

DENTAL THERAPY RULES OVERSIGHT COMMITTEE #3
Held as a Zoom Meeting

Minutes
December 8, 2021

MEMBERS PRESENT: Committee Members:
Yadira Martinez, R.D.H., Chair – OBD Rep.
Sheena Kansal, D.D.S. – OBD Rep.
Jennifer Brixey– OBD Rep.
Kaz Rafia, D.D.S. – OHA Rep.
Brandon Schwindt, D.M.D. - ODA Rep.
Amy Coplen, R.D.H. - ODHA Rep.
Ginny Jorgensen, CDA- ODAA Rep.
Miranda Davis, D.D.S. – Dental Therapy Rep.
Jason Mecum- Dental Therapy Rep.
Kari Kuntzelman – Dental Therapy Rep.

STAFF PRESENT: Stephen Prisby, Executive Director
Angela Smorra, D.M.D., Dental Investigator
Haley Robinson, Office Manager

ALSO PRESENT: Lori Lindley, Sr. Assistant Attorney General

VISITORS PRESENT: Jen Lewis-Goff, Oregon Dental Association (ODA); Lisa Rowley, RDH, Oregon Dental Hygienists' Association (ODHA); Mary Harrison, CDA, EFDA, EFODA, FADAA - Oregon Dental Assistants' Association (ODAA); Sarah Kowalski, Alicia Riedman, Teresa Haynes, Lisa Bozzetti, Sabrina Riggs, Andrea Love, George Okulitch, Pam Johnson.

Note -Some visitors may not be reflected in the minutes because their identity was unknown during the meeting.

Call to Order: The virtual meeting was called to order by Chair Martinez at 5:03 p.m.

The agenda was briefly reviewed and discussed.

Dr. Schwindt moved and Dr. Kansal seconded that the Dental Therapy Rules Oversight (DTRO) Committee approve the minutes from the November 10, 2021 DTRO Committee Meeting as presented. The motion passed unanimously.

Lori Lindley, Sr. Assistant Attorney General assigned to the Board, discussed the legislative history and intent of excluding permitting dental therapists to provide nitrous oxide in HB 2528. Ms. Lindley did not feel confident that legislative intent was to allow dental therapists to provide nitrous.

Dr. Schwindt moved and Ms. Coplen seconded that the Dental Therapy Rules Oversight (DTRO) Committee approve OAR 818-026-0055 – Dental Hygiene, Dental Therapy and Dental Assistant Procedures Performed Under Nitrous Oxide or Minimal Sedation as amended. The motion passed

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unanimously.

818-026-0055

Dental Hygiene, [Dental Therapy](#) and Dental Assistant Procedures Performed Under Nitrous Oxide or Minimal Sedation

(1) Under indirect supervision, dental hygiene procedures may be performed for a patient who is under nitrous oxide or minimal sedation under the following conditions:

- (a) A licensee holding a Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;
- (b) The permit holder, or an anesthesia monitor, monitors the patient; or
- (c) If a dental hygienist with a nitrous oxide permit administers nitrous oxide sedation to a patient and then performs authorized procedures on the patient, an anesthesia monitor is not required to be present during the time the patient is sedated unless the permit holder leaves the patient.
- (d) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with [Board rules](#).

(2) Under indirect supervision, a dental assistant may perform those procedures for which the dental assistant holds the appropriate certification for a patient who is under nitrous oxide or minimal sedation under the following conditions:

- (a) A licensee holding the Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;
- (b) The permit holder, or an anesthesia monitor, monitors the patient; and
- (c) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with [Board rules](#).

(3) Under indirect supervision, a dental therapist may perform procedures for which they hold the appropriate license for a patient who is under nitrous oxide or minimal sedation under the following conditions:

- (a) A licensee holding the Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;**
- (b) The permit holder, or an anesthesia monitor, monitors the patient; and**
- (c) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with Board rules.**

Dr. Rafia moved and Dr. Schwindt seconded that the Dental Therapy Rules Oversight (DTRO) Committee send OAR 818-026-0080 - Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia to the Board for recommendation to the Anesthesia Committee for further review and discussion. The motion passed unanimously.

Specifically, the DTRO Committee wanted the Anesthesia Committee to take into consideration allowing more than one patient to be sedated with Nitrous Oxide at any time, due to the safe nature of it and its application.

818-026-0080

Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia

(1) A dentist who does not hold an anesthesia permit may perform dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist licensed by the Oregon Board of Medical Examiners, another Oregon licensed dentist holding an appropriate

anesthesia permit, or a Certified Registered Nurse Anesthetist (CRNA) licensed by the Oregon Board of Nursing.

(2) A dentist who does not hold a Nitrous Oxide Permit for nitrous oxide sedation may perform dental procedures on a patient who receives nitrous oxide induced by an Oregon licensed dental hygienist holding a Nitrous Oxide Permit.

(3) A dentist who performs dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit, a CRNA, or a dental hygienist who induces nitrous oxide sedation, shall maintain a current BLS for Healthcare Providers certificate, or its equivalent, and have the same personnel, facilities, equipment and drugs available during the procedure and during recovery as required of a dentist who has a permit for the level of anesthesia being provided.

(4) A dentist, ~~a dental hygienist or an Expanded Function Dental Assistant (EFDA)~~ who performs procedures on a patient who is receiving anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit or a CRNA shall not schedule or treat patients for non emergent care during the period of time of the sedation procedure.

(5) Once anesthetized, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(6) The qualified anesthesia provider who induces moderate sedation, deep sedation or general anesthesia shall monitor the patient until easily arousable and can independently and continuously maintain their airway with stable vital signs. Once this has occurred the patient may be monitored by a qualified anesthesia monitor until discharge criteria is met. The patient's dental record shall document the patient's condition at discharge as required by the rules applicable to the level of anesthesia being induced. A copy of the anesthesia record shall be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures.

(7) No qualified provider shall have more than one person under any form of sedation or general anesthesia at the same time exclusive of recovery.

(8) A dentist who intends to use the services of a qualified anesthesia provider as described in section 1 above, shall notify the Board in writing of ~~her or his~~ their intent. Such notification need only be submitted once every licensing period.

The committee directed staff to take the scope of practice language directly from HB 2528 and bring 818-038-0020 – Scope of Practice back to the next regularly scheduled DTRO committee meeting with that exact language in the rule.

Dr. Davis moved and Ms. Jorgensen seconded that the Dental Therapy Rules Oversight (DTRO) Committee approve OAR 818-038-0025 –Prohibited Acts as amended. The motion passed unanimously.

Dr. Schwindt wanted it note on the record that his affirmative vote was not an endorsement to allow items removed from the prohibited acts list into the scope of dental therapists.

818-038-0025

Prohibited Acts

A dental therapist may not:

(2) Place or Restore Dental Implants or any other soft tissue surgery except as described in 818-041-XXXX

(3) Prescribe any drugs, unless permitted by ORS 679.010

(4) Use the behavior management techniques of Hand Over Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any patient.

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(5) Perform any dental therapy procedure unless it is documented in the collaborative agreement and rendered under appropriate Oregon Licensed Dentist supervision.

(6) Operate a hard or soft tissue Laser

(7) Treat a patient under moderate, deep or general anesthesia.

Dr. Schwindt moved and Ms. Coplen seconded that the Dental Therapy Rules Oversight (DTRO) Committee take the collaborative agreement language directly from HB 2528 and approve OAR 818-038-0030 – Collaborative Agreements as amended. The motion passed unanimously.

818-038-0030

Collaborative Agreements

(1) A dentist may supervise and enter into collaborative agreements with up to three dental therapists at any one time.

(2) A dental therapist may enter into a collaborative agreement with more than one dentist if each collaborative agreement includes the same supervision and requirements of scope of practice.

(3) The collaborative agreement must include at least the following information:

(a) The level of supervision required for each procedure performed by the dental therapist;

(b) Circumstances under which the prior knowledge and consent of the dentist is required to allow the dental therapist to provide a certain service or perform a certain procedure;

(c) The practice settings in which the dental therapist may provide care;

(d) Any limitation on the care the dental therapist may provide;

(e) Patient age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;

(f) Procedures for creating and maintaining dental records for patients treated by the dental therapist;

(g) Guidelines for the management of medical emergencies in each of the practice settings in which the dental therapist provides care;

(h) A quality assurance plan for monitoring care provided by the dental therapist, including chart review, patient care review and referral follow-up;

(i) Protocols for the dispensation and administration of drugs by the dental therapist, (as described in ORS XXX) including circumstances under which the dental therapist may dispense and administer drugs;

(j) Criteria for the provision of care to patients with specific medical conditions or complex medical histories, including any requirements for consultation with the dentist prior to the provision of care; and

(k) Protocols for when a patient requires treatment outside the dental therapist's scope of practice (in accordance with ORS XXX), including for referral of the patient for evaluation and treatment by the dentist, a physician licensed under ORS chapter 677, a nurse practitioner licensed under ORS 678.375 to 678.390 or other licensed health care provider.

(2) (a) In addition to the information described in subsection (3) of this section, a collaborative agreement must include a provision that requires the dental therapist to consult with a dentist if the dental therapist intends to perform an irreversible surgical procedure under general supervision on a patient who has a severe systemic disease. Severe systemic disease is defined as ASA III.

Ms. Coplen moved and Dr. Schwindt seconded that the Dental Therapy Rules Oversight (DTRO) Committee approve OAR 818-038-0035 – Record Keeping as amended. The motion passed unanimously.

818-038-0035

Record Keeping

(1) A dental therapist shall annually submit a signed copy of their collaborative agreement (s) to the Oregon Board of Dentistry. If the collaborative agreement(s) are revised in between annual submissions, a signed and dated copy of the revised collaborative agreement(s) must be submitted to the board as soon as practicable after the revision is made.

(2) The annual submission of the collaborative agreement shall coincide with the license renewal period between August 1 and September 30 each year.

(3) A dental therapist shall purchase and maintain liability insurance.

Chair Martinez asked if anyone representing the Tribes or Denta Pilot Projects wanted to offer any public comment. None was provided. She also asked if anyone else wanted to address the Committee.

Ms. Lewis-Goff - ODA representative, provided comments for the record regarding dental therapists' administration of nitrous oxide and ODA's recollection and understanding of negotiations during the legislative session. ODA believes that the proponents, legislators and ODA came together and agreed on fundamental principles for the new provider, with the promise that we would come back and make changes as necessary in the future. ODA stated that they negotiated with Health Equity Partners who represented the proponents' coalition. They negotiated removing nitrous oxide from scope. ODA stated that they are frustrated that agreements made during session are not now being honored, and that they feel using the language in the bill which allows the Board to add scope in the future for this purpose is disingenuous to the agreements they made during the legislative session.

Chair Martinez announced that the next DTRO Committee Meeting would be held January 19, 2022 from 5 p.m.-7 p.m.

Chair Martinez thanked everyone for their attendance and contributions.

The meeting adjourned at 6:55 p.m.