

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

**Date: February 16, 2022
Time: 9:00 AM**

**OPEN SESSION
MEETING AGENDA**

WEBEX Virtual Meeting

Due to the COVID-19 pandemic, all board meetings are held virtually during the declared public health emergency.

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

**BOARD OF DENTISTRY
Open Session Agenda February 16, 2022**

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

BOARD OF DENTISTRY

Open Session Agenda February 16, 2022

CALL TO ORDER AND ROLL CALL

OS-0216-01 **INTRODUCTIONS:**

- A. Board Members**
- B. Board Staff**
- C. Public Attendance**

OS-0216-02 **OPEN SESSION AGENDA**

Board Action:

Acceptance of the **February 16, 2022**, meeting agenda.

OS-0216-03 **OPEN SESSION MINUTES:**

Board Action:

Consideration of the Open Session minutes from the **January 19, 2022**, meeting.

STAFF REPORTS

OS-0216-04 **EXECUTIVE DIRECTOR'S REPORT:**

1. **BOD Calendar**

- February 16, 2022
- March 16, 2022
- April 20, 2022
- May 18, 2022
- June 15, 2022
- July 20, 2022
- August 2022 (Recess)
- September 21, 2022

2. **BOD Census**

Dentists (**1,029**)
Dental Hygienists (**409**)
Dental Hygienists with the authority to administer Local Anesthesia (**84**)
Dental Hygienists with the authority to administer Local Anesthesia & Nitrous Oxide (**47**)
Dental Hygienists with the authority to administer Nitrous Oxide- (**3**)
Dental Assistant Level 1 (**78**)
Dental Assistant Level 2 (**406**)
Teaching Licenses for Dentists (**2**)
Teaching Licenses for Dental Hygienist (**1**)

| | | |
|-------------------------|---|--|
| | 3. District of Columbia COVID-19 https://coronavirus.dc.gov/vaccine | |
| OS-0216-05 | <u>BOARD ATTORNEY'S REPORT:</u> NONE | |
| OS-0216-06 | <u>BOARD CHAIRPERSON'S REPORT:</u> NONE | |
| DISCUSSION ITEMS | | |
| OS-0216-07 | <u>LEGISLATIVE HEARINGS- FYI Only</u> http://dccouncil.us/events/list | |
| OS-0216-08 | <u>NOTICE OF EMERGENCY AND PROPOSED RULEMAKING</u> Health care workers to be up to date on their COVID-19 vaccine, including boosters and annual vaccinations. | |
| OS-0216-09 | <u>DENTAL BOARD SUB-COMMITTEES</u> 1. Credentials & Audits: Dr. Iris Jeffries-Morton, Dr. John Bailey, and Ms. Yolanda Josey-Baker, RDH 2. Communications: Ms. Yolanda Josey-Baker, RDH 3. Regulatory Affairs: Dr. Judith Henry, Ms. Dianne Smith, and Ms. Yolanda Josey-Baker RDH <ul style="list-style-type: none"> • Scope of Practice | |
| OS-0216-10 | <u>COMMENTS FROM THE PUBLIC</u> | |

BOARD OF DENTISTRY

Open Session Agenda February 16, 2022

| CLOSING | | |
|----------------|--|--|
| OS-0216-11 | <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> | |
| | 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 March 16, 2022.

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: January 19, 2022

Time: 9:00 AM

**OPEN SESSION
MEETING MINUTES**

WEBEX Virtual Meeting

Due to the COVID-19 pandemic, all board meetings are held virtually during the declared public health emergency.

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BOARD OF DENTISTRY

Open Session Meeting Minutes January 19, 2022

| BOARD MEMBERS: | |
|--|-----------------|
| Dr. Wesley Thomas, DMD – Excused Absence | Excused Absence |
| Dr. John R. Bailey, DDS – Interim Chairperson | Present |
| Ms. Yolanda Josey – Baker, RDH –Interim Vice-Chairperson | Present |
| Dr. Iris Jeffries-Morton, DDS- Board Member | Present |
| Dr. Judith Henry, 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, Board Investigator | Present |
| Kathleen Ibeh, Health Licensing Specialist | Present |
| LEGAL STAFF: | |
| Carla M. Williams, Senior Assistant General Counsel | Present |

BOARD OF DENTISTRY

Open Session Meeting Minutes January 19, 2022

CALL TO ORDER AND ROLL CALL

OS-0119-01 **INTRODUCTIONS**

The meeting was called to order at 9:07am as a quorum was maintained

- **Board Members**

Dr. John Bailey, DDS – Interim Chairperson (**Present**)
Ms. Yolanda Josey-Baker, RDH – Interim Vice-Chairperson (**Present**)
Dr. Judith Henry, DDS – 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**)

- **Legal Staff**

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

- **Public Attendance**

Mr. Kurt Gallagher, Executive Director – DC Dental Society (**Present**)
Dr. Cheryle Baptiste, Robert T. Freeman Dental Society and DC Dental Society (**Present**)

OS-0119-02 **Board Action:**

Acceptance of the **January 19, 2022**, meeting agenda.

Motion: The Board to accept the January 19, 2022 Meeting Agenda

Moved by: Ms. Yolanda Josey-Baker, (Board Member)

Seconded by: Dr. Judith Henry, (Board Member)

Motion passed unanimously

OS-0119-03 **OPEN SESSION MINUTES:**

Board Action:

Consideration of the Open Session minutes from the **December 15, 2021** meeting.

Motion: The Board to accept the December 15, 2021 Open Session meeting minutes.

Moved by: Dr. Iris Jeffries-Morton, (Board Member)

Seconded by: Dr. Judith Henry (Board Member)

Motion passed unanimously

STAFF REPORTS

OS-0119-04

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 upcoming Board meeting dates and current census reports which are located below on the Open Session Agenda. Mrs. Walker also reminded attendees about <https://coronavirus.dc.gov/vaccine>, the District of Columbia's primary and up-to-date source for all information regarding COVID-19 and vaccinations within the District. Mrs. Walker informed attendees that effective December 27, 2021, DC Health implemented an adjustment to its telework schedule where employees are in the office for two days and teleworking for three days of the week until January 31, 2022. She also stated that the walk-in hours for the Processing Center are from 9am to 1pm, Monday through Friday.

Mrs. Walker also informed attendees that there has been an amendment to the Declaration of the Director of the District of Columbia. As of January 18, 2022, Dental Hygienists have been added to the list of healthcare professionals who are eligible for temporary licensure for 90 days. The following stipulations must be met for eligible healthcare professionals to be granted the temporary license:

- Submit an application
- Must provide proof of licensure in good standing in another state/jurisdiction
- Must provide a National Practitioner Database (NPDB) Self-Query Report
- Clean Criminal Background Check results
- Must attest to being fully vaccinated against COVID-19

This concluded Mrs. Walkers' report.

1. **BOD Calendar**

- January 19, 2022
- February 16, 2022
- March 16, 2022
- April 20, 2022
- May 18, 2022
- June 15, 2022
- July 20, 2022
- August 2022 (Recess)
- September 21, 2022

| | | |
|-------------------------|--|--|
| | <p>2. <u>BOD Census</u> Dentists (981) Dental Hygienists (399) Dental Hygienists with the authority to administer Local Anesthesia (82) Dental Hygienists with the authority to administer Local Anesthesia & Nitrous Oxide (47) Dental Hygienists with the authority to administer Nitrous Oxide- (3) Dental Assistant Level 1 (76) Dental Assistant Level 2 (388) Teaching Licenses for Dentists (2) Teaching Licenses for Dental Hygienist (0)</p> <p>3. District of Columbia COVID-19 Updates https://coronavirus.dc.gov/vaccine</p> | |
| OS-0119-05 | <u>BOARD ATTORNEY'S REPORT:</u> None | |
| OS-0119-06 | <p><u>BOARD CHAIRPERSON'S REPORT:</u></p> <p>Dr. John Bailey, Board Chairperson, informed the attendees that he attended the CDCA Annual Meeting of which the Western Regional Examination Board joined; CITA also applied to join the organization. There is a possibility of having one standard ADEX exam for the nation in the near future.</p> | |
| DISCUSSION ITEMS | | |
| OS-0119-07 | <p><u>LEGISLATIVE HEARINGS- FYI Only</u></p> <p>http://dccouncil.us/events/list</p> | |
| OS-0119-08 | <p><u>DENTAL BOARD SUB-COMMITTEES</u></p> <p>1. <u>Credentials & Audits:</u> Dr. Iris Jeffries-Morton/Dr. John Bailey/Ms. Yolanda Josey-Baker, RDH Dr. Iris Jeffries-Morton reported that the law exam review questions have been submitted to Board Counsel for review for Dental and Dental Hygienist license types.</p> <p>2. <u>Communications:</u> Ms. Yolanda Josey-Baker, RDH No report.</p> | |

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| | <p>3. <u>Regulatory Affairs:</u> Dr. Judith Henry/Ms. Dianne Smith, Esq./Ms. Yolanda Josey-Baker RDH Dr. Judith Henry indicated this subcommittee met on January 12, 2022 and presented the Scope of Practice document. Ms. Carla Williams, Board Counsel, explained the new additions to the proposed Scope of Practice for Dentists. The proposed Scope of Practice for Dental Hygienists and Dental Assistants are to follow soon.</p> |
| OS-0119-09 | <p><u>COMMENTS FROM PUBLIC</u></p> <p>Mr. Kurt Gallagher, Executive Director of the DC Dental Society, requested a copy of the amended Declaration of the Director of the District of Columbia Department of Health. Mr. Gallagher also inquired about the drop in number of active licensees from December's Board Meeting. Mrs. Walker, Executive Director, addressed several reasons for the drop in number, such as licensees opting to renew their license as paid inactive, vaccination status/awaiting the approval (or denial) of their vaccination exemption requests, etc.</p> |

BOARD OF DENTISTRY

Open Session Agenda January 19, 2022

| CLOSING | | |
|----------------|--|--|
| OS-0119-10 | <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)</p> <p>ROLL CALL VOTE</p> <p>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 **February 16, 2022.**

The meeting adjourned at 9:48 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.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the District of Columbia Department of Health, pursuant to Section 1 of An Act To Authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.*) (2018 Repl.), Mayor's Order 98-141, dated August 20, 1998, 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 adoption, on an emergency basis, of the following amendments to Chapter 2 (Communicable and Reportable Diseases) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking modifies sections 230 and 231 of Chapter 2 (Communicable and Reportable Diseases) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the DCMR to require health care workers to be up to date on their COVID-19 vaccine, including boosters and annual vaccinations. The phrase "up to date" means a person has received all recommended COVID-19 vaccine doses, including any booster dose(s) and annual vaccine doses, when eligible for such doses, as set forth by the Centers for Disease Control and Prevention (CDC). Sections 230 and 231 were published in the *D.C. Register* at 68 DCR 013014 on December 10, 2021. Copies of the existing rules may be obtained between 9:00 AM and 5:00 PM, Monday through Friday, excluding holidays, by contacting Angli Black, Paralegal Specialist, at (202) 442-5977 or Angli.Black@dc.gov. The existing rules are also available online at <https://dcregs.dc.gov/Common/NoticeDetail.aspx?NoticeId=N116496>.

Emergency rulemaking action is necessary because the spread of a contagious disease such as COVID-19, caused by SARS-CoV-2, is an imminent threat to the health, safety, and welfare of District residents, visitors, and persons providing health care in the District of Columbia. Although existing Department of Health rules require that health professionals receive an initial course of vaccination against COVID-19, booster shots were not required until this emergency rulemaking was promulgated. Although COVID-19 vaccines remain effective in preventing severe disease, recent data suggest their effectiveness at preventing infection or severe illness wanes over time. The recent emergence of the Omicron variant further emphasizes the importance of vaccination, boosters, and prevention efforts needed to protect against COVID-19. Data from clinical trials showed that a booster shot increased the immune response in trial participants. With an increased immune response, people should have improved protection against getting infected with COVID-19. Clinical trials also showed that a booster shot helped prevent severe disease. Data available to the Department of Health indicates an alarming number of health professionals who are licensed, registered, or certified by the Department of Health, persons who are certified by the Department of Health to provide emergency medical services, and unlicensed personnel have not received a booster dose. Lack of up to date vaccination by these health care workers can easily lead to the spread of SARS-CoV-2 among vulnerable patients receiving

care from these health care workers and among the pool of health care workers. The vast majority of new infections of SARS-CoV-2 is among unvaccinated persons or vaccinated persons who have not received recommended booster doses. Too many health care workers, especially in long-term care settings, have not received their boosters. Health care workers who are not up to date with their COVID-19 vaccinations cannot be permitted to remain a major potential source of the spread of SARS-CoV-2. Moreover, it is vital for persons working in health care and ancillary fields to be up to date with their vaccinations against COVID-19 in order to protect themselves, so that the ability of the District's health care system to robustly respond not only to COVID-19 cases, but to all health care needs, is protected. Immediate action is required to protect District residents, visitors, and persons providing health care in the District of Columbia by preventing and controlling the spread of a contagious disease for which effective vaccines currently exist.

Therefore, it is necessary that health professionals who are licensed, registered, or certified by the Department of Health, persons who are certified by the Department of Health to provide emergency medical services, and unlicensed personnel receive vaccinations against COVID-19 and are up to date on vaccinations against COVID-19.

This emergency rulemaking was adopted on February 8, 2022 and became effective immediately on that date. The emergency rulemaking will expire one hundred twenty (120) days after the date of adoption, on June 7, 2022, or upon publication of a final rulemaking in the *D.C. Register*, whichever occurs first.

The Director also gives notice of the intent to take final rulemaking action to adopt these proposed rules as final in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 2, COMMUNICABLE AND REPORTABLE DISEASES, of Subtitle B, PUBLIC HEALTH AND MEDICINE, of Title 22 DCMR, HEALTH, is amended as follows:

Section 230, MANDATORY COVID-19 VACCINATION FOR HEALTH CARE WORKERS, is amended as follows:

Subsection 230.1 is amended to read as follows:

- 230.1 (a) On or before September 30, 2021, each of the persons described in § 230.2, unless granted an exemption under § 231 of this chapter, shall:
- (1) Receive the first dose of the Pfizer-BioNTech COVID-19 vaccine, and receive the second dose of the Pfizer-BioNTech COVID-19 vaccine within the time period established in the dosing schedule for the vaccine; or

- (2) Receive the first dose of the Moderna COVID-19 vaccine, and receive the second dose of the Moderna COVID-19 vaccine within the time period established in the dosing schedule for the vaccine; or
 - (3) Receive one (1) dose of the Janssen COVID-19 vaccine.
- (b) On or before March 1, 2022, each of the persons described in § 230.2, unless granted an exemption under § 231 of this chapter, shall be up to date with their COVID-19 vaccine doses, and shall thereafter remain up to date with their COVID-19 vaccine doses.

Subsection 230.6 is amended to read as follows:

230.6 For initial applications submitted on or after September 30, 2021, the Department may deny an application for a license, certification, or registration listed in § 230.2 if the person:

- (a) Has not received a first dose of the Pfizer-BioNTech, Moderna, or Janssen COVID-19 vaccine, or other COVID-19 vaccine approved by the U.S. Food and Drug Administration (FDA) on a permanent or emergency use basis;
- (b) Has not received the second dose of the Pfizer-BioNTech or Moderna COVID-19 vaccine, or other COVID-19 vaccine approved by the FDA on a permanent or emergency use basis within the time period established in the dosing schedule for the vaccine; or
- (c) Is not up to date with all COVID-19 vaccine doses recommended by the Centers for Disease Control and Prevention (CDC) at the time of application, if the application is submitted on or after March 1, 2022.

A new subsection 230.9 is added to read as follows:

230.9 For purposes of this section, the phrase “up to date” means that a person has received all recommended COVID-19 vaccine doses, including any booster dose(s) or annual vaccines, when eligible, as set forth by the CDC.

Section 231, EXEMPTIONS FROM MANDATORY COVID-19 VACCINATION FOR HEALTH CARE WORKERS, is amended to read as follows:

Subsection 231.2 is amended to read as follows:

231.2 A person who is otherwise required to be vaccinated against COVID-19 pursuant to § 230 may be granted an exemption from the requirement if the

person files a request for an exemption with the Director in accordance with § 231.3, and is granted the request, based on the person's vaccination outside the United States with a COVID-19 vaccine approved by the World Health Organization (WHO), if:

- (a) The person is up to date by having received all recommended COVID-19 vaccine doses, including any booster dose(s) or annual vaccines, when eligible, as set forth by the WHO, and the person agrees to remain up to date by receiving all recommended COVID-19 vaccine doses on an ongoing basis; or
- (b) For an exemption request filed before March 1, 2022, the person agrees to become up to date by receiving all recommended COVID-19 vaccine doses, including any booster dose(s) or annual vaccines, when eligible, as set forth by the WHO by March 1, 2022, and the person agrees to remain up to date by receiving all recommended COVID-19 vaccine doses on an ongoing basis.

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 Phillip Husband, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays, by contacting Angli Black, Paralegal Specialist, at (202) 442-5977 or Angli.Black@dc.gov.