

State Dental Board HSAT Clarification

Disclaimer: This material reflects responses provided by state dental boards in early 2020 and is offered as information only, not as practice, legal or other professional advice. Dentists must contact their own professional advisors for such advice.

In January 2020, the AADSM asked each state dental board to clarify whether it is within a dentist’s scope of practice to do any of the following:

- Dispense portable monitors when ordered by the physician for patients at risk for sleep apnea
- Order portable monitors for patients identified by the dentist as being at risk for sleep apnea
- Use portable monitors to help determine the optimal effective position of the patient’s oral appliance
- Order a portable monitor to verify the effectiveness of an oral appliance (if the dentist has not used a portable monitor to determine the optimal effective position of the oral appliance)

State	Response	Date of Response
AL	<p><u>Board of Dental Examiners of Alabama</u></p> <p>As to treating sleep apnea, the Board has opined as follows:</p> <p>“The Board opines that it is within the scope of practice for a dentist to order/administer a home sleep test; however, a definitive diagnosis of sleep apnea must be made by a licensed physician prior to the prescription and fabrication of an intra-oral sleep disorder appliance. It is outside the scope of dental practice to order or prescribe an intra-oral sleep disorder appliance as a result of a sleep study being interpreted by a dentist. Additionally, it is always outside beyond the scope of dental practice for a dentist to prescribe a CPAP. It is, however, permissible for a dentist to fabricate and prescribe an antisnoring appliance without the consultation of a physician. See July, 2011 minutes and August, 2017 minutes.”</p> <p>From the July 2011 minutes:</p> <p>“Members discussed an email from Cyndy Barton, Network Integrity Representative of BCBS of AL requesting clarification of the legality of a dentist to prescribe Continuous Positive Airway Pressure (CPAP). She has received claims where dentists have prescribed sleep studies and the use of CPAP. There was discussion. Dr. Northcutt made a motion that the Board opines that it is outside the</p>	1/28/20

	<p>scope of practice for a dentist to order a sleep study or prescribe a CPAP as a result of interpreting a sleep study. After a positive diagnosis of sleep apnea by a physician a dentist may prescribe an intra oral sleep disorder appliance. It is within the scope of practice for a dentist to fabricate an anti-snoring appliance. Dr. Stricklin seconded the motion, there were no objections; the motion passed by general consent. Mr. Vondereau will notify Ms. Barton that the Board has posted an official position on its website.”</p> <p>And from the August 2017 minutes:</p> <p>“Members discussed their previous statements regarding sleep studies and decided that since some licensees still aren’t clear on it they may need to embellish the statement. This is the current statement: The Board opines that it is outside the scope of practice for a dentist to order a sleep study or prescribe a CPAP as a result of interpreting a sleep study. After a positive diagnosis of sleep apnea by a physician, a dentist may prescribe an intra oral sleep disorder appliance. It is within the scope of practice for a dentist to fabricate an anti-snoring appliance. See July, 2011 minutes.”</p>	
ID	<p><u>Idaho State Board of Dentistry</u></p> <p>I’m writing in response to Dr. Addy’s January 10, 2020 letter regarding scope of practice questions related to treatment of sleep apnea with OAT. There were four questions posed in the letter. All four are considered to be within the scope of practice of an Idaho licensed dentist. The interpretation of tests, diagnosis and effectiveness of treatment is determined by physicians.</p>	1/28/2020
NM	<p><u>New Mexico Board of Dental Health Care</u></p> <p>Thank you for your letter to the NM Board of Dental Health Care requesting clarification on dentists’ scope of practice as it relates to diagnosing and treating OSA. I will address your questions, but please realize that a formal legal opinion cannot be made by me or the Board concerning this issue. Guidelines were adopted into the NM Administrative Code by the Board last year, directly referring to the following three publications:</p> <ol style="list-style-type: none"> 1. The ADA’s “The Role of Dentistry in the Treatment of Sleep Related Breathing Disorders”. 2. The joint statement from the AASM and AADSM, “Clinical Practice Guideline for the Treatment of OSA and Snoring with OAT: An Update for 2015”. 	2/7/2020

	<p>3. The AADSM's "Dental Sleep Medicine Standards for Screening, Treating and Managing Adults with SRBD".</p> <p>While most of your questions could be answered "yes", it would be wise to have a definitive partnership with the patient's primary care physician or specialist who is overseeing the diagnosis and treatment of the sleep disorder, especially with addressing question #2. Referring to the old saying, "all politics is local", it would be best practice to have both the dentist and the physician work out a plan for which roles that each of them have in this scenario. Having expansive rural areas in New Mexico, this medical/dental partnership would benefit patients and allow easier access to proper care by decreasing travel time to specialty practices seen only in larger towns and cities.</p>	
NY	<p><u>New York State Board for Dentistry</u></p> <p>Below are the answers to Dr. Nancy Adler's questions in red about Sleep Apnea that you sent in a letter to me and one of our Board members.</p> <ol style="list-style-type: none"> 1.) Is it within a dentist's scope of practice to dispense portable monitors when ordered by physicians for patients at risk for sleep apnea? The test results are provided to a physician for interpretation and diagnosis. No 2.) Is it within a dentist's scope of practice to order portable monitors for patients identified by the dentist as being at risk for sleep apnea? The test results are provided to a physician for interpretation and diagnosis. No 3.) Is it within a dentist's scope of practice to use a portable monitor to help determine the optimal effective position of a patient's oral appliance? No 4.) If a dentist does not use a portable monitor to determine the optimal effective position, is it within a dentist's scope of practice to order a portable monitor to verify the effectiveness of an oral appliance? The test results are provided to physicians for interpretation and therapeutic effectiveness is determined by physicians. No. The physician can request or write orders for the dentist to fabricate an oral appliance for sleep apnea, but the physician would have to order the portable monitor and verify the effectiveness of the oral appliance. 	1/17/2020
VA	<u>Virginia Board of Dentistry</u>	1/28/2020

I am responding on behalf of Dr. Petticolas to Dr. Addf s four questions regarding the scope of practice of dentists in Virginia regarding sleepapnea. Virginia does not have a statute, regulation or guidance document that authorizes dentists to dispense, order or administer cardiorespiratory portable monitors.

In Virginia, the practice of polysomnography is regulated by the Board of Medicine and is done under the direction and supervision of a physician as addressed in this statute in the Code of Virginia:

§54.1-2957.15. Unlawful to practice u a polysomnographic technologist without a license.

- A. It shall be unlawful for any person not holding a current and valid license from the Board of Medicine to practice as a polysomnographic technologist or to assume the title "licensed polysomnographic technologist," "polysomnographic technologist," or "licensed sleep tech."
- B. Nothing in this section shall be construed to prohibit a health care provider licensed pursuant to this title from engaging in the full scope of practice for which he is licensed, including, but not limited to, respiratory care professionals.
- C. Nothing in this section shall be construed to prohibit a student enrolled in an educational program in polysomnographic technology or a person engaged in a traineeship from the practice of polysomnographic technology, provided that such student or trainee is under the direct supervision of a licensed polysomnographic technologist or a licensed doctor of medicine or osteopathic medicine. Any such student or trainee shall be identified to patients as a student or trainee in polysomnographic technology. However, any such student or trainee shall be required to have a license to practice after 18 months from the start of the educational program or traineeship or six months from the conclusion of such program or traineeship, whichever is earlier.
- D. For the purposes of this chapter, unless the context requires otherwise:
"Polysomnographic technology" means the process of analyzing, scoring, attended monitoring, and recording of physiologic data during sleep and wakefulness to assist in the clinical assessment and diagnosis of sleep/wake disorders and other disorders, syndromes, and dysfunctions that either are sleep related, manifest during sleep, or disrupt normal sleep/wake cycles and activities. "Practice of polysomnographic technology"

means the professional services practiced in any setting under the direction and supervision of a licensed physician involving the monitoring, testing, and treatment of individuals suffering from any sleep disorder. Other procedures include but are not limited to:

- a. Application of electrodes and apparatus necessary to monitor and evaluate, sleep disturbances, including application of devices that allow a physician to diagnose and treat sleep disorders, which disorders include but shall not be limited to insomnia, sleep related breathing disorders, movement disorders, disorders of excessive somnolence, and parasomnias;
- b. Under the direction of a physician, institution and evaluation of the effectiveness of therapeutic modalities and procedures including the therapeutic use of oxygen and positive airway pressure (PAP) devices, such as continuous positive airway pressure (CPAP) and bi-level positive airway pressure of non-ventilated patients;
- c. Initiation of cardiopulmonary resuscitation, maintenance of patient's airway (which does not include endotracheal intubation);
- d. Transcription and implementation of physician orders pertaining to the practice of polysomnographic technology;
- e. Initiation of treatment changes and testing techniques required for the implementation of polysomnographic protocols under the direction and supervision of a licensed physician; and
- f. Education of patients and their families on the procedures and treatments used during polysomnographic technology or any equipment or procedure used for the treatment of any sleep disorder.

The advice given to me by the Board's attorney, in response to previous inquiries from dentists about testing patients for sleep apnea, is that a Virginia dentist may refer a patient to a polysomnographic technologist for a sleep study but a Virginia dentist cannot conduct sleep studies. The technologist is required to report sleep study results to the supervising physician who could refer the patient to a dentist for dental treatment.

