

**Administrative Rules Committee**  
**Testimony on Proposed Rules for the Board of Dental Examiners**  
**December 8, 2014**

Chairman Devlin and members of the Administrative Rules Committee, for the record I am Rod St. Aubyn representing the ND Dental Hygienist Association (NDDHA). Though we support most of the proposed rules offered by the Board of Dental Examiners, we want to let you know that the NDDHA has some significant concerns about certain aspects of the proposed rules. Following my testimony, I have asked Dana Schmit, the immediate past president of our Association and a licensed registered dental hygienist, to address some of the technical issues that are affected with these proposed rules and/or answer any questions that you may have.

For your perspective I want to highlight the specific minimum education and qualifications that ND licensed registered dental hygienists (RDH) must meet as per the ND Century Code:

- Must be a graduate of a dental hygiene school accredited by the American dental association's commission on dental accreditation.
- Must pass an examination administered by the joint commission on national dental examinations.
- Must pass a clinical competency examination administered by a regional dental testing service or a licensing jurisdiction approved by the board by rule.
- Upon applying for licensure, within one year of making application, must pass a written examination on the laws and rules governing the practice of dentistry in this state.

I have listed in order of page number the issues we are opposed to or ones that we bring to your attention. Those issues are as follows:

1. The deletion in the definition of "Coronal polishing" found on page 37. This proposal removes the limitation of this procedure for only dentist or a hygienist. Dentist and a RDH have received specific training, education, and practical experience to do this procedure. We believe that this was changed to accommodate #7 in the list below.
2. Definition of "Oral assessment" as found on page 38. This new definition is referenced on pages 56, and 59 for the dental assistant and on page 64 for the RDH. We do not object to the use of this definition on page 64, but object to the expansion of this role for the dental assistant. Their limited education, either formal or on the job, does not appropriately qualify them for these assessments. Once again we feel that this was established to accommodate #7 below.
3. Definition of "Supragingival scaling" found on page 39. This definition was added to accommodate issue #7 that we oppose. It can be found beyond the initial definition on pages 57, 61, and 62 dealing with the expanded role for the dental assistant.

4. On page 55, it states that “4. A registered dental assistant may perform the following duties under the direct or indirect supervision of a dentist”. In reviewing the rules, we were not sure what that meant. Who determines if it is direct or indirect? Does this mean that dentist A may specify that a dental assistant can only do these items in direct supervision, while dentist B states that they can be done by indirect supervision? This wording may cause problems in the future. We do not have an issue with this, but just wanted to bring it to your attention.
5. As I previously pointed out, on pages 56 and 59, the dental assistant can provide input for Oral Assessments. We object to that expansion of duties. They simply do not have the formal education to be qualified for this.
6. This is similar to number 4 above, on page 56, “A registered dental assistant may perform the following duties under the direct, indirect, or general supervision of a dentist”. Who determines? Once again, we do not have an issue with this, but wanted to bring it to your attention as it could cause questions or concerns in the future.
7. On page 57, it states that “A registered dental assistant authorized by permit and under the direct supervision of a dentist may perform supragingival scaling duties to a patient that is at least twelve years of age or less.” This is the major issue that we have concerns for the public. This is simply bad public policy and is more appropriately the duty of a registered dental hygienist.

One of the significant duties of a RDH is that of scaling of patients’ teeth (teeth cleaning). Based on national research and experience, proper and timely teeth cleaning prevents periodontal disease and other serious health conditions. This involves supragingival scaling (above the gum line), subgingival scaling (below the gum line) and interproximal scaling (between the teeth).

At the first public hearing (March 12, 2014) the original proposed rules were presented. At that hearing dental assistants proposed a NEW rule to permit them to do supragingival scaling as one of their allowed duties. This was not included in the original proposed rules. After that hearing, The Board of Dental Examiners approved the proposed rules to permit this new duty for dental assistants. The NDDHA opposed adopting this new rule for several reasons including the fact that the new proposal was never submitted for public comment. The Board agreed to have another public comment hearing on this new proposal. The NDDHA, many RDH, a couple of dentists, a few dental assistants, and some consumers voiced opposition to that proposal. To the best of our knowledge the Board received over 160 comments opposed to the new rule and only 15 to 20 comments supportive of the new proposal.

After that hearing the Board elected to permit this new rule, but they limited it to children 12 and under. That is what is reflected in the rules before your committee. It can be found on page 57 of your rules for consideration. The public was never afforded the opportunity to discuss this NEW version of the proposed rule.

There are several reasons for our strong opposition to this new proposal.

- Proper oral hygiene includes the total process of teeth cleaning. When someone goes in for an annual medical checkup it makes no sense to have the doctor check only the upper part of the body, nor does it make sense to delegate that authority to someone who has not received the training and has the experience of a licensed RDH, nor does it make sense to only clean part of the tooth.
  - If it is bad public policy to permit only supragingival scaling for adults by Dental Assistants, why would it be permissible for children 12 or under?
  - Should the consumer/third party payer pay for teeth cleaning when they may be only receiving cleaning of the teeth above the gum line? To our knowledge, there is NO insurance code for just supragingival scaling.
  - We can find absolutely no evidence-based research to support this proposed rule. Only one other state permits this (Kansas) and they are reconsidering that decision.
  - What is the need for this proposed rule change? Currently, there is an abundance of RDH's in our state, but in some locations a shortage of dental assistants (DA). RDH's have specific training and education for this important dental procedure. Compare the educational and experience requirement of the two trades. We don't disparage the role of the DA. They also play a significant role within the dental industry. However, teeth cleaning is one component of dental care RDH's are specifically trained for.
8. Page 61 (#3) and 62, why is there no specific required program completion requirements for supragingival scaling, where it is only stated as board-approved? If you look at the actual licensing for these professions it refers to a specific accredited entity. However, this just states board-approved. Without some specifics, someone could be in compliance one year, but not be in compliance in future years. It is simply at the discretion of the Board. It is not written in law or by administrative rule. Also it states that the board "may require a competency examination", whereas the Century Code requires that RDH's "must pass a clinical competency examination administered by a regional dental testing service or a licensing jurisdiction approved by the board by rule"?

Mr. Chairman and committee members, I totally recognize the legislature's discomfort with issues like this that often look like "turf wars." However, our concerns are one of public safety and appropriate dental services being furnished by appropriately trained and educated dental providers. Mr. Chairman, I would be willing to answer other questions related to my testimony. I also have Ms. Dana Schmit here to answer any technical questions or questions related to the profession.