301
304-343-1216

2939 Virginia Avenue • Virginia Lynn Square
Hurricane, WV 25526
304-562-6301

www.falbomondaydds.com • e-mail: jmfalbo@zoomnet.net

June 18, 2008

Board of Dental Examiners
1319 Robert C. Byrd Drive
P. O. Box 1447
Crab Orchard, WV 25827

To Whom It May Concern:

"We support the Dental Board of Examiners proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of the Dental Board of Examiner's Rule 5CSR1."

Sincerely,

John M. Falbo, D.D.S.

Daniel K. Monday, D.D.S.

JFM/DKM/kad

JUN 23 2008

High Tech  *Soft Touch*

pediatricdentistry
Don E. Skaff DDS, Inc.
Making Happy Smiles

June 18, 2008

West Virginia Board of
Dental Examiners
1319 Robert C. Byrd Drive
P. O. Box 1447
Crab Orchard, WV 25827

Re: Proposed rule

Dear Board Members:

As a pediatric dentist, I realize first hand the access to care issue for Medicaid and CHIP patients. I strongly support your proposed rule allowing dentists to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in“(gg)” of your Proposed Rule 5CSR1.

Thank you for your consideration.

Sincerely,


Don E. Skaff, D.D.S.

JUN 23 2008



West Virginia University
SCHOOL OF DENTISTRY

June 18, 2008

Dear State Dental Board,

I am writing in support of your emergency rule plan for coronal polishing by qualified dental assistants. I have been speaking around WV to dental assistants, hygienists and general dentists for the past year. The subject has been to improve access to care for young children. Clearly one of the barriers to this in WV is the lack of hygienists in many offices around the state. Dental assistants cannot even perform a toothbrush prophylaxis on young children under the current rules. This is not the norm in most other states and I applaud the provision to allow assistants to perform coronal polishing with required training.

Thank you for your efforts.

Elliot Shulman D.D.S, MS
Associate Professor Pediatric Dentistry

JUN 23 2008

Pediatric Dentistry
1065 Health Sciences North
1065 Health Sciences North
PO Box 9485
Morgantown, WV 26506-9485
Phone: 304-293-0401
Phone: 304-293-0401
Fax: 304-293-2327
Fax: 304-293-2327

Equal Opportunity/Affirmative Action Institution
Equal Opportunity/Affirmative Action Institution

**HOLLY E. BROWNING
830 OAKWOOD ROAD
CHARLESTON, WV 25314
(304)344-4003**

**WEST VIRGINIA BOARD OF DENTAL EXAMINERS
1319 ROBERT C. BYRD DRIVE
PO BOX 1447
CRAB ORCHARD, WV 25827**

TO WHOM IT MAY CONCERN,

**I SUPPORT YOUR PROPOSED RULE
ALLOWING DENTISTS TO DELEGATE SUPRAGINGIVAL AND CORONAL
POLISHING TO DENTAL ASSISTANTS WHO HAVE MET THE
QUALIFICATIONS IN "(GG)" OF YOUR PROPOSED RULE 5CSRI.**

THANK YOU,

Holly E. Browning

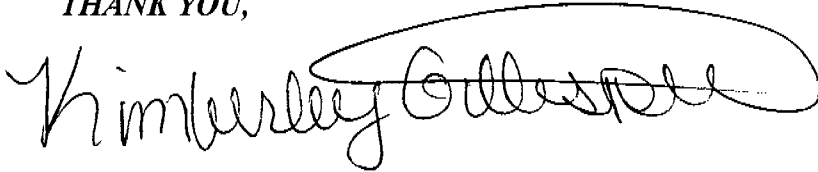
JUN 25 2008

**KIMBERLEY GILLISPIE
830 OAKWOOD ROAD
CHARLESTON, WV 25314
(304)344-4003**

**WEST VIRGINIA BOARD OF DENTAL EXAMINERS
1319 ROBERT C. BYRD DRIVE
PO BOX 1447
CRAB ORCHARD, WV 25827**

**TO WHOM IT MAY CONCERN,
I SUPPORT YOUR PROPOSED RULE
ALLOWING DENTISTS TO DELEGATE SUPRAGINGIVAL AND CORONAL
POLISHING TO DENTAL ASSISTANTS WHO HAVE MET THE
QUALIFICATIONS IN "(GG)" OF YOUR PROPOSED RULE 5CSR1.**

THANK YOU,



JUN 25 2006

**DR. WALTER A. NAGY
830 OAKWOOD ROAD
CHARLESTON, WV 25314
(304)344-4003**

**WEST VIRGINIA BOARD OF DENTAL EXAMINERS
1319 ROBERT C. BYRD DRIVE
PO BOX 1447
CRAB ORCHARD, WV 25827**

TO WHOM IT MAY CONCERN,

**I SUPPORT YOUR PROPOSED RULE
ALLOWING DENTISTS TO DELEGATE SUPRAGINGIVAL AND CORONAL
POLISHING TO DENTAL ASSISTANTS WHO HAVE MET THE
QUALIFICATIONS IN "(GG)" OF YOUR PROPOSED RULE 5CSR1.**

THANK YOU,

*W. Nagy
7/00 7.23*

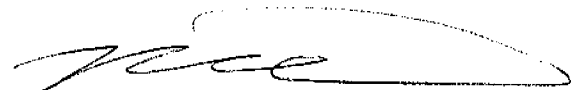
JUN 25 2008

**DR. PHILIP MAJESTRO
830 OAKWOOD ROAD
CHARLESTON, WV 25314
(304)344-4003**

**WEST VIRGINIA BOARD OF DENTAL EXAMINERS
1319 ROBERT C. BYRD DRIVE
PO BOX 1447
CRAB ORCHARD, WV 25827**

TO WHOM IT MAY CONCERN,

**I SUPPORT YOUR PROPOSED RULE
ALLOWING DENTISTS TO DELEGATE SUPRAGINGIVAL AND CORONAL
POLISHING TO DENTAL ASSISTANTS WHO HAVE MET THE
QUALIFICATIONS IN "(GG)" OF YOUR PROPOSED RULE 5CSR1.**



THANK YOU,

JUN 25 2008

WEST VIRGINIA DENTAL ASSOCIATION

2016 1/2 Kanawha Boulevard, East • Charleston, WV 25311

TEL: (304) 344-5246

FAX: (304) 344-5316

July 1, 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Grab Orchard, WV 25827-1447

Dear Board of Dental Examiners:

Representing over 800 dentists licensed in West Virginia, WVDA supports the Board's rule filed with the Secretary of State on June 4 allowing dentists to delegate supragingival and coronal polishing to trained dental assistants. Below is the text of the rule as contained in subsection "(gg)" of Section 8.2.

"A dental assistant who has completed two (2) years and at least 3,000 hours of clinical experience in a dental office, as attested to by the supervising dentist, and who has successfully completed either the restorative expanded duties course or orthodontic expanding duties course required by the Board of Dental Examiners, may perform supragingival and coronal polishing on children under 21 years of age using a slow speed hand piece with a rubber cup after successfully completing a course approved by the Board."

Below are WVDA's reasons for supporting this procedure for trained dental assistants.

1. It will improve access to dental care, especially for Medicaid and CHIP children in areas where there are no or a limited number of hygienists. For example, there are only 147 hygienists in 27 rural counties where there are 245 dentists, according to your Board's licensing data. Because of low fees paid by Medicaid and CHIP, some of these dentists may elect not to accept Medicaid or CHIP children because they are unable to employ a hygienist. Allowing trained assistants to perform this procedure will free these dentists to provide more restorative services to more children, and help assure more children receive this preventive service.
2. Twenty-one (21) rural counties have either none or no more than three dental hygienists, according to your Board's data. There are almost twice as many dentists as there are hygienists in those counties, resulting in these rural dentists not having an adequate workforce to employ to meet the needs of the public in their areas.
3. An ADA survey of WV dentists found 54 percent reporting an inadequate supply of dental hygienists in their area. The survey found 66 percent of the 610 responding do not employ a hygienist full-time, and 48 percent do not employ a part-time hygienist.

JUL 2 2008

4. Over 700 assistants have completed your Board-approved restorative and orthodontic expanded duties courses, which are prerequisites to taking a coronal polishing course. These assistants can already use a slow-speed hand piece with a rubber cup or brush to prepare a tooth for accepting a restoration or appliance. These assistants can advance their skills by completing a course on supragingival and coronal polishing, and increase access to care to many children in the private dental office.
5. Thirty-four (34) states permit trained assistants to provide this procedure. Your Board can consider courses provided in those states in developing your approved course.
6. The procedure can only be performed under the direct supervision of a dentist in the dental office, thus, assuring patient safety and well-being.
7. The decision to permit an assistant to provide this procedure rests solely with the supervising dentist who is professional and legally responsible for the assistant.

In response to any allegation that dentists want assistants to perform this procedure because they are "cheap labor," WVDA respectfully contends that the more expensive labor of the dentist performing this procedure is preventing children from receiving this preventive service because it may not be economically feasible for some dentists to provide it. You are respectfully reminded West Virginia has only a few pediatric dentists, whose practices are now maximized to meet the current demand of services for children.

I also respectfully submit there is no evidence of hygienists being economically impacted or replaced by assistants who perform this procedure. As with dentists, assistants performing this procedure frees hygienists to perform more preventive services to more children and adults.

WVDA requests this procedure be included in the Board's emergency rule. This would bring the emergency rule into compliance with the provisions of §30-4-6.(9) wherein the Board is to designate services and procedures requiring or allowing direct supervision. Since this procedure would be added as "(gg)" in Section 8.2. of the Board's rule, it can only be performed by a trained assistant under the direct supervision of a dentist in the dental office.

Very truly yours,



Richard D. Stevens
Executive Director

WEST VIRGINIA DENTAL ASSOCIATION

2016 1/2 Kanawha Boulevard, East • Charleston, WV 25311

TEL: (304) 344-5246

FAX: (304) 344-5316

July 1, 2008

JUL 2 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Grab Orchard, WV 25827-1447

Dear Board of Dental Examiners:

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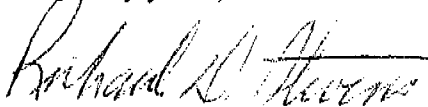
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WVDA requests this procedure be included in the Board's emergency rule. This would bring the emergency rule into compliance with the provisions of §30-4-6.(9) wherein the Board is to designate services and procedures requiring or allowing direct supervision. Since this procedure would be added as "(gg)" in Section 8.2. of the Board's rule, it can only be performed by a trained assistant under the direct supervision of a dentist in the dental office.

Very truly yours,



Richard D. Stevens
Executive Director

WEST VIRGINIA DENTAL ASSOCIATION

2016 1/2 Kanawha Boulevard, East • Charleston, WV 25311

TEL: (304) 344-5246

FAX: (304) 344-5316

July 1, 2008

JUL 2 ~ 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Grab Orchard, WV 25827-1447

Dear Board of Dental Examiners:

Representing over 800 dentists licensed in West Virginia, WVDA supports the Board's rule filed with the Secretary of State on June 4 allowing dentists to delegate supragingival and coronal polishing to trained dental assistants. Below is the text of the rule as contained in subsection "(gg)" of Section 8.2.

"A dental assistant who has completed two (2) years and at least 3,000 hours of clinical experience in a dental office, as attested to by the supervising dentist, and who has successfully completed either the restorative expanded duties course or orthodontic expanding duties course required by the Board of Dental Examiners, may perform supragingival and coronal polishing on children under 21 years of age using a slow speed hand piece with a rubber cup after successfully completing a course approved by the Board."

Below are WVDA's reasons for supporting this procedure for trained dental assistants.

1. It will improve access to dental care, especially for Medicaid and CHIP children in areas where there are no or a limited number of hygienists. For example, there are only 147 hygienists in 27 rural counties where there are 245 dentists, according to your Board's licensing data. Because of low fees paid by Medicaid and CHIP, some of these dentists may elect not to accept Medicaid or CHIP children because they are unable to employ a hygienist. Allowing trained assistants to perform this procedure will free these dentists to provide more restorative services to more children, and help assure more children receive this preventive service.
2. Twenty-one (21) rural counties have either none or no more than three dental hygienists, according to your Board's data. There are almost twice as many dentists as there are hygienists in those counties, resulting in these rural dentists not having an adequate workforce to employ to meet the needs of the public in their areas.
3. An ADA survey of WV dentists found 54 percent reporting an inadequate supply of dental hygienists in their area. The survey found 66 percent of the 610 responding do not employ a hygienist full-time, and 48 percent do not employ a part-time hygienist.

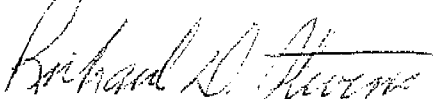
4. Over 700 assistants have completed your Board-approved restorative and orthodontic expanded duties courses, which are prerequisites to taking a coronal polishing course. These assistants can already use a slow-speed hand piece with a rubber cup or brush to prepare a tooth for accepting a restoration or appliance. These assistants can advance their skills by completing a course on supragingival and coronal polishing, and increase access to care to many children in the private dental office.
5. Thirty-four (34) states permit trained assistants to provide this procedure. Your Board can consider courses provided in those states in developing your approved course.
6. The procedure can only be performed under the direct supervision of a dentist in the dental office, thus, assuring patient safety and well-being.
7. The decision to permit an assistant to provide this procedure rests solely with the supervising dentist who is professional and legally responsible for the assistant.

In response to any allegation that dentists want assistants to perform this procedure because they are "cheap labor," WVDA respectfully contends that the more expensive labor of the dentist performing this procedure is preventing children from receiving this preventive service because it may not be economically feasible for some dentists to provide it. You are respectfully reminded West Virginia has only a few pediatric dentists, whose practices are now maximized to meet the current demand of services for children.

I also respectfully submit there is no evidence of hygienists being economically impacted or replaced by assistants who perform this procedure. As with dentists, assistants performing this procedure frees hygienists to perform more preventive services to more children and adults.

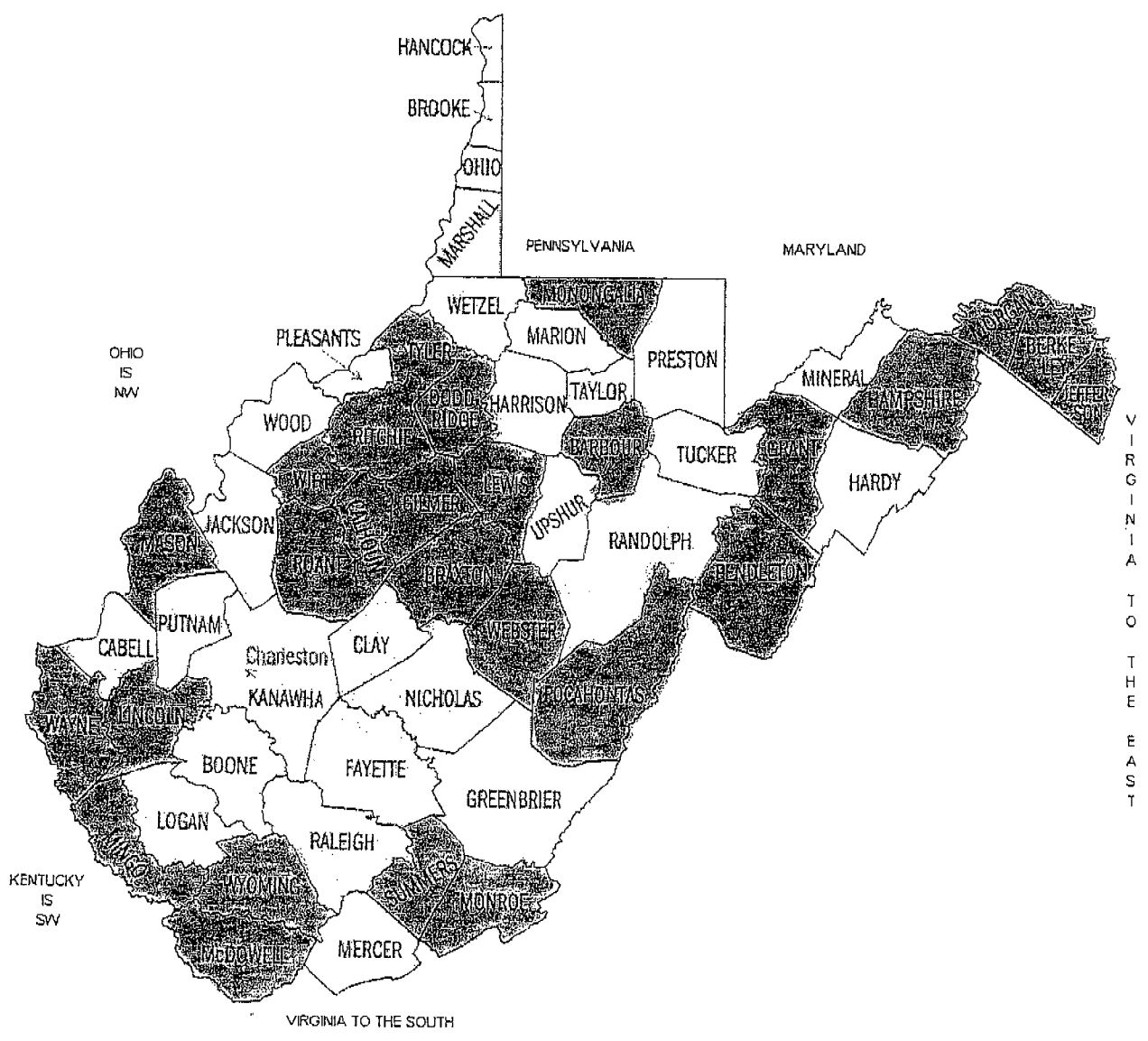
WVDA requests this procedure be included in the Board's emergency rule. This would bring the emergency rule into compliance with the provisions of §30-4-6.(9) wherein the Board is to designate services and procedures requiring or allowing direct supervision. Since this procedure would be added as "(gg)" in Section 8.2. of the Board's rule, it can only be performed by a trained assistant under the direct supervision of a dentist in the dental office.

Very truly yours,



Richard D. Stevens
Executive Director

147 dental hygienists in 27 counties where there are 245 dentists



WEST VIRGINIA DENTAL ASSOCIATION

2016 1/2 Kanawha Boulevard, East • Charleston, WV 25311

TEL: (304) 344-5246

FAX: (304) 344-5316

July 2, 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Crab Orchard, WV 25827-1447

Dear Board of Dental Examiners:

WVDA appreciates the opportunity to comment on your proposed "emergency rule" as filed with the Secretary of State on June 4, 2008. WVDA is confident your Board is well-intended in its efforts to assure the public's interest is represented with your rule. And, WVDA shares with your Board the desire to increase access to oral health care in our State.

WVDA's comments and recommendations are based upon issues agreed to with the WV Dental Hygienists' Association on December 19, 2007, in Wheeling. These issues were presented your Board at its January 4, 2008, meeting in Beckley when Board member Delores Gribble asked officials of the hygienists' organization if the one issue of the number of hygienists on the Board was a "deal breaker" for the remaining issues, to which the hygienists responded it was not.

In keeping with what WVDA's Executive Council approved on October 28, 2006, and January 21, 2007, to expand and improve the delivery of oral health care, the following recommendations are presented your Board for your consideration in amending into your "emergency rule" during your July 11 and 12, 2008, meeting.

#1. General Supervision of Dental Hygienists 8.4.(h) - This subsection should be deleted from Section 8.4 and added to Public Health Practice 8.5, and amended to read:

"The following procedures may be performed by a dental hygienist in a public health setting without supervision of a licensed dentist:

- (1) Dental health education;
- (2) Nutritional counseling;
- (3) Taking intra- and extra-oral photographs;
- (4) Providing pre- and post-treatment instructions;
- (5) Performing a generalized visual screening with subsequent referral to a dentist; and
- (6) Applying fluoride."

#2. General Supervision of Dental Hygienists 8.4.(i)(4) - Insert at the end of the sentence the following "for interpretation by a supervising dentist" so that subsection (4) reads:

"Recording medical and dental histories for interpretation by a supervising dentist;"

- #3. Public Health Practice of Dental Hygienists 8.5.(d) - Amend subsection (d) of Section 8.5 to read as follows:

“The dental hygienist shall have a written agreement with a supervising dentist who shall authorize and monitor the delivery of hygiene services in accordance with subsection (d) of Section 8.4. The Dental Director of the West Virginia Bureau of Public Health, if a West Virginia licensed dentist, may serve as a supervising dentist. All supervising agreements shall be filed with the West Virginia Board of Dental Examiners.”

Among the reasons for the above recommendation is to help assure patients in public health settings receive the same level of care as those in dental offices. It also helps assure appropriate services are provided.

- #4. Public Health Practice of Dental Hygiene 8.5. - Amend subsections (d), (e), (f), (h) and (i) by changing the word “sponsoring” to “supervising”, the word “sponsor” to “supervise” and the word “sponsorship” to “supervising.”

This recommendation is made for the following reasons: (1) “sponsoring dentist” is not defined in the Dental Practice Act (law) or the proposed emergency rule; (2) the responsibilities of a “sponsoring dentist” are not identified in the rule, which could result in dentists not agreeing to sponsor a dental hygienists; (3) the terms “supervising dentist” and “supervision” is acceptable and understood by both dentists and dental hygienists; (4) since the Board does not require hygienists to maintain professional liability insurance, a hygienist would have coverage under their supervising dentist’s insurance as is the current situation with such relationships; and (5) hygienists need to be acting as an “agent” of a dentist in order to be included in the definition of “health care provider” under the Medical Professional Liability Act; being under the “supervision” of a dentist assures that relationship. Without this relationship, hygienists do not have benefit of malpractice reform enacted by the Legislature in 2005.

Your Board’s consideration in amending the above recommendations into your “emergency rule” is respectfully requested. I am pleased to respond to any questions you may have prior to or during your forthcoming meeting.

Very truly yours,



Richard D. Stevens
Executive Director

WEST VIRGINIA DENTAL ASSOCIATION

2016 1/2 Kanawha Boulevard, East • Charleston, WV 25311

TEL: (304) 344-5246

FAX: (304) 344-5316

July 2, 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Crab Orchard, WV 25827-1447

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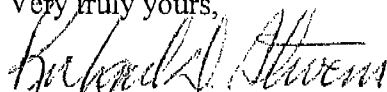
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Your Board’s consideration in amending the above recommendations into your “emergency rule” is respectfully requested. I am pleased to respond to any questions you may have prior to or during your forthcoming meeting.

Very truly yours,



Richard D. Stevens
Executive Director

July 2, 2008

Dear West Virginia Board of Dental Examiners;

Hello Carolyn and Susan the northern pest misses our phone chats. Hope everything is fine with you and your families and you have a good summer.

I write in opposition to the proposed Rule 8.2gg that allows dental assistants to perform supragingival and coronal polishing of teeth on patients under the age of 21.

I'm confused as to whether all three rules 8.4, 8.5, and 8.2gg are being presented as Emergency Rule. I can see why 8.4 and 8.5 might be because it was mandated by Senate Bill 13 passed at the last Legislative session. However I feel proposed rule 8.2gg does not meet the criteria for emergency rule. According to the State Auditor's Handbook for West Virginia Licensing Boards it states in Chapter 4. Only Legislative Rules can be Emergency Rules. A Legislative Rule may be filed as an Emergency Rule only if it is necessary:

- (1) for the immediate preservation of the peace, health, safety or welfare;
- (2) to comply with the time limitations established by State law or by a federal statute of regulation; or
- (3) to prevent substantial harm to the public interest. [Code 29A-3-15(f)].

Coronal Polishing is not a recognized dental procedure according to the ADA. At least I can't find an ADA procedure Code number for it?

There are dental patients under the age of 21 who have subgingival calculus and this proposal does nothing to provide a healthy service for those patients.

The main reason given for this proposal is the lack of dental hygienist in the state, yet the rule does not restrict the use of dental assistants to those areas where dental hygienist are not available.

If a dental hygienist is practicing in an office where the dentists allows a dental assistant to do coronal polishing I would recommend that dental hygienist leave the practice because it is a practice that is not providing the best care for it's patients.

I am disappointed in the dentists on the board that voted in favor of this proposal. I sat with you for almost 10 years adapting rules to expand functions for dental hygienist and dental assistants during which time we were cautious not to permit functions that infringed on each others duties. I'm sorry but any way you look at it this proposal is a definite infringement on the dental hygienist services to patients.

I don't see this as a step forward in our ever searching for ways to improve access to dental care. This is merely an access to dollars in some dental practices.

I can't help from thinking that our profession is only a small step away from training these same dental hygienist and assistants to prepare a carious tooth (after diagnosed by a dentist) and restore it with a filling material. Seems like the only question left is whether they will do it under Direct or General supervision.

This is a bad rule. It's not in the best interest to the citizens of West Virginia and not in the best interest of the dental profession.

Sincerely yours;


Bernard J. Grubler DDS

JUL 7 .. 2008

Marcia L. Hayes, RDH
29 Sun Valley
Glen Dale, WV 26038
July 3, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I strongly oppose supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. How does this practice benefit the patient? Are the parents of these minors to be falsely led to believe their children are receiving prophys performed by a registered dental hygienist?

I have seen in my 22 years of practice as a registered dental hygienist supra and sub gingival calculus in 2 and 3 year olds. This practice will in no way prevent gingivitis, periodontitis, or caries.

I have seen the WVDA bulletin urging dentists to support this bill and the reasoning for this. How can any dental professional feel that polishing the teeth constitutes a prophy? These patients will not be receiving the standard of care our field is bound to provide both professionally and legally. This is not the solution to the problem.

Sincerely,

Marcia L. Hayes, RDH

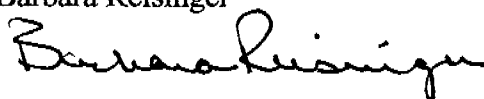
Marcia L. Hayes, RDH

JUL 7 2008

June 30, 2008

My name is Barbara Reisinger. I have practiced as a registered Dental Hygienist in the state of W.V. for 28 years. My father Bernard Grubler served on your board for 10 years and just recently was replaced. I have two brothers whom are both practicing dentists in the state of W.V. and I am employed by both. For the past few years I have heard the of the conflicts between the board and the representing Dental Hygienists and I have not always been supportive of what my collogues were purposing. I was never in favor of practicing outside of a dental office not under the supervision of a licensed dentist. I believe that there were litigate situations that may have benefited the public of our service in which a dentist was not available but general practice independently I was not in support of. When I first heard of the proposal of General Supervision, I again was not in complete support of it. We either require supervision or we don't, not making it convenient for the supervising dentist to be on the premises or not . I am not sure of the legal ramifications nor would I want the responsibility if a patient whom might code while I was "in charge" of the practice that day. And if my employer chooses to practice General Supervision I feel that taking on that responsibility should be compensated. In regards to the proposed rule of assistants performing supragingival and coronal polishing on children under age 21 with a slow speed hand piece with a rubber cup, **after successfully completing a course approved by the Board...** you can't be serious. I have been practicing for 28 years in general practice and pediatric practice and I have seen patients younger than 21 years of age **with** subgingival calculus and you are proposing we allow assistants to provide a service of a **party polish** as rendered treatment to these patients. We are setting the stage for early periodontal concerns for these patients. And who might this new proposal benefit? Certainly not our patients. Since when did we decide to compromise our dental ethics. I feel so strongly about this proposal 8.2 that I would hope that any registered hygienist in the State would not compromise their standard and refuse to be employed by a dentist willing to compromise his patient's dental health and allow assistance to perform what has been exclusive to dental hygienists because of the extensive training and board certification, required of us. I would like to think that most dentists would not compromise their patients and employ assistants to provide hygiene services. But I am certain there are dentists just waiting to take advantage of this proposal. Under generalized supervision the hygienists are required to successfully complete a 3 hour medical emergency continuing education course and notify all patients that they are practicing without the dentist on the premise, and submit an annual report to the board . It is not the hygienist that chooses general supervision let the dentist submit the annual report to the board. Where does it state that patients or parents of patients be informed that a dental assistant not a licensed hygienist is performing their dental cleaning. And what record is being kept regarding the treatment of patients by assistants, with no restriction on how many times an assistant can consecutively polish the same patients teeth. The practice of medicine has conformed to many concessions and look at where the quality of patient care is now. It concerns me that the dental profession is in jeopardy of the same mistakes.

Barbara Reisinger



JUL 3 2008

WV Board of Dental Examiners
1319 Robert C. Byrd Dr.
PO Box 1447
Crab Orchard, WV 25827

Board members;

The hygienist in our office has great concern about the new law that is being passed concerning assistants performing coronal polishing. We are concerned for our patient's overall care.

First of all, wouldn't it be insurance fraud to charge for an 1110 code, when all the assistant was doing was polishing? This code includes scaling. Assistants are not trained and educated on scaling, therefore, patients are not getting the full cleaning.

Since assistants are not scaling, what about patients with periodontal disease? The assistants may see them for a "polish" and totally miss the fact that they are heading toward periodontal disease, thus, more and more patients will be at risk of losing their teeth due to improper care.

We hope you will reconsider, and not pass this law.

Sincerely the hygienists from the office of
Dr. William and Pete Sapon D.D.S

Sherie Zelic - Sherrin Zelic
Jessica Landis RDH, B.S. - Jessica Landis
Debra L Sleime RDH, BA - DEBRA L SLEIME #0920

JUL 3 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

July 1, 2008

Dear Board Member:

I **do not** support supragingival and coronal polishing by trained dental assistants under direct supervision of a dentist for children and patients under 21 years of age.

1. With the exception of perhaps toddlers, seldom can a "polish" be performed without some use of hand instrumentation, i.e.: extrinsic stain, calculus, heavy plaque. Patients and mouths are not static; oral conditions change day to day and hour by hour. An educated determination often needs to be made on the spot for the removal of debris on the teeth which a prophy cup won't remove. Therefore, these procedures need to be accomplished by those already licensed to use curettes and scalers: dentists and hygienists.
2. While other states may have had particular circumstances which forced them to utilize assistants to polish, it is faulty reasoning to imply that West Virginia should follow just because others have allowed this practice.
3. Polishing is not by nature a therapeutic procedure.
4. According to the ADA, our profession already under-diagnoses and under-treats periodontal diseases. Allowing assistants to perform polishing procedures will further perpetuate the "prophy-mill" mentality with cheaper labor, and could contribute to further neglect of gingivitis and periodontal disease.

While creating better access to dental care is important, I feel our focus should not compromise oral health simply to increase numbers. It is misleading to assume that increasing access will improve the dental health of these children and young adults. The two are not synonymous. Improving access only increases numbers; patients are not numbers.

Sincerely,



H. E. Henry, DDS

969 National Road
Suite 2
Wheeling, WV 26003

Joseph B. Grubler D. D. S.

July 2, 2008

304-233-3020

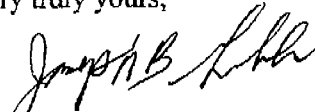
WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827
Fax: 304-253-9454

To Whom It May Concern:

I DO NOT SUPPORT supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist.

Please include my opposition to your Emergency Rule.

Very truly yours,



Joseph B. Grubler D.D.S.

Carolyn Brewer

From: Cindi Shockey [mom4soccer@atlanticbb.net]
Sent: Wednesday, July 02, 2008 1:03 PM
To: wvbde@suddenlinkmail.com
Subject: Re: Proposed law changes

To Members of the Board of Dental Examiners:

Attached in a copy of the response that I sent to Dr. Hornbrook many weeks ago regarding your changes. Please read the attachment and re-think what you are doing.

To remind you, I have started a day-time program for Dental Assisting in Bridgeport, WV, and have now graduated 6 new Associate Degree Dental Assistants. They have been through Anatomy, Physiology, Dental Anatomy, Dental Pathology, Radiology, Dental Materials, and Externships. The school has just dropped the issue of them needing to pass the DANB because you do not regulate the dental assistants and do not recognize the need for DANB. You have non-formally educated people exposing the public the radiation and, now, you are saying it is okay for those same people to be working in the mouth???? Why would I even continue to bother to keep my license? Why do I even need to have a license? -or- Why do I, as a Registered Dental Hygienist, even have to be registered and licensed by you?

I am very disappointed that the board would even think this is a viable measure. I encourage you to stop in your tracks and work for dental assisting regulation, first.

Alcinda K Trickett Shockey, RDH BSDH MA CHS-IV

No virus found in this incoming message.

Checked by AVG.

Version: 8.0.101 / Virus Database: 270.4.4/1530 - Release Date: 7/2/2008 8:05 AM

Dr Hornbrook:

Upon reading your e-mail and its attachment, I had to take some time and be sure I cover all of my points about the proposed changes with the emergency rule for dental assistants. I had received a copy of the entire proposed change in the mail and I must report that I was so vexed with the changes that I have become ashamed that I still hold a license to practice in my home state.

First, to examine the need for a dental hygienist to apply for the ability to perform her duties under general supervision of a licensed dentist with all the stipulations placed upon the hygienist and not on the dentist, is crazy, at best. I have held licensure in Ohio, Indiana, and Michigan. I have applied for licensure in Virginia, also, and I will be able to practice under general supervision in that state for that state recognizes that I am a professional and am a registered professional passing national, regional, and state examinations to regulate my actions and worthiness. This is the same type of regulation that each practicing dentist must follow after years of study and education. Again, the dental hygienist follows this same regimen. Yes, some are two years of education and some are four years of education, but THIS state does not distinguish between the two. Maybe, it should.

Second, only, if only, the board deems it worthy, I would be able to apply for public health privileges. Again, I really do resent not being respected as a licensed professional with many years of education plus experience behind me. This does not sit well with me, at all.

Thirdly, I am very well educated and I know a scam when one is being placed before me. The number of dental hygienist do not match dentist because of several reasons. There is one thing for sure, dental hygienists are leaving the profession because dentist do not seem to recognize hygienist as: 1.) Professionals; 2.) Essential parts of the dental team; and, 3.) Well educated and regulated. I have been in the trenches and I know how dentist treat hygienist. A hygienist can make or break a practice, but the dentist seem to see us as adversaries. I have a strong personality and have been able to with stand the day to day grind of a big dental practice (about 300 patients per week), a small dental practice, and even, a medium sized practice. The dentists were all very different, but they all had one theme. They really did not like to pay me for my work. I was worked to death and told that if I wasn't scraping teeth-I wasn't doing my job. Cancellations were my fault, the recall was my responsibility, etc.

Yes, dental hygienists are leaving the profession, but their profession is being, lack for another word, castrated by the very board that regulates them. Now, this same board, that is bound by its duty to protect the general public from faulty dental care and they want to give the privilege to work inside the population's mouth to polish enamel crowns to on the job trained dental assistants that do not have any education and by those that the same board does not EVEN regulate.

I love how these proposed rules are very distinct to state that a hygienist can not have an independent practice for the safety of the public, but they approve of "My Girl, Friday" to do my job without any education or concern for public welfare!!!!!!

Speaking about regulation, why do I need to bother with licensure? I can do general supervision practice, if the dentist says that I can. (You might want to read that part, too.) THAT IS CRAZY!!!!!! It seems to me that this board is using statistics to meet their desire to destroy my profession. I see this as being as bad as preceptorship and can not agree with these proposals. One does NOT cut corners in education and licensure and expect to have a good outcome. If that is the case, boy, do I have a plan for you to buy!!!

When the board makes such outrageous proposals and the dental society supports this action, I can see only two options. Either, dental hygiene becomes a profession of the past being no longer used or needed –or- dental hygiene becomes their own, separate profession just as nurses did about 50 to 60 years ago. Being quite honest, I opt for the second choice for I have invested much time and energy in my dental hygiene profession. I don't believe that I am alone in my thoughts.

Sincerely submitted,

Alcinda (Cindi) Trickett Shockey, RDH BSDH MA (and proud of it)

(Sorry for the length of my dissertation, but I am extremely vexed by this issue.)

Donald E Walter, DDS PC
1 Park View Lane
Wheeling, WV 26003
304/242-9550

June 30, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25877

Dear Board Members,

I ABSOLUTELY DO NOT SUPPORT allowing trained assistants to polish children's teeth. We too accept Medicaid and take a hit as a practice due to the low Medicaid reimbursement however we do that FOR THE SAKE OF THE CHILDREN! We pay Hygienists wage in spite of it or I see them myself when I need to. We realize these are more rural areas, but we don't believe that compromising the children with a "trained assistant" is the answer. Yes, 2 other issues are certainly the low reimbursement and certainly the unwillingness of Dentists to accept it because of it, but hiring lay persons and "training" without education is NOT THE ANSWER. The majority of these children that have not had dental care will have hard deposits of supra (and sometimes sub) throughout that need removed with scaling. Polishing by an assistant is not the answer to the care of these children in our opinion. These children need proper care. Let's not compromise the field in that way.

Thank you for the opportunity to be a voice.

Sincerely,

A handwritten signature in black ink, appearing to read 'D E Walter', with a long horizontal line extending to the right.

Donald E Walter, DDS

To: Board of Dental Examiners

After reviewing the Proposed Rules 5CSR1 I would like to comment on 8.4 (b). I feel there should be a distinction between hygienist with a Bachelor of Science in dental hygiene and a hygienist with an Associate degree. I have been a practicing hygienist for 23 years. I do not believe that a hygienist with an associate degree and 1 year of clinical experience is ready to work under General Supervision. I feel they should be required to have more than at least two years experience possibly more.

*Karen Bell RDH
HC 61 Box 76
New Martinsville, WV 26155
(304)386-4520*



Dr. Vivian French, DDS

139 Seventh Avenue
South Charleston, WV 25303

(304) 744-4670

June 30, 2008

Dear Board Members,

I support supragingival and coronal polishing by trained dental assistants under the Direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,

A handwritten signature in cursive script that reads "V. French".

Vivian L. French, DDS



Jann C. Barber, DDS

Caring for people, not just teeth!

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jann Barber'.

Dr. Jann Barber DDS

Lawrence H. Schoonover, DDS
1 French Street, P. O. Box 672
Clendenin, WV 25045

WV Board of Dental Examiners
P. O. Box 1447
Crab Orchard, WV 25827

Fax: 304 253 9454

Dear Board Members:

Supragingival and coronal polishing by trained dental assistants while under the direct supervision of a dentist should be included in your Emergency Rule. I support this action due to the increased potential for underserved children to receive care.

Please act to place this provision in your emergency rule and to care for WV children.

Sincerely,



Lawrence H. Schoonover, DDS
Fax: 304 548 7227

drs. robertson & robertson, p.l.l.c.
practice limited to endodontics

william d. robertson, d.d.s., m.s.
douglas n. robertson, d.d.s., m.s.

604 mall center
1025 main street
wheeling, wv 26003
304 233 4851

517 north fourth street
p.o. box 219
steubenville, oh 43952
740 282 1121

July 1st, 2008

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,



Douglas N. Robertson D.D.S., M. S.

July 1, 2008

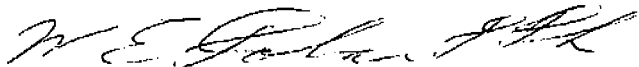
WV Board of Dental Examiners
PO Box 1147
Crab Orchard, WV 25827

FAX: 304-253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,



Patthoff

General Dentistry

Donald E. Patthoff DDS • Erica B. Patthoff DDS

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

July 1, 2008

Dear Board Members,

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Thank you,



Donald E. Patthoff, DDS
Martinsburg, WV

Patthoff

General Dentistry

Donald E. Patthoff DDS - Erica B. Patthoff DDS

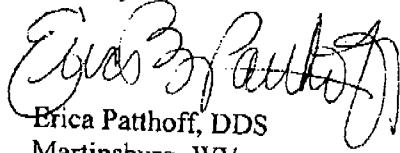
WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

July 1, 2008

Dear Board Members,

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Thank you,



Erica Patthoff, DDS
Martinsburg, WV



David M. Ross, D.D.S.
Family Dentistry

6351 Rt. 60 East, Suite 5 • Johnson Plaza • Barbourville, WV 25504 • Phone (304)736-9232

June 30, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

FAX: (304) 253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in you Emergency Rule.

Very truly yours,

David M. Ross D.D.S.

J. William Stumbo DDS, MS

Orthodontics for Children & Adults

7/1/08

Members of the WV Board:

I strongly support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include this in your Emergency Rule to assist the under served areas of the state.

Sincerely,

J. William Stumbo DDS



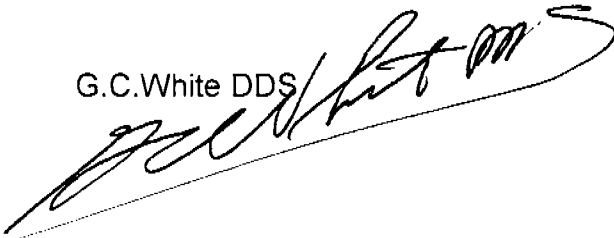
Dr G. C. WhiteB
1900 Blizzard Drive
Parkersburg, W. Va. 26101
5-24-2008

Board of Dental Examiners
1319 Robert C Byrd Drive
PO Box 1447
Crab Orchard, W. Va. 25827

Dear Sirs:

I Support your proposed rule allowing dentist to delegate supragingival and coronal polishing to dental assistants who have met the qualifications in "(gg)" of your proposed rule 5CSRI.

G.C.White DDS

A handwritten signature in black ink, appearing to read "G.C. White", written over a horizontal line.



1538B Kanawha Boulevard East
Charleston, West Virginia 25311
304.344.0788

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard

FAX: 304-253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very Truly Yours,

Ashley Patnoe DDS



JOSEPH E. ATKINS DDS

FULL MOUTH RECONSTRUCTION
AND IMPLANT SURGERY

221 STATE STREET SUITE 102
MADISON, WV 25130

OFFICE (304) 369-1695
FAX (304) 369-1706

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

FAX: 304-253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,



Dr. Joseph E. Atkins

RICHARD E. MCCLUNG DDS, MS, INC.

Practice Limited to Orthodontics

telephone 304 645-2088

fax 304 645-2155

www.mcclungortho.com

200 East Randolph Street
Lewisburg, West Virginia 24901



Richard E. McClung DDS, MS

Jennifer Hamilton DDS, MS

DIPLOMATES, AMERICAN BOARD OF ORTHODONTICS

July 1, 2008

West Virginia Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Members of the WV Board of Dental Examiners:

I support supragingival and coronal polishing by trained dental assistants under direct supervision of a dentist. Please include this provision in the proposed Emergency Rule.

Sincerely,

Richard E. McClung, DDS, MS

RICHARD E. McCLUNG DDS, MS, INC.*Practice Limited to Orthodontics*200 East Randolph Street
Lewisburg, West Virginia 24901telephone 304 645-2088
fax 304 645-2155
www.mcclungortho.com**Richard E. McClung DDS, MS****Jennifer Hamilton DDS, MS**

DIPLOMATES, AMERICAN BOARD OF ORTHODONTICS

July 1, 2008

West Virginia Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Members of the WV Board of Dental Examiners:

I support supragingival and coronal polishing by trained dental assistants under direct supervision of a dentist. Please include this provision in the proposed Emergency Rule.

Sincerely,

Jennifer Hamilton, DDS, MS



Gregory T. Harvey, D.D.S.

114 Beckley Plaza Mall

Beckley, WV 25801

Phone: 304-253-0506

Fax: 304-253-0276

www.drgregharvey.com

Email: admin@drgregharvey.com

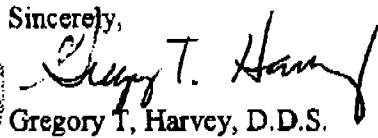
Board of Dental Examiners
1319 Robert C Byrd Dr.
PO Box 1447
Crab Orchard, WV 25827

Dear Sirs:

I support the proposed ruling allowing supraginival and coronal polishing by dental assistants under supervision of a dentist. Please include it in your emergency rule.

I believe that these expanded duties would be in the best interest of our patient.

Sincerely,



Gregory T, Harvey, D.D.S.



James E. Valentine Cynthia L. Bonafield
D.D.S., M.S. D.D.S., M.S.

June 30, 2008

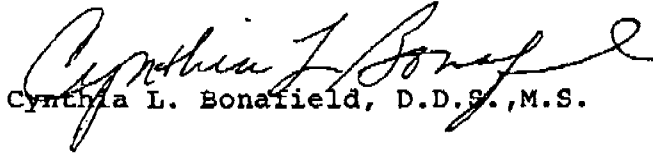
West Virginia Dental Examiners
PO Box 1447
Crab Orchard WV 25827

Fax: 304 253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include in your Emergency Rule.

Very truly yours,


Cynthia L. Bonafield, D.D.S., M.S.

Orthodontics for Children & Adults

Member
American Association of
Orthodontists



A Professional Corporation
tel 304 363-2008 • fax 304 363-2109
907 Gaston Ave., Fairmont, WV 26554





MOUNTAINEER DENTISTRY

Dentistry for West Virginia

Douglas J. Mills, D.D.S.

1301 Elizabeth Pike
PO Box 729
Elizabeth, WV 26143
Phone (304) 275-4289
Fax (304) 275-3900

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

July 1, 2008

Dear Board Members:

By practicing dentistry for more than 25yrs. in a county which has no dental hygienists, I enthusiastically support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very Truly Yours,

Douglas J. Mills, DDS

TEAYS VALLEY PEDIATRIC DENTISTRY



wildaboutsmls.com

Patrick Martin, DDS
Nathan E. Kirk, II, DMD
Pediatric Dentists

3659 Teays Valley Road, Suite 100 • Hurricane, West Virginia 25526
Phone: 304.201.8500 • Fax: 304.201.8505

Specializing in Infants, Children & Teens

July 1, 2008

WV Board of Dental Examiners
Po Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,

Dr. Nathan E. Kirk, II, DMD

We're *Wild* About Smiles

TEAYS VALLEY PEDIATRIC DENTISTRY



Patrick Martin, DDS
Nathan E. Kirk, II, DMD
Pediatric Dentists

3659 Teays Valley Road, Suite 100 • Hurricane, West Virginia 25526
Phone: 304.201.8500 • Fax: 304.201.8505

Specializing in Infants, Children & Teens

wildaboutsmls.com

July 1, 2008

WV Board of Dental Examiners
Po Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,

John P. Martin, DDS
Dr. John Patrick Martin, DDS

We're *Wild* About Smiles



MOUNTAINEER DENTISTRY
Dentistry for West Virginia

Douglas J. Mills, D.D.S.

1301 Elizabeth Pike
PO Box 729
Elizabeth, WV 26143
Phone (304) 275-4289
Fax (304) 275-3900

July 1, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

By practicing dentistry for more than 25yrs. in a county which has no dental hygienists, I enthusiastically support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very Truly Yours,

Douglas J. Mills, DDS

drs. robertson & robertson, p.l.l.c.

dentists • orthodontists • emergency dentistry

william d. robertson, d.d.s., m.s.
douglas n. robertson, d.d.s., m.s.

604 mall center
1025 main street
wheeling, wv 26003
304.247.2121

517 north fourth street
p.o. box 219
steubenville, oh 43952
330.421.1122

July 1st, 2008

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,



William D. Robertson D.D.S., M. S.

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dr. Steven B. Nicholas, DDS
2-A Mall Road
Barboursville, WV 25504

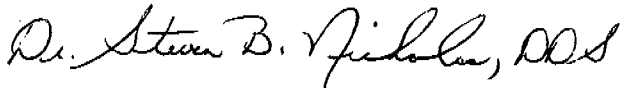
June 30, 2008

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist.

Please include it in your Emergency Rule.

Very truly yours,



Dr Steven B. Nicholas, DDS

JUL 2 - 2008

Robert L. Mack, D.D.S.
505 Stratton Street
Jason Long, D.D.S.
Logan, WV 25601
(304)752-3563

June 30, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

FAX: 304-253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,

A handwritten signature in black ink that reads "Robert L. Mack D.D.S." in a cursive style.

Robert L. Mack, D.D.S.

Robert L. Mack, D.D.S.
505 Stratton Street
Jason Long, D.D.S.
Logan, WV 25601
(304)752-3563

June 30, 2008


WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

FAX: 304-253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,



Jason Long, D.D.S.

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,

A handwritten signature in cursive script that reads "D. Wilson Mann, Jr." followed by a stylized flourish.

D. Wilson Mann, Jr., DDS



Helen Dee Rymer, D.D.S.
DENTAL CARE ASSOCIATES

7/2/2008

TO: WV Board of Dental Examiners

FROM: Helen Dee Rymer, D.D.S.

License # 2938

RE: Dental Assistants

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under direct supervision of a dentist. Please include this in your Emergency Rule.

Sincerely,

Helen Dee Rymer, D.D.S.

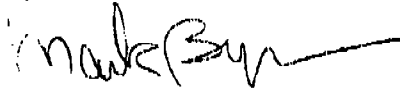
Mark A. Byron, D.D.S., M.S.
2601 Dudley Avenue
Parkersburg, West Virginia 26101
304-485-4600

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supra-gingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,

A handwritten signature in black ink that reads "Mark Byron" with a long horizontal flourish extending to the right.

Mark Byron, D.D.S., M.S.

Dr. Catherine E. Connor, D.D.S.,M.S.
1215 Johnson Avenue
Bridgeport, WV 26330
(304) 842-0590

July 2, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Sincerely,



Catherine E. Connor, D.D.S.,M.S.

JUL 3 2008

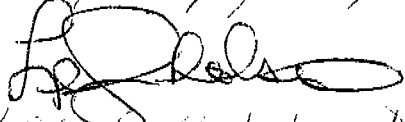
Les E. Nicholson, D.D.S.
2220 Cheat Road
ROUTE 6 BOX 146
MORGANTOWN, WEST VIRGINIA 26508
TELEPHONE (304) 594-1499

WV BOARD of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

DEAR Board Members:

I support supragingival and
coronal polishing by trained dental
assistants under the direct
supervision of a dentist.

Please include it in your Emergency
Rule.

Very truly yours,

Les E. Nicholson, D.D.S.

JUL 8 . 2008

L. K. HILDEBRAND, DDS, MS, FACD

1242 WASHINGTON AVE ~ HUNTINGTON, WV 25704

Phone 304/529-2880 ~ Fax 304/529-2888

July 1, 2008

WV Board of Dental Examiners
P. O. Box 1447
Crab Orchard, WV 25827

Dear WV Dental Board of Examiner Board Members,

I wish to express my support for the board to include in its emergency rule a provision allowing trained dental assistants to perform supragingival and coronal polishing on children, under 21 years of age, under the direct supervision of a dentist.

There are numerous counties that have three hygienists or less. In these areas there are twice as many dentists, resulting in the dentist not having an adequate workforce to meet the needs of the public.

Permitting trained dental assistants to provide these services would improve access to care to more people in these areas. Thirty-four states have permit trained dental assistants already providing this service.

Please include this provision in your emergency rule.

Sincerely,

Keith

L.K. Hildebrand DDS, MS

JUL 3 2008

Robert R. Stevens, DDS

(304) 325-7186

116 North Street • Bluefield, West Virginia 24701

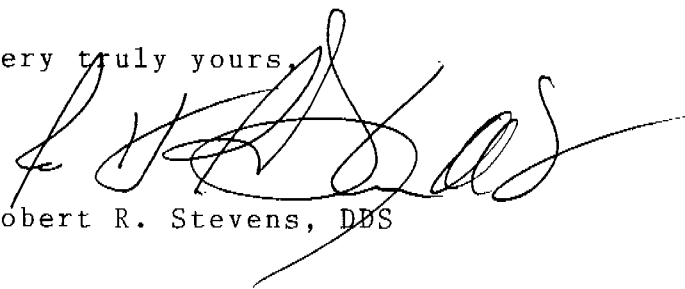
July 2, 2008

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

Dear Board Members,

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Very truly yours,



Robert R. Stevens, DDS

JUL 3 2008

**THOMAS W. LESLIE, D.D.S.
& ASSOCIATES
345 CONCORD AVENUE
BERKELEY SPRINGS, WEST VIRGINIA 25411
304-258-2291**

July 3, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

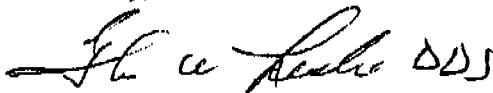
Dear Board Members:

I am writing today to express my support for supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include this in your Emergency Rule.

While I do not feel that this will directly affect me as I am blessed with two wonderful hygienists, I feel that it will increase the access to care for WV patients in areas not blessed with availability of the services of a registered dental hygienist. This will also aid in the treatment of Medicaid children throughout the state.

Please support the addition of direct supervision of trained dental assistants performing supragingival and coronal polishing to the Emergency Rule and help in the access to care issue.

Sincerely,



Thomas W. Leslie, D.D.S.

Queen Dental Care Center

Restorative Dentistry

William F. Queen, D.D.S., P.L.L.C. • Whitney E. Queen, D.D.S.

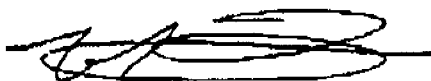
July 3, 2008

WV Board of Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please indicate it in your Emergency Rule.

Sincerely,



William F. Queen, DDS



Whitney E. Queen, DDS

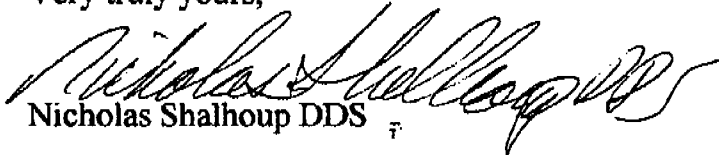


Nicholas Shalhoup, D.D.S.
Family Dentistry

1334 Ohio Avenue • Dunbar, WV 26064 • (804) 768-1756

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include this in your emergency rule.

Very truly yours,


Nicholas Shalhoup DDS

Gene R Carr DDS, Inc
1102 Main Street Suite C Rainelle, WV 25962
304-438-3787

July 03, 2008

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

Dear Board Members,

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Thank you,

Gene R Carr DDS

URGENT REQUEST OF WVDA OFFICERS & DELEGATES

Enclosed are copies of letters to the Board of Dental Examiners containing recommendations for the Board's emergency rule. These recommendations are base upon approved actions by the Executive Council since October 2006.

Please FAX your personal letter to the Board requesting they support the recommendations.

The Board must receive your letter by 12:00 Noon, July 9.

Therefore, please fax your letter by July 8.

Your letter can be this simple:

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Crab Orchard, WV 25827-1447

FAX: 304-253-9454

Dear Board Members:

You are requested to support amendments to the various provisions of your emergency rule recommended to you by the West Virginia Dental Association in its July 1 and July 2 letters.

These recommendations are a result of almost two years of study by the WVDA Task Force on Expanding and Improving the Delivery of Oral Health Care. They are in the best interest of the public's oral health, and help assure quality and appropriate care is provided patients.

Very truly yours,

Jeffrey G. Michaux, D.D.S. MS

KEVIN H. BAILEY, D.D.S.
CARRIAGE DRIVE MEDICAL CENTER
411 CARRIAGE DRIVE
BECKLEY, WEST VIRGINIA 25801
PHONE (304) 252-4897 • FAX (304) 252-2892

July 3, 2008

Members
West Virginia Board of Dental Examiners
1319 Robert C. Byrd Drive
PO Box 1447
Crab Orchard, WV 25827-1447

Dear Board Members:

You are requested to support amendments to the various provisions of your emergency rule recommended to you by the West Virginia Dental Association in its July 1 and July 2 letters.

These recommendations are a result of almost two years of study by the WVDA Task Force on Expanding and Improving the Delivery of Oral Health Care. They are in the best interest of the public's oral health, and help assure quality and appropriate care is provided patients.

Very truly yours,



Kevin H. Bailey, D.D.S.

July 7, 2008

David A Najar DDS
1514 North Walker Street
Princeton, WV 24740
304-487-3711

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive
P.O. Box 1447
Crab Orchard, WV 25827-1447

Dear Board Members:

You are requested to support amendments to the various provisions of your emergency rule recommended to you by the West Virginia Dental Association in its July 1 and July 2 letters.

These recommendations are a result of almost two years of study by the WVDA Task Force on Expanding and Improving the Delivery of Oral Health Care. They are in the best interest of the public's oral health, and help assure quality and appropriate care is provided to patients.

Very truly yours,

A handwritten signature in cursive script that reads "David A Najar DDS". The signature is written in dark ink and is positioned below the typed name.

David A Najar DDS

Dear Board of Dental Examiners,

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in the Emergency Rule. I only have one hygienist that must drive 45 minutes one way to work. I could use another one, but there are absolutely none available in my rural area.

Very Truly Yours,



John W. "Chip" Perrine D.D.S.

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

Fax: 304-253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist.

Please include it in your Emergency Rule.

Very truly yours,

Dr. Carol V. Buffington
Dr. Carol V. Buffington

JUL 7 2008

WV Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

Fax: 304-253-9454

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist.

Please include it in your Emergency Rule.

Very truly yours,

A handwritten signature in cursive script that reads "Dr. William J. Artrip III". The signature is written in dark ink and is positioned above the printed name.

Dr. William J. Artrip III

JUL 7 2008

Bruce W. Forbes
Doctor of Dental Surgery

661 Third Street
New Martinsville, WV 26155
Phone: 304-455-2030
Fax: 304-455-5613

July 1, 2008

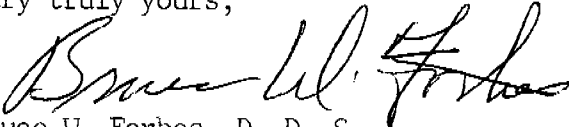
WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

This, however, could be opening Pandora's Box!

Very truly yours,


Bruce W. Forbes, D. D. S.

MICHAEL D. MEDOVIC, D.D.S.

Suite 102 Riley Building
Wheeling, WV 26003

(304) 232-2140

July 7, 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Crab Orchard, WV 25827-1447

FAX: 304-253-9454

Dear Board Members:

You are requested to support amendments to the various provisions of your emergency rule recommended to you by the West Virginia Dental Association in its July 1 and July 2 letters.

These recommendations are a result of almost two years of study by the WVDA Task Force on Expanding and Improving the Delivery of Oral Health Care. They are in the best interest of the public's oral health, and help assure quality and appropriate care is provided patients.

Very truly yours,

Michael D. Medovic, D.D.S.

Les E. Nicholson, D.D.S.
2220 Cheat Road
ROUTE 6 BOX 146
MORGANTOWN, WEST VIRGINIA 26506
TELEPHONE (304) 594-1499

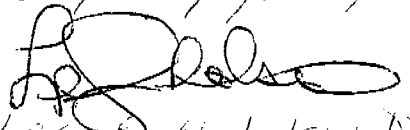
WV BOARD of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

DEAR Board Members:

I support supragingival and
coronal polishing by trained dental
assistants under the direct
supervision of a dentist.

Please include it in your Emergency
Rule.

Very truly yours,


Les E. Nicholson, D.D.S.

JUL 3 2008

Dawn Ann Dean, RDH, MSDH
WVDHA President
48 Maple Avenue
Wheeling, WV 26003

H: 1.304.233.8570
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July 3, 2008

Attn.: West Virginia Board of Dental Examiners

Dear WVBODE members:

On behalf of the Executive Board of the West Virginia Dental Hygiene Association, I submit to you our comments concerning the Proposed Rules 5CSR1/Emergency Rules 5CSR1. Our comments are a cumulative response of our executive board based on the innumerable membership responses we have received following the May 16, 2008, WVBODE meeting in Crab Orchard, WV, following the 4:3 vote in favor of permitting dental assistants to "perform supragingival and coronal polishing on children under 21 years of age,"(2.8gg), as proposed by the West Virginia Dental Association without prior introduction or discussion at any of the previous meetings between the WVDHA, the WVDA, and the WVBODE, since July 2007 to present date.

Comment #1: Dental Hygienists are licensed professionals.

As licensed professionals, dental hygienists are already distinguished as competent by the very boards that govern dentistry's competencies. The schools that educate dental hygienists have met the highest standards of accreditation. Whether a two year or four year dental hygiene program graduate, the state of WV does not distinguish between the two degrees to determine licensure status. Our professionalism and our ability to perform quality preventative dental care is not lessened because of job environment changes. As our job setting may change based on "direct, general, or public health supervision," our standard of care is adapted with each setting and ethical treatment of each patient is the foundation of our service delivery.

There are so many stipulations placed upon dental hygienists in this proposal under general supervision. I remind the WVBODE that registered dental hygienists are licensed professionals. As registered dental hygienists, we have passed national, regional, and state examinations that regulate our actions and worthiness. These same "restrictive" stipulations do not exist for dentists. Dentists follow the same type of regulation and educational regimen. Dental hygienists should be respected in the same manner.

The WV Legislature charged the WVDA and the WVBODE to work with the WVDHA to resolve the "access to dental healthcare" issue in WV to better serve all citizens. How does restricting the licensed profession of dental hygiene, that you prescribe in this proposal, intend to resolve an "access" mandate?

The issue of sealant application raises further concern to the restrictive nature of this proposal. Sealants applied by a dental hygienist under "general supervision" can be provided "following diagnosis within 4 months by the supervising dentist," but most patients that would be utilizing alternative settings for dental care may not be in the financial position to have previously sought dental care at a private practice facility to obtain such a "diagnosis." In 8.4(d), the "supervising dentist" must have completed an exam "twelve months prior to the date the dental hygienist provides the dental services to the patient, that's assuming these patients even have a "dental home." A dental hygienist is vital to the success of an "alternative settings" patient finding a "dental home." Dental hygienist are educators and possess excellent communications skills that are utilized during preventative appointments when patients are captive to the information. To



restrict even further, 8.2(d) states that "no patient may be treated two(2) consecutive times by a dental hygienist under general supervision without a licensed dentist conducting an examination." So, if an "alternative setting" patient with limited income has had previous sealant application and is seen by the dental hygienist for the first visit in need of sealant replacement, but has had no dental exam within twelve months, they not only can not be seen by the dental hygienist under this proposal, but ethically this proposal compromises the dental hygienist's "standard of care" for this patient. The dental hygienist is forced to refuse this patient treatment because he could not afford a dental exam and the "diagnosis" necessary for the dental hygienist to provide the service.

This proposal compromises the ethical standard of care that ALL dental professionals have taken an oath to preserve! It also establishes the "two standards of care" that should not be proposed by an "access to care" initiative. You are enabling the "preceptorship" mentality of dental care when you limit a patient's ability to receive the service needed, restrict a qualified provider from ethically treating a patient, and use "on-site" trained individuals to render services outside their "scope of practice."

Comment #2: The need for dental assistants to polish teeth does not merit an "Emergency Rule" status as proposed by the WVDA and the WVBODE.

Even the WVBODE attorney, Darlene Thomas, was overheard at the May 16, 2008, WVBODE meeting, in Crab Orchard, WV, advising board president, Jim Vargo, to vote on the WVDA's 8.2gg/Dental Assistants to "perform supragingival and coronal polishing on children under 21 years of age using a slow hand piece with a rubber cup after successfully completing a course approved by the board," proposal, citing that she would have filed it as emergency rule if she thought it was necessary. In legal matters, I respect my counsel's expertise, and like Darlene, the WVDHA, having worked intelligently beside Jim since our first WVBODE meeting in July 2007, is equally perplexed as to the explanation of not voting on such an inappropriate introduction of proposal material not previously discussed within the last year's worth of meetings. When the WVDA had been asked to present their "wants" to the WVBODE and the WVDHA, the issue of dental assistants polishing never came up.

On a personal level, I am dumbfounded by this proposal from the WVDA and the WVBODE because I attended the January 2008 WVBODE meeting in Crab Orchard as the WVDA explained their thoughts on "board composition." The WVDA and the WVBODE, at previous 2007 meetings with the WVDHA addressing this topic, stated that they had "no need" of the dental assistant on the board of dental examiners. At the January 5, 2008, WVBODE meeting, the WVDA addressed Debbie Dent, Certified Dental Assistant & WVBODE member, directly explaining the lack of licensed professional input available from a DA to benefit the board's needs. Now suddenly, the WVDA has an "emergency" need of a dental assistant's services conveniently tucked into a proposal mandated by the WV Legislature to specifically address how the duties and the settings can be expanded for a dental hygienist to provide "access to care" for WV dental patients.

The WVBODE is not to determine the "scope of practice" change for dental assistants; that falls as a legislative action, and is therefore inappropriate action on the part of the board. The WVDA's dental assistant's "polishing proposal" is outside the mandate or legislative intent of the committee.

Following a review of the American Dental Association's "Code on Dental Procedures and Nomenclature"/"Preventive D1110-D1120"/"Dental Prophylaxis" there is no emergency status constituted by polishing teeth as stated on page 9. Where is the "emergency rule" necessity in "polishing teeth"? Wouldn't the opposite concern for emergency rest in the obvious distinction of two standards of care based on quality and competency assurance of the service provider? If we were "ethically driven" organizations serving the "real" dental needs of WV patients rather than our wallets, would I be asking these questions of the very board that "regulates" my profession?

Comment #3: In the Code on Dental Procedures and Nomenclature, on page 9, under Dental Prophylaxis/Preventive/D1110-D1120/Prophylaxis - adult/child, it specifically states that a "prophylaxis" is the "removal of plaque, calculus and stains from the tooth structures in the permanent and transitional dentition/primary and transitional dentition. It is intended to control local irritational factors." Under code, a dental hygienist, not a dental assistant, is licensed to provide these preventive services. A dental assistant is not permitted to scale with an instrument in a patient's mouth or clinically educated to recognize these deposits for removal and dental disease prevention.

If a dental assistant polishes teeth supragingivally and coronally without the education or clinical experience to identify existing calculus deposits for removal prior to this preventive service, these patients will be neglected for periodontal disease prevention. These patients will be receiving a "lesser quality of care", not be informed, and pay the same price for the service. Ethically, this is an unsound proposition from a "regulating board" and the state's dental association!

How will patient's insurance companies be billed for "polishing services" provided by dental assistants? You can not use codes: D1110 or D1120 for a dental assistant's work; they are not allowed to scale to provide a "complete dental prophylaxis." It would constitute insurance fraud to use these billing codes for a dental polishing provided by a dental assistant. As a "regulating board", are you setting yourself up for an investigation?

Comment #4: Dentists and dental hygienists pay license renewal fees, continuing education, and professional association dues.

As licensed dental professionals, we have literally "paid our dues" in the dental community. Let's not make it easy for dental assistants to gain what we have worked hard and long to obtain in our respective professions. You have a dental assistant paid to sit on the board, not paying renewal fees, and attending board meetings formerly held at the Greenbrier Resort. My annual, license, renewal fees pay for that to happen! Yet, you want to restrict the profession of dental hygiene, while I pay for you to do it!

All dental assistants should be at a minimum, certified, to protect the public's safety. They should be required to have more than "on-site" training to provide "polishing" and other dental services. As the licensed dental professionals, we should want and expect no less from dental assistants.

Comment #5: There must be accountability for dental assistants to provide dental polishing services.

This proposal holds dental hygienists accountable for "general supervision" services to the point that a dental hygienist must inform the patient that she is practicing "under general supervision," without a dentist present. Yet, a lesser trained and educated dental assistant, is not required to inform the patient that they are polishing as a "dental assistant" while billing for the service as though a dental hygienist had performed the service. Where is the accountability in a board course offered one time to instruct the skill of supragingival and coronal polishing to dental assistants? Where is the accountability in a dental assistant's only other requirement to polish with simply "two (2) years and at least three thousand (3,000) hours of clinical experience in a dental office." The primary focus of a dentist's education is restorative in nature, not preventative. With the inadequate educational training of dentist's to perform consistent "technique control" and clinical performance skills evaluations for instructing polishing to dental assistants, who is accountable? Increased contingencies are placed on the dental hygienists, but not on the lesser educated dental assistants.

Comment #6: It is important to avoid a "prophy mill" mentality as the ratio of supervising dentists to hygienists is:3:1.

How many dental assistants will be polishing in one dental office? If there are 3:1 hygienists to supervising dentist, will there be a 3:1 ratio of dental hygienists to dentist allowed to polish at one time in one office? Currently, this proposal does not require a dental assistant to inform a patient that she is polishing and charging the same amount as a licensed dental hygienist with more education. This needs changed. Quality dental healthcare and access to it were the mandates of the WV Legislature, not surpassing daily profit margins at the expense of the unsuspecting patients.

Comment #7: The safety of the public may depend on the "independent practice" of dental hygienists to keep everyone honest.

Fear alone is the reason the WVBODE and the WVDA propose distinct rules stating that a dental hygienist can not have an independent practice. Both organizations deny the opportunity for dental hygienists to work "independent of a supervising dentist" or to "maintain an office or practice that is primarily devoted to the provision of dental hygiene services" claiming the argument of "public safety." But, the WVBODE and the WVDA approve of a "site-trained" individual without any education, clinical experience, board certifications, or concern for "public welfare" to perform the duties of a licensed dental hygienist! This is ridiculous.

Comment #8: There is a dental hygienist shortage, according to the latest propaganda concocted by the WVDA to sell the need for the dental assistants polishing campaign.

The May/June 2008, WVDA News, published a list of "reasons for allowing assistants this procedure." As I read the eight reasons listed, probably the most accurate statement was that "over 30 states permit qualified assistants to provide this procedure." What this article fails to tell you is that many of those states permit "preceptorship." Preceptorship is the illegal act of a practicing dentist to allow a dental assistant to perform "complete dental prophylaxis", the duty of a licensed dental hygienist, on unsuspecting dental patients expecting and deserving ethical, quality, dental healthcare. The dental assistant is performing the duties of a licensed dental hygienist with the full permission of the supervising dentist under direct supervision illegally but charging the usual fee scale and billing insurance companies without their knowledge.

There is not a shortage of dental hygienists in West Virginia, but I would not blame dental hygienists for leaving this state. There are 48 other states in the USA that do respect and recognize the value of a "licensed dental hygienist." These states pay a very, competitive salary, have dental boards with more than one RDH representative, recognize "independent practice" and "alternative settings" as an answer to the "access to care" issues, and some states even have their own "dental hygiene boards." We've had every opportunity in WV within the last year to make similar, if not more profound, progress!

How many times at the meetings I have personally spoken at or in the letters I would write to you would I not challenge the WV Dental Community to be the leaders in this country and to create a prototype for the "access to dental healthcare" resolution initiative? But every time the WVDHA has been invited and dutifully come to the proposed tables of discussion between the WVDA and the WVBODE, the WVDHA has been asked to accept a new outcome that ultimately leads to WV registered dental hygienists losing a licensed duty as a bargaining tool to allow dental assistants that are either trained on-site or not required to be 100% professionally certified, to perform a duty that changes their scope of practice, when in reality we were to be addressing how our licensed profession can better serve all WV citizens to provide competent, quality, preventative, dental healthcare.

The WVDHA came 100% prepared to every meeting to complete the WV Legislative mandate. Your proposal is too restrictive in nature, as even the ADHA instructed you in your early, collaborative efforts. The usual ambiguity of the WVDA, with the sad proposal of dental assistants polishing teeth after a nominal board approved course, is a "cold slap" in the face of the WV

Legislative mandate and our dental hygiene profession. Where are your ethics as a regulating board for our WV Dental Industry to preserve the safety of the public we all took an oath to serve? Maybe the WV Legislature needs to investigate this very serious concern the WVDHA has of this present situation that you have expected us to "swallow whole?"

Let's get serious before this incidence embarrasses our state and our dental community in the eyes of the public!

Respectfully Yours,

Dawn Ann Dean RDH, MSDH
WVDHA President

George D. Beldon, D.D.S.

INCORPORATED

366 NORWAY AVENUE

HUNTINGTON, WEST VIRGINIA 25705

TELEPHONE 687-2500

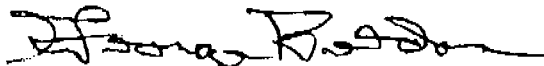
7 June 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your emergency rule

Very Truly yours,



George D. Beldon, D.D.S.

GB:cb

Post Office Box 6430
Charleston, West Virginia 25362

West Virginia Board of Dental Examiners
PO Box 1447
Crab Orchard, West Virginia 25827-1447

July 3, 2008

Dear Members of the Board of Dental Examiners,

Thank you for the opportunity to comment on the recommended Emergency Rule dealing with General and Public Health Supervision. I have grave concerns about the Emergency Rule that the WVBDE has filed with the WV Secretary of State. Many of the provisions in the Board's Rule exceed definitions and provision of existing law. In West Virginia, rules can't conflict with law nor can rules exceed what is permissible under law. Many of the provisions of 8.4 and 8.5 conflict or exceed definitions and provisions of existing laws. I have written each of you personally, talked with many of you, and have shared my opinion on two occasions during your meetings in Beckley. I would ask that you consider amending the previously filed emergency rule and making the changes recommended by the WVDA in an effort to protect the citizens of West Virginia.

I want to refer back to the comments that were made by Ms. Dawn Dean and Ms. Jennifer Blaskovich during your January 4, 2008 meeting. On direct questioning by Board Member Ms. Deloris Gribble, the consumer member of the Board, Ms. Dean and Ms. Blaskovich agreed that what they wanted for Public Health Supervision were the 6 duties that were agreed to by the WVDA and the WVDHA in a meeting held December 19, 2007 in Wheeling, WV, to which both responded yes. These 6 duties are found in 8.4 (h). Mrs. Gribble asked them if there were any conditions attached to the approval of the recommendations, like additional hygienist being placed on the Board of Dental Examiners, and they both responded no. Mrs. Gribble asked if the Board did not decide to place additional dental hygienist on the board at this time, would that be a "deal breaker", to which they both answered no. Following that meeting, I think we all felt pretty good about what had been accomplished. That good feeling ended about 72 hours later when Mr. Jason Webb announced the "deal was off" if two additional hygienist were not placed on the Board. We have seen this "behavior" time and time again from the WVDHA. Unfortunately those threats were echoed again by Dr. Klenk, during your May 16, 2008 meeting, about the threat of additional hygienist being put on the Board, "if the Board adopted section 8.2 (gg). Thank you for having the courage and vision to add 8.2(gg) to your rule. This could potentially allow several hundred dental auxiliaries to bring needed preventative dental services for the underserved in rural West Virginia under the direct supervision of a dentist. I would request that you consider adding 8.2 (gg) to your emergency rule.

One of the interesting things that I have been able to observe over the past four years of serving on the ADA Board of Trustees is the tactics of the American Dental Hygiene Association in the name of improving access to care in America. What we are experiencing, through this Rule, is the ADHA and the WVDHA quest for the Independent Practice of Dental Hygiene. The WVDHA has not been successful legislatively with this initiative the last three years and are now hoping that the Board of Dental Examiners will allow them by rule to have what they been unable to obtain using the legislative process. The WVDA at the request of many members of the WVBDE

has lobbied hard to prevent the Independent Practice of Dental Hygiene from occurring in West Virginia. The WVBDE has allowed a document that was radically changed from the "draft" document that Dr. Klenk circulated for comments, to potentially become a rule. When pressed for an explanation on where this document came from Dr. Klenk suggested that it was a combination of documents from Maine and other states. That is a big concern for me because after many years of unsuccessful "public health supervision" in Maine, the state decided that Independent Practice for dental hygienists would be a better option. I only hope for the sake of the citizens in Maine that it will be more successful than Independent Practice of Dental Hygiene has been in Colorado. This final draft was so different from the first draft that the Board needs to ask why was this document altered so drastically and what is the motivation behind doing so.

If the rule is passed as written, the next step will be to develop a Dental Hygienists ability to seek reimbursement for services in the Public Health Setting. If this takes place West Virginia will experience what is happening elsewhere in the country. Dental Hygienist do the preventative services and patients are left without a "dental home" or are not referred for restorative treatment and the DMF, Diseased, Missing, and Filled Rate skyrockets. Please do not think for a minute that the provisions in 8.4 (n) and 8.5(l) will prevent this from happening, it hasn't in states like Minnesota.

The WVDA agreement to enter into discussion with the WVDHA about General Supervision and Public Health Supervision was based on the need to improve access to the citizens of West Virginia for "preventative services". The issue of preventative services is documented in the Boards comments in the second line of 8.4 General Supervision "preventative dental hygiene services to a patient when the supervising dentist is not physically present". Many of the duties listed 8.4 (i) go way beyond "preventative services". These 19 duties need a dentist's examination and approval to provide these services in 8.4, but not in 8.5? I can't see how that is protecting the public or not creating a two tiered delivery of services for patients in the Public Health sector. Many of those 19 duties I would not allow a hygienist to do under general supervision in my office following a comprehensive oral exam, so I find it impossible to think that it could be done in 8.5 without an exam or potential follow up evaluation by a dentist. Please look at the list of duties that you have authorized dental hygienist to do without an exam in 8.5 and ask yourself if you are comfortable with root planning and bleaching being done in hospitals, nursing homes, and even shopping malls! I know the Board requested the right to examine and approve each "public health practice" setting, but I think it will be almost impossible to do and provide protection to the public.

Please consider moving 8.4 (h) to 8.5, as it is in direct conflict with the definition of general supervision that states that the supervising dentist shall have examined the patient prior to treatment. It was what was agreed to by the WVDHA and the WVDA during the Board's January 4, 2008 meeting. These 6 duties, that can be provided without an examination by a dentist provide the needed "increase in preventative services" to make a difference in access to dental care and protect the public at the same time. These 6 duties are also consistent with what other states are doing to improve access in the Public Health sector. I would call your attention to the newly passed Public Hygiene Supervision Law passed in Maryland early this year. The only services that a hygienist can perform without an examination by a dentist are preventable services. These services are even more limited than the 6 duties recommended by the WVDA!

I am also concerned about possible legal implications of dental hygienist taking radiographs in Public Health settings without a prior examination by a dentist. The West Virginia Board of Radiology requires this duty to be done under the direct supervision of a dentist. I believe that they might also be concerned in a general supervision setting. In states where dentists have pushed to hard they have required Radiology Certification for Dental Hygienists and Dental Assistants. Dental Hygienist can not interpret radiographs, so why would they expose the patient to radiation if a dentist is not required to evaluate the radiographs.

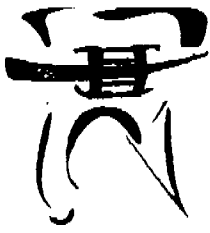
I am also concerned about terminology contained within the rule that is not defined within the rule or Dental Practice Act, such as "sponsoring dentist" and "monitor". Since these terms are not defined, it could potentially lead to confusion by the dentist, the hygienist, and in the worse case, the public. It would be much easier to understand by using the words, supervising or supervise, and this would be consistent with what the Board was asked to do in developing "levels" of supervision for Public Health Practice in Senate Bill 13.

It is always difficult when considering change to satisfy all stakeholders. I hope the Board of Dental Examiners would only be concerned about answering to the group that they have sworn to protect- the Public. The purpose of this rule is to improve access to dental care. While I strongly agree that we need to do so, I also want to make sure that in doing so we protect the citizens of West Virginia.

Sincerely,



Charles L. Smith, DDS
ADA Sixth District Trustee



Drs. Lacy, Weidman & Hazy III

Specialists in Orthodontics

Gregory A. Lacy, D.D.S., M.S.
Alvin F. Weidman, D.D.S., M.S.
Michael A. Hazy III, D.D.S., M.S.

Dear Board Members:

You are requested to support the amendment to the various provisions of your emergency rule recommended to you by the WV Dental Association in its July 1 and July 2 letters.

These recommendations are a result of almost two years of study by the WVDA Task Force on Expanding and Improving the Delivery of Oral Health Care. They are in the best interest of the public's oral health, and help assure quality and appropriate care is provided patients.

Very truly yours,

Michael A. Hazy III, D.D.S., M.S.
WVDA Executive Council Member



Drs. Lacy, Weidman & Hazey III

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West Virginia Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

To Whom It May Concern:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule. It is a small measure through which we can further improve access to dental care for the public at large, especially in underserved rural areas which comprise much of our state.

Thank You,

Michael A. Hazey III, D.D.S., M.S.



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Specialists in Orthodontics

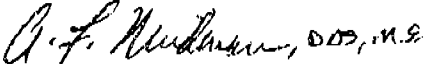
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Thank You,


Alvin F. Weidman, D.D.S., M.S.

253-9454

JARRELL FAMILY DENTISTRY
P. O. BOX 290
SURVEYOR, WV 25932
304-934-6269
304-934-6223 – FAX

July 8, 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive
P. O. Box 1447
Crab Orchard, WV 25827-1447

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Very truly yours,


Jeff S. Jarrell, DDS

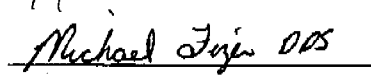
Kristina G. Hiener, DDS

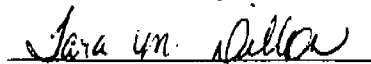
Michael R. Fizer, DDS

Tara M. Dillon, RDH











Drs. Lacy, Weidman & Hazey III
Specialists in Orthodontics

Gregory A. Lacy, D.D.S., M.S.
Alvin F. Weidman, D.D.S., M.S.
Michael A. Hazey III, D.D.S., M.S.

July 8, 2008

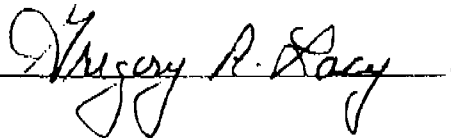
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Very truly yours,

 , D.D.S., M.S.

Thomas W. Morgan, D.D.S.

"Family Dentistry"

P. O. Box 429

Gauley Bridge, West Virginia 25085

(304) 632-2550

To The Honorable Board of Dental Examiners:

I support supragingival and coronal polishing
by trained dental assistants under the
direct supervision of a dentist. Please include
it in your emergency rule.

Sincerely,

TW Morgan

P.S. Please consider assistants becoming
EDDA's (Expand Duty Dental Auxiliaries)
like in Penn. & other states.

JUL 8 . 2008

DANIEL W. NUNLEY, D.D.S.

304 East Main Street
Post Office Box 399
White Sulphur Springs, WV 24986
Telephone: (304) 536-3304

July 8, 2008

West Virginia Board of Dental Examiners
P.O. Box 1447
Crab Orchard, WV 25827

Dear Board Members:

I support supragingival and coronal polishing by trained dental assistants under the direct supervision of a West Virginia licensed dentist.

This will increase access of care in under staffed areas. It also will bring our state into the 21st century in comparison to neighboring states.

Very truly yours,


Daniel W. Nunley, D.D.S.

DWN/amf

MICHAEL J. PIPO, JR., D.D.S.
FAMILY DENTISTRY

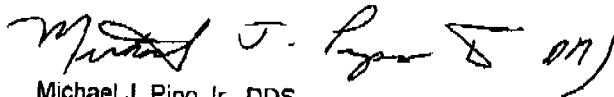
P.O. BOX 662
970 MAIN STREET
FOLLANSBEE, WV 26037
TELEPHONE (304) 527-4444

WV Board of Dental Examiners
PO Box 1447
Grab Orchard, WV 25627

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Michael J. Pipo Jr., DDS

July 8, 2008

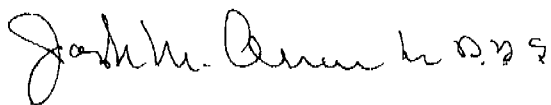
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Dear Board Members:

You are requested to support amendments to the various provisions of your emergency rule recommended to you by the West Virginia Dental Association in its July 1 and July 2 letters.

These recommendations are a result of almost two years of study by the WVDA Task Force on Expanding and Improving the Delivery of Oral Health Care. They are in the best interest of the public's oral health, and help assure quality and appropriate care is provided patients.

Very truly yours,

A handwritten signature in cursive script that reads "Joseph M. Alexander DDS".

Joseph M. Alexander DDS

July 8, 2008

West Virginia Board of Dental Examiners
1319 Robert C. Byrd Drive
PO Box 1447
Crab Orchard, WV 25827

To Whom It May Concern:

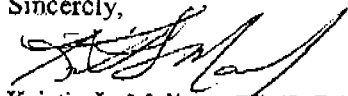
I am writing to respond to the recent change in proposed emergency rules for dental hygienists practicing in general supervision settings. I applaud the efforts of the board in assuring the health and well-being of the citizens of West Virginia by placing defining language in the rules which govern the practice of licensed dental hygienists. The proposed changes regarding dental hygienists appear fair and reasonable.

At the same time, I find it extremely disturbing that proposed language has been added to allow dental assistants to perform a procedure that has always been relegated to dental hygienists. In the proposed change for (gg) under 5CSR1, dental assistants, who are not registered or licensed by the Board of Dental Examiners, would be allowed to polish teeth on persons age 21 or younger. It appears that this language allows dental offices to bill for "cleaning" provided by an unregulated dental auxiliary, rather than utilizing the services of the educated, licensed dental hygienist.

In addition, the proposed change to include the language under (gg) does not fit in the intent of the emergency ruling. The information sent to all dentists and dental hygienists states that the emergency rule is required because of Senate Bill 13, which allows general supervision of dental hygienists. The explanatory paragraph on the first page only address language changes as a result of implementing rules for general supervision of dental hygienists. Changing the duties of the dental assistant through this emergency rule does not meet the mandate of the legislature through Senate Bill 13.

I urge you to remove the reference to and subsequent wording of (gg) under the proposed emergency rule 5CSR1, to further your efforts to assure the health and well-being of the citizens of West Virginia.

Sincerely,



Kristin L. Mallory, RDH, Ed.D.
976 Ridgemont Road
Charleston, WV 25314
(304) 343-3979
KLeeMallory@hotmail.com

cc West Virginia Secretary of State's Office

Carolyn Brewer

From: Anderson, Linda [landerson@marshall.edu]
Sent: Tuesday, July 08, 2008 5:02 PM
To: wvbde@suddenlinkmail.com
Subject: comments regarding proposed rules 5CSR1

Dear WV Board of Dental Examiners:

As someone who works with schools to foster collaboration and coordination between education and the community's health care systems, I am very interested in the opportunities for increased access to oral health services through school based and school linked programs. From my review of other states, it appears that the more progressive states have established quality school based programs that incorporate principles of population based planning to reach those students who otherwise would not receive dental care. Therefore I have some comments and questions/concerns about the proposed rules. First of all, I applaud the Board for its work - this is not an easy task, I'm sure. Secondly, I appreciate and recognize the importance of maintaining high quality care in all settings.

1. Section 8.4 General Supervision - ...hygienist is limited to 15 days or 3 weeks when the supervising dentist is not physically present -- this seems unduly restrictive. What is the rationale? What if the patient has rescheduled during that time? Does the patient need to be seen by the dentist all over again?
2. Section 8.4 (d) 2 - No patient may be treated two consecutive times by dental hygienist under general supervision without a dentist conducting an exam -- does this mean that a DH under general supervision may treat a patient twice prior to the dentist examining the patient? Or does it mean that even if the dentist has seen the patient in the last 12 months, the DH is limited to treating the patient only twice until the patient is seen again by the dentist? What if a child is unable to needs cleaning and sealants which cannot be done all at the same time? Will insurance reimburse for this extra visit to the dentist?
3. Section 8.4 (k) - Facilities utilized for oral prophylaxis, sealants, or both, other than a private practice setting, must be approved by the WVBDE- Does this mean that every school that might serve as a location for dental screenings, exams, cleanings, and sealants would need to be approved by the WVBDE? What is the reason for this? And what would be the process for approval? This seems very unwieldy and unnecessary if the concern is about quality since such school based services will always require dentist supervision. If this is a quality control issue, the dental provider will be knowledgeable about appropriate environmental and quality standards.

Thank you for considering these comments.

Linda Anderson, MPH
WV School Health Technical Assistance and Evaluation Center
Robert C. Byrd Center for Rural Health
Marshall University
Mailing Address:
159 Honeysuckle Lane
Huntington, WV 25701

Carolyn Brewer

From: Edwin V Kluth [ev-rckluth@juno.com]
Sent: Wednesday, July 09, 2008 8:29 AM
To: wvbde@suddenlinkmail.com
Subject: Emergency Rules 5CSR1

I basically agree with the concerns expressed by the West Virginia Dental Assoc in its May/June newsletter. I also have a few personal thoughts
re: allowing assistants to do coronal polishing.

The WVDA has a number of good reasons to allow this. One thing I don't understand is why this would be allowed to be done only on patients under 21. In the sense of helping with access to care: If it's OK to allow coronal polishing on patients under 21 who may squirm and be uncooperative, why not allow it for all patients?.

Requiring 3,000 hours of experience to qualify seems like a lot for this type of duty unless it's consistent with what's required for other, similar duties. I would think that, in general, an appropriate amount of time in relevant duties would be more appropriate requirements than total hours doing anything. Certified Dental Assistants should probably automatically be eligible. If any of the licensed periodontists have more specific recommendations, those would be the ones to have highest priority for your consideration.

As far as I'm concerned, there is a major problem with all the requirements for assistants to do expanded duties. And that is, if I understand correctly, any dentist in WV can allow any untrained, non-certified, and non-licensed assistant to make final impressions for removable prostheses. This isn't allowed in almost all of the other states and shouldn't be allowed here. As a prosthodontist, I can see no way in which this provides an acceptable standard of care for any patient. This is an extremely critical procedure not only in terms of prosthetic success but health of the supporting bone, and like any surgical procedure, should only be done by the dentist. As long as this exists, what is the reasoning/rationale/etc to require training/testing/etc for other procedures that aren't any more difficult or critical? In other words, there are some definite questions such as:

Is there an adequate line of demarcation between what only highly trained dentists can do versus "helpers" to protect the public from the potential problems of "second tier" treatment? If a dentist is duly licensed to provide all treatment, why isn't the dentist qualified to train "helpers" to do all the expanded duties that the Board allows?

Thank you for your consideration of my comments.

Sincerely,

Edwin V. Kluth, DDS, MS
Prosthodontist
21 12th St. #305
Wheeling, WV 26003

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Charleston, WV 25312

Mrs. Debra D. Dent, CDA
56 Silver Maple Lane
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Executive Secretary

Susan M. Combs
Assistant Executive Secretary

Carolyn A. Brewer
Office Manager

MEMO

TO: WEST VIRGINIA BOARD OF DENTAL EXAMINERS

FROM: ANESTHESIA COMMITTEE
DR. H. RICHARD MARSHALL, CHAIRMAN

DATE: July 8, 2008

RE: PROPOSED CE RULE COMMENT

The West Virginia Board of Dental Examiners, Subcommittee on Anesthesia makes the following recommendations concerning the proposed rules, in regards to continuing education:

Section 10.5 (a)(8) - 8 hours credit be extended for each course - ACLS, PALS & ATLS, and recommend this to read as (8) ACLS (8 hours maximum credit); (9) PALS (8 hours maximum credit) & (10) ATLS (8 hours maximum credit).

JUL 9 2008

Lorena M. Surber, D.D.S., P.L.L.C.**General Family & Cosmetic Dentistry****Suite 403, Atlas Building****1031 Quarrier Street****Charleston, West Virginia 25301****(304) 343-0361 or Fax (304) 343-6711***Lorena M. Surber, D.D.S.**Kendra D. Burdette, D.D.S.*

July 9, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Sir,

I would like to take this opportunity to express my support for the proposal that allows supragingival and coronal polishing by trained dental assistants under direct supervision.

Sincerely,

Kendra Burdette

Kendra D. Burdette, D.D.S.

"Make every day special with a smile – a SurberSmile!"

Lorena M. Surber, D.D.S., P.L.L.C.

General Family & Cosmetic Dentistry

Suite 403, Atlas Building

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Charleston, West Virginia 25301

(304) 343-0361 or Fax (304) 343-6711

Lorena M. Surber, D.D.S.

Kendra D. Bardetta, D.D.S.

July 9, 2008

WV Board of Dental Examiners
PO Box 1447
Crab Orchard, WV 25827

Dear Sir,

I would like to take this opportunity to express my support for the proposal that allows supragingival and coronal polishing by trained dental assistants under direct supervision.

Sincerely,



Lorena M. Surber, D.D.S.

"Make every day special with a smile - a SurberSmile!"

SAPON AND SAPON D.D.S. INC.
160 KRUGER STREET
WHEELING WV 26003
304-242-2400

WV BD.OF DENTAL EXAMINERS
1319 ROBERT C. BYRD DRIVE
PO BOX 1447
CRAB ORCHARD, WV 25827-1447

DEAR BOARD MEMBER:

I AM REQUESTING YOU TO SUPPORT AMENDMENTS TO THE PROVISIONS OF
YOUR EMERGENCY RULE RECOMMENDED BY THE WV DENTAL
ASSOCIATION IN THE JULY 1 AND 2 LETTERS.

THESE WILL HELP IMPROVE ACCESS TO DENTAL CARE THRU-OUT WEST
VIRGINIA. THIS DEFINITELY IS FOR THE BEST INTEREST OF THE CITIZENS
OF WEST VIRGINIA, ESPECIALLY THE RURAL AREAS.

SINCERELY,

PETE L. SAPON D.D.S.

West Virginia Board of Dental Examiners

1319 Robert C. Byrd Drive

PO Box 1447

Crab Orchard, WV 25827

July 6, 2008

Dear WVBoDE Members,

I am excited to say, after many years of being behind the times; the current Emergency Rules 5CSR1 are certainly a move in the right direction. Not only is it an opportunity for dental hygienists within West Virginia to be able to utilize the many skills which have been bound by regulation but it is a wonderful opportunity for citizens of our state to access oral care.

Although I look forward to the activation of the Emergency Rules there are several issues I'm not in agreement with. First of all 8.5.(i), which allows the one time rendering of sealants, is an issue of great concern. Why, when all of the scientific evidence is explicit about the enormous benefits of sealant placement while stressing the importance of monitoring, maintenance and repair of sealants, would the board limit a patient's treatment to one time? This does not establish a high standard of care for patients or our state. Even the ADA recommends sealants be routinely monitored and replaced for optimum effectiveness.

Secondly, I believe the board needs to define the term "sponsoring dentist". Currently there could be many interpretations and this could lead to many dentists refusing to sponsor hygienists where their treatment could be most effective and desperately needed. I also feel this term needs to be defined so the Dental Director of the WV Bureau of Public Health is better able to aid in establishing programs throughout the state. The definition needs to be clear in the idea that the Public Health Practice of Dental Hygienists was born from the surmounting need for dental care throughout our state and not profit driven.

Lastly, I'd like to address the issue of dental assistants polishing within our state. Many states do allow polishing by dental assistants but few allow this duty to be performed while requiring so little training. Additionally, to use the alluded to "dental hygienist shortage" as an excuse for allowing assistants a duty which will certainly be used to substitute as a complete prophylaxis, is a huge injustice to the citizens of our state. To put those most innocent (Medicaid, CHIPS patients and those under the age of 21) in untrained, unlicensed hands is an in service to healthcare in West Virginia. The reality of

JUL 9 2008

this problem is the detriment to oral health within our state this rule allows will not surface for many years until a generation of young adults with periodontal problems present themselves.

I do hope the board will reconsider its hasty decision to support polishing by dental assistants. If the board chooses to propose this rule in the future then, at the very least, establish stringent educational guidelines and biannual continuing education requirements. Also, make it mandatory for the patient to be informed of the allowed duty and that it in no way is a substitute for a complete oral prophylaxis. IF and only if this rule 8.2.(gg) is kept then there should be a stipulation within the rule that "polishing only" is not to be charged under the CDT codes as a complete prophylaxis. Only by mandating these issues can you prevent the patient from being misled to believe such treatment has been rendered.

Thank you for the opportunity to comment on these issues crucial to oral health in West Virginia.

Sincerely,

Jennifer Blaskovich, RDH, MA, MS, CHES

1578 Girty's Point Road

Wheeling, WV 26003

SAPON AND SAPON D.D.S. INC.
160 KRUGER STREET
WHEELING WV 26003
304-242-2400

WV BD.OF DENTAL EXAMINERS
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PO BOX 1447
CRAB ORCHARD, WV 25827-1447

DEAR BOARD MEMBER:

I AM REQUESTING YOU TO SUPPORT AMENDMENTS TO THE PROVISIONS OF
YOUR EMERGENCY RULE RECOMMENDED BY THE WV DENTAL
ASSOCIATION IN THE JULY 1 AND 2 LETTERS.

THESE WILL HELP IMPROVE ACCESS TO DENTAL CARE THRU-OUT WEST
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OF WEST VIRGINIA, ESPECIALLY THE RURAL AREAS.

SINCERELY,

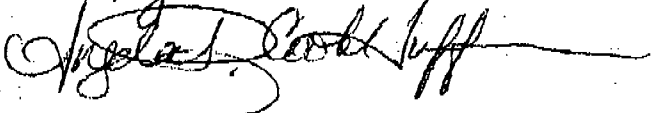

PETE L. SAPON D.D.S.

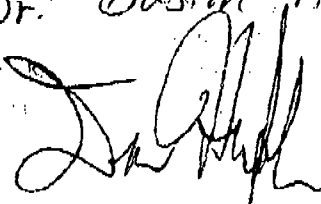
4/9/08

Dear Board Members,

I support supra gingival and coronal polishing by trained dental assistants under the direct supervision of a dentist. Please include it in your Emergency Rule.

Sincerely,

① Dr. Angela R. Cook-Huffman, DDS


② Dr. Dustin Huffman, DDS


WEST VIRGINIA DENTAL ASSOCIATION

2016 1/2 Kanawha Boulevard, East • Charleston, WV 25311

TEL: (304) 344-5246

FAX: (304) 344-5316

July 9, 2008

Members, WV Board of Dental Examiners
1319 Robert C. Byrd Drive, PO Box 1447
Crab Orchard, WV 25827-1447

Via FAX: 304-253-9454

Dear Board Members:

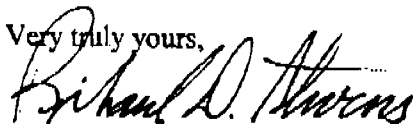
WVDA submits the enclosed "Executive Summary" of the Kansas Legislative Auditor, reporting on the impact of trained dental assistants performing supragingival scaling and polishing of teeth of both adults and children.

I believe you will find favorable results reported in the audit.

Kansas is the only state allowing both scaling and polishing by trained assistants. Over 30 other states permit polishing only.

You are reminded that WVDA recommended trained assistants perform supragingival polishing of children under age 21.

Very truly yours,



Richard D. Stevens
Executive Director

| |
|--|
| <h2 style="margin: 0;">EXECUTIVE SUMMARY</h2> <p style="margin: 0;">LEGISLATIVE DIVISION OF POST AUDIT</p> |
|--|

Overview of Dental Scaling Assistant Issues

The Kansas Dental Practices Act was amended in 1998 to address a shortage of dental hygienists. For many years, the Kansas Dental Association, as well as some dentists and hygienists, have reported a shortage of dental hygienists in Kansas. Some described the shortage as widespread, while others attributed it only to rural areas of the State. page 3

A 1995 Attorney General Opinion concluded unlicensed individuals, such as dental assistants, could not perform any part of a routine dental cleaning, which compounded the effect of the shortage of dental hygienists. In 1998 the Act was changed to allow a specially trained dental assistant to polish and scale the visible (or supragingival) part of the tooth, but specifies that a licensed dentist or hygienist is required to complete the rest of the routine cleaning.

Kansas is the only state that allows dental assistants to perform scaling as part of a routine cleaning. Kansas also has taken steps to increase the supply of dental hygienists by developing additional dental hygiene programs.

Dental scaling assistants are subject to only minimal oversight by the Kansas Dental Board. Unlike dentists and dental hygienists, dental assistants aren't required to be licensed by the Kansas Dental Board. page 5

State law requires a dental assistant who performs supragingival polishing and scaling to complete a course of study approved by the Kansas Dental Board, and to work under the direct supervision of a dentist. The Dental Board's administrative regulations require dental scaling assistants to submit a copy of the certificate of course completion to the Dental Board, and to report changes in work address. However, the Dental Board has no power to enforce those requirements.

Question 1: How Many Dental Scaling Assistants Are Working in Kansas, and Have They Affected the Availability of Dental Care in Underserved Areas?

There's no complete information on how many dental scaling assistants currently are working, but about 400 have reported completing the course since 1999. The Kansas Dental Board maintains a database of all dental assistants who have submitted a certificate of completion for the training required to perform supragingival polishing and scaling of teeth. As of April 2007, the Board had received a total of 400 certificates over the years. page 7

The Board has incomplete and dated information on the status of dental scaling assistants. That's because the Board doesn't know whether everyone sends in a copy of their certificate, and it has no way to know if scaling assistants are notifying the Board when they change jobs or leave the profession altogether.

Because the Board lacks a reliable method for obtaining updated information, the database on dental scaling assistants is at best an inventory of people who completed the supragingival scaling class, and where they worked at that time. The majority of people who completed the scaling course did so within three years after the Act was changed.

At the time they completed the course, about 70% of dental scaling assistants worked in underserved areas. Although State law doesn't require dental scaling assistants to work in underserved areas, questions have been raised about whether they are working in areas where there's a shortage of dental resources.

..... page 8

Designation as a "dental care underserved area" primarily measures a shortage of dentists. A shortage designation can apply to all residents in a defined area (such as a city or a county), or it may only apply to a select population (such as low-income residents) within an area. In 2007, Kansas had dental health shortages for all residents in 31 counties, and for low-income residents in 57 counties and the cities of Topeka and Wichita.

While about 70% of dental scaling assistants initially reported working in underserved areas, it's impossible to know whether they currently are working in those areas because there's no complete information on their current employment status. The percent of scaling assistants who initially worked in an underserved area is very similar to the percent of Kansans who live in those areas.

About two-thirds of the dentists we surveyed who regularly use scaling assistants have increased the number of patients served. We surveyed a select sample of 186 dentists on a number of issues regarding the use of dental hygienists and scaling assistants. The survey had a response rate of 75%, and 122 of the 140 dentists who responded said they currently employ dental scaling assistants. In all, they reported employing 158 scaling assistants.

..... page 10

Of the responding dentists who regularly use dental scaling assistants, 60% of the dentists working in shortage areas, and 66% of all dentists, said they have increased the number of patients seen. Most described the increase as slight to moderate.

Although the majority of dental scaling assistants accounted for on our survey are employed full-time, most spend less than half their time performing scaling and polishing. Other duties of a dental assistant include such things as assisting the dentist during procedures, completing insurance forms and other paperwork, and other office duties.

Question 2: Are Dental Scaling Assistants Filling Jobs That Formerly Were Held By Hygienists?

We saw no evidence to suggest hygienists are being replaced by dental scaling assistants to any significant degree. A 2004 University of Missouri at Kansas City survey of dental hygienists reported that 3% of respondents thought they were unemployed as a result of the 1998 legislation that authorized dental scaling assistants. Researchers concluded that dental hygienists aren't losing their jobs to dental scaling assistants. page 13

Eleven dentists (9%) who responded to our survey said they had replaced 13 hygienist positions with dental scaling assistants in the past. We don't know whether these were vacant positions that the dentists chose to fill with scaling assistants or whether employed hygienists lost their jobs. It's important to note that this percentage is not representative of the Statewide situation.

Officials from schools with dental hygiene programs in Kansas and Kansas City, Missouri indicated, although it may take slightly longer than in the past, placement rates of graduates haven't been affected by the existence of dental scaling assistants; they said nearly all graduates have a job in their field within six months of graduation.

Conclusion page 15

APPENDIX A: Scope Statement page 16

APPENDIX B: Agency Response page 18

This audit was conducted by Lisa Hoopes and Amy Thompson. Cindy Lash was the audit manager. If you need any additional information about the audit's findings, please contact Lisa at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the internet at LPA@lpa.state.ks.us.

WVDA COMMENTS REGARDING BOARD'S EMERGENCY RULE

Under §30-4-6. (9) of the Act, the Board of Dental Examiners is required to designate the services and procedures requiring or allowing direct supervision, general supervision and public health practice to be completed and filed as an emergency rule no later than July 1, 2008. This provision was contained in Senate Bill 13, passed by the 2008 Legislature.

Comment #1:

The Board's first two drafts of the emergency rule required the supervising dentist to evaluate the hygienist's skills to determine she/he is competent to treat patients under general supervision. However, the emergency rule does not contain this provision. Since supervising dentists are responsible for hygienists' services and competency is a public safety issue, WVDA supported this provision.

Comment #2:

General Supervision Section 8.4.(e) requires hygienists to comply with written protocol or standing orders established by the supervising dentist, which WVDA supports. However, this provision does not require an informed consent or written document be given patients and parents advising them that dental hygiene services are not to be considered as a substitute for exam and diagnosis by the dentist, which WVDA recommended in the interest of the public. Many patients, especially Medicaid parents, are not sufficiently knowledgeable about dental services to recognize the differences.

Comment #3:

General Supervision Section 8.4.(h) permits hygienists to perform procedures without any supervision of a dentist. This is in conflict with the definition of "general supervision" as contained in §30-4-13.(16) of the Dental Practice Act as it does not require a dentist to diagnose the condition to be treated, authorize the procedures, or evaluate the patient after treatment by the hygienist. It is also in conflict with two (2) provisions of the emergency rule under 8.4.(n)(1) and 8.5.(l)(1), both of which state a person cannot practice dental hygiene in a manner that is separate or otherwise independent from a supervising dentist.

Comment #4:

General Supervision Section 8.4.(h)(3) permits hygienists to take intra- and extra-oral photographs without a prior exam or supervision or follow-up by a dentist. Photographic images are defined in the Current Dental Terminology (CDT) manual as diagnostic services - not preventive services. Therefore, this provision conflicts with §30-4-3.(9) of the Act wherein a dental hygienist is defined as to mean a "person licensed by the Board who provides preventative oral health care services in the dental office and in a public health setting.

Section 8.4.(h)(3) also conflicts with the preamble statement in Section 8.4, which states hygienists may provide preventive hygiene services. Only dentists can interpret such photographs to diagnose diseases. If a photograph is not interpreted by a dentist as part of a diagnose, then what is the purpose of the hygienist taking the photograph?

The CDT manual is utilized by third party payers and dentists in processing claims for patients. Since intra- and extra-oral photographs are CDT-coded services, a patient may be denied benefits by a third party if a dentist provides this service without knowing beforehand that the service had been provided by a hygienist. Most third parties limit the number of radiographs and photographs within a year.

Comment #5:

General Supervision Section 8.4(h)(4) permits hygienists to prepare a “generalized oral screening” with subsequent referral to a dentist. “Generalized oral screening” is not defined in the rule, nor is it recognized or defined in the CDT manual as a service or procedure. Such a service can be interpreted by a patient or parent as an exam, which hygienists are not licensed to perform.

Comment #6:

General Supervision Section 8.4.(h)(5) permits hygienists to apply fluoride without a prior exam or supervision or follow-up by a dentist. Since this is a CDT-coded service, a patient may be denied benefit by a third party if a dentist provides this service without knowing beforehand the services had been provided by a hygienists in one of the 12 locations listed in 8.4.(j) and 8.5.(j) outside the dental office. Likewise, the patient may be denied the benefit if a hygienist provides the service without knowledge of a dentist previously providing the service. The benefit can be denied because some third parties limit benefits for fluoride treatments within a year.

Comment #7:

The preamble to General Supervision in Section 8.4., states a dental hygienist may provide preventive dental hygiene services when the supervising dentist is not present. However, General Supervision Sections 8.4.(h) and 8.4.(i) and Public Health Practice Section 8.5. allow hygienists to provide services other than preventive, such as diagnostic, periodontal and cosmetic as identified in the CDT manual. Therefore, this provision conflicts with §30-4-3.(9) of the Act wherein a dental hygienist is defined as a “person licensed by the Board who provides preventative oral health care services in the dental office and in a public health setting.”

Comment #8:

General Supervision Section 8.4.(i)(1) and the preamble to Public Health Practice Section 8.5 permit hygienists to place, expose, develop and mount dental radiographs (X-rays). X-rays are identified in the CDT manual as diagnostic procedures, not preventive. X-rays are to be interpreted by dentists to diagnose existing disease, not prevent future disease. X-rays are to be taken only for clinical reasons as determined by the patient’s dentist, according the CDT manual. Therefore, this provision conflicts with the Dental Practice Act under §30-4-3.(9), definition of a dental hygienist who are licensed to provide preventative oral health services, and §30-4-15., the scope of practice of dentistry wherein, in part, only a dentist can diagnose diseases.

WVDA supports hygienists taking X-rays in the dental office under general supervision because the supervising dentist is required to authorize the service and then interpret the X-rays for diagnostic purposes.

However, WVDA does not support this procedure in Section 8.5. Public Health Practice when a dentist is not available to interpret the X-rays for diagnostic purposes. When a CDT code is reported to third parties, it includes interpretation of the radiograph, according to the CDT manual. Why would hygienists take radiographs at one of the 12 locations outside a dental office, as permitted in Section 8.5, without a dentist present to diagnose patients' conditions?

Comment #9:

General Supervision Section 8.4.(i)(8) and Public Health Practice Section 8.5. permit hygienists to provide debridement and/or root planing of teeth. These services are defined in the CDT manual as "periodontal services" not preventive services, therefore, in conflict with §30-4-3.(9) of the Act wherein a dental hygienist is defined as a "person licensed by the Board who provides preventative oral health services." A dentist is to have evaluated the patient, reviewed diagnostic information, and then determined a treatment plan that included scaling and root planing. These are procedures that should not be performed by hygienists outside the dental office and without the examination and evaluation by a dentist as would be allowed in Section 8.5.

Comment #10:

General Supervision Section 8.4.(n)(1) does not permit a person to "practice dental hygiene in a manner that is separate or otherwise independent from a supervising dentist." This conflicts with General Supervision Section 8.4.(h) which permits a dental hygienist to perform services without supervision of a dentist, thus independent of a supervising dentist.

Comment #11:

Public Health Practice Section 8.5 permits hygienists to provide all of the 19 services contained in General Supervision Section 8.4.(i). This conflicts with §30-4-3.(9) wherein a dental hygienist is defined as a "person licensed by the Board who provides preventative oral health care services" because some of the services and procedures among those 19 contained in Section 8.4.(i) or other than preventive.

While some of these services may be performed by hygienists in public health settings in a manner that protects public safety, it is not in the public's best interest for all of these services to be provided in public health settings without a prior exam by a dentist, services being authorized by a dentist prior to treatment, then evaluated by a dentist after treatment, as included in the definition of "general supervision."

Comment #12:

§30-4-3.(20) of the Act defines "public health practice" as treatment or procedures in a public health setting which shall be designated by a rule promulgated by the Board of Dental Examiners to require direct, general or no supervision of a dental hygienist by a licensed dentist. The Board did not comply with this definition in promulgating its emergency rule. For example, there are no services or procedures requiring direct supervision by dentists.

Comment #13:

The Board's emergency rule conflicts with Sections 8.2. and 8.3 of the existing rule wherein direct supervision of hygienists is required in the dental office for certain procedures. The emergency rule permits many of the same procedures to be performed by hygienists under no

supervision in public health settings outside the dental office. This is not in the best interest of the public, and creates two levels of dental care for the public.

Comment #14:

Public Health Practice Section 8.5.(d) requires a hygienist to have a written agreement with a sponsoring dentist who shall authorize and monitor the delivery of hygiene services. Current law in §30-4-3.(3) defines “authorize” to mean that the “dentist is giving permission or approval to dental auxiliary personnel to perform delegated procedures in accordance with the dentist’s diagnosis and treatment plan.” Therefore, the sponsoring dentist will have to exam patients, diagnose their conditions and establish a treatment plan for each before authorizing the dental hygienist to provide services.

8.5(d). does not identify conditions to be included in the agreement. For example, the rule should identify services requiring no supervision by a dentist, services requiring general supervision, and services requiring direct supervision that may be included in an agreement.

The emergency rule does not define a “sponsoring dentist” or “monitor.” There are no such terminology in the CDT manual or dental nomenclature.

Comment #15:

Public Health Practice Section 8.5.(i) conflicts with the Dental Practice Act, §30-4-3.(3), wherein “authorize” means “the dentist is giving permission or approval to dental auxiliary personnel to perform delegated procedures in accordance with the dentist’s diagnosis and treatment plan.” Thus, an examination by a dentist is required in order for a patient’s condition can be diagnosed and treatment plan prescribed, including services to be provided by a hygienist.

No provision of Section 8.5. calls for an examination by a dentist so that patients’ conditions can be diagnosed and a treatment plan be prescribed by the examining dentist. While it may be safe for some services to be provided patients without a prior examination and diagnosis by a dentist, it is not in the public’s best interest for other services to be provided . For example, bleaching agents should not be applied to cracked, fractured or decayed teeth. A hygienist would not know if teeth were carious or fractured since such conditions must be ascertained via examination, interpretation of an X-ray and diagnosed by a dentist.

Comment #16:

Public Health Practice Section 8.5.(d) calls for the sponsoring dentist to monitor the delivery of hygiene services. The emergency rule does not define “monitor the delivery of hygiene services.” Is this to be an evaluation of the hygienist’s services after they are provided a patient? Did the Board intend for a sponsoring dentist to follow the hygienist he/she is permitted to sponsor from one public health setting to another to monitor the delivery of hygiene services? If so, that’s going to be especially difficult, if not impossible, for a dentist who may sponsor four (4) hygienists in public health practice as permitted in the emergency rule under Section 8.5.(h) and maintain a private practice.

Comment #17:

WVDA supports public health practice. WVDA suggests the Board identify services hygienists may provide under direct supervision, general supervision or no supervision in public health settings. If the Board does not limit the services hygienists may perform in the public health settings, dentist will elect not to sponsor a hygienist because of the liability exposure.. That will defeat the intent of expanding oral health care.

Comment #18:

The Board is advised that a WV Supreme Court ruling in March 2007 results in dental hygienists not having the benefit of medical malpractice reform passed by the Legislature if they practice independently because dental hygienists are not defined as "health care provider" in the Medical Professional Liability Act.

DEFINITIONS IN DENTAL PRACTICE ACT APPLICABLE TO RULES

These are definitions in the Act (law) that apply to the Board's rule.

§30-4-3. (3) "Authorize" means that the dentist is giving permission or approval to dental auxiliary personnel to perform delegated procedures in accordance with the dentist's diagnosis and treatment plan.

§30-4-3. (6) "Delegated procedures" means those procedures specified by law or by rule of the Board and performed by dental auxiliary personnel under the supervision of a licensed dentist.

§30-4-3. (7) "Dental assistant" means a person qualified by education, training and experience who aids or assists a dentist in the delivery of patient care in accordance with delegated procedures or who may perform non-clinical duties in the dental office.

§30-4-3. (8) "Dental auxiliary personnel" or "auxiliary" means dental hygienists and dental assistants who assist the dentist in the provision of oral health care services to patients.

§30-4-3. (9) "Dental hygienist" means a person licensed by the Board who provides preventative oral health care services in the dental office and in a public health setting.

§30-4-3. (11) "Dental office" means the place where the licensed dentist and dental auxiliary personnel are practicing dentistry.

§30-4-3. (14) "Dentistry" means the evaluation, diagnosis, prevention and treatment of diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures provided by a dentist.

§30-4-3. (15) "Direct supervision" means supervision of dental auxiliary personnel provided by a licensed dentist who is physically present in the dental office or treatment facility when procedures are being performed.

§30-4-3. (16) "General supervision" means a dentist is not required to be in the office or treatment facility when procedures are being performed by auxiliary personnel, but has personally authorized the procedures and will evaluate the treatment provided by the dental auxiliary personnel.

§30-4-3. (20) "Public health practice" means treatment or procedures in a public health setting which shall be designated by a rule promulgated by the Board of Dental Examiners to require direct, general or no supervision of a dental hygienist by a licensed dentist.

§30-4-3. (21) "Public health setting" means hospitals, schools, correctional facilities, jails, community clinics, long-term care facilities, nursing homes, home health agencies, group homes, state institutions under the WV Department of Health and Human Resources, public health facilities, homebound settings, accredited dental hygiene education programs and any other place designated by the board by rule.

PROVISIONS IN DENTAL PRACTICE ACT APPLICABLE TO RULES

No provision of the Board's rule can conflict with or exceed provisions of the Act (law), nor can any provision of the rules permit hygienists to perform procedures not permitted in the Act.

Among powers given the Board under the Act, the Board may propose rules in accordance to implement the provisions of the Act.

Within the rule-making authority given the Board under §30-4-6. (8) and (10) of the Act, the Board is to designate procedures dentists may delegate to dental hygienist and dental assistant.

Under §30-4-15 of the Act, the practice of dentistry includes, in part, the following:

- (1) Coordinating dental services to meet the oral health needs of the patient.
- (2) Examining, evaluating and diagnosing diseases, disorders and conditions of the oral cavity, maxillofacial area and adjacent and associated structures;
- (3) Treating diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures;
- (4) Providing services to prevent diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures;
- (9) Employing and supervising dental auxiliary personnel; and
- (10) Authorizing delegated procedures to be performed by dental auxiliary personnel.

Under §30-4-17 of the Act, the scope of practice for dental hygienists includes the following:

- (1) Performing a complete prophylaxis, including the removal of any deposit, accretion or stain from the surface of a tooth or a restoration;
- (2) Applying a medicinal agent to a tooth for a prophylactic purpose;
- (3) Taking a dental X-ray;
- (4) Instructing a patient on proper oral hygiene practice;
- (5) Performing all delegated procedures of a dental hygienist specified by rule by the Board; and
- (6) Performing all delegated procedures of a dental assistant specified by rule by the Board.

The scope of practice of dental assistants under §30-4-18 of the Act states dental assistants may perform only those delegated procedures specified by rule by the Board.