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**BOARD OF DENTISTRY
RULES COMMITTEE
VIA TELEPHONE CONFERENCE CALL
MAY 25, 2010; 5:30 P.M. EDT**

Call In Number (888) 808-6959, Conference Code: 2453454

CALL TO ORDER

The meeting was called to order at 5:30 p.m. by Dr. Winker, Chair. Those present for all or part of the meeting included the following:

Committee members present:

Dr. Wade Winker
Dr. Robert Perdomo
Ms. Tammy Baker, R.D.H.
Dr. Thad Morgan
Dr. Dan Gesek
Dr. William Kochenour
Ms. Elmira Gainey
Ms. Vicki Campbell

Committee member absent:

Dr. Carl Melzer

Staff present:

Michael Flury, Board Counsel
Sue Foster, Board Director

Cindy Ritter, Program Administrator

Others present:

Debra Edinger, R.D.H., Board member
Carol Stevens, D.D.S., Board member
Joe Thomas, D.D.S.
Dr. Roderick Shaw, A.G.D.
Don Erbs, F.D.A.
Ron Watson, F.D.A.
Ed Bayo, Esq.
Nancy Zinser, F.D.H.A.
Jackie Burt-McDonough, F.D.H.A.
Greg McClure, Public Health Dental Director
Bob Goldie, FL Association of Orthodontics
Michael Curtis, Psychometrician, DOH
Hal Haering, D.D.S.

APPROVAL OF MINUTES FROM OCTOBER 26, 2009

Motion: by Dr. Gesek to approve as presented
Second: by Dr. Morgan
Vote: unanimous

ITEMS FOR TOPIC DISCUSSION

Rule 64B5-2.0135, FAC, Dental Hygiene Examination

PROPOSED LANGUAGE FOR REVIEW

(1) – (2) No change

(3) The clinical (or practical) portion of the examination consists of two parts. One part of the clinical examination shall consist of a computer based assessment involving simulated patients and one part of the clinical examination shall consist of a patient based assessment.

(a) The simulated patient part of the clinical examination requires applicants to take and pass a computer based examination which includes health assessments, oral condition evaluations, radiograph interpretations, and infection control practices.

1. A final grade of 75% or better is required to pass the simulated patient part of the clinical

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examination. Passing scores earned on the Florida certified computer based assessment provided to obtain North East Regional Board of Dental Examiners, Inc. status can be used to fulfill this requirement if the examination was taken after January 6, 2010.

2. Applicants will be given no more than 120 minutes to complete the simulated patient part of the clinical examination.

(b) The patient based part of the clinical examination requires an applicant to demonstrate clinical skills in performing a partial prophylaxis, scaling, root planing, coronal polishing and pocket depth measurements on selected teeth.

1. A final grade of 75% or better is required to pass the patient based part of the clinical examination.

2. Applicants will be given no more than 180 minutes to seat a patient, present the patient for acceptance and complete the treatment phase of the patient based part of the clinical examination.

3. Applicants will be given no more than 90 minutes to complete the treatment phase of the patient based part of the clinical examination.

4. The patient based part of the clinical examination is to be performed on a patient provided by the applicant.

(c) An applicant who passes one part of the clinical examination portion, either the simulated patient part or the patient based part, and not the other need only retake the failed clinical part.

(4) – (11) No change

Rulemaking Authority 456.017, 466.004(4), 466.007 FS. Law Implemented 456.017, 466.007, 466.009(3) FS. History--New 3-16-82, Amended 5-2-84, 5-19-85, 10-8-85, 12-8-85, Formerly 21G-2.135, Amended 12-31-86, 10-19-87, 2-21-88, 5-29-88, Formerly 21G-2.0135, 61F5-2.0135, Amended 11-15-95, Formerly 59Q-2.0135, Amended 10-31-01, 7-6-05, 12-31-09, _____.

Following discussion, the committee took the following action:

Motion: by Ms. Gainey to table for discussion at June board meeting

Second: by Dr. Morgan

Vote: motion passes with Dr. Winker opposed

Rule 64B5-4.002, FAC, Advertising and Soliciting by Dentists PROPOSED LANGUAGE FOR REVIEW

(1) –(2) No change.

(3) No dentist shall disseminate or cause the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content. Additionally, no dentist shall disseminate or cause the dissemination of any advertisement or advertising which:

(a) -(g) No change.

(h) States ~~or implies~~ that the dentist is a specialist or has received formal recognition as a specialist in any aspect of the practice of dentistry unless the dentist has in fact received such recognition and such dental specialty certifying board recognizing agency is approved by the Board. However, a dentist may use on letterhead or advertising a reference to the dentist's specialty recognition received from a dental specialty certifying board or recognizing agency that has not been approved by the Board only if the letterhead or advertising also contains in the same print size or volume the statement that "The specialty recognition identified herein has

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been received from a private organization not affiliated with or recognized by the Florida Board of Dentistry.” For purposes of this rule, the Board approves the dental specialty certifying boards recognized by the American Dental Association and the Commission on Dental Accreditation as recognizing agencies, and such other **dental specialty certifying board or recognizing agencies** as may request and receive future approval the Board.

(4) - (7) No change.

Specific Authority 466.004(4), 466.019 FS. Law Implemented 466.019, 466.028(1)(d) FS. History—New 7-7-87, Amended 1-11-89, 10-29-90, 4-24-91, 7-14-92, Formerly 21G-4.002, Amended 3-30-94, Formerly 61F5-4.002, 59Q-4.002, Amended 5-20-01, 1-29-03, 2-26-06, _____.

Following discussion, the committee took the following action:

Motion: by Dr. Gesek to table to future board workshop/hearing with additional draft language on criteria for board approval

Second: by Dr. Perdomo

Vote: unanimous

Rule 64B5-13.005, FAC, Disciplinary Guidelines

These guidelines relate to being convicted, or entering a plea of guilty or nolo contendere relating to the Medicaid program. Following discussion, the committee took the following action:

Motion: by Dr. Gesek to address (ddd) and (ggg) as follows: for a misdemeanor, minimum penalty range = reprimand, \$10,000 fine, suspension; a felony conviction minimum and maximum penalty guideline = revocation

Second: by Ms. Gainey

Vote: unanimous

Motion: by Dr. Gesek to address (eee) with minimum offense = \$1000 fine and letter of concern and maximum penalty guideline = \$10,000 fine and suspension. For the second offense of failing to remit overpayment of Medicaid, the minimum penalty would be \$7500 fine and reprimand and the maximum penalty would be \$10,000 fine and revocation

Second: by Ms. Gainey

Vote: unanimous

Motion: by Dr. Gesek to address (fff) (of being terminated from the State Medicaid program, any state Medicaid program or the Medicare program unless eligibility has been restored) as minimum offense = \$1000 fine and letter of concern and maximum penalty guideline = \$10,000 fine and suspension. For the second offense, the minimum penalty would be \$7500 fine and reprimand and the maximum penalty would be \$10,000 fine and revocation

Second: by Dr. Kochenour

Vote: unanimous

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Rule 64B5-16.002, FAC, Required Training PROPOSED LANGUAGE FOR REVIEW

(1) – (2) No change

(3) The Board shall approve a course or program specified in paragraph 64B5-16.002(1)(b), F.A.C., in expanded duties only upon the application of the entity seeking to offer the course or program which establishes compliance with the following requirements. Failure to adhere to these requirements shall subject the course or program to revocation of Board approval.

(a) – (d) No change

(e) Board approved programs must annually submit an affidavit certifying current compliance with all requirements of Rule 64B5-16.002(3)(a)(b)(c)(d), F.A.C.

~~(f)~~ (e) Each participant who successfully completes the course or program is issued a certificate which contains the following information: name of course or program sponsor; title of course; date course offered; number of hours of instruction; participant's name; signature authorized by the sponsor which attests to the certificate's validity; and a list of all remediable tasks in which the participant has received formal training.

(4) No change

Specific Authority 466.004, 466.024 FS. Law Implemented 466.023, 466.024 FS. History—New 4-30-80, Amended 8-20-80, 1-28-81, 3-4-81, 4-20-81, Formerly 21G-16.02, Amended 6-30-86, 12-31-86, 7-5-87, 2-21-88, 7-12-88, 1-18-89, 11-16-89, Formerly 21G-16.002, 61F5-16.002, Amended 6-12-97, Formerly 59Q-16.002, amended 1-29-07, 4-27-09.

The proposed language was provided by the Florida Dental Association. Mr. Flury had following concerns: whether there was statutory authority to require something to be submitted annually and whether an affidavit could be required. Mr. Flury thought the language could go forward with the request that the programs submit a statement that they are in compliance. Following discussion, Mr. Flury clarified that the proposed change being reviewed was to rule 64B5-16.002, not 64B5-16.005 and Dr. Erbs stated the proposed change was for the program, not the student. The members were reminded that at previous board meetings, audience members requested that issues dealing with expanded duties or dental assistants be sent through the Council on Dental Assisting. Following discussion, the committee took the following action:

Motion: by Ms. Gainey that the statement that board approved programs must submit annual affidavits showing compliance should be removed.

Second: by Ms. Baker

Vote: unanimous

Motion: by Ms. Gainey to refer this rule to the Council on Dental Assisting for review and input regarding the addition of the language “(e) Board approved programs must annually submit an affidavit certifying current compliance with all requirements of Rule 64B5-16.002(3)(a)(b)(c)(d), F.A.C.”

Second: by Dr. Kochenour

Vote: unanimous

Dr. Stevens stated she would like to see a revision to include requirement for programs to teach the laws and rules concerning delegable duties.

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Rule 64B5-16.005, FAC, Remediable Tasks Delegable to Dental Assistants PROPOSED LANGUAGE FOR REVIEW

(1) The following remediable tasks may be performed by a dental assistant who has received formal training and who performs the tasks under direct supervision:

(a) – (r) no change

(s) Starting IV's and administering medications

(2) through (5) No change.

(6) The following remediable tasks may be performed by a dental assistant who is a graduate of an expanded duty program approved by the Florida Board of Dentistry pursuant to Rule 64B5-16.002, Florida Administrative Code, or has received the required training through a program accredited by the American Dental Association's Commission on Dental Accreditation and who performs these tasks in health access settings as defined by Section 466.003, F.S., under general supervision:

(a) Applying topical fluorides which are approved by the American Dental Association or the Food and Drug Administration, including the use of fluoride varnishes;

(b) Polishing clinical crowns when not for the purpose of changing the existing contour of the tooth and only with the following instruments used with appropriate polishing materials – slow-speed hand pieces, rubber cups, bristle brushes and porte polishers;

(c) Applying dental sealants;

(d) Polishing dental restorations of the teeth when not for the purpose of changing the existing contour of the tooth and only with the following instruments used with appropriate polishing materials – burnishers, slow-speed hand pieces, rubber cups, and bristle brushes;

(e) Using appropriate implements for preliminary charting of existing restorations and missing teeth and a visual assessment of existing oral conditions;

(f) Positioning and exposing dental and carpal radiographic film and sensors;

(g) Taking or recording patients' blood pressure rate, pulse rate, respiration rate, case history and oral temperature.

(7) The dental assistant performing tasks in health access settings as defined by Section 466.003, F.S., under general supervision shall maintain current training in cardiopulmonary resuscitation (CPR) at the basic support level, including one-rescuer and two-rescuer CPR for adults, children, and infants; the relief of foreign body airway obstructions for adults, children, and infants; the use of an automatic external defibrillator (AED); and the use of ambu-bags resulting in certification or recertification by the American Heart Association, the American Red Cross or an entity with equivalent requirements.

Rulemaking Specific Authority 466.004(4), 466.024(3) FS. Law Implemented 466.024 FS. History--New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.005, Amended 3-30-94, Formerly 61F5-16.005, Amended 1-9-95, 9-27-95, 6-12-97, Formerly 59Q-16.005, Amended 1-8-01, 4-22-03, 7-13-05, 3-24-08,_____.

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The only change in the rule text presented was the proposed addition of (1)(s) Starting IV's and administering medications; language in (6) and (7) was previously approved. Mr. Flury discussed the concerns of the Joint Administrative Procedures Committee (JAPC) and he will prepare a response. Following discussion, the committee took the following action:

Motion: by Dr. Gesek to move this rule to the Anesthesia Committee for input regarding dental assistants starting IV's and administering meds under direct supervision

Second: by Dr. Morgan

Vote: unanimous

Rule 16.006, FAC, Remediable Tasks Delegable to a Dental Hygienist

PROPOSED LANGUAGE FOR REVIEW

(1)(a)-(h) no change

(i) Administering local anesthesia with training to be determined by rule of the board

(2) – (5) no change

(6) The following remediable tasks may be performed by a Florida licensed dental hygienist without supervision of a dentist:

(a) Taking or recording patients' blood pressure rate, pulse rate, respiration rate, case history and oral temperature;

(b) Applying topical fluorides which are approved by the American Dental Association or the Food and Drug Administration, including the use of fluoride varnishes;

(c) Applying dental sealants.

Rulemaking Specific Authority 466.004, 466.023, 466.024 FS. Law Implemented 466.023, 466.024 FS. History--New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.006, Amended 3-30-94, Formerly 61F5-16.006, Amended 1-9-95, 6-12-97, Formerly 59Q-16.006, Amended 1-25-98, 9-9-98, 3-25-99, 4-24-00, 9-27-01, 7-13-05, 2-14-06, 3-24-08,_____.

The committee discussed concerns with the addition of (1)(i). It was requested that this addition be removed as it conflicted with s. 466.003(11), F.S. Mr. Flury will work with Dr. Morgan on a new draft to be presented to the board at the June meeting. Following discussion the committee took the following action:

Motion: by Dr. Gesek to strike (i) due to language in 466.003(11), F.S. and table until language could be revised and sent to the full board for discussion and approval; add health access settings to the draft language

Second: by Ms. Gainey

Vote: unanimous

OLD BUSINESS

None

NEW BUSINESS

Dr. Perdomo asked that the board revisit allowing dental hygienists and dental assistants to apply bleaching gels under direct supervision. It was discussed that the Council on Dental

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Hygiene should meet on this issue. It was mentioned that this had already been passed by the Council two years ago.

Motion: by Dr. Perdomo to bring a draft to the June board meeting

Second: by Ms. Gainey

Vote: motion passed with Dr. Gesek opposed

ADJOURNMENT

The meeting was adjourned at 7:30 p.m.