

**BOARD OF DENTISTRY
RULES COMMITTEE AGENDA
VIA TELEPHONE CONFERENCE CALL
NOVEMBER 6, 2014
6:00 P.M. EDT**

Call In Number (888) 670-3525, Participant Pass Code: 9653369235

- I. CALL TO ORDER/ROLL CALL**
- II. REVIEW & APPROVAL OF MAY 13, 2014 MINUTES**
- III. ITEM FOR TOPIC DISCUSSION**
 - A. Rule Draft 64B5-17.002, FAC, Written Dental Records; Minimum Content, Retention**
 - B. Rule 64B5-2.013, FAC, Dental Examination**
 - C. Rule 64B5-2.0146, FAC, Licensure Requirements for Applicants from Non-Accredited Schools or Colleges**
 - D. Rule 64B5-13.0046, FAC, Citation Authority**
 - E. Rule 64B5-9.011, FAC, Radiography Training for Dental Assistants**
 - F. Rule 64B5-12.013, Continuing Education Requirements**
- 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 9653369235, followed by the # sign.**

Please mute your line. Press *6 to mute/unmute the line.

DRAFT

**BOARD OF DENTISTRY
RULES COMMITTEE
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**

CALL TO ORDER/ROLL CALL

The Rules Committee was called to order at 6:48 p.m. by Dr. Perdomo, Chair. Those present for all or part of the meeting included the following:

Committee members present:

Dr. Robert Perdomo, Chair
Dr. Leonard Britten
Dr. Wade Winker
Ms. Catherine Cabanzon, R.D.H.
Dr. Dan Gesek

Mr. Ed Bayo, Esq.
Dr. T.J. Tejera, board member
Ms. Jackie Burt-McDonough, Florida Dental Hygiene Association
Mr. Don Ilkka, Florida Dental Association
Dr. Charles Llano
Dr. Carl Melzer
Mr. Ron Watson
Ms. Casey Stoutamire, Florida Dental Association
Dr. Richard Mufson
Dr. Jeremy Alberts
Dr. Mark Romer
Ms. Jan Barrett, Florida Dental Hygiene Association

Staff present:

David Flynn, Esq.
Sue Foster, Executive Director
Cindy Ritter, Program Administrator

Others present:

Dr. Joe Thomas, Board Chair
Ms. Angie Sissine, R.D.H., board member

REVIEW OF MINUTES FROM OCTOBER 15, 2012 MEETING

The minutes of the October 15, 2012 were reviewed and following review, the following action was taken by the Committee:

Motion: by Dr. Gesek to approve the minutes
Second: by Ms. Cabanzon
Vote: unanimous

ITEM FOR TOPIC DISCUSSION

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

The Committee discussed the rule previously reviewed by the Patient Records Task Force and following review, the following action was taken by the Committee:

Motion: by Dr. Gesek to approve the rule draft as amended in the task force committee

Rules Committee Minutes
May 13, 2014

DRAFT

Second: by Ms. Cabanzon
Vote: unanimous

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

The Committee reviewed this rule with the legislative change in ss. 466.006(3)(b), F.S. which became effective on March 23, 2012. The Committee reviewed rule 64B5-2.0146(2)(a), Florida Administrative Code, which requires 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 Commission on Dental Accreditation of the American Dental Association accredited supplemental general dentistry program..

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

Motion: by Dr. Perdomo to delete lines 33 through 42 with an October 1, 2014 expiration date in the rule draft
Second: by Dr. Gesek
Vote: unanimous

The Committee asked that this rule be discussed further, either at the board meeting on May 16 or handle with another Rules Committee.

Rule 64B5-2.021, FAC, Additional Education Requirements for Reexamination

Committee needs to establish requirements for applicants who fail the computer based Diagnostic Skill Exam three times. See 466.006(5)(a), F.S. Board counsel explained that if an applicant fails the clinical exam three times, the rule requires additional education. However, if an applicant fails the DSE three times, there is no rule to require any additional education. Board counsel will work with one of the Board members to draft a rule for review at the next Rules Committee meeting.

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 7:20 p.m.

Rules Committee Minutes
May 13, 2014

Proposed Rule Change Modifications
64B5-17.002

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

A licensed dentist shall maintain patient dental records in a legible manner and with sufficient detail to clearly demonstrate why the course of treatment was undertaken.

1. **Dental Record:** The dental record shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; reports of consultation or referrals; and copies of records or reports or other documentation obtained from healthcare practitioners at the request of the dentist and relied upon by the dentist in determining the appropriate treatment of the patient.¹

2. **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.)
 - iii. Written and signed informed consent is not mandated by the Dental Practices Act. However, pursuant to s. 766.013(4)(a), F.S., written signed informed consent creates a rebuttable presumption of valid consent.

3. **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. A change made on the same date of the original entry must also include the time of change.

1. *Highlighted text replaces Item 1a-e in the final version of 64B5-17.002 approved on May 13, 2014 by the Rules Committee*

Ritter, Cynthia

From: Alexander Van Ovost <avanovos@irsc.edu>
Sent: Thursday, October 23, 2014 2:27 PM
To: Ritter, Cynthia
Subject: Recent conference call

Good afternoon Cindy,

The conference call last night was not my favorite way of communicating and with twenty people at the same time on one phone is just not very conducive to open communication. I know the proposed rule change is now forwarded to the rules committee and I hope you can get my letter to them forwarded for consideration!

Dear committee members,

I definitely support the attempt to get Rule 64B5-17.002 updated and my suggestion to you is meant to be an improvement and a precautionary to future amendments.

At last night's conference call the statement was made that this rule change has to be such that it can stand the test of time and also be encompassing all facets of dentistry today and in the future.

My effort to discuss this very fact with the current proposed change in 1) e. Treatment rendered, was not understood and quickly passed over.

The items: i through xii are too specific and only cause a possible reason for someone to not write specifics in the chart entry because it was *not* mentioned in those sub categories. This is exactly why the whole discussion on rewriting rule 64B5-17.002 was started!

Dentistry, and the practice of it, is changing by the week and already many procedures are not mentioned; implant dentistry, orthodontics, Botox treatment, periodontics, TMJ treatment, sleep apnea treatment, and many more. Not to mention what will be added in the future.

It is my opinion that the treatment rendered should be complete and the rule should as such solicit that but be a guideline as to leave room for all types/kinds of treatment. This is easier said than done and my suggestion is to find out what our dental programs have in their curriculum. My other suggestion is to step back in time and collect the data from past board meetings and which chart entries – or rather missing ones- are the real problem. Did the lack of mentioning the use of Dycal at any time cause an issue, as an for instance?

I feel very strongly about the proposed list of treatment rendered sub categories being more of a hindrance in reaching the goal of proper chart entries than successful. The more detailed it gets the more loopholes are created!

My last remark is that all of our graduates in assisting and hygiene know how to do proper chart entries and perhaps other colleges as well can start a short continuing education course for OJT assistants in chart entry writing including for digital offices. The latter is the more challenging one! I completely understand the dilemma this Rule change is causing the Dental Practitioners. The only way that would work is for the BOD to make that somehow recommended or a discount on the insurance premium? I am not sure about the possibilities but do know that this would have to be made attractive in some manner in order to make the courses well attended.

Thank you for allowing me to better voice my concerns and solutions,



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Rule 64B5-2.013, Florida Administrative Code

Dental Examination.

Insert the following language:

Candidates for the dental examination may assess patients for suitability as exam patients at any dental office under the direct supervision of a dentist, or at any accredited dental school under the direct supervision of a program faculty member.

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~~ 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><http://www.floridasdentistry.gov/>.

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.

64B5-13.0046 Citation Authority.

(1) Pursuant to Section 456.077, F.S. (2000), the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation and the appropriate penalties for specific violations. In addition to the penalty, the costs of the investigation and prosecution shall be assessed pursuant to Section 456.072(2), F.S. The following subsections indicate those violations which may be disposed of by citation, with the accompanying penalty.

(2) Violation of Section 466.026(1)(a) and/or 466.028(1)(aa), F.S., by practicing for a period of 2-6 months without an active license. The penalty for a dentist shall be a \$1,000.00 fine to be in addition to any reactivation fee, and completion within 6 months of 4 hours of continuing education in risk management. Said continuing education to be in compliance with Rule Chapter 64B5-12, F.A.C., and in addition to any continuing education required for biennial renewal of licensure. The penalty for a dental hygienist shall be a \$250.00 administrative fine.

(3) A first time violation of Sections 466.028(1)(i) and/or 466.028(1)(a), F.S., and/or subsection 64B5-12.013(1) or (2), F.A.C., by renewing a license without completing the required continuing education credits. The penalty for a dentist shall be an administrative fine of \$100.00 per hour not completed as required and completion of all continuing education hours that were not completed. The penalty for a dentist shall be an administrative fine of \$150 for not completing the required training in cardiopulmonary resuscitation (CPR) at the basic life support level. Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed. Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of the citation. The penalty for a dental hygienist shall be an administrative fine of \$25.00 per hour not completed as required and completion of all continuing education hours that were not completed. The penalty for a dental hygienist shall be an administrative fine of \$50 for not completing the required training in cardiopulmonary resuscitation (CPR) at the basic life support level. Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed. Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of citation.

(4) Violation of Rule 64B5-4.002, F.A.C., as follows:

(a) Violation of Rule 64B5-4.002, F.A.C., by failing to properly identify through license number or use of the licensee's commonly used name the Florida licensed dentist, who assumes total responsibility for the advertisement.

(b) Violation of subsection 64B5-4.002(3), F.A.C., by disseminating or causing the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content.

(c) Violation of paragraph 64B5-4.002(3)(a), F.A.C., by disseminating or causing the dissemination of any advertisement that contains misrepresentations of facts.

(d) Violation of paragraph 64B5-4.002(3)(b), F.A.C., by disseminating or causing the dissemination of any advertisement that is likely to mislead or deceive because in its context or in the context in which it is presented it makes only a partial disclosure of relevant facts.

(e) Violation of paragraph 64B5-4.002(3)(c), F.A.C., by disseminating or causing the dissemination of any advertisement that contains laudatory statements about the dentist or group of dentists.

(f) Violation of paragraph 64B5-4.002(3)(d), F.A.C., by disseminating or causing the dissemination of any advertisement that is intended or is likely to create false, unjustified expectations of favorable results.

(g) Violation of paragraph 64B5-4.002(3)(e), F.A.C., by disseminating or causing the dissemination of any advertisement that relates to the quality of dental services provided as compared to other available dental services.

(h) Violation of paragraph 64B5-4.002(3)(f), F.A.C., by disseminating or causing the dissemination of any advertisement that contains other representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or to be deceived.

(i) Violation of subsection 64B5-4.002(4), F.A.C., by disseminating or causing the dissemination of any advertisement through in person and telephone solicitation of dental services by a dentist or his agent.

(j) Violation of subsection 64B5-4.002(5), F.A.C., by disseminating or causing the dissemination of any advertisement that includes the name of a person who is not either actually involved in the practice of dentistry at the advertised location or an owner of the practice being advertised.

(5) Violation of Rule 64B5-4.003, F.A.C., as follows:

(a) Violation of subsection 64B5-4.003(2), F.A.C., by providing an advertisement that failed to contain fee information with a disclaimer that the fee is a minimum fee only.

(b) Violation of subsection 64B5-4.003(3), F.A.C., by providing an advertised fee for a dental service which does not state a specified period during which the fee is in effect.

(c) Violation of subsection 64B5-4.003(4), F.A.C., by providing an advertisement which states a particular dental service is for a fee yet it is not accompanied by a description of that service using the exact wording for that service contained in the American Dental Association's "Code on Dental Procedures and Nomenclature".

(d) Violation of subsection 64B5-4.003(5), F.A.C., by providing an advertisement for free or discounted services which does not comply with the requirements of Section 456.062, F.S., and/or clearly identify the dates that free, discounted or reduced fee services will be available.

(6) Violation of Rule 64B5-4.004, F.A.C., as follows:

(a) Violation of subsection 64B5-4.004(2), F.A.C., by providing an advertisement of specialty services which does not state whether the service will be performed by a general dentist or a specialist.

(b) Violation of subsection 64B5-4.004(4), F.A.C., by providing an advertisement that states that a dentist is a specialist when the dentist does not meet the applicable criteria.

(c) Violation of subsection 64B5-4.004(5), F.A.C., by advertising a service in a manner which in its form or content would lead a reasonable person to believe that the service is a specialty unless that service is a specialty recognized by the Board.

(7) The penalty for a violation of Rule Chapter 64B5-4, F.A.C., as enumerated above is as follows: first offense will result in a \$250.00 fine; second offense will result in a \$1,000.00 fine, reprimand and four (4) hour continuing education in ethics. Violations occurring subsequent to the second offense of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed.

(8) Violation of subsection 466.028(1)(n), F.S., failure to make available to a patient or client, or to his legal representative or to the Department, if authorized in writing by the patient, copies of documents in the possession or under control of the licensee, which relate to the patient or client. Failure to comply will result in a \$1,000.00 fine.

(9) Violation of subsection 466.028(1)(mm), F.S., by violation of Section 456.035(1), F.S., which requires licensees to notify the Board of change of address. Failure to comply will result in a \$250.00 fine.

(10) Violation of subsection 466.028(1)(dd), F.S., by presigning laboratory work order forms. Failure to comply will result in a \$500.00 fine.

(11) Violations of Rule 64B5-15.030, F.A.C., through a violation of Section 466.028(1)(ll), F.S., for failing to pay the one-time fee by no later than February 28, 2008, will result in a \$1,000 fine.

(12) Violation of Sections 466.028(1)(a), (aa) and (ll), F.S., by means of submission of insufficient funds for initial license or renewal or any other payment to the Department of Health.

(13) Citations shall be issued to licensees by the Bureau of Investigative Services only after review by the legal staff of the Department of Health. Such review may be by telephone, in writing or facsimile machine.

(14) Except for violations of Rule Chapter 64B5-4, F.A.C., as stated above, the procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 456.073, F.S., shall apply.

(15) Citations are to be served upon the subject either by personal service or by certified mail, restricted delivery, to the last known business or residence address of the subject.

(16) The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. All fines and costs are to be made payable to the "Board of Dentistry – Citations" and sent to the Department of Health in Tallahassee. A copy of the citation shall accompany the payment of the fine or costs.

(17) If the subject rejects the Department of Health's offer of the citation then the procedures of Section 456.073, F.S., shall apply to the original charge. In cases where the subject fails to comply with the penalty, a complaint for violation of Section 456.072(1)(q), F.S., shall be filed and investigated.

Rulemaking Authority 456.077, 466.004(4) FS. Law implemented 456.072(3)(a), 456.077 FS. History—New 12-24-91, Formerly 21G-13.0046, Amended 11-22-93, Formerly 61F5-13.0046, 59C-13.0046, Amended 7-19-01, 10-9-06, 2-7-08, 8-25-10.

Board office received the following question: Can the language requiring "film" be interpreted to include digital sensors or is a change in the rule required?

64B5-9.011 Radiography Training for Dental Assistants.

(1) Licensed dentists may position and expose dental radiographic films pursuant to Section 466.017, F.S.

(2) Dental hygienists may position and expose dental radiographic films pursuant to Section 466.023, F.S., and Chapter 64B5-16, F.A.C.

(3) Dental assistants may position and expose dental radiographic films only if they have been certified by the Department as dental radiographers or have graduated from a Board-approved dental assisting school or program.

(4) Dental assistants may be certified as dental radiographers if they comply with the following requirements:

(a) Apply for certification on DH-MQA 1202, Dental Radiography Certification Application (Rev. 8/12), incorporated herein by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-02027> and available on the Department of Health's website at <http://www.doh.state.fl.us/mqa/dentistry>, and submit the nonrefundable fee prescribed by Rule 64B5-15.015, F.A.C.;

(b) Document having completed at least 3 months of continuous on-the-job training through assisting in the positioning and exposing of dental radiographic film under the direct supervision of a Florida licensed dentist; and

(c) Document successful completion of a Board-approved course which meets the requirements of subsection 64B5-9.011(5), F.A.C. within 12 months after completion of the on-the-job training required by paragraph 64B5-9.011(4)(b), F.A.C.

(5) Only courses which provide training in the following areas may receive Board approval:

(a) Dental radiography practice and equipment;

(b) Radiation biology and radiation safety techniques;

(c) Hands-on instruction in the positioning of dental radiograph films through the use of appropriate mannequins that will provide the didactic objectives;

(d) Radiographic anatomy;

(e) Radiographic film and processing;

(f) Intra-oral radiographic techniques;

(g) Supplemental techniques of dental radiography; and

(h) Infection control and sterilization techniques.

(6) A dental assistant's certification as a dental radiographer must be conspicuously displayed to the public in any dental office where these services are performed.

Rulemaking Authority 466.004, 466.017(7) FS. Law Implemented 466.017(7) FS. History—New 9-20-80, Amended 1-28-81, Formerly 21G-9.11, Amended 12-31-86, 1-18-89, 4-24-91, Formerly 21G-9.011, 61F5-9.011, 59Q-9.011, Amended 6-12-00, 5-20-01, 12-11-12.

The language below was approved by the Council on Dental Hygiene and presented to the Board at the August 22, 2014 meeting. After discussion the board referred the language to the Rules Committee.

Rule 64B5-12.013, Florida Administrative Code
Continuing Education Requirements.

The Council Recommends the Following

1. Insert the following language to subsection (1):

Beginning with the Biennium ending in 2017, and every other biennium thereafter, each licensed dentist shall complete a one (1) hour course on the laws and rules that govern the practice of dentistry in Florida. To receive Board approval, each course must include content on Chapters 456 and 466 of the Florida Statutes and the rules in Title 64B5 of the Florida Administrative Code.

2. Insert the following language to subsection (2):

Beginning with the Biennium ending in 2017, and every other biennium thereafter, each licensed hygienist shall complete a one (1) hour course on the laws and rules that govern the practice of dentistry in Florida. To receive Board approval, each course must include content on Chapters 456 and 466 of the Florida Statutes and the rules in Title 64B5 of the Florida Administrative Code.

Note: Board staff requests change in year from 2017 to 2018. The biennium ends February 28 of the even years.