

**BOARD OF DENTISTRY
899 NORTH CAPITOL ST. NE – 2ND FL.
WASHINGTON, DC 20002**

**Date: January 18, 2023
Time: 9:00 AM**

**OPEN SESSION
MEETING AGENDA**

*****Please be advised that Board Meetings are recorded*****

WEBEX Virtual Meeting

Due to the COVID-19 pandemic, the Board will be utilizing a hybrid schedule of virtual and in-person meetings. Please see Board Meeting calendar under the Executive Director's report for more information.

Information on how to access the public portion of the meeting is listed below:

This meeting is available by web:

<https://dcnet.webex.com/dcnet/j.php?MTID=m9f9126b61531ee2a059436115674d953>

Meeting number: 160 597 7295

Password: R6Mm8PPmS3

This meeting is available by phone:

1-202-860-2110 United States Toll (Washington D.C.)

1-650-479-3208 Call-in toll number (US/Canada)

Access code: 160 597 7295

****Any submissions from the public for the Board's consideration should be received by Board Staff, kathleen.ibeh@dc.gov, no later than 10 days business days before the Board Meeting. ****

BOARD OF DENTISTRY
Open Session Agenda January 18, 2023

BOARD MEMBERS:	
Dr. John R. Bailey, DDS – Chairperson	
Dr. Judith Henry, DMD - Board Member	
Dr. Iris Jeffries-Morton, DDS- Board Member	
Ms. Dianne Smith, ESQ - Consumer Member	
Dr. Michelle Latortue, DDS-Board Member	
Vacant – (Dentist) Board Member	
Vacant – (Dental Hygienist) Board Member	
BOARD STAFF:	
Ericka L. Walker, MSW - Executive Director	
Gregory Scurlock, Compliance Officer	
Rebecca Odrick, Board Investigator	
Kathleen Ibeh, Health Licensing Specialist	
Zaneta Batts, Health Licensing Specialist	
LEGAL STAFF:	
Carla M. Williams, Senior Assistant General Counsel	

BOARD OF DENTISTRY

Open Session Agenda January 18, 2023

CALL TO ORDER AND ROLL CALL

OS-0118-01	<p><u>INTRODUCTIONS:</u></p> <ul style="list-style-type: none"> A. Board Members B. Board Staff C. Public Attendance
OS-0118-02	<p><u>OPEN SESSION AGENDA</u></p> <p>Board Action: Acceptance of the January 18, 2023, meeting agenda.</p>
OS-0118-03	<p><u>TRIBUTE FOR MS. YOLANDA JOSEY-BAKER</u></p> <p>The Board to honor late Board Member, Ms. Yolanda Josey-Baker, RDH.</p>
OS-0118-04	<p><u>OPEN SESSION MINUTES:</u></p> <p>Board Action: Consideration of the Open Session minutes from the November 16, 2022, meeting.</p>

STAFF REPORTS

OS-0118-05	<p><u>EXECUTIVE DIRECTOR'S REPORT:</u></p> <ol style="list-style-type: none"> 1. <u>BOD Calendar</u> <ul style="list-style-type: none"> • January 18, 2023, In-person • February 15, 2023 • March 15, 2023 • April 19, 2023, In-person • May 17, 2023 • June 21, 2023 • July 19, 2023 • August 2023 Recess • September 20, 2023, In-person 2. <u>BOD Census</u> <ul style="list-style-type: none"> Dentists (1,242) Dental Hygienists (512) Dental Hygienists with the authority to administer Local Anesthesia (97) Dental Hygienists with the authority to administer Local Anesthesia & Nitrous Oxide (69) Dental Hygienists with the authority to administer Nitrous Oxide (1) Dental Assistant Level 1 (118) Dental Assistant Level 2 (525) Teaching Licenses for Dentists (1)
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	<p>Teaching Licenses for Dental Hygienist (1)</p> <p>3. District of Columbia COVID-19 https://coronavirus.dc.gov/vaccine</p> <p>4. District of Columbia Monkeypox https://dchealth.dc.gov/page/monkeypox</p> <p>5. The Mayor’s Office of Talent and Appointments (MOTA) recruit’s talented and interested individuals from all eight Wards to serve on District Boards. Link to apply to serve on a Board: https://mota.dc.gov/page/boards-vacancies-or-available-seats</p>													
OS-0118-06	<p><u>BOARD ATTORNEY’S REPORT:</u></p> <p>The following Final Orders have been issued:</p> <ul style="list-style-type: none"> • Dr. Edward Buford https://dohenterprise.my.salesforce.com/sfc/p/#t0000000Cmnq/a/8z00000014X8/TnA7QhvkPkkmjG6SLws_9ZFrGL8HjcYkdimm8qtMLPg • Dr. William Avery https://dohenterprise.my.salesforce.com/sfc/p/#t0000000Cmnq/a/8z00000014Xl/6LGuSoZwXJObXysNVjL65smbWx6dFiLIQRh_I9b0hxo • Dr. Thomas Wall https://dohenterprise.my.salesforce.com/sfc/p/#t0000000Cmnq/a/8z00000014X3/7BqikEVd.jp8dAQxbnp.IHxBG7a7u9jhCfAJw5jVc • Dr. Edward Longwe https://dohenterprise.my.salesforce.com/sfc/p/#t0000000Cmnq/a/8z00000014XN/VIZIELS0ijmZCEZcMjYBQ4bnboP5mrdkkVv1brKzYUI • Dr. Tomell Dubose https://dohenterprise.my.salesforce.com/sfc/p/#t0000000Cmnq/a/8z00000014XD/t0fk81mgHcRFvNEAsInEnVAFq9HC7Lv14UbxvaHeYZQ 													
OS-0118-07	<p><u>BOARD CHAIRPERSON’S REPORT:</u></p> <p>None</p>													
OS-0118-08	<p><u>CONSENT AGENDA:</u></p> <p>The following applications were reviewed by Dr. John Bailey (Interim Chairperson), Dr. Iris Jeffries-Morton (Board Member), or Mrs. Ericka Walker (Executive Director), from November 10, 2022 – January 5, 2023:</p> <table data-bbox="342 1797 1255 1898"> <tr> <td>DENA2000028</td> <td>Rany Hout</td> <td>Endorsement</td> <td>11/14/2022</td> </tr> <tr> <td>DENA2000046</td> <td>Elizabeth Sido</td> <td>New Registration</td> <td>12/23/2022</td> </tr> <tr> <td>DENA2000063</td> <td>Keylie Galeas</td> <td>New Registration</td> <td>11/14/2022</td> </tr> </table>	DENA2000028	Rany Hout	Endorsement	11/14/2022	DENA2000046	Elizabeth Sido	New Registration	12/23/2022	DENA2000063	Keylie Galeas	New Registration	11/14/2022	
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DENA2000063	Keylie Galeas	New Registration	11/14/2022											

DENA3000003	Katherine Reyes	New Registration	12/30/2022
DENA3000083	Chantel Davis	New Registration	12/14/2022
DENA4000042	Janelle Dickerson	New Registration	12/23/2022
DENA3000086	Jacquelyne Martinez	New Registration	12/23/2022
DENA3000090	Hira Khattak	New Registration	11/14/2022
DENA3000091	Silvia Gonzalez	New Registration	12/1/2022
DENA2000003	Imani Creech	New Registration	12/1/2022
DENA2000034	Alisha King	New Registration	11/15/2022
DENA2000035	Janet Mengistu	New Registration	12/1/2022
DENA2000054	Telisea Barnes	New Registration	12/1/2022
DENA2000055	Rosalinda Iraheta	New Registration	12/16/2022
DENA2000067	Ana Olmos	New Registration	12/16/2022
DENA3000030	Summer Graham	Endorsement	12/21/2022
DENA3000033	Melanie Chontow	New Registration	12/1/2022
DENA4000033	Brittany Cecil	New Registration	12/16/2022
DENA4000045	Jennifer Martinez	New Registration	12/16/2022
DENA4000046	Raynier Gibaja	New Registration	12/16/2022
DENA4000047	Sindy Velasquez	New Registration	12/1/2022
DENA4000050	Kristen Hickox	New Registration	12/16/2022
DENA4000051	Natalia Garcia	New Registration	12/16/2022
DENA4000055	Tyesha Brooks	Examination	1/5/2023
HYG2001064	Charles Paramore	Examination	11/14/2022
HYG2001080	Madeline Montas	Endorsement	11/15/2022
HYG2001081	Andrea Williams	Endorsement	12/23/2022
HYG2001109	Flor Hernandez	Endorsement	12/1/2022
HYG2001142	Mahsan Javaheri	Endorsement	12/1/2022
HYG2001152	Deidre Mathelier	Endorsement	11/7/2022
HYG2001156	Yezenia Martinez	Endorsement	12/16/2022
HYG2001171	Courtney Leonardson	Endorsement	12/16/2022
HYG2001176	Tayler Qura	Examination	12/1/2022
HYG2001178	Deena Hammad	Examination	12/23/2022
HYG2001179	Jo Burgess	Endorsement	12/23/2022
HYG2001180	Carrie Simpler	Endorsement	12/23/2022
DEN2000019	Aimee DeLorenzo	Examination	1/4/2023
DEN2000063	Steve Yopa	Endorsement	12/1/2022
DEN2000123	Zaid Al-Najjar	Endorsement	11/14/2022
DEN2000133	Emily Rosenberg	Endorsement	12/16/2022
DEN2000170	Laura St. Bernard	Endorsement	12/23/2022
DEN2000202	Knieeka Jake-Pacheco	Endorsement	12/23/2022
DEN2000209	Shebli Mehrazarin	Endorsement	12/1/2022
DEN2000219	Nabil Moussa	Endorsement	12/1/2022
DEN2000226	Mark McShane	Endorsement	12/23/2022
DEN2000228	Jillian Pailin	Examination	12/1/2022
DEN2000230	Sahil Trehan	Endorsement	12/23/2022
DEN2000232	Jena Fields	Endorsement	12/16/2022
DEN2000233	Jessica Goodman	Endorsement	12/16/2022

DISCUSSION ITEMS

OS-0118-09	<u>LEGISLATIVE UPDATES – OFFICE OF GOVERNMENT RELATIONS</u> Matteo Lieb, Legislative Affairs Specialist
OS-0118-10	<u>PRESENTATION</u> Presentation from Brittany Harris, RDH and Shavonne Healy, RDH regarding recommendations for the Dental Assistant & Dental Hygiene scope of practice.
OS-0118-11	<u>DENTAL BOARD SUB-COMMITTEES</u> <ol style="list-style-type: none">1. <u>Credentials & Audits</u>: Dr. Iris Jeffries-Morton and Dr. John Bailey.2. <u>Communications</u>:3. <u>Regulatory Affairs</u>: Dr. Judith Henry and Ms. Dianne Smith.
OS-0118-12	<u>EMAIL FROM SHAVONNE HEALY</u> The Board received an email from Shavonne Healy on November 16, 2022, regarding the process for responses from the public. She also requested for information regarding application to serve on the Board as well as Dr. Bailey's position title as listed on the agenda.
OS-0118-13	<u>COMMENTS FROM THE PUBLIC</u>

**BOARD OF DENTISTRY
Open Session Agenda January 18, 2023**

CLOSING	
OS-0118-14	<p><u>MOTION TO CLOSE</u></p> <p>The Board member should move as follows:</p> <p>“Mister Board Chair, I move that the Board close the Open Public session portion of the meeting and move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the following purposes: to discuss disciplinary matters pursuant to § 2-575(b)(9); to seek the advice of counsel to the board, to preserve the attorney-client privilege, or to approve settlement agreements pursuant to § 2-575(b)(4); and to plan, discuss, or hear reports concerning ongoing or planned investigations pursuant to § 2-575(b)(14).”</p>
	ROLL CALL VOTE
	<p>This concludes the Public Open Session of the meeting. The Board will now move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the reasons set forth in the motion.</p>

**This ends the Open Session Agenda
The next meeting is scheduled on February 15, 2023**

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

BOARD OF DENTISTRY
899 NORTH CAPITOL ST. NE, 2nd FL.
WASHINGTON, DC 20002

Date: November 16, 2022
Time: 9:00 AM

OPEN SESSION
MEETING MINUTES

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BOARD OF DENTISTRY
Open Session Meeting Minutes November 16, 2022

BOARD MEMBERS:	
Dr. John R. Bailey, DDS – Chairperson	Present
Ms. Yolanda Josey – Baker, RDH –Interim Vice-Chairperson	Excused Absence
Dr. Iris Jeffries-Morton, DDS- Board Member	Present
Dr. Judith Henry, DMD - Board Member	Present
0Ms. Dianne Smith, ESQ - Consumer Member	Present
Dr. Michelle Latortue, DDS-Board Member	Present
BOARD STAFF:	
Ericka L. Walker, MSW – Executive Director	Present
Gregory Scurlock, Compliance Officer	Present
Rebecca Odrick, Board Investigator	Present
Kathleen Ibeh, Health Licensing Specialist	Present
Zaneta Batts, Health Licensing Specialist	Present
LEGAL STAFF:	
Carla M. Williams, Senior Assistant General Counsel	Present

BOARD OF DENTISTRY

Open Session Meeting Minutes November 16, 2022

CALL TO ORDER AND ROLL CALL

OS-1116-01

INTRODUCTIONS

The meeting was called to order at 9:02 a.m. as a quorum was maintained

- **Board Members**

- Dr. John Bailey, DDS – Interim Chairperson (**Present**)
- Ms. Yolanda Josey-Baker, RDH – Interim Vice-Chairperson (**Absent**)
- Dr. Judith Henry, DMD – Board Member (**Present**)
- Dr. Iris Jeffries-Morton, DDS – Board Member (**Present**)
- Ms. Dianne Smith, Esq. – Consumer Member (**Present**)
- Dr. Michelle Latortue, DDS – Board Member (**Present**)

- **Board Staff**

- Ericka L. Walker, MSW – Executive Director (**Present**)
- Gregory Scurlock, Compliance Officer (**Present**)
- Rebecca Odrick, Investigator (**Present**)
- Kathleen Ibeh, Health Licensing Specialist (**Present**)
- Zaneta Batts, Health Licensing Specialist (**Present**)

- **Legal Staff**

- Carla Williams, Senior Assistant General Counsel (**Present**)

- **DOH Staff**

- Matteo Lieb, DOH Legislative Affair Specialist

- **Public Attendance**

- Mr. Kurt Gallagher, DC Dental Society
- Mr. Max Brown, Group360/TEND
- Ms. Shavonne Healy, RDH
- Ms. Brittany Harris, RDH; UMDSOD
- Mr. Adam Block, DANB
- Ms. Tiffini Greene, American Mgmt. Corporation
- Mr. Thomas Merritt, TEND
- Ms. Toni Reeves, RDH
- Ms. Sara Hoverton, Georgetown Law
- Dr. Lucciola Lambruschini, Catholic Charities
- Mr. Blake Hite, Georgetown University

OS-1116-02

OPEN SESSION AGENDA:

Board Action:

Acceptance of the **November 16, 2022**, meeting agenda

Motion: The Board to accept the November 16, 2022, Meeting Agenda

Moved by: Ms. Dianne Smith, Esq. (Board Member)

Seconded by: Dr. Iris Jeffries-Morton.; (Board Member)

Motion passed unanimously

OS-1116-03 **OPEN SESSION MINUTES:**
Board Action:
Consideration of the Open Session minutes from the **October 19, 2022**, meeting.
Motion: The Board to accept the October 19, 2022, meeting minutes.
Moved by: Ms. Dianne Smith, Esq.; (Board Member)
Seconded by: Dr. Iris Jeffries-Morton; (Board Member)
Motion passed unanimously

STAFF REPORTS

OS-1116-04 **EXECUTIVE DIRECTOR’S REPORT:**

Mrs. Ericka Walker, Executive Director for the Board of Dentistry, welcomed all Board Members, Staff and Guests to the Open Session meeting. Mrs. Walker informed meeting attendees about the Health Professional Licensing Boards adopting a hybrid Board meeting schedule in FY2023 of which the public is welcomed to join during in-person meetings. Additionally, the link to join the meetings virtually will also be provided. Mrs. Walker also reminded attendees about <https://coronavirus.dc.gov/vaccine> and <https://dchealth.dc.gov/page/monkeypox>, the District of Columbia’s primary and up-to-date source for all information regarding COVID-19 and Monkeypox within the District. Also, Mrs. Walker provided the link to the Mayor’s Office of Talent and Appointments website and encouraged attendees to visit for more information regarding Board vacancies within the District. Mrs. Walker also discussed the Notice of Emergency and Proposed Rulemaking that went into effect on November 8, 2022, regarding the vaccination of healthcare professionals/licensees and the vaccination exemption request process. The rulemaking will be posted on the website and also sent out to all licensees and stakeholders.

This concluded Mrs. Walkers’ report.

1. **BOD Calendar**
 - November 16, 2022
 - December 21, 2022
 - January 18, 2023, **In-person**
 - February 15, 2023
 - March 15, 2023
 - April 19, 2023, **In-person**
 - May 17, 2023
 - June 21, 2023
 - July 19, 2023
 - August 2023 **Recess**
 - September 20, 2023, **In-Person**
2. **BOD Census**
Dentists **(1,226)**
Dental Hygienists **(498)**
Dental Hygienists with the authority to administer Local Anesthesia **(96)**
Dental Hygienists with the authority to administer Local Anesthesia &

	<p>Nitrous Oxide (64) Dental Hygienists with the authority to administer Nitrous Oxide (1) Dental Assistant Level 1 (107) Dental Assistant Level 2 (502) Teaching Licenses for Dentists (1) Teaching Licenses for Dental Hygienist (1)</p> <p>3. District of Columbia COVID-19 Updates https://coronavirus.dc.gov/vaccine</p> <p>4. District of Columbia Monkeypox https://dchealth.dc.gov/page/monkeypox</p> <p>5. The Mayor's Office of Talent and Appointments (MOTA) recruits talented and interested individuals from all eight Wards to serve on District Boards. Link to apply to serve on a Board: https://mota.dc.gov/page/boards-vacancies-or-available-seats</p>																																	
OS-1116-05	<p><u>BOARD ATTORNEY'S REPORT:</u></p> <p>NONE</p>																																	
OS-1116-06	<p><u>BOARD CHAIRPERSON'S REPORT:</u></p> <p>Dr. John Bailey discussed his concerns per the American Association of Dental Boards (AADB)'s report, of which 52% of dentists that were polled reported that their patients presented for treatment under the influence of marijuana. Dr. Bailey stressed the importance of healthcare providers being mindful of administering anesthesia when patients are in an altered state. Dr. Bailey also shared that there is an expansion of medically necessary procedures covered by Medicare and Medicaid which are forthcoming.</p> <p>This concluded Dr. Bailey's report.</p>																																	
OS-1116-07	<p><u>CONSENT AGENDA:</u></p> <p>These applications were reviewed by Dr. John Bailey (Interim Chairperson), Dr. Iris Jeffries-Morton (Board Member), or Mrs. Ericka Walker (Executive Director), from October 12, 2022 – November 9, 2022:</p> <table border="0"> <tr> <td>DENA2000075</td> <td>Wagdi Elgosbi</td> <td>New Registration</td> <td>10/28/2022</td> </tr> <tr> <td>DENA3000035</td> <td>Janile Lemus</td> <td>New Registration</td> <td>10/13/2022</td> </tr> <tr> <td>DENA3000082</td> <td>Siomara Santos</td> <td>New Registration</td> <td>10/28/2022</td> </tr> <tr> <td>DENA3000084</td> <td>Deemah Tarabichi</td> <td>New Registration</td> <td>11/7/2022</td> </tr> <tr> <td>DENA2000017</td> <td>Ziad Said</td> <td>New Registration</td> <td>10/20/2022</td> </tr> <tr> <td>DENA2000041</td> <td>Kemony Thompson</td> <td>New Registration</td> <td>10/19/2022</td> </tr> <tr> <td>DENA3000028</td> <td>Lydie Tchatchoua</td> <td>New Registration</td> <td>10/17/2022</td> </tr> <tr> <td>DENA4000041</td> <td>Dainese Smothers</td> <td>New Registration</td> <td>10/17/2022</td> </tr> </table>	DENA2000075	Wagdi Elgosbi	New Registration	10/28/2022	DENA3000035	Janile Lemus	New Registration	10/13/2022	DENA3000082	Siomara Santos	New Registration	10/28/2022	DENA3000084	Deemah Tarabichi	New Registration	11/7/2022	DENA2000017	Ziad Said	New Registration	10/20/2022	DENA2000041	Kemony Thompson	New Registration	10/19/2022	DENA3000028	Lydie Tchatchoua	New Registration	10/17/2022	DENA4000041	Dainese Smothers	New Registration	10/17/2022	
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DENA4000041	Dainese Smothers	New Registration	10/17/2022																															

DENA3000037	Adriana Pena	Endorsement	10/28/2022
DENA3000038	Lauren Terry	New Registration	11/4/2022
DENA4000032	Lemlem Abay	New Registration	10/24/2022
DENA3000080	Jasmine Hawkins	New Registration	10/13/2022
DENA4000036	Madison Powell	New Registration	10/28/2022
DENA4000038	Veronica Costello	New Registration	10/28/2022
HYG2001122	Jilna Raichura	Endorsement	10/28/2022
HYG2001146	Olga Leite	Endorsement	10/28/2022
HYG2001147	Madeline Rivera	Endorsement	10/13/2022
HYG2001149	Stephany Daniels	Endorsement	10/28/2022
HYG2001152	Deidre Mathelier	Endorsement	11/7/2022
HYG2001154	IVY JOHNSON	Endorsement	11/7/2022
HYG2001158	Jubril Nichols	Endorsement	10/28/2022
HYG2001161	Perla Cedeno	Endorsement	10/13/2022
HYG2001164	Ping Li	Examination	10/19/2022
HYG2001172	Shardae Gibbs	Endorsement	10/13/2022
DEN2000004	Nekia Staley-Neither	Endorsement	10/13/2022
DEN2000116	Dorian Solomon	Endorsement	10/28/2022
DEN2000171	Michelle Katz	Endorsement	11/5/2022
DEN2000218	Ahad Soleymanzadeh	Examination	11/7/2022
DEN2000221	Ekpa Eyoma	Endorsement	10/28/2022
DEN2000222	Virginia Perez-Torrealba	Endorsement	10/28/2022
DEN2000224	Taha Azimaie	Endorsement	10/28/2022
DEN2000223	Nika Nikookar	Endorsement	11/7/2022
DEN2000225	Shawn Kim	Endorsement	10/28/2022

Motion: The Board to accept the Consent Agenda application approvals.

Moved by: Ms. Dianne Smith, Esq; Board Member

Seconded by: Dr. Michelle Latortue; Board Member

Motion passed unanimously.

DISCUSSION ITEMS

OS-1116-08

LEGISLATIVE UPDATES – OFFICE OF GOVERNMENT RELATIONS

Matteo Lieb, Legislative Affairs Specialist

DC Council’s Committee on Health will be hosting a mark-up next week where several pieces of legislation related to DC Health and health professionals will be presented such as the expansion of the Health Professional Loan Repayment program and High Need Healthcare Scholarship program. Additionally, Protecting Health Professionals Providing Reproductive Health Care Amendment is another piece of legislation that will be included. Any piece of legislation not addressed during this term will be reintroduced during DC Council’s new term. Secondly, as a result of the election that was held on November 8, 2022, there will be new Council members which means that the Committee on Health will also have a change in members.

OS-1116-09

DENTAL BOARD SUB-COMMITTEES

1. **Credentials & Audits:**

Dr. Iris Jeffries-Morton/Dr. John Bailey/Ms. Yolanda Josey-Baker, RDH

Dr. Jeffries-Morton indicated that though there was no official report at this time, however, the committee has been meeting regularly and more information will be forthcoming. In the meantime, the subcommittee wanted to encourage meeting attendees to provide the application checklist to potential employees of interest to ensure that they have all the requirements to speed up the licensing process.

2. **Communications:**

Ms. Yolanda Josey-Baker, RDH

No report.

3. **Regulatory Affairs:**

Dr. Judith Henry/Ms. Dianne Smith, Esq./Ms. Yolanda Josey-Baker RDH

Dr. Judith Henry, (Board Member) precluded that the Dental Assistant Scope of Practice has been in place for over 10 years. Although they have been monitoring the scope of practice in sister states Maryland and Virginia, the subcommittee acknowledges that the two states have diverse needs in comparison to the district which is a small city wedged between them both. The subcommittee has taken into consideration the feedback and comments which have been received by the public during the October board meeting and re-reviewed the Scope of Practice and made editions, especially regarding direct, indirect and general supervision and the functions of the dental assistants thereof.

Board Attorney, **Ms. Carla Williams**, presented on the proposed updates to the Scopes of Practice for the Dental Assistant license type.

Mr. Adam Block inquired if the editions to the Dental Assistant Scope of Practice was posted online. **Ms. Kathleen Ibeh** indicated that the document was included in the Open Session Agenda materials and posted via the WebEx chat box.

Mr. Kurt Gallagher requested for clarity regarding the delegation of the whitening/bleaching function of a Dental Assistant. **Ms. Carla Williams** responded that there is a difference in the delegation of this function based on the mode of the procedure.

Ms. Shavonne Healy discussed her intention to draft a letter (in partnership with Ms. Brittany Harris and Georgetown University to provide an evidence-based approach to the suggestions provided regarding the functions of a dental hygienist, their ability to supervise dental assistants and advocacy for the ability to practice in long term care facilities. She requested that the Board postpone voting on the matter during this meeting and for more time to complete the project and have it ready for presentation during the next

Board meeting.

In response to **Dr. Michelle Latortue's** (Board Member) question to Ms. Healy about what was to be voted on, **Ms. Carla Williams** indicated that per the Board's decision during the previous month's meeting, the Board was ready to vote on the proposed changes to move it forward. However, there have been delays in doing so as the subcommittee has had to re-visit the documents based on the suggestions and feedback provided by the public. Additionally, this delays the addressing of other matters on the subcommittee's table. **Dr. John Bailey**, (Board Chair), also supported this and added that the drafts have been worked on for over a year and therefore is ready to move forward with the drafts.

Ms. Toni Reeves inquired about the application of the fluoride varnish and how the Board informs the public of their meetings and what takes place in those meetings as she has been unable to locate the information regarding that. **Ms. Carla Williams** acknowledged that Ms. Reeves first question was a practice concern, not regulatory. Additionally, she reminded Ms. Reeves that the Board meets every third Wednesday of the month which has been so for many years. **Mrs. Ericka Walker** (Board Executive Director) reiterated that the Board agenda and materials are posted on the DC Board of Dentistry website at least 2 business days prior to the meeting and the minutes are posted within 3 business days after the Board meeting holds. She also ensured that the DC Board of Dentistry website link was added to the chat.

Ms. Brittany Harris inquired if the Subcommittee meetings were covered under the Open Meetings Act and if members of the public were able to participate and comment on the Subcommittee meetings. **Ms. Carla Williams** informed Ms. Harris that the subcommittee meetings were not covered under the Open Meetings Act.

Ms. Sara Hoverton raised a question about the changes to the DC codes regarding the dental assistant and direct supervision. **Ms. Carla Williams** indicated that legislation is being prepared to update the codes.

Mr. Blake Hite asked for clarity regarding the process of moving such legislation. **Mr. Matteo Lieb** informed Mr. Hite that he does not work under DC Council but DC Health. However, there are many voices involved in the legislative process and his role is to ensure that the voice of the department is heard by DC Council. **Ms. Dianne Smith** reiterated that there is a public comment component before legislation is moved forward. **Ms. Carla Williams** briefly explained the legislative process.

Ms. Shavonne Healy discussed the need for more communication and expressed difficulty in navigating through the DC Health website. She requested for the Board to consider sending emails or communication to licensees should there be any updates. Ms. Healy reiterated her request for the Board to postpone voting on the drafted documents until she can provide her detailed report/letter in partnership with Georgetown University. This led to dialogue between the public and Board members regarding Ms. Healy's request for one more month to present her findings during the December Board meeting.

	<p>Motion: The Board to receive Ms. Healy’s report by December 1, 2022 to provide the subcommittee time to review the document before the December board meeting and to vote on it at that time. Moved by: Ms. Dianne Smith, Esq.; Board Member Seconded by: Dr. Iris Jeffries-Morton; Board Member Motion passes unanimously.</p> <p>Ms. Carla Williams, Board Attorney, presented the Scope of Practice for the Dental and Specialty Licenses and addressed Mr. Max Brown’s inquiry regarding the language of dental practice ownership under a dentist who is licensed in DC and clarification on the office space lease.</p> <p>Motion: The Board to accept the Dental Scope of Practice and Specialties with the amendments and corrections. Moved by: Ms. Dianne Smith, Esq.; Board Member Seconded by: Dr. Iris Jeffries-Morton; Board Member Motion passes unanimously.</p> <p>In response to Ms. Shavonne Healy’s request for more communication from the board, Mrs. Ericka Walker stressed the importance of the meeting attendees sharing information via their own webpages and communities.</p> <p>Ms. Carla Williams addressed Ms. Shavonne Healy’s inquiry regarding dental practices being owned by a dentist who may have residency outside of the DC area. Ms. Williams reiterated that residency is not the concern, rather, the owner must be licensed in DC.</p>
OS-1116-10	<p><u>COMMENTS FROM PUBLIC</u></p> <p>None</p>

BOARD OF DENTISTRY

Open Session Meeting Minutes November 16, 2022

CLOSING	
OS-1116-11	<p><u>MOTION TO CLOSE</u></p> <p>The Board member should move as follows:</p> <p>“Mister Board Chair, I move that the Board close the Open Public session portion of the meeting and move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the following purposes: to discuss disciplinary matters pursuant to § 2-575(b)(9); to seek the advice of counsel to the board, to preserve the attorney-client privilege, or to approve settlement agreements pursuant to § 2-575(b)(4); and to plan, discuss, or hear reports concerning ongoing or planned investigations pursuant to § 2-575(b)(14).”</p>
	<p>Motion: The Board to close the Open Session meeting. Moved by: Dr. Iris Jeffries-Morton; (Board Member) Seconded by: Dr. Michelle Latortue(Board Member)</p> <p style="text-align: center;">ROLL CALL VOTE</p> <p style="text-align: center;">The Board voted unanimously.</p>
	<p>This concludes the Public Open Session of the meeting. The Board will now move into the Closed Executive Session portion of the meeting pursuant to D.C. Official Code § 2-575(b) for the reasons set forth in the motion.</p>

This ends the Open Session Agenda, next meeting is scheduled for **December 21, 2022.**
The meeting adjourned at 10:16 a.m.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

December 1, 2022

To the D.C. Board of Dentistry:

This letter is in response to the proposed changes to the D.C. Code (“Code”) and D.C. Municipal Regulations (“D.C.M.R”) that create a new “Level III Dental Assistant” (“DA-3”) and expands the scope of practice for registered dental hygienists (“RDHs”). The primary authors of this letter, Shavonne Healy and Brittany Harris, are both registered dental hygienists in the District of Columbia and Maryland. Both authors have Master of Science degrees, and both authors teach dental hygiene curricula in Maryland. Shavonne Healy is the former president of the D.C. Dental Hygiene Association and served with Brittany Harris, who was a past Vice President. In researching scopes of practice in other states and evidence for changes in the District, the authors (“we”) received support from attorneys at Georgetown University Law Center’s Harrison Institute for Public Law.¹

We appreciate the Board’s commitment to expanding the scope of practice for dental professionals in ways that expand access to care while incorporating voices from the affected professions. We value the opportunity to comment on this proposal and share information on ways to expand access for those most in need. This letter requests further changes to better accomplish a goal we hope the Board shares: expanding access to care for those living in or near the District of Columbia’s (Dental Health Professional Shortage Areas (“DHPSAs”).

Changes to licensure requirements and scopes of practice can have significant impacts on both dental professionals and the populations they serve. Any changes must be carefully considered and based on evidence. In a report cited by the Federal Trade Commission (“FTC”) and the Department of Justice (“DOJ”), the Institute of Medicine advocated for dental professionals to work under “evidence-supported supervision levels.”² The importance of evidence in making these decisions is reflected in D.C. regulations as well, which require all public statements about the dental profession made by dentists to have a “reasonable basis.”³ While parts of the proposed changes are promising, a reasonable evidence base for the creation of this position and the proposed supervision requirements has not been presented to the public. As such, the potential impact on access to or quality of care is not clear.

Our research and recommendations rely on primary research into other states’ scope of practice laws, as well as reports written by the National Academy of Science’s Institute of Medicine (“IOM”), federal agencies including the FTC, and national federally-funded organizations such as the Oral Health Workforce Research Center.⁴

¹ Biographical information for those staff may be found in Appendix B.

² Inst. Of Med. & Nat’l Research Council, *Improving Access to Oral Health Care for Vulnerable and Underserved Populations* 235 (011); Inst. Of Med. & Nat’l Research Council, *Oral Health In America* 1-48 (2021)<https://nap.nationalacademies.org/catalog/13116/improving-access-to-oral-health-care-for-vulnerable-and-underserved-populations>

³ D.C. Mun. Regs. tit. 17, §4213.39

⁴ For a closer look at the Oral Health Workforce Research Center work, refer to Brittany Harris’s LTCF letter. *See also, e.g.,* Margaret Langelier et al., *Development of a new Dental Hygiene Professional Practice Index by State* (2016).

Ms. Harris's letter on Long Term Care Facilities and this jointly presented letter are meant to accompany one another during the Board's deliberation. While these two sets of recommendations work best when introduced together, each can stand independently.

We urge the Board to consider the following key points (explained in further detail in the sections below):

- For Dental Assistant Level 3s:
 - We support the portions of the Board's proposal that currently expand the scope of DA's to perform hygiene functions.
 - We encourage the Board to rename the DA-3 to Dental Hygiene Assistant ("DHA") and provide that DHAs be supervised by hygienists. DA-3s would perform dental hygiene activities, such as placing pit and fissure sealants, and should therefore be supervised by the hygienists who normally perform this function. This is a proven model, with 16 states authorizing hygienists to supervise assistants.
 - Level III Dental Assistants should only be designated to practice in public health settings, such as school-based health centers, community clinics, and Federally Qualified Health Centers. Evidence shows that increased use of auxiliaries in public health settings can increase the number of patients receiving services. This proposal will ensure that DHAs work in areas that need them most and should best expand access to communities and patients who currently lack access.
- For Registered Dental Hygienists:
 - The Board should retain all language suggested for §3-1201.02(4)(A) except for the language requiring direct supervision of hygienists during administration of vaccines. Both the authors of this letter and the D.C. Dental Society ("DCDS") support the Board's proposed language for dental hygienists. The authors of this letter also recommend introducing the proposal as a rulemaking (change to regulations). The Department currently has authority to make all the suggested changes for dental hygienists and will likely be able to implement the changes faster, which will ensure patients receive help sooner.
 - The Board should expand the practice of dental hygiene to include all skills a hygienist has been trained to perform, including but not limited to the application of Silver Diamine Fluoride ("SDF"), application of matrices, and removal of sutures. The current regulatory language does not comport with the accreditation-based standards referenced in the Code.
 - The Board should clarify in the regulatory and statutory recommendations being sent to the D.C. Council that general supervision of the practice of dental hygiene, especially diagnosis, does not require prior examination by dentists. To require a prior examination takes an otherwise excellent modification and renders the expansion in function not only meaningless, but economically inefficient as well. Direct access should be allowed instead.

I. MAXIMIZING THE BENEFITS OF LEVEL III DENTAL ASSISTANTS

There is an ongoing shortage of dental health professionals in parts of D.C, which is felt most acutely in public health settings. D.C. has 11 federally designated dental professional shortage areas, including the low-income population in Anacostia and nine Federally Qualified Health Centers (“FQHCs”).⁵ Despite having more dentists per capita in the District than most other states,⁶ they have not filled the need in Wards 7 and 8 and, in particular, the need in public health settings. In its 2018 Primary Care Needs Assessment, the D.C. Department of Health found that the number of people per dentist in Ward 8 was nearly seven times higher than that of Ward 2.⁷ This disparity in access to care is exacerbated by some dentists’ reluctance to accept Medicaid for their services, with only 39% of dentists accepting Medicaid for child dental services as of 2016.⁸ Changes must be made to enable other auxiliaries to serve these populations and bring services to all District residents regardless of Ward.

The proposal for creating the Level III Dental Assistant role requires modifications to both the D.C. Code and D.C. regulations. Board members noted that a public comment period would be made available for the Board’s proposed changes. However, a review of Notices of Proposed Rulemaking (“NPRM”), Final Rulemakings, and Acts going back to 1985, we can find no record of an NPRM being used to solicit comments for a suggested legislative proposal. Nor would there be, given that notice and comment periods for rulemakings are for rules.

So, while the proposed changes to the *regulations* for assistants will receive public comments through the NPRM process, the separate proposals to amend the *Code* for hygienists and assistants would go to the Council before any opportunity for formal public input. Therefore, any public input, including consultation with both dental hygienists and dental assistants who would be most affected by the proposals, should happen in the development and adoption of changes by the Board. The following sections lay out our recommendations for changes to the Board’s proposal, which we urge the Board to incorporate before voting on its proposal.

A. DA-3s SHOULD REMAIN IN PUBLIC HEALTH SETTINGS

Given the disparities in the number of providers in different wards of the District, the goal of creating the Level III Dental Assistant position should be to expand access to care and address workforce constraints in underserved areas. To that end, the Level III Assistant’s work should be designated for public health settings. Without this restriction, Level III Assistants are less likely to work in public health settings, such as FQHCs, where they can provide the most benefit to patients in need. Instead, they are likely to be employed by private practice settings where pay is higher. These private settings experience less pressure

⁵ *HPSA Find*, Health Resources and Services Administration <https://data.hrsa.gov/tools/shortage-area/hpsa-find> (last visited Nov. 6, 2022).

⁶ American Dental Association Health Policy Institute, *The Dentist Workforce: Key Facts* (Feb. 2021), https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/hpi/hpigraphic_0221_1.pdf?rev=1829a4f788c14974a1ac89ff1e288c0f&hash=A27C6AD199EB6FCAB15DB069BAF0CC85

⁷ Dep’t of Health, Gov’t of the D.C., *Primary Care Needs Assessment* 109 (2018), https://dchealth.dc.gov/sites/default/files/dc/sites/doh/page_content/attachments/DC%20Primary%20Care%20Needs%20Assessment%202018.pdf

⁸ *Health Policy Institute*, Dentist Participation in Medicaid or CHIP. https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/hpi/hpigraphic_0820_1.pdf

from the staffing shortage, are less likely to serve patients covered under Medicaid,⁹ and in the District, are much less likely to be located in Ward’s 7 and 8.¹⁰ In fact, while most dentists do not see Medicaid patients at all, the odds dwindle when the dentists live away from low-income communities, are specialists, or belong to smaller private practices.¹¹ The Board, together with the Mayor, the D.C. Department of Health, and the D.C. Council, has a duty to address this disparity. Ensuring the Level III Dental Assistants remain in these high-need public health settings is an essential first step.

Increased use of dental assistants in public health settings has been shown to expand the number of patients who can be treated. FQHCs with a higher ratio of Dental Assistants to dentists can provide dental care to more patients. In fact, a 2018 study found that an increase of one assistant per dentist in an FQHC was associated with an 8.3% increase in the number of patients receiving dental care.¹² However, this benefit to underserved populations can only be seen if the assistants stay in public health settings. In order to support expanded access to care, Level III Dental Assistants should be permitted to practice in public health settings.

B. APPROPRIATE SUPERVISION OF ASSISTANTS IS REQUIRED

The Board’s current proposal for DA-3s is inconsistent with important statutory language governing supervision of assistants. The proposed *regulatory* changes allow for direct and indirect supervision of assistants, but the proposed *statutory* changes retain the direct supervision-only requirement. The problem is clear: the Code does not allow Assistants to perform their tasks under indirect or general supervision. If the regulations conflict with the Code, the Code prevails. To move forward, the Board must reconcile this discrepancy. As a solution, the Board should consider recommending changes to the Code clarifying the level of supervision for dental assistants *before* engaging in regulatory changes. More specifically, the Board should recommend that supervision of a Level III Assistant should be provided by Dental Hygienists.

The Level III dental assistant position would allow assistants to support hygienists in providing critical dental hygiene care, such as placing sealants and coronal polishing, which could help expand access to care. However, when the DA-3 performs those hygiene activities, they should be supervised by a hygienist who is trained in these tasks. The Board has already recognized this in the proposed language, which redefines a Dental Assistant as someone who is authorized to “assist a licensed dentist or a licensed dental hygienist.”¹³

The supervision of assistants by hygienists is a proven model. As of 2016, 16 states permitted hygienists to supervise assistants.¹⁴ For example, hygienists in Virginia must supervise any Dental Assistant activity not

⁹ Kamyar Nassah et al., *Dentists Who Participate in Medicaid: Who They Are, Where They Locate, How They Practice*, Med. Care Rsch. & Rev. (2022).

¹⁰ Dep’t of Health, *supra* note 7.

¹¹ Kamyar Nassah et al., *supra* note 8.

¹² Simona Surdu and Margaret Langelier, *Trends in the Provision of Oral Health Services by Federally Qualified Health Centers*, Oral Health Workforce Research Center (2018)
https://oralhealthworkforce.org/wp-content/uploads/2018/02/OHWRC_Trends_in_Provision_of_Oral_Health_Services_by_FQHCs_2018.pdf

¹³ Bd. of Dentistry, D.C. Dep’t of Health, *November Open Session Meeting Minutes Draft*(2022)

¹⁴ *Variation in Dental Hygiene Scope of Practice by State*, Oral Health Workforce Research Center (January 2019),
<https://oralhealthworkforce.org/resources/variation-in-dental-hygiene-scope-of-practice-by-state/>

performed under direct dentist supervision. This ensures that assistants are always supervised by a more-trained dental professional, while allowing dentists to spend less time directly supervising the assistants. California law permits dental hygienists in alternative practice, a designation that permits hygienists to practice without supervision in public health settings, to supervise assistants performing specific tasks in public health settings.¹⁵ In the 15 years following the introduction of the public health dental hygienist with supervision over assistants in California, malpractice claims against dentists declined from over 500 to an average of 420 annually, and claims against hygienists and assistants increased from approximately 20 per year to approximately 70 per year.¹⁶ To be clear: the trend in malpractice claims after reducing supervision requirements for hygienists created a net decrease in total claims and a substantial reduction in claims against dentists.

Designating the Level III Dental Assistant for supervision of hygiene functions by a dental hygienist would create a seamless hygiene team where the hygienist and assistant can work hand in hand for higher quality preventive patient care. As evidenced in 16 other states, this model can work, and can work well, for patients.

II. THE PRACTICE OF DENTAL HYGIENE & HYGIENISTS' AUTHORIZED FUNCTIONS

Dental hygienists play a critical role in oral health, providing prophylactic care and education to patients. However, while many residents of the District experience shortages of oral health services, D.C. dental hygienists have one of the most restrictive scopes of practice in the country. A 2016 study of scopes of practice for hygienists in the 50 states and D.C. by the Oral Health Workforce Research Center found that hygienist scope of practice in D.C. was more restrictive than in 46 states.¹⁷ The only states with more restrictive scopes of practice were Mississippi, Alabama, Georgia, and Louisiana.¹⁸ While other states have expanded their scopes of practice in recent decades, D.C. has remained stagnant.¹⁹

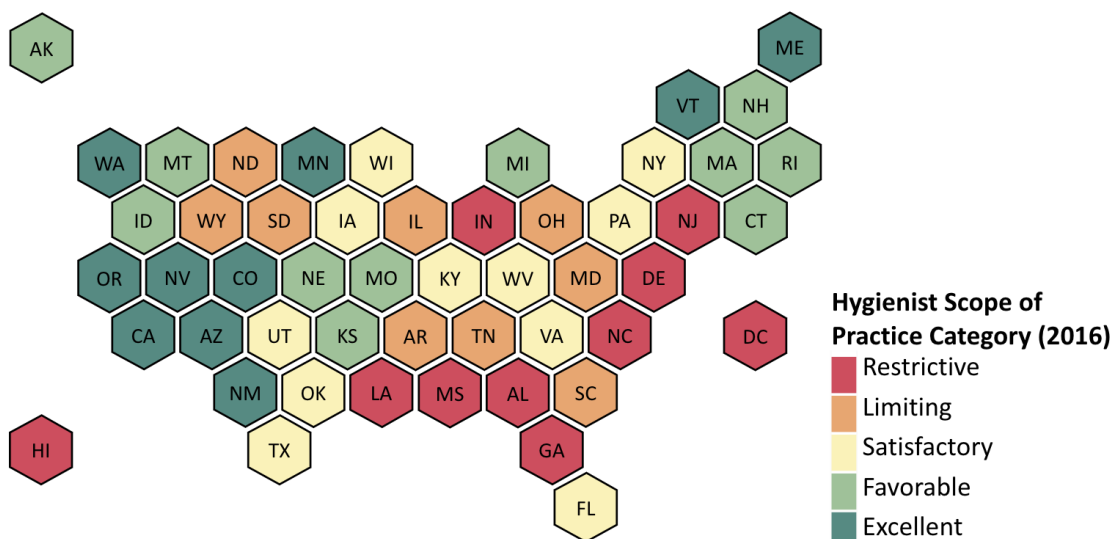
¹⁵ Cal. Business and Professions Code §§ 1753.5, 1929

¹⁶ *Data Analysis Tool*, National Practitioner Data Bank, <https://www.npdb.hrsa.gov/analysistool/>
Over the same period, claims against hygienists increased moderately from approximately 20 per year to approximately 70 per year. *Id.*

¹⁷ Margaret Langelier et al., *Development of a new Dental Hygiene Professional Practice Index by State* (2016).

¹⁸ *Id.*

¹⁹ *Id.*



Margaret Langelier et al., *Development of a new Dental Hygiene Professional Practice Index by State* (2016).

States with expanded scopes of practice for hygienists have seen increased utilization of dental services and better oral health outcomes, including reduced emergency room visits for dental problems and reductions in tooth removals.²⁰ Expanding scope of practice for hygienists can lead to improved access to care for vulnerable populations, especially when hygienists are permitted to work in public health settings.²¹ Expanded scopes of practice for hygienists are not associated with increased risks to patients or higher rates of malpractice lawsuits against dentists.²²

The Board should continue to advance the proposal amending the practice of dental hygiene in the Code. The hygienist portion of the Board’s October proposal has the support of both the authors of this letter and the D.C.D.S, and can be the foundation for broader expansion and modernization of the practice of dental hygiene in the District. But the recommendations would also be implemented more quickly as regulatory proposals rather than amendments to the Code, which require passage by the D.C. Council after lengthy

²⁰ Margaret Langelier et al., Expanded Scopes Of Practice For Dental Hygienists Associated With Improved Oral Health Outcomes For Adults, 35:12 HealthAffairs 2207, (2016). <https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.0807>.

Marvellous A Akinlotan et al., Dental hygienists' scope of practice regulations and preventable non-traumatic dental emergency department visits: A cross-sectional study of 10 U.S. states, Community Dentistry and Oral Epidemiology, 1 (2022). <https://pubmed.ncbi.nlm.nih.gov/35249241/>

Paul Wing et al., A Dental Hygiene Professional Practice Index (DHPPI) and Access to Oral Health Status and Service Use in the United States, 79 Journal of Dental Hygiene (2005). <https://jdh.adha.org/content/jdenthyg/79/2/10.full.pdf>

²¹ Margaret Langelier et al., *Development of a new Dental Hygiene Professional Practice Index by State* (2016)., <https://jdh.adha.org/content/jdenthyg/79/2/10.full.pdf>

²² Margaret Langelier et al., *Development of a new Dental Hygiene Professional Practice Index by State* (2016).; *Data Analysis Tool*, National Practitioner Data Bank, <https://www.npdb.hrsa.gov/analysisistool/>

hearings and implementation by the Department.²³ Concerns about malpractice or patient safety are misplaced, as explained above.

The Department of Health already has authority to enact each of the Board’s proposed changes to the practice of dental hygiene without a bill passing D.C. Council. Each of proposed change falls within the scope of Code’s language granting authority to the Mayor at §3-1201.02(4)(A)(vi) and 4(B). Dental hygienists are authorized by §§1201-02(4)(A)(vi) to perform any function “included in the curricula of approved educational program in dental hygiene.” The following provision at (4)(B) provides that the Mayor may list what those skills are and increase their supervision requirement.²⁴ But the current regulations prohibit hygienists from practicing skills they are trained to perform in CODA-approved programs in the DMV area and that fall under the CODA accreditation standards for dental hygiene programs.²⁵ Therefore, the Department has both the authority and responsibility to introduce these skills into the regulation without further Council involvement.

The Board should expand on its current proposal by recommending that the Department remove the explicit prohibitions on skills in the regulations. Doing so will allow hygienists to perform skills such as carving and placing amalgam, a function hygienists are specifically prohibited from performing in the regulations. Not only is this skill part of the CODA-approved curricula in the area, Ms. Harris currently *teaches* skills like placing matrices and removing sutures in a local program but is prohibited from performing the skill in the District. Expanding these skills will improve D.C.’s standing in federally-funded performance metrics that measure hygienists’ scope of practice. D.C. currently possesses 24/100 points.²⁶ If the Department included all, D.C. would gain 11 points.²⁷ This improvement would result in D.C.’s categorization improving from the lowest quintile to the middle quintile of performance.²⁸

A complete list of functions hygienists have been trained to perform through nearby accredited institutions,²⁹ but are currently explicitly or implicitly prohibited from performing,³⁰ includes at least:

²³ For a discussion of the difficulties in expanding hygienists’ scope of practice through regular legislative means, see Haley Dollins *et al.*, *A Qualitative Case Study of the Legislative Process of the Hygienist-Therapist Bill in a Large Midwestern State*, 87 *J. of Dental Hygiene* 5 (2018).

²⁴ D.C. Code §3-1201.02(4)(B) (emphasis added) (“ . . . The Mayor **may** issue rules identifying specific functions authorized by subparagraph (A)(vi) of this paragraph and **may** require higher levels of supervision for the performance of these functions by a dental hygienist.”)

²⁵ *Compare* Commission on Dental Accreditation, *Accreditation Standards for Dental Hygiene Education Programs* (2022) (stating in standard 2-18 that graduates of a program that teaches additional skills authorized by a state specific board must be taught “at the level, depth, and scope required” to perform their duties), *and* Code of Maryland Regulations 10.44.04.03(C), (A)(10)(2)(a)-(b), (allowing hygienists to perform curettage, scaling and root planing), *with* Uni. of Md. School of Dentistry, *Course Syllabi for: Methods and Material*, 6 (2022) (on record with author) (teaching suture placement and removal, the placement, carving, and application of amalgam, application of matrices, and application of silver diamine fluoride).

²⁶ Margaret Langelier, *supra* note 17 at 58.

²⁷ Three points awarded for prescribing certain medications like fluoride, four points for dental hygiene diagnosis, one point for carving and placement of amalgam, three for initiating consults and referral. For D.C.’s full score sheet, see *id.*

²⁸ See *id.*

²⁹ See, e.g., Uni. of Md. School of Dentistry, *supra* note 25.

³⁰ Regulations explicitly prohibit skills at 17 D.C.M.R. 4310.3(a)-(g) and implicitly prohibits all skills not enumerated in §4310.1-2 at §4310.3(h).

1. Ability to initiate consultations and referrals

- a. This recommendation complements the proposed expansion to allow hygienists to diagnose a limited number of diseases and would ensure that dentists are immediately referred patients requiring further intervention

2. Placement of sutures

- a. Current regulations allow the removal of sutures but prohibit the placement of sutures, despite hygienists being trained in both during the same course at a local university.³¹

3. Placement, carving, & application of amalgam

4. Application of matrix

5. Application of silver diamine fluoride

In addition, all of the skills the Board has proposed recommending for inclusion in the Code are skills for which RDHs have been trained, except for one: vaccines. Vaccines could still be included in a regulatory proposal as long as the Board specifies that a hygienist must be taught to administer them through an accredited program for the skill to fall within the ambit of §3-1201.02(4)(A)(vi).

However, this restriction does not apply to the rest of the proposal. Indeed, some of the skills proposed by the Board are deemed “core functions” of dental hygienists by the ADEA. Since RDHs have been trained through accredited programs to perform the skills, and dentists are already required to ensure they are delegating a task which an auxiliary can perform,³² the Department has existing authority under the Code to introduce the Board’s recommendations through its informal rulemaking powers. This method will almost certainly deliver results faster. The Department already knows these proposals have the buy-in from both D.C.D.S. and the authors of this paper. The Department has also now been informed that the current restrictions prohibiting the five functions listed above are incompatible with the Code’s clear language allowing hygienists to perform functions they were trained in through an accredited program.

Recommendations 2 & 3 (and possibly 1) require amendments to 17 D.C.M.R. 4215.1(a), (o), & (s), but not the Code. Bringing the scope of practice regulations in line with current hygienist training and skills, enabling hygienists to practice the full scope of their training, which would increase job satisfaction for hygienists while freeing dentists to perform more complex procedures and serve more patients. Both the public and private sectors, as well as patients, could benefit from these needed updates.

III. REMOVING BURDENSOME SUPERVISION OF DENTAL HYGIENISTS

For the past 3 decades, the Department of Health (and originally, Department of Consumer & Regulatory Affairs) has typically required direct supervision for new functions, and then over time decreased the required supervision level for those functions.³³ This is evidence that hygienists consistently perform these functions at the level of quality expected by the public and the dental professions. In other words, they

³¹ Uni. of Md. School of Dentistry, *Course Syllabi for: Methods and Material*, 6 (2022)

³² It is possible that a RDH in D.C. was not trained in a specific skill if, for example, they graduated from a foreign institution. But this concern is adequately addressed both by the standards of practice for hygienists, 17 D.C.M.R. 4312.1 (stating hygienists must not perform functions they are not competent in), as well as those of dentists, 17 D.C.M.R. 4213.15-16.

³³ See, e.g., 50 D.C.R. 9240; 51 D.C.R. 5011; 50 D.C.R. 9240; 54 D.C.R. 9538; 54 D.C.R. 9548; 36 D.C.R. 4.

perform them safely. The Board should not recommend direct supervision for tasks that hygienists are trained to perform through an accredited program without evidence that such supervision is necessary to protect the public's health. Requiring direct supervision functions as a supply-side constraint in the practice of dental hygiene. But there is no evidence to support the need for such restrictions. It is worth quoting the a Federal Trade Commission letter to an Ohio state senator at length:

“By contrast, retention of the current restrictions on general supervision would likely limit competition and decrease access to dental hygienists without furthering any legitimate health and safety concerns. Various authorities have concluded that direct supervision of dental hygienists is not necessary for them to provide preventive services safely. According to the National Governors Association, there is no clear evidence to support state dental boards' alleged concerns about quality and safety, which boards sometimes raise to justify restricting hygienists from practicing without supervision in settings where dentists are not available. The Institute of Medicine has likewise concluded that restrictive scope of practice and supervision laws and regulations governing dental hygienists “are often unrelated to competence, education and training, or the safety” of the services they provide.”³⁴

But additional changes to the existing statutory definitions are needed to increase access to care. States and professional associations define supervision in different ways. The D.C. Code provides definitions for general supervision in the section governing the practice of dental hygiene and direct supervision in the section governing the practice of dental assistants. Neither the Code nor the D.C.M.R. require prior examination by a dentist for general supervision tasks.

The Board should clarify that prior examination is not necessary for the practice of dental hygiene unless direct supervision is required. This is often called direct access. To require prior examination before a dental hygienist could diagnose a patient would create significant inefficiencies and result in a head-scratching result: a patient would need to be examined by a dentist in order to be examined by a hygienist with a smaller scope of diagnosing abilities. What value would a diagnosis by a hygienist add if a dentist had already performed an examination and presumably diagnosed the patient?

The Board surely understands these differences because the proposed definition for “dental hygiene diagnosis” is an exact replica of Colorado's statutory definition,³⁵ but Colorado statutes also allow direct access.³⁶ Colorado's direct access statute allows hygienists to own their own practice,³⁷ perform application

³⁴ Fed. Trade Comm'n, FTC Staff Advocacy Letter to Hon. Peggy Lehner, Ohio State Senate, Concerning a Bill to License Dental Therapists (Mar. 3, 2017).

³⁵ Colorado Revised Statute (C.R.S.) 12-220-104(4),

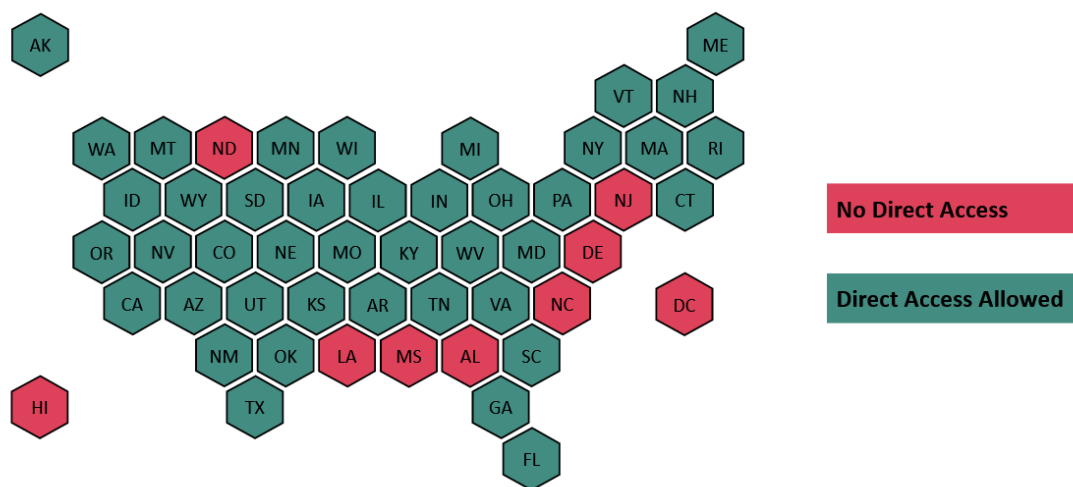
³⁶ C.R.S. 12-220-503(1)-(3); Nat'l Governors Ass'n, *The Role of Dental Hygienists in Providing Access to Oral Healthcare* (Jan. 6, 2014), <https://www.nga.org/publications/the-role-of-dental-hygienists-in-providing-access-to-oral-health-care/> (describing direct access in detail).

³⁷ 12-220-503(4).

of SDF,³⁸ take x-rays,³⁹ and prescribe certain medications,⁴⁰ among other tasks.⁴¹ All that is required by the hygienist is the informed consent of the patient that 1) they will only receive hygiene services and 2) they should see a dentist twice a year.⁴² Direct access in some states is primarily directed at increasing access in rural areas, especially those that are dental health professional shortage areas. While the District's geography is not rural in that sense, D.C. has persistent dental health professional shortage areas that could benefit enormously in the same way that rural areas in other states do.

Allowing hygienists to perform direct access care, at the very least in public health settings, is a common sense solution that will improve patient outcomes by expanding access to care. This is not a new idea. According to the American Dental Hygiene Association, Colorado is far from an outlier in allowing direct access. In fact, it is D.C. that again ranks at the bottom of the nation. The Board can bring the District more into line with its neighbors and with the vast majority of states by explicitly authorizing direct access for dental hygienists.

Direct Access for Hygienists, as of 2021



Amer. Dental Hygiene Ass'n, *Current Direct Access Map* (2021), https://www.adha.org/resources-docs/ADHA_Direct_Access_Map_6-2021.pdf (adapted)

A. Longer-term Priorities

The majority of this letter has been dedicated to responding to the Board's proposal and suggesting relatively modest changes to the proposal, and to dental professionals' scopes of practice to increase access

³⁸ 12-220-503(1)(g)(I).

³⁹ 12-220-503(1)(d)(V).

⁴⁰ 12-220-503(1)(g)(III)(A)-(D).

⁴¹ See 12-220-503(1) *et seq.*

⁴² C.R.S. 12-220-503(2).

to care for underserved District residents. We would like to propose some longer-term priorities for discussion that would support broader changes toward the same goal.

First, the Board should consider establishing a Working Group, composed of Board members, dental professionals including hygienists and assistants, and members of the public, to identify best practices in different states for the provision of direct access care, including collaborative practice. Among those best practices, the Board should consider:

1. As discussed above, changing the scope of practice for hygienists to provide dental hygiene services in public health settings without prior dentist authorization. Direct access to dental hygiene care is already permitted in 42 states, with multiple states permitting hygienists to practice without prior authorization specifically in public health settings.⁴³ Expansions of dental hygienist scopes of practice are associated with improved public health outcomes and have not led to increased malpractice claims against dentists.⁴⁴
2. Amending Section 17-4214: supervision of dental hygienists, to allow dentists to provide supervision of more hygienists than two when those hygienists are treating patients in a public health setting. The current 2:1 supervision limitation is the bare minimum authorized by the Code. This is a significant limiting factor for the practice of dental hygiene, especially for functions that fall under the general supervision category.
3. Alternative practice models such as California's or New Mexico's collaborative practice models, in which hygienists have direct access to patients with a consulting relationship with a dentist. Colorado also provides for "unsupervised" practice of dental hygiene and the ownership of an independent practice. These models could have promise in public health settings in the District.
4. Direct Medicaid reimbursement of hygienists as providers, as is done in 18 other states (as of 2017);⁴⁵
5. The establishment of a new Dental Hygiene Board so that dental hygienists may self-regulate or participate in regulation, which is the case in many states.⁴⁶ In the alternative, recommend expanding the number of seats on the Board of Dentistry to include three additional members, at least one of whom is a hygienist and one of whom is a dental assistant. If the Board is regulating all dental professionals, those professionals should have representation on the Board.

We are happy to discuss any of these options further and provide more evidence in support and options for regulatory changes. The Board has the potential to increase access to quality oral health services in the District through a wide variety of avenues, and we look forward to further discussion of the right combination of them.

⁴³ *Direct Access*, American Dental Hygienists' Association, <https://www.adha.org/direct-access>

⁴⁴ Langelier et al., *Expanded Scopes Of Practice For Dental Hygienists Associated With Improved Oral Health Outcomes For Adults*, Health Affairs <https://doi.org/10.1377/hlthaff.2016.0807>
Data Analysis Tool, National Practitioner Data Bank, <https://www.npdb.hrsa.gov/analysistool/>

⁴⁵ American Dental Hygienists' Association (ADHA). Reimbursement. 2017. Available from: <http://www.adha.org/reimbursement>

⁴⁶ The states are: Arizona, California, Delaware, Florida, Iowa, Maine, Maryland, Nevada, New Hampshire, New Mexico, Oklahoma, Texas, and Washington. Margaret Langelier et al., *Development of a new Dental Hygiene Professional Practice Index by State* (2016).

In response specifically to the pending proposal to create Level III Dental Assistants, we believe that it has the potential to help expand access to oral health care for many D.C. residents. However, the proposal as written falls short of that potential. It endangers the public's health by allowing Assistants to perform skills without the supervision required under the Code. We urge the Board to consider the changes suggested above, as these would help maximize the proposal's impact. We look forward to further discussion and welcome any questions you have on this issue.

Sincerely,

Shavonne Healy, RDH

Brittany Harris, RDH, MSDH

APPENDIX A: PROPOSED REGULATORY & STATUTORY CHANGE

In order to achieve the policy goals discussed above, we suggest the following changes to the proposed language for Dental Hygienists and Dental Hygiene Assistants.

1. Proposed changes to the practice of Dental Hygiene

D.C. Code § 3-1201.02 Definitions of Health Occupations

(4)(A) “Practice of dental hygiene” means the performance of any of the following activities in accordance with the provisions of subparagraph (B) of this paragraph:

. . . [retain all previously suggested language] . . .

(ix) Administering vaccinations ~~under the direct supervision of a dentist licensed under the Act~~, if the hygienist has passed an accredited program recognized by the Board of Dentistry;

. . . [retain all previously suggested language] . . .

(xiii) Supervision of a dental hygiene assistant when in a public health setting as defined in § 3-1209.05(a)(4).

(xiv) Any other functions included in the curricula of approved educational programs in dental hygiene.

(B) A dental hygienist may perform the activities listed in subparagraph (A) of this paragraph only under the general supervision of a licensed dentist, in his or her office or any public school or institution rendering dental Services . . .

(D) The Mayor shall develop such regulations necessary to allow hygienists to operate a practice of dental hygiene, provided that the hygienist must maintain malpractice insurance while operating such practice and obtain board approval before operating such practice.

(i) The proprietor of a dental hygiene practice may purchase, own, or lease equipment necessary to perform supervised or unsupervised dental hygiene services

(ii) The proprietor of a dental hygiene practice may enter into collaborative agreements with dentists

(iii) The proprietor of a dental hygiene practice may hire and supervise dental hygiene assistants, provided that they do not delegate practices which the hygienist and assistant are not both qualified to perform

(E) A dental hygienist who owns a practice listed under subparagraph (D) may practice direct access dental hygiene services

(i) Direct access dental hygiene services includes any of the functions listed under subparagraph (4)(A)(i)-(xv) or any function of dental assistant.

(ii) Direct access services shall include, at the conclusion of each patient visit, such referrals as deemed necessary, but not less than biannual dentist screenings.

2. Proposed changes to 17 D.C.M.R.. 4310

D.C. Mun. Regs. tit. 17, §4310

4310.1 In accordance with § 102(4) of the Act, D.C. Official Code § 3-1201.02(4), a dental hygienist may perform the following functions under the general supervision of a licensed dentist, in his or her office or a *public health setting* rendering dental services:

- (a) A preliminary dental examination, *including: charting of cavities, soft tissue examination, periodontal examination, dental hygiene diagnosis, and oral cancer screening*; a complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration; *scaling and root planing; soft tissue curettage; application of topical fluoride and fluoride varnish*; or the polishing of a tooth or a restoration; and the
- (b) ~~The charting of cavities during preliminary examination, prophylaxis, or polishing;~~
- (c) *Applying* of a medicinal agent to a tooth for a prophylactic purpose and the application of therapeutic agents;
- (d) *Taking dental radiographs*;
- (e) *Instructing* individuals or groups of individuals in oral health care;
- (f) The application of pit and fissure sealants; ~~and~~
- (g) *Initiating consultations and referrals*;
- (h) *Placing and removal of sutures*;
- (i) *Placing and removing of matrices*
- (j) *Placing or removing temporary restorations and crowns*;
- (k) *Taking study cast impressions*

...

4310.3 A dental hygienist shall not perform the following functions:

- ~~(a) Placement of sutures;~~
- (b) Application of cavity liners and bases;

- (c) *Placement of amalgam restorations;*
- (d) *Carving amalgam restorations;*
- (e) *Finishing amalgam restorations;*
- (f) Placement and finishing of composite resin/silicate restorations; and
- ~~(g) Placement and removal of matrices; and~~
- ~~(h) Any function that is defined as the practice of dentistry under the Act unless specifically authorized under this subchapter.~~

D.C. Mun. Regs. tit. 17, §4311

4311.1 A licensed dental hygienist authorized by the District of Columbia Board of Dentistry ("Board") to administer local anesthesia or nitrous oxide pursuant to this section may administer local anesthesia or nitrous oxide in the District of Columbia.

~~4311.2 A licensed dental hygienist authorized by the Board to administer local anesthesia and nitrous oxide shall administer local anesthesia and nitrous oxide only under direct supervision of a dentist licensed under the Act.~~

D.C. Mun. Regs. tit. 17, §4313

4313.1 A licensed dental hygienist authorized by the District of Columbia Board of Dentistry may perform public health functions if they have been trained to do so in an accredited program recognized by the Board of Dentistry.

4313.2 A licensed dental hygienist may perform the following skills if licensed to do so under 4313.1:

- (a) *Taking of vital signs, including heart rate, blood pressure, temperature, and respiration rate*
- (b) *Performing blood glucose testing*
- (c) *Administering vaccinations*

4313.3 A licensed dental hygienist may perform the functions listed in 4312.2 in any setting they are authorized to practice in, including public health settings.

D.C. Mun. Regs. tit. 17, §4399

4399.1 As used in this chapter, the following terms and phrases have the meanings ascribed:

Applicant - a person applying for a license to practice dental hygiene under this chapter.

Board - the Board of Dentistry, established by § 201 of the Act, D.C. Code § 2-3302.1 (1988 Repl. Vol.)

Dentist - a person licensed to practice dentistry under the Act.

Dental hygienist - a person licensed to practice dental hygiene under the Act.

Direct supervision - supervision by a dentist who is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures, remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist, and evaluates the performance of the dental hygienist before dismissal of the patient.

General supervision - supervision based on instructions given by a licensed dentist either in person or by a communications device, but not requiring the physical presence of the dentist on the premises at the time actions are performed. *For a dental hygienist in a public health setting, the hygienist can perform general supervision tasks without prior examination of the patient by a dentist.*

NERB - North East Regional Board of Dental Examiners, Inc.

NERB Examination - the examination in dental hygiene offered by the North East Regional Board of Dental Examiners, Inc., or its successor.

Public health setting - *for purposes of this chapter, public health settings include schools, federally qualified health centers, mobile dental vans, long term care facilities, residences of the homebound, correctional facilities, community health centers, homeless shelters, free clinics, hospitals, or other settings focused on serving underserved populations.*

3. Proposed changes to the practice of Dental Assistants

D.C. Mun. Regs. tit. 17, § 9004.4

Dental Hygiene Assistant may perform the following functions under direct supervision of a dental hygienist in a public health setting:

- (a) All functions permitted to Level I Dental Assistant or Level II Dental Assistant, as enumerated in §§ 9004.2 and 9004.3;
- (a) The application of pit and fissure sealants;
- (b) Coronal polishing;
- (c) Glucose testing;
- (d) Oral hygiene instructions;
- (e) Topical fluoride application (includes fluoride varnish);
- (f) Dental charting at the direction of the dental hygienist; and
- (g) Completing diagnostic records, including:

- (i) Med/dental history update
- (ii) Taking extra/intra-oral films
- (iii) Digital scanning
- (iv) Blood pressure screening
- (v) Blood glucose screening
- (vi) Disclosing solution.

D.C. Mun. Regs. tit. 17, § 9099.1

Definitions

Dental Hygiene Assistant – a person who is registered by the Board and is authorized to assist a licensed dental hygienist in the performance of duties related to preventive oral healthcare under the direct or indirect supervision of a dental hygienist when in a public health setting performing a function the hygienist is permitted to perform in the District of Columbia".

Dental assistant -- a person who is registered by the Board and is authorized to assist a licensed dentist in the performance of duties related to *restorative and surgical* oral healthcare under the direct *or indirect* supervision of a dentist, or dental hygienist when in a public health setting performing a function the hygienist is permitted to perform in the District of Columbia".

Direct supervision -- the *licensed dental professional* is in the dental office, treatment facility, or public health setting, personally diagnoses the condition to be treated, personally authorizes the procedures, remains in the dental treatment facility while the procedures are being performed by the dental assistant *or dental hygiene assistant*, and personally evaluates the performance of the dental assistant before dismissal of the patient.

Indirect Supervision -- the licensed dental professional dentist must authorize the procedure and be in the dental office while the procedure is performed

Public Health Setting -- public health settings include schools, federally qualified health centers, mobile dental vans, long term care facilities, residences of the homebound, correctional facilities, community health centers, homeless shelters, free clinics, hospitals, or other settings focused on serving underserved populations.

D.C. Code § 3-1209.05. Dental assistant.

(a) For the purposes of this section, the term:

(1) "Dental assistant" means a person who is registered by the Board of Dentistry and is authorized to assist a licensed dental professional in the performance of duties related to oral care under the direct supervision of a licensed dental professional ~~dentist~~.

(2) "Direct supervision" means the licensed dental professional ~~dentist~~ is in the dental office, treatment facility, or public health setting where oral health services are provided, ~~the dentist~~ personally diagnoses the condition to be treated, ~~the dentist~~ personally authorizes the procedures, remains in the ~~dental office~~, treatment facility, or public health setting while the procedures are being performed by the dental assistant, and personally evaluates the performance of the dental assistant before dismissal of the patient.

(b) A person who is engaged as a dental assistant to assist a dentist in the performance of dental procedures, or dental hygienist in the performance of dental hygiene procedures, in any area of or specialty area of dentistry, including oral and maxillofacial surgery, or who performs the duties of a dental assistant in any area of or specialty area of dentistry, including oral and maxillofacial surgery, in the District of Columbia shall be registered with the Board, renew the registration as required by rule, and pay the required registration fee established by the Board.

(3) *“Licensed Dental Professional” means a Dentist or Dental Hygienist licensed in the District of Columbia to provide the care for which they are providing supervision, provided that dental hygienists may only provide supervision in public health settings*

(4) *“Public Health Setting” means schools, federally qualified health centers, mobile dental vans, long term care facilities, residences of the homebound, correctional facilities, community health centers, homeless shelters, free clinics, hospitals, or other settings focused on serving underserved populations.*

APPENDIX B: BIOGRAPHICAL INFORMATION

Sara Hoverter is a staff attorney and adjunct professor at the Harrison Institute for Public Law at Georgetown Law and has practiced for nearly 20 years on issues of public health. In that capacity, she represents Mses. Healey & Harris on matters related to hygienist scope of practice in the District. She supervises two students, Blake Hite and Emily Schneider, who are provisionally licensed attorneys and clinic students at the Institute.

Emily Schneider is a second year law student at Georgetown Law. Prior to law school, Emily worked as a public health analyst on health policy research and Medicare innovation models.

Blake Hite is a third-year evening law student and a veteran with 8 years of direct patient care and preventive medicine experience as a Hospital Corpsman in the U.S. Navy. He will complete his Master of Science in Health and the Public Interest at Georgetown University this fall, in which he focused on health policy, and has previously worked as legislative aide in the House of Representatives where he covered military and veteran issues for a Member of Congress, including veteran and military health.

Ericka Walker, MSW
Executive Director
D.C. Board of Dentistry
899 North Capitol Street, NE
Washington, DC 20002

December 1st, 2022

Dear Director Walker:

I am writing this letter in support of the District of Columbia (D.C.) Board of Dentistry (Board) recommending language that amends the D.C. Code (the Code) and D.C. Municipal Regulations (D.C.M.R.). I have been a practicing Registered Dental Hygienist (“hygienist”) in the District for nine years. I teach dental hygiene courses at the University of Maryland School of Dentistry and earned a Masters of Science in Dental Hygiene from Old Dominion University.

This letter provides evidence which supports allowing hygienists to practice at the top of their license within long-term care facilities (LTCFs). Although other changes need to expand high-quality dental services to the residents of D.C., including removing unnecessary supervision requirements, expanding settings in which a hygienist can practice is a simple, safe, evidence-based method for improving oral health outcomes.

1. EVIDENCE SUPPORTING THIS PROPOSAL

According to the US Census, by 2060 the number of US adults aged 65 years or older is expected to reach 98 million, approximately 24% of the overall population.¹ Currently, 1.4 million Americans live in nursing homes and it is estimated that by the year 2050, 27 million people will be living in nursing homes or other residential settings requiring assistance.² Disabled, homebound, or institutionalized older adults are at an increased risk of poor oral health. As populations age, nursing homes become an increasingly important site of care.³ Evidence has suggested that interventions as simple as regular professional brushing every two weeks improves oral health and reduces development of root caries among nursing home residents.⁷

The Board should care. Certain oral health outcomes are worsening in the District. For example, residents ages 18 and over with at least one permanent tooth missing have increased from 61.5%

¹ Sandra Colby & Jennifer Ortman, U.S. Census Bureau, U.S. Dep’t of Com., P25-1143, *Projections of the size and composition of the US Population: 2014 to 2060* (2014).

² Lauren Harris-Kojetin et al., Centers for Disease Control and Prevention, U.S. Dep’t of Health and Human Services, 2014-1040, *Long-term Care Services in the United States: 2013 Overview*, 3 Vital Health Stat. 37 (2013).

³ Inst. Of Med. & Nat’l Research Council, *Oral Health In America* 1-48 (2021).

in 2016 to 70.1% in 2020.⁴ These outcomes are predictable. Dentists who are non-white, who practice in low-income or racial minority communities, or those who practice in larger dental groups are more likely to see Medicaid patients.⁵ Most dentists do not see Medicaid patients.⁶ This matters for D.C., where the rate of dentists in Ward 2 is approximately 600:1.⁷ But in Ward 8, the rate dwindles to more than 4000:1.⁸

Dental hygienists can help these patients. Direct access to dental hygiene services is critical for those who struggle with transportation, insurance coverage, geographic distance, and other barriers to oral health care.⁹ But expanding hygienists' ability to provide care they have been trained for is associated with improved health outcomes and increased salaries for hygienists, all without decreasing healthcare quality.¹⁰ Indeed, where hygienists practice more independently, the total rates of malpractice against dentists decreases,¹¹ more patients are seen at Federally Qualified Health Centers,¹² and tooth extractions among adults due to decay or disease decrease.¹³ International evidence also demonstrates that oral care by dental hygienists is associated with a lower incidence of pneumonia among residents of LTCFs and hospitals.¹⁴

Despite all the evidence above, and in contrast to the increasing independence of dental hygienists in other states,¹⁵ D.C. has fallen behind. The Dental Health Professional Practice Index, a quantitative tool funded by the federal Health Resources and Services Administration since 2001, shows D.C. lagging behind only four other states: Georgia, Alabama, Louisiana, and Mississippi.¹⁶ The 2021 report by the Institute of Medicine noted that 42 states allow patients to directly access from a dental hygienist who play an "important role in providing care to publicly

⁴ To reach this data, navigate from the BRFSS landing page to "Health and Well-being" then select the drop-down menu labeled "step 2" and select "teeth extracted any - age 65"; two year groups can be displayed. *District of Columbia BRFSS*, D.C. Dep't of Health, https://dataviz1.dc.gov/t/OCTO/views/DCEALTH-CPPE-BRESS/Eula?%3AshowAppBanner=false&%3Adisplay_count=n&%3AshowVizHome=n&%3Aorigin=viz_share_link&%3Aembed=yes&%3Atoolbar=no (last visited Nov. 6, 2022).

⁵ Kamyar Nassah et al., *Dentists Who Participate in Medicaid: Who They Are, Where They Locate, How They Practice*, *Med. Care Rsch. & Rev.* (2022).

⁶ *Id.* ("The majority of dentists in our sample (67%) had zero Medicaid patients").

⁷ Dep't of Health, Gov't of the D.C., *Primary Care Needs Assessment* 109 (2018)

⁸ *Id.*

⁹ Fed. Trade Comm'n, Staff Comment Before the Georgia Board of Dentistry Concerning Proposed Amendments to Board Rule 150.5-0.3 (Dec. 30, 2010)

¹⁰ Margaret Langelier et al., *Development of a new Dental Hygiene Professional Practice Index by State* (2016), *cited with approval by* Inst. Of Med. & Nat'l Research Council, *supra* note 3.

¹¹ Memorandum from Emily Schneider, Policy Analyst, Harrison Inst. for Pub. L., to author (Nov. 7, 2022) (on file with author).

¹² Hannah Maxey et al., *Impact of State Workforce Policies on Underserved Patients' Access to Dental Care: A longitudinal study*, 91 *The J. of Dental Hygiene* 26 (2017).

¹³ Margaret Langelier, *Expanded Scopes of Practice For Dental Hygienists Associated With Improved Oral Health Outcomes For Adults*, 35 *Health Affairs* 2207 (2016).

¹⁴ Akio Tada & Hiroko Mura, *Prevention of aspiration pneumonia (AP) with oral care*, 55 *Archives of Gerontology & Geriatrics* 16 (2012); Ai Shiraishi et al., *Hospital dental hygienist intervention improves activities of daily living, home discharge and mortality in post-acute rehabilitation*, 19 *Geriatrics & Gerontology Int.* 189 (2019).

¹⁵ *Id.*

¹⁶ Margaret Langelier, *supra* note 10.

insured patients [. . .]”¹⁷ D.C. is not counted among them. This is a mountain of evidence against the current regulatory scheme in the District, and plenty more exists. The potential harm faced by the residents and hygienists alike is both predictable and difficult to scientifically justify.

Allow me to close by noting that the federal government supports hygienists practicing to the full extent of their training. In 2018, the U.S. Departments of Health and Human Services (HHS), in collaboration with the Departments of Treasury and Labor and the U.S. Federal Trade Commission (FTC), made public policy recommendations regarding healthcare. They advocated for allowing all providers to “practice to the top of their license”¹⁸ and to remove “rigid . . . supervision agreements between . . . dentists and [auxiliaries].”¹⁹ These recommendations were further supported by the National Academy of Sciences Institute of Medicine, which has advocated since at least 2011 for auxiliaries to work under “evidence-supported supervision levels.” In 2010, the FTC wrote a letter encouraging the Georgia State Legislature stating they were “unaware of any [] evidence” that harm would come to patients who received appropriate care from hygienists without prior screening by a dentist.²⁰ The FTC reiterated those views in a 2017 letter to the Ohio State Legislature when they quoted the 2000 Institute of Medicine report stating that restrictions “are often unrelated to competence, education and training, or [patient] safety.”²¹

With the above facts in mind, I respectfully request the following regulatory or statutory changes.

2. REGULATORY RECOMMENDATIONS

I request the opportunity to present further evidence before the Board and to make specific recommendations while on the record at the next Board meeting. Specifically, I will recommend a new definition for “public health settings” at 17 D.C.M.R. 4399.1 which would include LTCFs. Additionally, I plan to encourage the Board to suggest loosening supervision requirements so hygienists may safely practice at “the top of their license” with direct access. At a minimum, I request the Board consider the evidence provided in this letter and use their considerable regulatory experience to draft further legislative and regulatory recommendations.

¹⁷ Inst. Of Med. & Nat'l Rsch. Council, *supra* note 3, 2A-56.

¹⁸ U.S. Dep't of Health & Human Serv., *Reforming America's Healthcare System Through Choice and Competition* 36 (2018).

¹⁹ *Id.* at 108.

²⁰ Fed. Trade Comm'n, *supra* note 5; Fed. Trade Comm'n & Dep't of Just., *Improving health care: A dose of competition*, 30 (July, 2004) (finding that anticompetitive conduct that restricts access is likely to raise prices and decrease quality).

²¹ Fed. Trade Comm'n, *FTC Staff Advocacy Letter to Hon. Peggy Lehner, Ohio State Senate, Concerning a Bill to License Dental Therapists* (Mar. 3, 2017); Inst. Of Med. & Nat'l Research Council *supra* note 3, 4-31 (“Restrictive rules remain, despite a lack of evidence that they are necessary to protect against unsafe care. In short, a better-performing, wider-reaching oral health delivery system cannot be achieved without legislative and regulatory change.”); *id.* at 4-48 (“For example, dental hygienists in some states are prohibited from providing care in community-based settings without a dentist’s physical presence, or from sealing teeth in school settings without the child’s prior examination by a dentist. These regulations persist, although there is no evidence that they promote safety.”).

3. CONCLUSION

Thank you again for the opportunity to comment. The Board has proposed positive steps toward improving the health of D.C.'s residents. The proposed evidence-based recommendations above have the support of many in the hygienist community. The expansion of approved functions are also likely to find support from the D.C. Dental Society, who wrote in a letter to the Board just a few months ago that "expanding the procedures that dental hygienists and dental assistants are authorized to perform" would "enhance the ability of dental practices to increase access to care."²² I welcome your feedback and hope to continue working alongside you to improve the health of all residents.

Sincerely,

Brittany Harris,
RDH, MSDH

Cc:

Ms. Carla Williams, Esq.
Senior Assistant General Counsel
D.C. Department of Health
899 North Capitol Street, NE
Washington, DC 20002

Dr. John Bailey, DDS
Interim Vice-Chairperson
D.C. Board of Dentistry
899 North Capitol Street, NE
Washington, DC 20002

²² Letter from Pierre Cartier (DMD), D.C.D.S. President, and Cheryle Baptiste (DDS), D.C.D.S. Vice President, to Dr. John Bailey, Interim Chairperson, Board of Dentistry (June 11, 2022) (on file with author).

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Interim Director of the Department of Health (Department), pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)) (2016 Repl.), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the intent to take final rulemaking action to amend Chapter 90 (Dental Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

This rulemaking adds a Level III Dental Assistant registration category for applicants possessing advanced educational training, and expands the duties that may be performed by dental assistants.

Chapter 90, DENTAL ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 9003, EDUCATION REQUIREMENTS, is amended as follows:

Subparagraph 9003.2(d) is amended to read as follows:

9003.2 (d) A current and valid certification as a Certified Dental Assistant in general duties from the Dental Assisting National Board (DANB), or other dental assisting certification approved by the Board.

A new subsection 9003.3 is added to read as follows:

9003.3 An applicant for a Level III Dental Assistant registration shall submit proof satisfactory to the Board that the applicant has:

- (a) A high school diploma or has a general equivalency diploma;
- (b) Successfully completed a course in dental radiography training meeting the requirements set forth in § 9005.1 of this chapter;
- (c) Successfully completed and graduated from an educational program for dental assistants approved by the Board or the American Dental Association's (ADA) Commission on Dental Accreditation (CODA); or
- (d) A current and valid certification as a Certified Dental Assistant in general duties from the Dental Assisting National Board (DANB), or other dental assisting certification approved by the Board;

- (e) Successfully completed and obtained the DANB Certified Preventive Functions Dental Assistant Certification; and
- (f) Successfully passed a Board-approved, hands-on course in the functions and duties permitted to be performed by a Level III Dental Assistant.

Section 9004, SCOPE OF PRACTICE, is amended as follows:

Subparagraph 9004.2(c) is amended to read as follows:

- (c) Applying fluoride (rinse, foam tray, and fluoride varnish);

Subparagraph 9004.2(l) is amended to read as follows:

- (l) Constructing athletic mouth guards and night guards on models;

Subparagraphs 9004.2(p) and (q) are amended to read as follows:

- (p) Whitening or bleaching using trays;
- (q) Take and record vital signs; and

A new subparagraph 9004.2(r) is added to read as follows:

- (r) Other functions as approved by the Board.

Subparagraph 9004.3(d) is repealed.

Subparagraphs 9004.3(m) and (n) are amended to read as follows:

- (m) Removing excess cement; and
- (n) Removing or placing a periodontal dressing (except placing the original periodontal dressing).

Subparagraph 9004.3(o) is repealed.

Subsections 9004.4 and 9004.4 are renumbered as 9004.5 and 9004.6 respectively.

A new subsection 9004.4 is added to read as follows:

9004.4 Level III Dental Assistant may perform the following functions under direct supervision of a dentist:

- (a) All functions permitted to Level I Dental Assistant or Level II Dental Assistant, as enumerated in §§ 9004.2 and 9004.3;
- (b) The application of pit and fissure sealants;
- (c) Coronal polishing to remove stain and biofilm; and
- (d) Glucose testing.

The lead-in language of subparagraph 9004.5 is amended to read as follows:

9004.5 Level I, II, or III Dental Assistant working under the direct supervision of an orthodontist may also perform the following functions:

Subsection 9004.6 is amended to read as follows:

9004.6 A dentist shall not delegate to a dental assistant any of the following procedures:

- (a) Those procedures excluded by [17 DCMR § 4215.1](#);
- (b) A preliminary dental examination;
- (c) A complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration;
- (d) The restoration of a tooth;
- (e) The charting of cavities during preliminary examination, prophylaxis, or polishing; however, a dentist may permit an assistant to record the charting of cavities as dictated by the dentist or dental hygienist during the course of a preliminary examination or dental procedure;
- (f) The instruction of individuals or groups of individuals in oral health care, unless it is in the dental office and done as instructed by the dentist;
- (g) Repealed;
- (h) Diagnostic screening to identify indications of oral abnormalities;
- (i) Administration of local anesthesia;

- (j) Administration of nitrous oxide;
- (k) Placement of temporary restorations;
- (l) Taking final impressions;
- (m) Adjusting occlusion of natural teeth, restorations or appliances;
- (n) Registration of jaw relations;
- (o) Cementing permanent crowns or restorations;
- (p) Applying silver diamine fluoride;
- (q) Glucose monitoring;
- (r) Whitening or Bleaching (internal, laser, or high-intensity light);
- (s) Using a high speed hand-piece intraorally;
- (t) Oral cancer screenings;
- (u) Oral cancer tissue biopsy;
- (v) Placing initial periodontal dressing;
- (w) Placement of liquid dam;
- (x) Applying and removing a socket dressing;
- (y) Placement of subgingival medicaments;
- (z) Removing intracoronal temporary restorations; or
- (aa) Placing sutures.

Section 9005, RADIOGRAPHY REQUIREMENTS, is amended as follows:

The lead-in language of subparagraph 9005.1 is amended to read as follows:

9005.1 A Level II or Level III dental assistant shall be eligible to place or expose dental x-ray film if he or she has:

A new section 9008, DISTRICT OF COLUMBIA DENTAL ASSISTANT LAW EXAMINATION, is added to read as follows:

9008 DISTRICT OF COLUMBIA DENTAL ASSISTANT LAW EXAMINATION

9008.1 To qualify for a registration under this chapter, all applicants without exception shall receive a passing score on a written examination developed by the Board or a Board-approved entity on laws and rules pertaining to the practice of dental assistants (the District of Columbia Dental Assistants Law Examination).

9008.2 The District of Columbia Dental Assistants Law Examination may consist of questions on general District laws pertaining to the practice of dental assistants including the Act, this chapter, and chapters 40, 41, 42, and 43 of this title.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Phillip L. Husband, General Counsel, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules and errata notice may be obtained during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays, at the address listed above, or by contacting Angli Black, Paralegal Assistant, at Angli.Black@dc.gov, (202) 442-5977.

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Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson at the request of the Mayor, introduced the following bill,
which was referred to the Committee on _____.

To amend the Health Occupations Revision Act of 1985 to amend the scope of practice of dental hygiene to authorize dental hygienists to apply pit and fissure sealants; place and remove periodontal dressings; administer vaccinations under the direct supervision of a dentist licensed under the Act, when certified by the Board to do so; prescribe topical prescription or over-the-counter fluoride preparations, and topical antimicrobial oral rinses, under the supervision of a dentist licensed under the Act; perform blood glucose testing; place or removing temporary restorations and crowns; take study cast impressions; remove sutures; and to define the term “dental hygiene diagnosis”; and to amend the scope of practice of dental assistants to include assisting a licensed dental hygienist, and to authorize dental assistants to perform specified duties under general or indirect supervision pursuant to the required level of supervision set forth by the Mayor through rulemaking, and to clarify who is required to be registered as a dental assistant.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the “Dental Hygiene and Dental Assistants Scope of Practice Amendment Act of 2023.”

Sec. 2. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 3-1201.02) is amended as

1 follows:

2 (1) Sub-subparagraph (4)(A)(i) is amended by:

3 1. Inserting after the phrase “A preliminary dental examination” the

4 phrase “, including charting of cavities, soft tissue examination,

5 periodontal examination, and oral cancer screening”;

6 2. Inserting after the phrase “surface of a tooth or a restoration;” the

7 phrase “scaling and root planing; soft tissue curettage; application of

8 topical fluoride and fluoride varnish;”.

9 (2) Sub-subparagraph (4)(A)(ii) is repealed.

10 (3) Sub-subparagraph (4)(A)(iii) is amended by striking the phrase “The

11 application of” and inserting the term “Applying” in its place.

12 (4) Sub-subparagraph (4)(A)(iv) is amended to read as “Taking dental

13 radiographs;”.

14 (5) Sub-subparagraph (4)(A)(v) is amended by striking the phrase “The

15 instruction of” and inserting the term “Instructing” in its place.

16 (6) Sub-subparagraph (4)(A)(vi) is amended as follows:

17 1. The existing text of sub-subparagraph (4)(A)(vi) is renumbered as

18 subsection (4)(A)(xiii).

19 2. The new sub-subparagraph (4)(A)(xiii) is amended by striking the

20 phrase “dental hygiene.” and inserting the phrase “dental hygiene,

21 including dental hygiene diagnosis.” in its place.

22 (7) New sub-subparagraphs (4)(A)(vi)-(xii) are added to read follows:

1 “(vi) “Administering local anesthesia and nitrous oxide, when certified by
2 the Board to do so;”

3 “(vii) “Applying pit and fissure sealants;”

4 “(viii) “Placing and removing periodontal dressings;”

5 “(ix) “Administering vaccinations under the direct supervision of a dentist
6 licensed under the Act, when certified by the Board to do so;”

7 “(x) “Prescribing topical prescription or over-the-counter fluoride
8 preparations, and topical antimicrobial oral rinses, under the supervision of
9 a dentist licensed under the Act;”

10 “(xi) “Performing blood glucose testing;”

11 “(xii) “Placing or removing temporary restorations and crowns; taking
12 study cast impressions; removing sutures;”

13 (8) Subparagraph (B) is amended as follows:

14 1. Strike the phrase “A dental hygienist may perform” and insert the
15 phrase “Except for administering vaccinations, a dental hygienist may
16 perform” in its place.

17 2. Strike the term “(A)(vi)” and insert the term “(A)(xiii)” in its place.

18 (9) A new subparagraph (D) is added to read as follows:

19 “(D) “For the purpose of subparagraph (A) of this paragraph, the term
20 “dental hygiene diagnosis” means the identification of an existing oral
21 health problem that a dental hygienist is qualified and licensed to treat
22 within the scope of dental hygiene practice. The dental hygiene diagnosis
23 focuses on behavioral risks and physical conditions that are related to oral

1 health. A dentist shall confirm any dental hygiene diagnosis that requires
2 treatment that is outside the scope of dental hygiene practice.”

3 (b) Section 905 (D.C. Official Code § 3-1209.05) is amended as
4 follows:

5 1. Paragraph (a)(1) is amended by inserting after the phrase “assist a
6 licensed dentist” the phrase “or a licensed dental hygienist”, and by striking the phrase
7 “direct supervision” and inserting the term “supervision” in its place.

8 2. Paragraph (a)(2) is amended by inserting after the phrase “means the
9 dentist is in the dental office or treatment facility,” the phrase “the dentist”.

10 3. New paragraphs (a)(3) and (a)(4) are added to read as follows:

11 “(3) “General supervision” means supervision based on instructions given
12 by the licensed dentist either in person or by a communications device, but
13 not requiring the physical presence of the dentist on the premises at the
14 time the actions are performed.

15 “(4) “Indirect supervision” means the dentist is in the dental office or
16 treatment facility, the dentist personally diagnoses the condition to be
17 treated, personally authorizes the procedures, and remains in the dental
18 office or dental treatment facility while the procedures are being
19 performed by the dental assistant.

20 4. Paragraph (b) is amended to read as follows:

21 “(b) A person who is engaged as a dental assistant to assist a dentist in the
22 performance of dental procedures, or a dental hygienist in the performance
23 of dental hygiene procedures, in any area of or specialty area of dentistry,

1 including oral and maxillofacial surgery, or who performs the duties of a
2 dental assistant in any area of or specialty area of dentistry, including oral
3 and maxillofacial surgery, in the District of Columbia shall be registered
4 with the Board, renew the registration as required by rule, and pay the
5 required registration fee established by the Board.”.

6 5. Paragraph (d) is amended by inserting after the phrase “engage in the
7 practice” the phrase “of dental assisting”, and by striking the phrase “direct supervision”
8 and inserting the term “supervision” in its place.

9 6. Paragraph (e) is repealed.

10 7. Paragraph (g) is amended by striking the phrase “and the duties that may
11 be performed by a dental assistant” and inserting the phrase “, the duties that
12 may be performed by a dental assistant, and the required level of supervision”
13 in its place.

14 Sec. 3. Fiscal impact statement.

15 The Council adopts the fiscal impact statement in the committee report as the
16 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
17 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
18 206.02(c)(3)).

19 Sec. 4. This act shall take effect following approval by the Mayor (or in the event
20 of veto by the Mayor, action by the Council to override the veto), a 30-day period of
21 Congressional review as provided in section 602(c)(1) of the District of Columbia Home
22 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
23 206.02(c)(1)), and publication in the District of Columbia Register.

9003. EDUCATION REQUIREMENTS

9003.1 An applicant for a Level I Dental Assistant registration shall submit proof satisfactory to the Board that the applicant has a high school diploma or has a general equivalency diploma.

9003.2 An applicant for a Level II Dental Assistant registration shall submit proof satisfactory to the Board that the applicant has:

- (a) A high school diploma or has a general equivalency diploma;
- (b) Successfully completed a course in dental radiography training meeting the requirements set forth in § 9005.1 of this chapter; and
- (c) Successfully completed and graduated from an educational program for dental assistants approved by the Board or the American Dental Association's (ADA) Commission on Dental Accreditation (CODA); or
- (d) A current and valid certification as a Certified Dental Assistant [in general duties](#) from the Dental Assisting National Board (DANB), or other dental assisting certification approved by the Board.

[9003.3 An applicant for a Level III Dental Assistant registration shall submit proof satisfactory to the Board that the applicant has:](#)

- [\(a\) A high school diploma or has a general equivalency diploma;](#)
- [\(b\) Successfully completed a course in dental radiography training meeting the requirements set forth in § 9005.1 of this chapter;](#)
- [\(c\) Successfully completed and graduated from an educational program for dental assistants approved by the Board or the American Dental Association's \(ADA\) Commission on Dental Accreditation \(CODA\); or](#)
- [\(d\) A current and valid certification as a Certified Dental Assistant in general duties from the Dental Assisting National Board \(DANB\), or other dental assisting certification approved by the Board;](#)
- [\(e\) Successfully completed and obtained the DANB Certified Preventive Functions Dental Assistant Certification; and](#)
- [\(f\) Successfully passed a Board-approved, hands-on course in the functions and duties permitted to be performed by a Level III Dental Assistant.](#)

9004. SCOPE OF PRACTICE

9004.1 Subject to the restrictions set forth in this section, a dentist may delegate to a registered dental assistant only those procedures which are:

- (a) Appropriate to the training and experience of the dental assistant and the practice of the supervising dentist;
- (b) Reversible; and
- (c) To be performed under the direct supervision of the dentist.

9004.2 Level I Dental Assistant may perform the following functions under direct supervision of a dentist:

- (a) Placing retraction cord;
- (b) Placing matrices;
- (c) Applying fluoride (rinse, foam tray, and fluoride varnish);
- (d) Placing periodontal dressings;
- (e) Removing temporary restorations without the use of a rotary instrument;
- (f) Removing sutures;
- (g) Taking impression for study models or diagnostic casts;
- (h) Rinsing and aspirating the oral cavity;
- (i) Retracting the lips, cheek, tongue, and flaps;
- (j) Placing or removing materials for the isolation of the dentition, provided that the material is not retained by the dentition;
- (k) Applying topical anesthesia;
- (l) Constructing athletic mouth guards and night guards on models;

- (m) Performing intraoral photography;
- (n) Curing by the use of halogen light;
- (o) Checking for loose bands;
- (p) Whitening or bleaching using trays;
- ~~(q) Take and record vital signs and;~~ and
- ~~(r)~~ Other functions as approved by the Board.

9004.3 Level II Dental Assistant may perform the following functions under direct supervision of a dentist:

- (a) All functions permitted to Level I Dental Assistant, as enumerated in § 9004.2;
- (b) Performing vitality tests;
- (c) Taking alginate impressions for intraoral appliances;
- (d) Applying topical fluoride/peel;
- (e) Applying desensitizing agents;
- (f) Placing or removing a rubber dam;
- (g) Etching;
- (h) Fabricating indirect restorations in a dental office;
- (i) Placing or removing a matrix band;
- (j) Drying a root canal;
- (k) Preparing and fitting stainless steel crowns;
- (l) Preparing temporary crowns;
- (m) Removing excess cement; and

Commented [WC(1)]: Moved to Level I

(n) Removing or placing a periodontal dressing (except placing the original periodontal dressing); ~~and~~

(o) ~~Repealed~~ Constructing athletic mouth guards on models;

Commented [WC(2)]: Moved to Level I

9004.4 Level III Dental Assistant may perform the following functions under direct supervision of a dentist:

(a) All functions permitted to Level I Dental Assistant or Level II Dental Assistant, as enumerated in §§ 9004.2 and 9004.3;

(b) The application of pit and fissure sealants; ~~and~~

(c) Coronal polishing to remove stain and biofilm; ~~and~~

(d) ~~Glucose testing.~~

9004.5 Level I ~~or II, or III~~ Dental Assistant working under the direct supervision of an orthodontist may also perform the following functions:

(a) Preparing and fitting orthodontic bands;

(b) Removing excess cement from around orthodontic bands;

(c) Placing and removing arch wires;

(d) Cementing orthodontic bands, placing bonded attachments, or removing cemented or bonded orthodontic bands and attachments;

(e) Placing elastics and ligatures; and

(f) Selecting headgear.

9004.6 A dentist shall not delegate to a dental assistant any of the following procedures:

- (a) Those procedures excluded by [17 DCMR § 4215.1](#);
- (b) A preliminary dental examination;
- (c) A complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration;
- (d) The ~~intraoral polishing restoration~~ of a tooth ~~or a restoration~~;
- (e) The charting of cavities during preliminary examination, prophylaxis, or polishing; however, a dentist may permit an assistant to record the charting of cavities as dictated by the dentist or dental hygienist during the course of a preliminary examination or dental procedure;
- (f) The instruction of individuals or groups of individuals in oral health care, unless it is in the dental office and done as instructed by the dentist;
- (g) ~~The application of pit and fissure sealants~~ (Repealed);
- (h) Diagnostic screening to identify indications of oral abnormalities;
- (i) Administration of local anesthesia ~~with board identified criteria and certification~~;
- (j) Administration of nitrous oxide ~~with Board identified criteria and certification~~;
- (k) Placement of temporary restorations; ~~or~~
- (l) Taking final impressions;
- ~~(m) -~~
Adjusting occlusion of natural teeth, restorations or appliances;
- (n) Registration of jaw relations;
- (o) Cementing permanent crowns or restorations;
- (p) Applying silver diamine fluoride;
- (q) Glucose monitoring;
- (r) Whitening or Bleaching (internal, laser, or high-intensity light);

Commented [WC(3)]: Level III authorized to do so

Commented [WC(4)]: Unnecessary. Simply cannot delegate it.

Commented [WC(5)]: Same reason.

(s) Using a high speed handpiece intraorally;

(t) Oral cancer screenings;

(u) Oral cancer tissue biopsy;

(v) Placing initial periodontal dressing;

(w) Placement of liquid dam;

(x) Applying and removing a socket dressing;

(y) Placement of subgingival medicaments;

(z) Removing intracoronal temporary restorations; or

(aa) Placing sutures.

9005.1 A Level II or Level III dental assistant shall be eligible to place or expose dental x-ray film if he or she has:

(a) Successfully passed the Dental Assistant National Board's (DANB) Radiation Health and Safety (RHS) examination or Certified Dental Assistant (CDA) examination; or

(b) Successfully completed a Board-approved dental radiology training program consisting of at least twenty-four (24) hours of coursework in radiology, radiation safety, biology, and physics, and has successfully passed the examination(s) required for successful completion of the program.

9008 DISTRICT OF COLUMBIA DENTAL ASSISTANT LAW EXAMINATION

9008.1 To qualify for a registration under this chapter, all applicants without exception shall receive a passing score on a written examination developed by the Board or a Board-approved entity on laws and rules pertaining to the practice of dental assistants (the District of Columbia Dental Assistants Law Examination).

9008.2 The District of Columbia Dental Assistants Law Examination may consist of questions on general District laws pertaining to the practice of dental assistants including the Act, this chapter, and chapters 40, 41, 42, and 43 of this title.

9099.1

9099 DEFINITIONS

9099.1 For the purposes of this chapter, the following terms shall have the meanings ascribed:

Act - the District of Columbia Health Occupation Revision Act, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1203.01, *et seq.* (2007 Repl.)).

Board - the Board of Dentistry.

Dental assistant - a person who is registered by the Board and is authorized to assist a licensed dentist in the performance of duties related to oral care under the direct supervision of a dentist.

Direct supervision - the dentist is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures, remains in the dental office or dental treatment facility while the procedures are being performed by the dental assistant, and personally evaluates the performance of the dental assistant before dismissal of the patient.

Director – the Director of the Department of Health or the Director’s designee.

Re: Agenda Item Submission Request

Walker, Ericka (DOH) <ericka.walker@dc.gov>

Wed 11/16/2022 2:16 PM

To: Shavonne Healy <srhrdh@gmail.com>; Board of Dentistry, (DOH) <dcbod@dc.gov>; Brittany Harris <bharris387@gmail.com>; Sara Hoverter <sara.hoverter@georgetown.edu>; Blake Hite <bah112@georgetown.edu>; Emily Schneider <ejs295@georgetown.edu>

Cc: Mbanefo, Kathleen (DOH) <kathleen.mbanefo@dc.gov>

Good Afternoon Ms. Healy,

Thank you for participating in today's Board meeting. As discussed in the meeting, please submit your documented evidence based detail approach no later than December 1, 2022 to kathleen.mbanefo@dc.gov. For your convenience, Kathleen is copied on this email.

The inquiries in your email will be addressed at the next Board meeting scheduled on December 21, 2022.

Let me know if you have any questions or concerns.

Best regards,
Ericka

Ericka L. Walker, MSW

Executive Director

Health Regulation and Licensing Administration

Board of Dentistry

Allied and Behavioral Health Boards

ericka.walker@dc.gov

Main: 202-724-8800

Office: 202-724-8801

899 North Capitol Street NE, 2nd Floor, Washington, DC 20002

dchealth.dc.gov

DC HEALTH

GOVERNMENT OF THE
DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR



[dchealth.dc.gov]

From: Shavonne Healy <srhrdh@gmail.com>

Sent: Wednesday, November 16, 2022 1:33 PM

To: Walker, Ericka (DOH) <ericka.walker@dc.gov>; Board of Dentistry, (DOH) <dcbod@dc.gov>; Brittany Harris <bharris387@gmail.com>; Sara Hoverter <sara.hoverter@georgetown.edu>; Blake Hite <bah112@georgetown.edu>; Emily Schneider <ejs295@georgetown.edu>

Subject: Agenda Item Submission Request

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Ms. Walker,

Thank you for today's meeting and the opportunity to share information at the next session.

To confirm, will this be an agenda item for the next meeting? The request is for a 10- 15-minute PPT on dental hygiene/assist scope of practice. Our goal is to help demonstrate the variation across states and its impact on access to care and oral health. As discussed today, we will have documentation to support our suggestions within the next two weeks.

In addition, the BOD should consider implementing a system that ensures that all raised hands are seen and recognized (if time allows) before any vote takes place. We all take the time from work to be here and make our voices heard. Like Mr. Gallagher, I believe it needs to be clarified that the public comments portion of the meeting was taking place. I had additional comments and questions on OS-1116-04 and OS-1116-06.

On OS-1116-04 (#5), will a list of candidates who have applied to serve on the BOD be made available to the public before any appointments? On the October agenda, Dr. Bailey is listed as Interim Chairperson, and on today's agenda, he is listed as Chairperson. Please clarify this process for me.

I appreciate your time and consideration,

Shavonne R. Healy, MSDH, RDH



District of Columbia

DENTAL SOCIETY

2001 K Street, NW 3rd Floor North | Washington, D.C. 20006

Phone: (202) 367-1163 | Fax: (202) 367-2163 | info@dcdental.org | www.dcdental.org

January 13, 2023

Dr. John Bailey
Chair, D.C. Board of Dentistry
899 North Capitol Street, NE
Washington, DC 20002

Dear Dr. Bailey,

I am writing to provide commentary on behalf of the more than 400 member dentists of the D.C. Dental Society (DCDS) regarding two letters dated December 1, 2022 that were sent to the Board of Dentistry by Brittany Harris and Shavonne Healy.

DCDS supports the recommendations within the letter from Ms. Harris to allow dental hygienists to practice in long-term care facilities. DCDS shares the goals of Ms. Harris efforts to expand access to oral care throughout the District. Indeed, the D.C. Dental Society Foundation has developed materials to educate care providers who work in long-term care facilities and home settings about essential oral health topics that will be made available to the public in the coming days.

Regarding the letter from Ms. Harris and Ms. Healy, while DCDS is generally supportive of its recommendations, DCDS does have two important points of disagreement:

- **DCDS opposes changing the name of the new position of “Level III Dental Assistant” to “Dental Hygiene Assistant.”** Dental Assistants, depending upon their level, are authorized to perform a range of functions within a dental practice. Dental Assistants are not limited to providing support to dentists, but rather may provide support to dental hygienists as well. This point has been a topic of discussion in recent Board of Dentistry meetings when the proposed changes to the dental scopes of practice have been reviewed – D.C. code currently provides for two levels of “dental assistants,” not “dentist’s assistants.” We do not oppose authorizing dental hygienists to supervise the work of a dental assistant at any level. We are opposed to renaming any level of dental assistants to suggest that they are supervised only by a dental hygienist.
- **DCDS opposes the proposal to limit the practice of Level III Dental Assistants to “public health settings, such as school-based health centers, community clinics, and Federally Qualified Health Centers.”** DCDS supports the creation of a Level III Dental Assistant to enable qualified professionals to perform expanded functions. The current shortage of registered dental staff in D.C. increases the need for this new position with the ability to perform expanded functions. All settings where oral health care are provided should have the ability to utilize this new position. Designating the practice of Level III Dental Assistants to public health settings would create a disparity in

DC Dental Society, January 13, 2023

- the care provided between those settings that provide oral health care without a sound rationale for limiting access within dental practices or traditional settings.

Representatives of the D.C. Dental Society will attend the Board of Dentistry meeting on December 21 who will be able to answer any questions that you or other members of the Board of Dentistry may have about the points made in this letter.

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ioana Bettios', with a long horizontal flourish extending to the right.

Ioana Bettios, DDS, MS, FICD, FACD, FACP