



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Dentistry, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC60-20-10 et seq.
Regulation title	Regulations Governing the Practice of Dentistry and Dental Hygiene
Action title	Expanded duties for qualified dental assistants
Document preparation date	5/12/05

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

In its proposed regulatory action, the Board intends to expand the duties that can be delegated to a dental assistant beyond chairside assisting and taking radiographs to include some patient care duties currently performed by a dental hygienist or a dentist. To qualify as an “expanded duty dental assistant”, a person may be required to hold certification from a national credentialing body, complete an accredited educational program and receive education and training in the procedures permitted by regulation. The expanded duties would include such tasks as supragingival scaling and coronal polishing and the packing and carving of amalgams.

Dentists have expressed interest in expanded duties for assistants as a means of providing care to a greater number of patients. In some areas of the state, there is a shortage of hygienists available for employment in dental offices, so certain aspects of patient care could be delegated to “expanded duty dental assistants,” which would enable the dentist to focus on care that necessitates a higher level of knowledge and skill.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...

The Dental Practice Act (Chapter 27 of Title 54.1) permitted the practice of dental assistants assisting licensed dentists:

§ 54.1-2712. Permissible practices.

The following activities shall be permissible:

1. Dental assistants or dental hygienists aiding or assisting licensed dentists; ...

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The Board is considering expanded duties for certain dental assistants who have minimal qualifications and maintain certification. If a dental assistant is a graduate of an educational program recognized by the Commission on Dental Accreditation of the American Dental Association and holds current certification from the Dental Assisting National Board (DANB) to include 15 hours of continuing education per year and additional education and training in the expanded duties, he could be authorized to perform certain expanded duties under the direct supervision of a dentist.

The expanded duties for “certified” dental assistants would likely include supragingival scaling and packing and carving amalgams. The Board would consider whether other duties that are

currently reserved for the practice of dental hygienists are appropriate for delegation to qualified dental assistants.

To ensure the services can be safely provided by a dental assistant, the Board would set in the regulation the evidence of minimal competency that a dental assistant must demonstrate in order to be authorized to perform expanded duties. Credentials would likely include completion of an approved dental assisting educational program, specific training on performance of certain dental procedures, and certification by a national credentialing body such as the Dental Assisting National Board (DANB). An issue yet to be resolved is the availability of education and testing in the expanded duties of scaling and carving amalgam. Since those procedures are usually performed by hygienists or dentists, so they are not currently taught in dental assisting programs nor included on the examination for DANB certification.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

In its discussion of the issues surrounding expanded duty assistants, the Board has received and reviewed information on expanded duties for dental assistants in other states, the criteria for certification by DANB and the content and curriculum of the educational programs in dental assisting currently in existence in Virginia.

According to the State Fact Booklet produced by the Dental Assisting National Board, there are two states that permit dental assistants with certain additional qualifications to perform supragingival or coronal scaling – Kansas and Vermont. All other states either specifically prohibit scaling by assistants or unlicensed persons or they do not include the procedure on a listing of permissible duties. In neighboring states, the following information was provided:

Maryland	Requires registration to perform intra-oral duties or expose radiographs; requires certification to perform intra-oral duties	Prohibits oral prophylactic procedures, including scaling and polishing; condensing, carving or finishing any restoration (amalgam)
North Carolina	2 classes of dental assistants – DA I and DA II. DAII has to qualify by education or examination	List of permissible duties does not include scaling; DA allowed to place amalgam but not to carve
Kentucky	Certification required demonstrating education and experience	Prohibits supra- and subgingival scaling; allows placing, carving and polishing of amalgam
Tennessee	2 levels of dental assistants – practical and registered; requires registration by board based on education & examination	Coronal polishing allowed with additional certification; prohibits “cutting procedures on hard or soft tissues”; allowing registered DA to place amalgam for condensation by the dentist
West Virginia	Dental assistants not registered or certified	Does not permit “any intraoral procedure that contributes to or

		<p>results in an irremediable alteration of the oral anatomy” – scaling or placing amalgam are not on the list of duties that can be assigned.</p>
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In Kansas, the Board does not register or certify dental assistants but does allow a dentist to delegate coronal (supragingival) scaling to such an unlicensed individual if the assistant has a certificate from an educational entity demonstrating successful completion of an approved course of instruction. The content of the approved course is set in regulation and must consist of a minimum of 90 hours and an outcome assessment examination. Each unlicensed person (assistant) who has received a certificate demonstrating competency must notify the board with the identity of all supervising and employing dentists who use his or her services. The dentist is required to provide direct supervision and to post the assistant’s certificate demonstrating completion of an approved course at the location where the scaling is performed.

In Vermont, there are 3 levels of dental assistants – traditional, certified, and expanded function. The expanded function dental assistant must have the educational credential of a certified assistant and hold certification from DANB. To perform expanded duties, the certified assistant must complete a formal program in expanded functions in a school accredited by the Commission on Dental Accreditation of the American Dental Association. The program must have minimal requirements of 50 hours of didactic training and five weeks of clinical training, followed by six weeks of field training in dental offices under the supervision of the faculty of the accredited school or its designates. The employing dentist is responsible for the assignment and performance of duties assigned to the assistant.

In the development of proposed regulations for expanded duties for dental assistants, the Board will look at models that exist in Vermont and Kansas, as well as the credentials, educational opportunities, and assessments that will ensure minimal competency

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact of the proposed regulatory action on the institution of the family and family stability.