
LEGAL UPDATE

Legal Services Division



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ADMINISTRATIVE RULES REVIEW COMMITTEE MEETING — FEBRUARY 5, 2021

Purpose. Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.

DENTAL BOARD, *Expanded Functions — Placement of Sealants by Dental Assistants, 01/13/21 IAB, ARC 5381CC, NOTICE.*

Background. This rulemaking allows dental assistants (assistants) who complete level 2 expanded function training (level 2) at the University of Iowa College of Dentistry (U of I), or another program accredited by the Commission on Dental Accreditation (CODA), to place dental sealants.

Commentary. Committee members asked for an explanation of the differences between level 1 expanded function training (level 1) and level 2. Ms. Jill Stuecker, speaking on behalf of the board, explained that level 1 courses can be taken at any of the 12 board-approved training providers in the state, however, the U of I is the only board-approved level 2 provider in the state and the training is more expensive than level 1.

Committee members expressed concern that the U of I is the only level 2 provider and that the course costs almost \$8,000. Members asked if 2020 Iowa Acts, House File 2267, allows the board to designate placing sealants as level 2. Ms. Stuecker referred members to Code section 153.38, which states that assistants who complete expanded function training through the U of I or a CODA-accredited program may place sealants. Members suggested the section also allows the board to designate placing sealants as level 1. Members encouraged the board to review the comments the board received opposing designation of placing sealants as level 2, particularly from dentists in rural areas. Members praised Creighton University's School of Dentistry (Creighton) and noted its close proximity to dental providers in the western part of the state.

Committee members asked if placing sealants is an invasive procedure. Dr. Monica Foley, Vice-Chair of the Iowa Dental Board, explained that the procedure is simple, she has three dental hygienists (hygienists) who are qualified to place sealants, and in her practice it takes two people to perform the procedure correctly. Members asked what specifically makes the procedure level 2 versus level 1. Dr. Foley stated that as she is not an educator she can only speak to the clinical process. Ms. Stuecker stated that the procedure is level 2 because a committee and the board decided sealant placement requires a higher level of education; however, she will refer members' concerns to the board for the board's consideration.

Committee members asked if level 2 training can be obtained at the University of Minnesota, the University of South Dakota, or at Creighton; and if level 2 training can be separated into different components to allow sealants to be offered "a la carte." Members also asked Ms. Stuecker to identify the training requirements for placing sealants in Minnesota, Nebraska, and South Dakota, and to follow-up with the committee on her findings. Ms. Stuecker responded that all three of the dental schools are

accredited and can provide level 2 training. Members asked if the training is equivalent to that provided by the U of I and how much level 2 training costs at each school. She responded that she will follow up with the committee.

Ms. Sara Allen, speaking on behalf of the Iowa Dental Association (Association), expressed concern that there is only one level 2 program, it is only offered at the U of I, and it is cost prohibitive. She stated that a person has to pay \$8,000 and must complete all areas of level 2 training, which are invasive procedures. She also stated that while the Association agrees that more training is necessary to place sealants, it does not agree that it needs to be level 2.

Dr. Valerie Peckosh, a pediatric dentist in Dubuque, stated that 60-70 percent of her patients are on Medicaid, and she is currently booked five months in advance. She explained that she believes placing sealant should be level 1 as it is technically simple, is similar to other level 1 procedures, and level 2 procedures are much more complex. She noted that she places close to 2,000 sealants a year and that her time could be better spent on other care. She stated that if more assistants can be trained in placing sealants, it will provide greater access to dental care and that time is of the essence for children requiring sealants.

Mr. Tom Cope, speaking on behalf of the Iowa Dental Hygienists Association (Hygienists Association), stated that the rulemaking is intended to implement 2020 Iowa Acts, House File 2267, and the language is consistent with the statute. He explained that the legislation was a compromise between the Dental Board, the Association, and the Hygienist Association. He stated that it was the intent of the legislation that dental assistants be able to place sealants and that placing sealants would be level 2. He also explained that level 2 training can be obtained at CODA-accredited programs at the U of I, Creighton, or one of five community colleges in the state. He noted that both the Association and the Hygienist Association submitted letters to the board supporting the placement of sealants at level 2. He stated that he looks forward to further discussions with the Dental Association.

Ms. Joni Miller, an assistant and an educator in an assistant program, stated that she has taught level 1 functions and placing sealants is no more invasive than other level 1 procedures. She explained that level 1 programs are taught "a la carte," but level 2 programs are not. She explained that all assistant programs in the state are CODA-accredited and encouraged the ARRC and the board to consider the accreditation and the fact that placing sealants is not a technical procedure. She encouraged the board to consider the general health of the public and of dental patients.

Dr. Stephen Thies, a member of the Iowa Academy of General Dentistry, expressed concern with placing sealants at level 2 as the procedure is simpler, less involved, and less invasive than other level 2 procedures. He stated that the level 2 class is only offered once a year at the U of I, it is a small class, it extends over five weekends, it costs \$7,500, and is not accessible to most assistants. In addition, an assistant must complete level 1 before taking level 2. He stated that the rulemaking is a barrier, is unworkable, is impractical, and does not achieve the goal of allowing assistants to place sealants. He encouraged the board to allow assistants to place sealants as level 1 providers. Committee members asked if community colleges in the state train level 1 assistants. He responded that he is uncertain; however, level 2 procedures have to be taught at a CODA-accredited school and there are six or seven procedures included in level 2. He explained that level 2 courses include training on invasive procedures that require multiple educators to teach. He noted that those educators are all at the U of I, and it is impractical to try to conduct that type of training at community colleges. If placing sealants is level 1, however, then the training could be available at all community colleges with assistant programs.

Committee members asked for confirmation whether 2020 Iowa Acts, House File 2267, allows the rulemaking to designate placing sealants as level 1. Ms. Stuecker stated that the legislature hesitated to include "level 1" or "level 2" terminology in the legislation and as written, the legislation permits community colleges to provide training on placing sealants. Mr. Cope explained that while it was the understanding of stakeholders that the term "level 2" should not be specifically included in the legislation, it was also the intent of the stakeholders that placing sealants would be level 2 when the legislation was implemented.

Ms. Stuecker confirmed that was her understanding as well. Members stated that a current hygienist had confirmed that level 2 training is available at Iowa Central Community College.

Committee members suggested that as the rulemaking is at the notice stage, the board and members should take the opportunity to gather more information on the outstanding issues.

Action. No action taken.

Next Meeting. The next committee meeting will be held in Room 103, Statehouse, on Friday, February 26, 2021, beginning at 9:00 a.m. Instructions for participation by videoconference can be found at the Committee's internet site below.

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Internet Site: www.legis.iowa.gov/committees/committee?groupID=705

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