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State Board of Dentistry
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Dear Board Members:

Thank you for this opportunity to comment on the Pennsylvania State Board of Dentistry's draft 16A-4628 – General Revisions, Proposed Annex dated January 23, 2020. On behalf of the Disability Healthcare Initiative (DHI) at Achieva/The Arc of Greater Pittsburgh, we are generally supportive of the proposed changes and ***we ask that § 33.211 Unprofessional Conduct be amended to align with recent guidance from the American Dental Association's Principles of Ethics & Code of Professional Responsibility (the Code), the Commission on Dental Accreditation (CODA), and the Americans with Disabilities Act (ADA).***

These comments are submitted on behalf of Achieva, an organization that supports more than 12,500 people with intellectual and developmental disabilities and their families each year, making it one of Pennsylvania's largest disability organizations. Achieva offers life-span services, including early intervention for infants and toddlers, advocacy, family support, in-home care, residential, employment, long-term planning, and special needs trusts. Achieva's Disability Healthcare Initiative is a nationally-recognized policy and advocacy leader regarding improved access and education on oral health issues affecting people with disabilities. The DHI was selected as a Grassroots Lead Organization of the DentaQuest Foundation's Oral Health 2020 Initiative as well as a member of the National Oral Health Connection Team, and has a seat on the Board of the Oral Health Progress and Equity Network (OPEN Inc). Achieva is a partner organization in implementing the Pennsylvania Oral Health Plan (OHP) and the Department of Health's New Approaches project. Achieva is committed to improving healthcare access for all Pennsylvanians with intellectual and developmental disabilities, and autism. More broadly, we support enhanced healthcare access for Pennsylvania's most vulnerable residents.

Equitable access to dental healthcare services is critical in Pennsylvania and across our nation. Many studies have shown that:

- Adults with developmental disabilities are at risk for multiple health problems including poor oral health.
- People with intellectual and developmental disabilities are often unable to find a dental home because many dentists either lack the training on and exposure to the health needs of people with disabilities. Or, as is more often the case, they mistakenly believe they need specialized training to treat *every person experiencing a disability*.
- People with ID/DD were less likely to have had their teeth cleaned in the past five years, and *more likely to have never had their teeth cleaned*.

- For people with disabilities, dental care is one of the top unmet healthcare needs.¹

These data points delineating scarce access and disparate health outcomes illustrate the dire need to improve people with disabilities' access to oral healthcare. This is of grave importance as it affects more than people with disabilities' oral health but their overall health.

Last year, the American Dental Association revised the Code to clarify that, “*dentists shall not refuse to accept patients into their practice or deny dental service to patients because of a patient’s . . . disability.*”² Further guidance indicates that laws such as the Americans with Disabilities Act may bear on *whether* and how a referral may be made. The American Dental Association Council on Dental Practice’s *General Guidelines for Referring Dental Patients* explains that there are several reasons a patient, in general, may need to be referred. “Any one or combinations of the following situations or conditions may provide the dentist with an appropriate rationale for referring a patient. Some of these situations include, but are not limited to:

- Level of training and experience of the dentist
- The extensiveness of the problem
- The complexity of the treatment
- Medical complications
- Patient load
- Patient desires
- Behavioral concerns
- The geographic proximity of the specialist or consulting dentist...³

The *General Guidelines* go on to explain, “‘whether’ comes from the Supreme Court, which has guided that *under the Americans with Disabilities Act, the refusal to treat a patient with HIV would require a scientific basis; a referral to a clinic with more experience treating persons with HIV or any disability cannot be based solely on the dentist’s personal level of comfort.*”⁴

The ADA, makes clear that the Code is “a written expression of the obligations arising from the implied contract between the dental profession and society.”⁵ States look to the Code for ethics guidance in the dental profession and implement a multitude of sections as state law to align conduct with the prevailing standards of the profession.

Similarly, CODA voted to require dental schools to train their students in managing the treatment of patients with ID/DD. CODA also revised the requirements of predoctoral, dental

¹ “Neglected for Too Long: Dental Care for People with Intellectual and Developmental Disabilities.” *NCD.gov*, 29 Mar. 2018, www.ncd.gov/publications/2017/dental-issue-brief.

² The American Dental Association, Council on Ethics, Bylaws, and Judicial Affairs, *ADA Principles of Ethics and Code of Professional Conduct*, www.ada.org/en/about-the-ada/principles-of-ethics-code-of-professional-conduct.

³ American Dental Association, Council on Dental Practice, *General Guidelines for Referring Dental Patients*, [ada.org](http://www.ada.org), June 2007
http://www.ada.org/en/~media/ADA/Member%20Center/Files/referring_guidelines, at 4.

⁴ *Id* at 6.

⁵ The American Dental Association, Council on Ethics, Bylaws, and Judicial Affairs, *supra* at 3.

hygiene, and dental assistant programs to align with these professional standards of inclusive care. These new requirements take effect July 1, 2020.⁶

For these reasons, the Disability Healthcare Initiative and Achieva/The Arc of Greater Pittsburgh recommend augmenting §§ 33.211(a)(b)(c) *Unprofessional Conduct* to include “(10) **knowingly or unknowingly engaging in or permitting a pervasive pattern of 1) refusal to accept patients into their practice, or (2) denying dental service to patient(s), because of a patient’s actual or perceived disability.**” Likewise, we recommend following the *General Guidance* document by adding that “**referrals of patients with disabilities cannot be made solely on the basis of the dental professional’s personal comfort level but rather require a scientific basis and that such referrals must be made to a clinic or practitioner with more experience treating patients with disabilities.**”

We believe these recommendations to be fair to both dentists and patients. They respect dental professionals’ judgment and ethical responsibilities while increasing access for those who have been so often been blocked from adequate oral healthcare, jeopardizing not only their oral health but sometimes their lives.

Achieva and the DHI are grateful for the opportunity to offer these comments and recommendations for the proposed augmentative language of the Pennsylvania State Board of Dentistry’s draft 16A-4628 – *General Revisions, Proposed Annex* dated January 23, 2020. Achieva is recognized as a leader in advocacy and innovation and therefore is committed fully to working with the State Board of Dentistry implementing the proposed changes which will lead to increased access to oral healthcare for persons with disabilities and for all Pennsylvanians.

Respectfully submitted,



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⁶ Commission on Dental Accreditation, *Accreditation Standards for Dental Education Programs*, (2019) at 30. https://www.ada.org/~media/CODA/Files/Predoc_Standards_July2020.pdf?la=en