

**BOARD OF DENTISTRY
RULES COMMITTEE AGENDA
VIA TELEPHONE CONFERENCE CALL - CALL WILL BEGIN IMMEDIATELY
FOLLOWING DENTAL RECORDS COMMITTEE MEETING WHICH BEGINS
AT 6:00 P.M., EDT
MAY 13, 2014**

Call In Number (888) 670-3525, Participant Pass Code: 5805370981

- I. CALL TO ORDER/ROLL CALL**
- II. REVIEW OF MINUTES FROM OCTOBER 15, 2012 MEETING**
- III. ITEM FOR TOPIC DISCUSSION**
 - A. Rule Draft 64B5-17.002, FAC, Written Dental Records; Minimum Content, Retention**
 - B. Rule 64B5-2.0146, FAC, Licensure Requirements for Applicants from Non-Accredited Dental Schools or Colleges**
 - C. Rule 64B5-2.021, FAC, Additional Education Requirements for Reexamination**
- IV. OLD BUSINESS**
- V. NEW BUSINESS**
- VI. ADJOURNMENT**

***To connect to the conference call, dial the following number: 888-670-3525 a minute or two prior to the start time of the meeting. You will then be prompted to enter a "participant pass code", which is 5805370981, followed by the # sign.**

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**BOARD OF DENTISTRY
RULES COMMITTEE
VIA TELEPHONE CONFERENCE CALL – IMMEDIATELY
FOLLOWING TEACHING PERMIT COMMITTEE MEETING WHICH BEGINS
AT 6:00 P.M., EDT
OCTOBER 15, 2012**

CALL TO ORDER

The meeting was called to order at 6:55 p.m. by Dr. Gesek, Chair. Those present for all or part of the meeting included the following:

Committee members present:

Dr. Dan Gesek, Chair
Dr. Carol Stevens

Committee member absent:

Dr. Carl Melzer

Staff present:

David Flynn, Board Counsel
Sue Foster, Board Director
Cindy Ritter, Program Administrator

Others present:

Dr. Joe Thomas, board member
Dr. Wade Winker, board chair

Dr. Betty Klement
Dr. Robert Perdomo, board member
Dr. Don Erbs, Florida Dental Association
Ms. Joe Ann Hart, Florida Dental Association
Ms. Helen Douglas, Florida Dental Hygiene Association
Ms. Cathy Cabanzon, board member
Dr. Taner Sayin, Nova
Dr. Atila Miranda, Nova
Dr. Ann Marie Pereira, Nova
Dr. Anamaria Cabel, Nova
Mr. Ed Bayo, Esq.
Dr. Robert Nixon
Dr. Charles Llano
Dr. Dennis Stone

ITEMS FOR REVIEW AND DISCUSSION

64B5-2.0146, FAC, Licensure Requirements for Applicants from Non-Accredited Schools or Colleges

The Committee reviewed the summaries on page 1 of the agenda concerning the two different views of this rule following the legislative change in ss. 466.006(3)(b), F.S. which became effective on March 23, 2012.

Following discussion, the following action was taken by the Committee:

Motion: by Dr. Stevens to accept the first scenario which includes pediatric and prosthodontics programs as well as advanced education in general dentistry and general practice residency programs.

Second: by Dr. Gesek

Vote: unanimous

Motion: by Dr. Gesek to grandfather residents currently enrolled in a residency program

Second: by Dr. Stevens

Vote: unanimous

The question was asked if variance or waivers would continue if specialties were included and Mr. Flynn advised he wrote the first draft to define the statute so this should eliminate any successful variance or waiver requests.

Dr. Gesek instructed Mr. Flynn to develop a rule draft to grandfather those enrolled in residency programs at the time the statute became effective on March 23, 2012 to permit them to sit for the examination with time frame for completion. A legislative amendment for a grandfather period was discussed.

64B5-17.002, FAC, Written Dental Records; Minimum Content; Retention

The Petition for Rulemaking of Nova Southeastern University was presented to the Board at the August 17, 2012 meeting by Edwin Bayo, Esq. This was referred by the Board to the Rules Committee. A rule draft was provided on page 10 of the agenda entitled (7) Limited Screenings, Examinations and/or Treatments.

Following discussion, the following action was taken by the Committee:

Motion: by Dr. Stevens to accept the rule draft
Second: by Dr. Gesek
Vote: unanimous

64B5-14.0032, FAC, Itinerate Anesthesia -Use of Physician Anesthesiologist

The Committee reviewed the rule draft provided by Counsel and following discussion, the following action was taken by the Committee;

Motion: by Dr. Stevens to accept the rule draft
Second: by Dr. Gesek
Vote: unanimous

64B5-14.0034, FAC, Itinerate Anesthesia - General Anesthesia Permit Holders

The Committee reviewed the rule draft provided by Counsel and following discussion, the following action was taken by the Committee;

Motion: by Dr. Stevens to accept the rule draft
Second: by Dr. Gesek
Vote: unanimous

64B5-14.0036, FAC, Use of Non-Permitted Specialty Dentists to Treat Sedated Patients

The Committee reviewed the rule draft provided by Counsel and following discussion, the following action was taken by the Committee;

Motion: by Dr. Stevens to accept the rule draft
Second: by Dr. Gesek
Vote: unanimous

64B5-14.0038, FAC, Direct Supervision of a Qualified Anesthetist

The Committee reviewed the rule draft provided by Counsel and following discussion, the following action was taken by the Committee;

Motion: by Dr. Stevens to accept
Second: by Dr. Gesek

Vote: unanimous

64B5-14 -- Continuing working discussion

Mr. Flynn requested that the chapter be placed on this agenda in case the Committee requested other changes in this section.

Dr. Gesek requested that Dr. Stevens work with Dr. Klement on any issues regarding the anesthesia rules and submit to board counsel. Dr. Gesek also requested that Dr. Rayner be contacted to see if he feels anything needs to be added to the general anesthesia rules. He asked that board staff develop a plan for inspection at offices where general anesthesia by anesthesiologist will be performed at dentist's office.

FOR YOUR INFORMATION

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 7:45 p.m.

**RECORDS TASK FORCE COMMITTEE
JANUARY 16, 2014**

The following changes to rule 64B5-17.002, *Florida Administrative Code*, are based on the recommendations made at Committee Meetings held on October 22, 2013 and January 16, 2014.

Recommendations from January 16, 2014 are coded with an Underline for additions and a ~~Strikethrough~~ for deletions.

64B5-17.002 Written Dental Records; Minimum Content, Retention.

1) For the purposes of implementing the provisions of subsection 466.028(1)(m), F.S., a dentist shall maintain written dental records on each patient which shall contain, at a minimum, the following information:

- a. **Medical History**: Appropriate medical history including any current or previous medical conditions, surgeries, hospitalizations, medications, and legible blood pressure readings (when taken). The updating and review of the medical history, which is done at each appointment, must also be documented.
- b. **Examination and Tests**: Results of clinical examination and tests conducted, including the identification, or lack thereof, of any oral pathology or diseases. ~~and to include, but not limited to the following:~~

- ? ~~i. Charting of all existing dental restorations;~~
- ? ~~ii. Charting of all existing dental pathology;~~
- ~~iii. Evaluation of the Temporomandibular Joint (TMJ) and occlusion; and~~
- ~~iv. Periodontal evaluation including periodontal probing, evaluation of supporting bone and soft tissues, tooth mobility, and presence of gingival inflammation and in~~

There was support to delete everything after the word "diseases." Needs a final Committee vote.

- c. **Radiographs**: Any radiographs, and the results thereof, used for the diagnosis or treatment of the patient to include, but not limited to the following:
 - i. Intraoral and extra oral radiographs, such as a Full Mouth Series, Panoramic, Cone Beam, Cephalometric, Bitewing, Extra Oral, Occlusal and Periapical radiographs, which are necessary to enable and support appropriate diagnosis and treatment rendered; and
 - ? ii. Limited radiographs for treating emergency patients which are necessary to enable and support appropriate diagnosis and treatment for the limited emergent examination.

Needs a Committee vote to delete or keep ii.

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- d. **Treatment Plan & Options**: Treatment plan and treatment options proposed by the dentist.
- e. **Treatment**: Treatment rendered to the patient, including but not limited to the following , when applicable to the treatment performed:
- i. Type, amount, and mode of delivery (i.e., Mandibular block, Infiltration, etc.) of local anesthesia used;
 - ii. Type and shade of restorative material used;
 - iii. Preoperative and/or postoperative medications prescribed;
 - iv. Medications delivered, administered, or provided to the patient during treatment or for use following treatment;
 - v. Radiographs taken;
 - vi. Impression material and type of impression taken (i.e., maxillary, mandibular, interocclusal, digital, etc.);
 - vii. Medicaments, medications, sutures, irrigants, or bases applied to teeth or periodontal tissues;
 - viii. Names or initials of all staff involved with clinical care of the patient;
 - ix. Use of dental barrier or rubber dam;
 - x. ~~Unusual or unexpected events or reactions during or after the procedure;~~
 - xi. ~~Tooth name, letter or number treated; and~~
 - xii. Tooth treated identified by name, number or letter;
 - xiii. Working length, canals treated, identify untreated canals and reason left untreated, master apical files size, and obturation materials used during endodontic procedures; and
 - xiv. Unusual or unexpected events or reactions during or after the procedure including, but not limited to separation, breakage, retention, swallowing or aspiration, of any instrument or portion thereof.
- f. **Consent**:
- i. General consent of the patient, legal representative, or legal guardian permitting the dentist to provide dental care.
 - ii. Specific consent listing the expected outcomes, potential complications, risks, benefits and need for additional treatment for procedures with higher associated risk (i.e., Surgical, endodontic, orthodontic, periodontal procedures, etc.).

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iii. Written and signed informed consent is not mandated by the Dental Practice Act. However, pursuant to s. 766.013(4)(a), F.S., written signed informed consent creates a rebuttable presumption of valid consent.

g. **Record Alterations:** Any additions, corrections, modifications, annotations, or alterations (hereinafter “change”) to the original dental record entry must be clearly noted as such and must include the date when the change was made, must be initialed by the person making the change, and must have an explanation for the change. An original entry to the record cannot be partially or wholly removed. Rather, to represent the deletion of a record entry, the entry must be struck through where it will remain legible (i.e., change). A change made on the same date of the original entry must also include the time of the change entry.

2) **Record Transfer or Release:** Whenever patient records are released or transferred, the dentist releasing or transferring the records shall maintain either the original records or copies thereof and a notation shall be made in the retained records indicating to whom the records were released or transferred and the authority for such release. Transfer of records in a multi-practice dental office shall be done and documented in strict accordance with s. 466.018, F.S.

3) **Record Retention Period:** A dentist shall maintain the written dental record of a patient for a period of at least four (4) years.

- a. The beginning of the four (4) year retention period shall be calculated from the date the patient was last examined or treated by the dentist.
- b. Upon the death of the dentist, the retention provisions of Rule 64B5-17.001, F.A.C., are controlling.
- c. Dentists should retain records as long as needed not only to serve and protect the patient, but also to protect themselves against adverse actions. The retention period required by this rule may well be less than the length of time necessary for protecting the patient or the dentist. A dentist may wish to seek advice from private counsel or their malpractice insurance carrier on appropriate retention beyond four (4) years.

4) **Appointment Book:** Each licensed dentist shall retain a copy of each entry in his or her patient appointment book or such other log, calendar, book, file or computer data, used in lieu of an appointment book, for a period of no less than four (4) years from the date of each entry thereon.

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This section may warrant further discussion by Committee.

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- 5) **Dentist of Record**: All records that are required by this rule and any other patient record shall be properly annotated to identify the dentist ~~of~~ record. The dentist of record is the dentist who:
- a. Is identified and noted in the patient record as the dentist of record;
 - b. Provides a specific treatment or service and is noted in the patient record as the dentist of record for that treatment or service;
 - c. If there has been more than one provider of treatment, is the dentist who places the final restoration, does the surgical procedure, makes the diagnosis or finishes the service or procedure in question; or
 - d. If there has been more than one provider of treatment and neither paragraph (a) or (b) or (c) can be determined with reasonable certainty, the dentist of record reverts entirely back to the Florida licensed ~~is the~~ owner dentist of the dental practice in which the dental patient is seen or treated.
- 6) **Owner of Dental Practice**: All dental records required by this rule and any additional records maintained in the course of practicing dentistry shall be the property of the Florida licensed owner dentist of the dental practice in which the dental patient is seen or treated and the owner dentist shall be ultimately responsible for all record keeping requirements set forth by statute or rule.
- a. The Florida licensed owner dentist is responsible for the records of patients seen or treated by any employee, associate, or visiting dentist.
 - b. Multiple owners are severally and equally responsible for the records of patients seen or treated with the dental practice of that dental group.
 - c. An lessor or owner dentist is not responsible for the records of an independent dentist who is merely leasing or renting space or staff services for the operation of a separate dental practice within the owner dentist's physical facility.
- 7) **Electronic Dental Records**: Patient records may be kept in an electronic format, provided that the dentist maintains a back-up copy of information stored in the back-up data processing system using disk, tape, or other secure electronic back-up system, on site or off site, as long as the back-up system is updated in a time frame that does not exceed seventy-two hours (72 hrs.) ~~7 days~~, to assure that data is not lost due to system failure. Any electronic ~~data base~~ system must be capable of producing a hard copy on lawful demand in accordance with and pursuant to federal or state laws and rules.

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Will the 72 hour back-up versus every week create any additional costs?

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- 8) **Pro-Bono Dental Events:** The Board of Dentistry encourages the provision of pro-bono dental screenings through organized events such as Dental Health Screenings and Give Kids a Smile Program. A strict interpretation of this rule would preclude such efforts to the detriment of the public. Therefore, the Board deems that any records generated as a result of such limited, one-time pro-bono dental screenings, examinations, or treatments through organized events should be consistent with the nature and scope of the services rendered, should be provided to the recipient or guardian and will not result in the dentist performing such services becoming the dentist of record. The minimum content and record retention set forth in this rule shall not govern or be required. ~~be required~~. When the dentist performs such examinations or treatments each recipient or guardian shall be informed in writing of the following:
- a. The limitation of the screening to one-time dental examination and treatment that can reasonably be performed on the same day of screening. In addition, such examinations or treatments would or would not reasonably require follow-up treatment;
 - b. The results of the screening examination or treatments; and
 - c. That the screening is not representative of or a substitute for a comprehensive dental examination.
- 9) Effective Date: The amendments to this rule shall become effective on January 1, 2015. Until the effective date of this amended rule, the rule with the effective date of March 27, 2013 controls. The amendments to this rule are to be applied prospectively.

64B5-2.0146 Licensure Requirements for Applicants from Non-Accredited Schools or Colleges.

Prior to applying to take the American Dental Licensing Examination (ADLEX), as specified in Rule 64B5-2.013, F.A.C., complete and submit Application for Credentials Review For Graduates From Non-Accredited Dental Colleges or Schools, Form DH-MQA 1254, (10-11), incorporated herein by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-02022> or the Department of Health's website at <http://www.doh.state.fl.us/mqa/dentistry>.

(1) An applicant who otherwise meets the requirements of Section 466.006(3), F.S., and chooses to apply pursuant to Section 466.006(3)(a), F.S., will be required to:

(a) Complete, at an accredited American dental school, a matriculated general dental program which consists of either 4 years of dental subjects or 2 years of pre-dental education followed by 3 years of dental subjects.

(b) Receive a D.D.S. or D.M.D. from the institution at which the dental school is located.

(c) Present to the Board at least 30 days prior to the dental examination the following documents:

1. Official transcripts issued by the dental school which verify completion of all coursework requirements of the dental program or certified copies thereof.

2. A D.D.S. or D.M.D. issued by the dental school or a certified copy thereof.

(2) An applicant who otherwise meets the requirements of Section 466.006(3), F.S., and chooses to apply pursuant to Section 466.006(3)(b), F.S., will be required to:

(a) Complete a full-time, matriculated, American Dental Association recognized dental specialty education program accredited by the Commission on Dental Accreditation of the American Dental Association or a Commission on Dental Accreditation of the American Dental Association accredited supplemental general dentistry programs, which provides didactic and clinical education to the level of an accredited D.D.S. or D.M.D. program, either of which have a duration of at least two consecutive academic years at the sponsoring institution.

(b) Receive a dental diploma, degree or certificate from the sponsoring institution upon successful completion of the program.

(c) Present to the Board the following documents:

1. Official transcripts issued by the sponsoring institution which verify completion of all coursework requirements of the supplemental dental education program;

2. A dental diploma, degree or certificate issued by the sponsoring institution or a certified copy thereof; and

(3) It is the applicant's responsibility to assure that the application for licensure is complete, including assuring that all required documents are submitted timely.

(4) After approval to sit for the ADLEX examination, the applicant shall successfully complete the practical or clinical examination which is the American Dental Licensing Examination (ADLEX) produced by the American Board of Dental Examiners and the Diagnostic Skills Examination, as specified in Rule 64B5-2.013, F.A.C., through the North East Regional Board of Dental Examiners, Inc. (NERB). Candidates who have completed the ADLEX after October 1, 2011 in another jurisdiction other than Florida are subject to additional requirements as stated in Section 466.006, F.S.

(5) After completion of the ADLEX examination, applicants shall submit Dental Licensure Application, Form DH-MQA 1182 (Rev. 8/12), incorporated herein by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-02019> or the Department of Health's website at <http://www.doh.state.fl.us/mqa/dentistry>.

Rulemaking Authority 466.004(4), 466.006(3) FS. Law Implemented 466.006 FS. History—New 10-15-92, Formerly 21G-2.0146, 61F5-2.0146, Amended 9-24-96, Formerly 59Q-2.0146, Amended 8-19-97, 5-20-01, 6-7-05, 12-26-06, 6-30-09, 3-18-12, 12-11-12.

64B5-2.021 Additional Education Requirements for Reexamination.

(1) Any applicant who has failed to pass the clinical examination in three attempts shall not be eligible for reexamination until he or she completes a one year general practice residency, advanced education general dentistry residency, or pedodontic residency or a minimum of one academic year of undergraduate clinical coursework in dentistry at a dental school approved by the American Dental Association's Commission on Dental Accreditation. At the time of application for reexamination the applicant must furnish proof from the educational institution of successful completion of one of the residency programs listed above or the required coursework. However, for those applicants completing their coursework immediately prior to the examination or those applicants who have completed at least 9 months of a general practice residency, who cannot provide an official transcript, proof of having successfully completed the required coursework or residency shall consist of a statement from the dean of the school where the coursework or residency was completed that the requirements of this rule will have been met prior to the date set for issuance of examination grades. Grades received by a candidate taking the examination pursuant to this exception will not be certified, and grade results will be null and void if successful completion of the coursework or residency has not been established prior to the date set for issuance of examination grades. Successful completion of coursework shall be established by submission of an official transcript.

(2) The statutory provision that an applicant complete additional educational requirements if he or she fails to pass a specified portion of the examination three times is interpreted by the Board to mean that additional education shall be required after every third unsuccessful attempt, i.e., after the third, sixth, ninth, etc., attempts.

Rulemaking Authority 466.004 FS. Law Implemented 466.006 FS. History--New 9-4-84, Formerly 21G-2.21, Amended 1-6-87, 11-16-89, Formerly 21G-2.021, 61F5-2.021, 59Q-2.021, Amended 6-12-00.