



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
DENTAL QUALITY ASSURANCE COMMISSION
BUSINESS MEETING MINUTES
Friday, June 5, 2015

MEMBERS PRESENT

Robert Shaw, DMD, Chair
Charles Hall, DDS, Vice-Chair
Kara Baza, EFDA
Paul Bryan, DMD
James Henderson, Public Member
Bree Kramer, EFDA
LouAnn Mercier, DDS
Kunal Walia, DDS
Todd Cooper, DDS
Hyun Jung Song, DDS
Andrew Vorono, DDS
John Liu, DDS
Aaron Stevens, DMD
Colleen Madden, Public Member
John Carbery, DMD
Karim Alibhai, DMD

MEMBERS ABSENT

LouAnn Mercier, DDS

STAFF PRESENT

Trina Castle, Executive Director
Jennifer Santiago, Program Manager
Erika Montes, Program Representative
Heather Carter, Assistant Attorney General
(AAG)

OTHERS PRESENT

Emily Lovell, Washington State Dental
Association (WSDA)
Anne Burkland, WSDA
Mike Walsh, WSDA
Keith Collins, DMD
Jennifer Bryant, Pacific Dental Services
Melissa Johnson, Washington State Dental
Hygienists' Association, Willamette
Dental
Brad Tower, Comfort Dental
Eddie Nutbrown, Department of Health
(DOH)

OPEN SESSION

1. **CALL TO ORDER** – Dr. Shaw, Chairperson, called the meeting to order at 8:00 a.m.
 - 1.1. The commission, staff, and audience introduced themselves.
 - 1.2. The commission approved an amended agenda, adding items 9.8, 9.9, and 10.3 and removing item 11.
 - 1.3. The commission approved the April 24, 2015 business meeting minutes as presented.
 - 1.4. The commission approved the April 24, 2015 panel A, B, and C minutes as presented. The commission determined panel minutes are unnecessary and are no longer needed.

2. RULES HEARING

A rules hearing to receive public comment was held regarding proposed rule WAC 246-817-460 Sexual Misconduct.

Anne Burkland, Washington State Dental Association, signed in as support of WAC 246-817-460.

No stakeholder testimony or written comment was received.

The commission adopted WAC 246-817-460 as filed on April 22, 2015 as WSR 15-09-138.

3. DENTAL COLLABORATION COMMITTEE

Melissa Rice, Dental Hygiene Examining Committee, Public Member updated the commission on the committee's meetings and progress. The committee has evaluated moving local anesthetics to general supervision and adding head and neck examination and cancer screening to general supervision. The committee will continue to evaluate moving delivery of oral sedative to general supervision and adding delivery of pre-medications to general supervision. The committee has also identified moving taking of identified impressions to general supervision as Senate Bill 5606 passed. The committee plans to present recommendations to the commission at the July 17, 2015 meeting.

4. LEGISLATION

The commission discussed:

4.1. 2015 legislation:

- Senate Bill 5810 requires commission rule change of WAC 246-817-110 and 246-817-150 to remove the notarization requirement on the licensure application. The commission approved a CR101 to open the rules for modification.
- Senate Bill 5606 does not require rule change but does provide authority to change rules. Dental Assistant Scope of Practice Committee is currently working on rule modification to WAC 246-817-520. The Dental Collaboration Committee will be presenting rule modification recommendation at the July 17, 2015 meeting.

4.2. The commission approved requesting the Department of Health to propose 2016 legislation:

- For continuing education for licensed expanded function dental auxiliaries.
- To create a general supervision for dental assistants, specifically to allow delegation of sterilization tasks under general supervision.

5. RULES

- 5.1. WAC 246-817-230 Dentist retired active status – The CR103 Rule Making order was filed on June 2, 2015. The rule is effective July 3, 2015.
- 5.2. WAC 246-817-360 Prescribing, dispensing or distributing drugs – The CR103 Rule Making order was filed on June 2, 2015. The repeal of the rule is effective July 3, 2015.
- 5.3. WAC 246-817-160 Graduates of non-accredited schools – The CR101 to begin rule modification is in the approval process and will be filed soon.
- 5.4. WAC 246-817-120 Examination content – The CR101 to begin rule modification is in the approval process and will be filed soon.
- 5.5. Dental Treatment Record rules – The commission discussed comments received for the following:
 - WAC 246-817-304 – Definitions
 - WAC 246-817-305 – Patient record content
 - WAC 246-817-310 – Patient record retention and accessibility requirements
 - WAC 246-817-315 – Business records accessibility

Proposed rules were provided through email to stakeholders. Twelve comments were received expressing several concerns regarding:

- Six year retention of orthodontia molds
- Six year retention after age of 18 for pediatric patients
- Up-to-date treatment plans
- Adding language to WAC 246-817-315 that includes documents can only be requested during an open investigation.
- Confidentiality and proprietary concerns with business related documents
- Use of the term “relating to” in WAC 246-817-315
- Electronic record software may not meet requirements
- Economic impact
- Use of S.O.A.P.
- Recommendation to survey software companies

Dr. Keith Collins indicated the committee did not consider a pilot study or economic impact at their last meeting. Dr. Collins provided a variety of information related to electronic record software companies; Dentrix and Eaglesoft. He is working with Dentrix on evaluating their software program. Dr. Collins has spoken to several dentists and experts on dental informatics and they also have concerns with the proposed rules. Dr. Collins recommends the commission conduct a survey of software companies, he provided a draft survey. There is a need to request software companies to add a “print to PDF” option to their software. Dr. Collins expressed the proposed rules are not the best option at this time. He expressed the survey is the more economical option versus a pilot study.

Dr. Shaw indicated that record retention is already a problem with software. This is not a new problem with proposed rules.

Dr. Cooper indicated he reviewed the proposed rules after stakeholder comments were received and recommends modification to WAC 246-817-310 to remove the six-year retention after age of 18 for patients under age of 18. He cannot find any source that recommends this length of retention.

Ms. Madden stated that the six-years after age of 18 was evaluated by the committee several years ago. It may be a federal requirement. Ms. Santiago will research and provide the commission information at their next meeting. The six-year requirement may be a statute of limitations for lawsuits. Mike Walsh indicated that medical malpractice has a limit of three years after age of 18. Dr. Stevens recommends the rule should only require records be kept until age of 18 for patients under the age of 18.

The commission discussed the rules set a base guideline. Dentists may go above for their own protection if they want to.

Dr. Shaw asked if Dentrix is willing to modify their software. Dr. Collins thinks they are open to changes. Dr. Collins indicated the rule should identify that “edits” do not need to be kept prior to the entry being locked or completed.

Dr. Cooper stated the commission is not setting standards for electronic records with the proposed rule. The purpose of the proposed rule is to set minimum requirements for a dentist to maintain a record and record content. Comments focus on electronic record software. Dr. Cooper recommends WAC 246-817-305 (4)(a) and (b) does need to be clearer. Data entry is the key.

Dr. Collins indicated concern with WAC 246-817-305 (3)(e) Up-to-date treatment plan. This is unclear, treatment plans change often. Several treatment plans are offered to patients. The commission agreed this would be the last treatment plan agreed on. Elyette Weinstein had concerns with the term “agreed on”. The rule should be more specific, i.e. date of last visit. Dr. Alibhai indicated something has to be in the record to identify there was a change to the treatment plan if a change took place. Dentrix does not maintain previous treatment plans, only current treatment plan.

Dr. Shaw recommends the committee continue to work on this. Dr. Cooper asked the commission to detail what they want the committee to do. He asked the following three questions:

- What does the committee need to do?
- Do electronic software companies have to agree with rules?
- Why does a dentist have to choose the most expensive option?

Ms. Madden stated the rules are for protection of the public and must follow any state or federal requirements. The rule should not focus on making it easier for the dentist. Ms. Weinstein stated, rules should not have to conform to software companies but software companies should have to conform to state rules.

Dr. Shaw expressed concern with potential economic impact. Can the commission influence software companies. Cost will be passed on to patients.

Dr. Alibhai indicated there is a simple solution regarding up-to-date treatment plan, make a notation of treatment plan changes in notes.

Dr. Walia explained there are many software platforms available. He personally uses a free software platform.

Dr. Liu stated we are already required to keep records.

Dr. Cooper made a motion to modify the rules:

- Modify WAC 246-817-305 (3)(e) up-to-date treatment plan to provide clarity.
- WAC 246-817-310 (2) change six-years after age of 18 to six-years beyond last treatment. This would be same as WAC 246-817-310(1). Delete paragraph (2).
- Modify WAC 246-817-305 (4)(b) to indicated its ok to make changes until entry signed.

Anne Burkland indicated that financial records are included in the proposed rule as written. The commission agreed that is the intention. Dr. Collins indicated financial records are separate from treatment records. Different software is used.

Dr. Liu seconded Dr. Cooper's motion. The commission approved the changes and will review at the July 17, 2015 meeting.

- 5.6. WAC 246-817-187 Temporary practice permit – Military spouse eligibility and issuance – The CR103 Rule Making order was filed on May 7, 2015. The rule is effective June 7, 2015.
- 5.7. The commission reviewed list of priorities for rule modifications. No changes.

6. DENTAL ANESTHESIA COMMITTEE

- 6.1. Dr. Cooper updated the commission on the May 20, 2015 committee meeting. The committee met with Dr. Lindner from Pennsylvania regarding Pennsylvania's on-site evaluation program for sedation sites. Pennsylvania evaluation program is similar to the American Association of Oral and Maxillofacial Surgeons evaluation process. The committee supports the process and would like to consider using it in the future. Rule change would be required to implement.
- 6.2. The commission reviewed rule comments received. No new concerns were received. Pediatric dentists continue to express a need to have different

requirements for pediatric sedation. The commission agreed they cannot address pediatric dentists concerns without a major re-write of the section to separate pediatric sedation administration.

- 6.3. The commission reviewed proposed rule language – WAC 246-817-701 through 790 Administration of anesthetic agents for dental procedures.
- WAC 246-817-724 Recordkeeping, equipment and emergency medications or drugs required in all sites where anesthetic agents of any kind are administered
 - WAC 246-817-740 Minimal sedation by inhalation
 - WAC 246-817-745 Minimal sedation
 - WAC 246-817-755 Moderate sedation
 - WAC 246-817-760 Moderate sedation with parenteral agents
 - WAC 246-817-772 Training requirements for anesthesia monitor

The commission approved proposed rules. Ms. Santiago will prepare a CR102 Proposed Rule Making order to schedule a hearing date.

The commission also approved a CR101 to re-open the administration of anesthetic agents for dental procedure section to begin addressing pediatric dentist concerns.

7. DENTAL ASSISTANT SCOPE OF PRACTICE COMMITTEE

Dr. Hall updated the commission on the May 22, 2015 committee meeting. The committee worked with stakeholders, including orthodontists, to modify allowable dental assisting task rules. The committee worked with stakeholders to address the delegation task of removing composite cement. There was discussion about creating training requirements associated to this one task. The committee with stakeholder input determined to insert statute language into the introduction paragraph of rule, “the dental assistant has demonstrated skills necessary to perform each task competently.” Additionally, the Washington State Society of Orthodontists agreed to work with the Washington State Dental Association to create a training guideline for dental assistants that remove cement. Ms. Santiago recommends to delete last sentence in WAC 246-817-540 (7) as it is unnecessary because of Senate Bill 5606 changes and the addition of other language in this item.

The commission approved the propose rules. Ms. Santiago will send proposed rules to stakeholder for comment. The commission will evaluate any comments at their July 17, 2015 meeting.

8. POLICIES / GUIDELINES

The commission reviewed the following policies and interpretative statement comment sheet:

- 8.1. Washington State Dental Association requested in April 2015 the commission use Academy of General Dentistry PACE guidelines as a standard when approving groups for exemption. Dr. Bryan expressed concerns with the PACE review

process. Dr. Song indicated that PACE approves organizations not individual courses. Ms. Santiago provided an updated commission guideline that included the following:

- Appropriate post course care is provided, either through the practitioner who treated the patient during the course or through some reasonable alternative arrangement.
- Attendance rosters of students and patients and patient treatment records should be maintained according to Dental Quality Assurance Commission records retention.
- Confirmation of the ability of an instructor to complete treatment of patients if the participant dentist is unable to do so.
- A maximum acceptable instructor to participant dentist ratio of 1:15 during any hands-on activity must be maintained. Attention to group size is mandatory when planning an activity that requires participants to perform complex tasks requiring supervision and evaluation and the 1:15 ratio may be deemed inappropriate and thus modified.
- Acceptable venues for performance of clinical procedures must include aseptic conditions (where possible, and, where not possible, antiseptic conditions), equipment, and instruments, as well as emergency medications, oxygen and a defibrillator.

The commission approved the updated guideline.

- 8.2. Lutheran Medical Center requested in April 2015 that the commission approve their residency graduates to obtain licensure by residency in lieu of examination. The commission agreed guidelines are necessary for fair and consistent review of requests. The commission reviewed a draft guideline. The commission expressed the importance that the training must be completed in Washington State. The commission approved the guideline with modification to indicate training must be completed in Washington State.
- 8.3. The commission reviewed an existing interpretative comment sheet issued November 1, 1996 - Washington Dental Services – Treatment Plan Guidelines. No changes.

9. OTHER

- 9.1. Heather Carter, Assistant Attorney General updated the commission on the recent North Carolina Dental Board/Federal Trade Commission ruling. Ms. Carter will review if the commission has any rules that may violate the federal trade ruling. Texas and Mississippi are currently being sued for different issues. Dr. Carbery indicated the American Association of Dental Board has been discussed at the April 2015 meeting.
- 9.2. The commission discussed obtaining medications for emergency office kits, wholesale vs. pharmacy resale. Trina Castle explained the concern the department received that obtaining emergency drug from a wholesaler may not be an appropriate option for dentists. The Pharmacy Quality Assurance Commission will be discussing at their June 11, 2015 meeting. There may be statute's that allow

pharmacies to sale via invoice to practitioners. Potentially, the Dental Quality Assurance Commission and the Pharmacy Quality Assurance Commission could work on a shared guideline. The commission will discuss again at their July 17, 2015 meeting.

- 9.3. The commission approved updated investigation notification letters when a self-report is received. The commission also approved a process change. Case management will request information required in the 30-day report before the commission initially assesses the self-report.
- 9.4. The commission discussed tasks that may be included in a pro-tem commission member appointment. The commission agreed appropriate training is necessary to be included on pro-tem appointments.
- 9.5. The commission reviewed their bylaws. No changes.
- 9.6. The commission reviewed their operating agreement with the Department of Health. No changes.
- 9.7. Dr. Liu reported on the Dental Quality Alliance meeting he attended on May 1, 2015.
- 9.8. The commission approved a request for presentation to Washington Academy of General Dentists on September 17 and 19, 2015. Dr. Carbery will provide the presentation.
- 9.9. The commission approved a request for Dr. Shaw to present to the Inland Empire Management Study Club on October 20, 2015.

10. PUBLIC DISCLOSURE

The commission approved the following requests to be approved professional associations or educational organization to receive list and labels:

- 10.1. Washington Association of Physician of Indian Origin – Approved.
- 10.2. Advantage Dental – five-year renewal – Approved.
- 10.3. Oregon Academy of General Dentistry – Approved.

11. EDUCATIONAL OUTREACH COMMITTEE

The commission removed this item from the agenda.

12. EXPANDED FUNCTION DENTAL AUXILIARY EDUCATION COMMITTEE

Dr. Shaw updated the commission on the May 8, 2015 committee meeting. The commission previously determined expanded function dental auxiliary education programs must renew their program approval every six years. The committee continues to evaluate what information is necessary and how to complete the six-year renewal.

13. CORRESPONDENCE

The commission received a copy of the response letter:

- 13.1. Washington State Dental Association regarding their request to the commission to consider new rules requiring all dentists to take jurisprudence/ethics education as a condition of license renewal.
- 13.2. Washington State Dental Association regarding their request to the commission adopts the Academy of General Dentistry's PACE guidelines as the standard for all groups providing continuing dental education.
- 13.3. Affiliated Monitors, Inc. regarding their organization.
- 13.4. Dr. Hamilton regarding his concerns with the sedation permit application requirements.
- 13.5. Dr. D'Emilio at Lutheran Medical Center regarding their request for site location approval for their graduates to be eligible for licensure by residency in lieu of examination.

14. PROGRAM REPORT – Jennifer Santiago and Trina Castle

- 14.1. The commission received the April interim operating budget report. The report showed a positive balance. Staff will continue to monitor budget.
- 14.2. Ms. Santiago shared the web page update regarding California portfolio examination not accepted for Washington State licensure.
- 14.3. Ms. Santiago reported the Nursing Quality Assurance Commission has invited multiple professions staff to participate on a Scope of Practice Inter-Professional Workgroup. Trina Castle and Jennifer Santiago will participate.
- 14.4. Ms. Santiago reported that the Josh Shipe, Customer Service Center Manager is evaluating the online renewal receipt for possible changes to include the service fee charge on the receipt.
- 14.5. Ms. Santiago updated the commission that the Department of Health is working on creating citrix accounts for commission members. A citrix account will allow commission members to access documents directly on the department's network rather than through email and downloading onto personal computers.
- 14.6. Twenty-three applications were received for the two available dentist positions. There were three applicants for the one public member position. The Governor's office is currently evaluating applicants and should make a decision by June 30, 2015.
- 14.7. Dr. Stevens will be attending the June 22, 2015 Board, Commission, and Committee New Member Orientation. Ms. Santiago will request the newly appointed commission member attend the September 18, 2015 orientation.
- 14.8. The commission received a list of active committees. The commission appointed Dr. Cooper chairperson of the Dental Anesthesia Committee.

15. REGIONAL BOARD UPDATES

- 15.1. Dr. Bryan will attend the July 24, 2015 Western Regional Examining Board (WREB) Dental Exam Review Board meeting.
- 15.2. Dr. Mercier may attend the August 20-22, 2015 Central Regional Dental Testing Service, Inc. annual meeting.

- 15.3. Dr. Carbery provided a report on the April 26-27, 2015 American Association of Dental Boards (AADB) meeting. AADB focused on dentist impairment and available assessment programs. Ms. Weinstein indicated the department's legal office recommends a prosecuting assistant attorney general attend next AADB meeting and attorney roundtable.

16. ELECTIONS

The commission elected by ballot Dr. Charles Hall as 2015-2016 Chairperson and Colleen Madden, Public member as 2015-2016 Vice-Chairperson.

17. ACKNOWLEDGEMENTS

The commission acknowledges:

- Erika Montes for her contribution as program support for the commission. Ms. Montes has accepted a promotional opportunity at another state agency.
- Dr. Andrew Vorono for eight years of service to the commission.
- Dr. Robert Shaw for his service as 2014-2015 Chairperson.

16. FUTURE COMMISSION BUSINESS

The commission had no future business topics at this time.

The commission adjourned at 11:27 a.m.

Submitted By:

Commission Approval By:

Signature on file
Jennifer Santiago, Program Manager

Signature on file
Charles Hall, D.D.S., Chairperson