

EMERGENCY REGULATIONS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Title of Regulation: 18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-10, 18 VAC 60-20-20, 18 VAC 60-20-105, 18 VAC 60-20-106, 18 VAC 60-20-210, and 18 VAC 60-20-230; adding 18 VAC 60-20-71).

Statutory Authority: § 54.1-2400 of Title 54.1 of the Code of Virginia.

Effective Dates: September 1, 2005, through August 31, 2006.

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Preamble:

The adoption of an emergency regulation by the Board of Dentistry is required to comply with amendments to Chapter 27 of Title 54.1 and the third enactment clause of HB 2368 and SB 1127 enacted by the 2005 General Assembly which requires: "That the Board of Dentistry shall promulgate regulations to implement provisions of this act within 280 days of its enactment." Chapters 587 and 505 were enacted on March 22, 2005, the day HB 2368 and SB 1127 were signed by the Governor.

The amended regulations will (i) establish requirements for licensure by credentials for dentists consistent with new provisions in the Dental Practice Act; (ii) extend the voluntary practice license to include dentists and hygienists who held an unrestricted license in Virginia at the time it expired or became inactive and eliminate the supervision requirement for dentists out of practice less than five years; and (iii) clarify certain terms and rules for consistency.

18 VAC 60-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"ADA" means the American Dental Association.

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products, or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"Anxiolysis" means the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness.

~~"Approved schools" means those dental or dental hygiene programs currently accredited by the Commission on Dental Accreditation of the American Dental Association.~~

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by pharmacological or nonpharmacological methods, including inhalation, parenteral, transdermal or enteral, or a combination thereof.

"Deep sedation/general anesthesia" means an induced state of depressed consciousness or unconsciousness accompanied by a complete or partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or respond purposefully to physical stimulation or verbal command and is produced by a pharmacological or nonpharmacological method or a combination thereof.

"Dental assistant" means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely a secretarial or clerical capacity.

"Direction" means the dentist ~~evaluates~~ examines the patient and is present for observation, advice, and control over the performance of dental services.

"Enteral" is any technique of administration in which the agent is absorbed through the gastrointestinal tract or oral mucosa (i.e., oral, rectal, sublingual).

"General supervision" means that the dentist has ~~evaluated~~ examined the patient and issued a written order for the specific, authorized services to be provided by a dental hygienist when the dentist is not present in the facility while the services are being provided.

"Inhalation" is a technique of administration in which a gaseous or volatile agent, including nitrous oxide, is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

"Inhalation analgesia" means the inhalation of nitrous oxide and oxygen to produce a state of reduced sensibility to pain without the loss of consciousness.

"Local anesthesia" means the loss of sensation or pain in the oral cavity or the maxillofacial or adjacent and associated structures generally produced by a topically applied or injected agent without depressing the level of consciousness.

"Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract (i.e., intramuscular, intravenous, intranasal, submuscosal, subcutaneous, or intraocular).

"Radiographs" means intraoral and extraoral x-rays of the hard and soft tissues to be used for purposes of diagnosis.

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18 VAC 60-20-20. License renewal and reinstatement.

A. Renewal fees. Every person holding an active or inactive license, or a full-time faculty license, or a restricted volunteer license to practice dentistry or dental hygiene shall, on or before March 31, renew his license. Every person holding a teacher's license, temporary resident's license, a restricted volunteer license to practice dentistry or dental hygiene or a temporary permit to practice dentistry or dental hygiene shall, on or before June 30, ~~renew~~ request renewal of his license.

1. The fee for renewal of an active license or permit to practice or teach dentistry shall be \$150, and the fee for renewal of an active license or permit to practice or teach dental hygiene shall be \$50.
2. The fee for renewal of an inactive license shall be \$75 for dentists and \$25 for dental hygienists.
3. The fee for renewal of a restricted volunteer license shall be \$15.
4. The application fee for a temporary resident's license shall be \$55. The annual renewal fee shall be \$35 a year. An additional fee for late renewal of licensure shall be \$15.

B. Late fees. Any person who does not return the completed form and fee by the deadline required in subsection A of this section shall be required to pay an additional late fee of \$50 for dentists and \$20 for dental hygienists. The board shall renew a license if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection A of this section.

C. Reinstatement fees and procedures. The license of any person who does not return the completed renewal form and fees by the deadline required in subsection A of this section shall automatically expire and become invalid and his practice of dentistry/dental hygiene shall be illegal.

1. Any person whose license has expired for more than one year and who wishes to reinstate such license shall submit to the board a reinstatement application, the renewal fee and the reinstatement fee of \$225 for dentists and \$135 for dental hygienists.
2. ~~With the exception of practice with a restricted volunteer license as provided in §§ 54.1-2712.1 and 54.1-2726.1 of the Code of Virginia, practicing in Virginia with an expired license may subject the licensee to disciplinary action and additional fines by the board.~~
3. The executive director may reinstate such expired license provided that the applicant can demonstrate continuing competence, that no grounds exist pursuant to § 54.1-2706 of the Code of Virginia and 18 VAC 60-20-170 to deny said reinstatement, and that the applicant has paid the unpaid renewal fee, the reinstatement fee and any fines or assessments. Evidence of continuing competence shall include hours of continuing education as required by subsection H of 18 VAC 60-20-50 and may also include evidence of active practice in another state or in federal service or current specialty board certification.

D. Reinstatement of a license previously revoked or indefinitely suspended. Any person whose license has been

revoked shall submit to the board for its approval a reinstatement application and fee of \$750 for dentists and \$500 for dental hygienists. Any person whose license has been indefinitely suspended shall submit to the board for its approval a reinstatement application and fee of \$350 for dentists and \$250 for dental hygienists.

18 VAC 60-20-71. Licensure by credentials for dentists.

In accordance with § 54.1-2709 of the Code of Virginia, an applicant for licensure by credentials shall:

1. Be of good moral character and not have committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia;
2. Be a graduate of a dental program, school or college, or dental department of a university or college currently accredited by the Commission on Dental Accreditation of the American Dental Association.
3. Have passed Part I and Part II of the examination given by the Joint Commission on National Dental Examinations;
4. Have successfully completed a clinical examination acceptable to the board and have not failed a clinical examination required by the board in the five years immediately preceding his application;
5. Hold a current, unrestricted license to practice dentistry in another jurisdiction in the United States and is certified to be in good standing by each jurisdiction in which he currently holds or has held a license; and
6. Have been in continuous clinical practice for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in the dental corps of the United States Armed Forces, volunteer practice in a public health clinic, or practice in an intern or residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant.

18 VAC 60-20-105. Inactive license.

A. Any dentist or dental hygienist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. *With the exception of practice with a restricted volunteer license as provided in §§ 54.1-2712.1 and 54.1-2726.1 of the Code of Virginia*, the holder of an inactive license shall not be entitled to perform any act requiring a license to practice dentistry or dental hygiene in Virginia.

B. An inactive license may be reactivated upon submission of the required application, payment of the current renewal fee, and documentation of having completed continuing education hours equal to the requirement for the number of years in which the license has been inactive, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation. The board reserves the right to deny a request for reactivation to

any licensee who has been determined to have committed an act in violation of § 54.1-2706 of the Code of Virginia.

18 VAC 60-20-106. Registration for Voluntary practice by out-of-state licensees.

A. Restricted volunteer license.

1. In accordance with § 54.1-2712.1 or 54.1-2726.1, the board may issue a restricted volunteer license to a dentist or a dental hygienist who:

- a. Held an unrestricted license in Virginia or another state as a licensee in good standing at the time the license expired or became inactive;
- b. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;
- c. Has fulfilled the board's requirement related to knowledge of the laws and regulations governing the practice of dentistry in Virginia;
- d. Has not failed a clinical examination within the past five years; and
- e. Has had at least five years of clinical practice.

2. A person holding a restricted volunteer license under this section shall:

- a. Only practice in public health or community free clinics that provide dental services to underserved populations;
- b. Only treat patients who have been screened by the approved clinic and are eligible for treatment;
- c. Attest on a form provided by the board that he will not receive remuneration directly or indirectly for providing dental services; and
- d. Not be required to complete continuing education in order to renew such a license.

3. The restricted volunteer license shall specify whether supervision is required, and if not, the date by which it will be required. If a dentist with a restricted volunteer license issued under this section has not held an active, unrestricted license and been engaged in active practice within the past five years, he shall only practice dentistry and perform dental procedures if a dentist with an unrestricted Virginia license, volunteering at the clinic, reviews the quality of care rendered by the dentist with the restricted volunteer license at least every 30 days. If supervision is required, the supervising dentist shall directly observe patient care being provided by the restricted volunteer dentist and review all patient charts at least quarterly. Such supervision shall be noted in patient charts and maintained in accordance with 18 VAC 60-20-15.

4. A dental hygienist with a restricted volunteer license shall be sponsored by and practice only under the direction of a dentist who holds an unrestricted license in Virginia.

5. A restricted voluntary license granted pursuant to this section shall expire on June 30 of the second year after its

issuance, or shall terminate when the supervising dentist withdraws his sponsorship.

6. A dentist or dental hygienist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations which apply to all licensees practicing in Virginia.

B. Registration for voluntary practice by out-of-state licensees.

Any dentist or dental hygienist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;
2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 5 of § 54.1-2701 of the Code of Virginia.

18 VAC 60-20-210. Requirements for direction and general supervision.

A. In all instances, a licensed dentist assumes ultimate responsibility for determining, on the basis of his diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with this chapter and the Code of Virginia.

B. Dental hygienists shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency or when volunteering services as provided in 18 VAC 60-20-200. Persons acting within the scope of a license issued to them by the board under § 54.1-2725 of the Code of Virginia to teach dental hygiene and those persons licensed pursuant to § 54.1-2722 of the Code of Virginia providing oral health education and preliminary dental screenings in any setting are exempt from this section.

C. Duties delegated to a dental hygienist under direction shall only be performed when the dentist is present in the facility and available to evaluate examines the patient during the time services are being provided.

D. Duties that are delegated to a dental hygienist under general supervision shall only be performed if the following requirements are met:

1. The treatment to be provided shall be ordered by a dentist licensed in Virginia and shall be entered in writing in the record. The services noted on the original order shall be

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rendered within a specific time period, not to exceed seven months from the date the dentist last examined the patient. Upon expiration of the order, the dentist shall have ~~evaluated~~ *examined* the patient before writing a new order for treatment.

2. The dental hygienist shall consent in writing to providing services under general supervision.

3. The patient or a responsible adult shall be informed prior to the appointment that no dentist will be present, that no anesthesia can be administered, and that only those services prescribed by the dentist will be provided.

4. Written basic emergency procedures shall be established and in place, and the hygienist shall be capable of implementing those procedures.

E. General supervision shall not preclude the use of direction when, in the professional judgment of the dentist, such direction is necessary to meet the individual needs of the patient.

18 VAC 60-20-230. Delegation to dental assistants.

A. Duties appropriate to the training and experience of the dental assistant and the practice of the supervising dentist may be delegated to a dental assistant under the direction *or under general supervision* required in 18 VAC 60-20-210, with the exception of those listed as nondelegable in 18 VAC 60-20-190 and those which may only be delegated to dental hygienists as listed in 18 VAC 60-20-220.

B. *Duties delegated to a dental assistant under general supervision shall be under the direction of the dental hygienist who supervises the implementation of the dentist's orders by examining the patient, observing the services rendered by an assistant and being available for consultation on patient care.*

/s/ Mark R. Warner
Governor
August 5, 2005

NOTICE: The forms used in administering 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

~~Outline and Explanation of Documentation Required for Dental Licensure by Exam, Teacher's License, Restricted License, Full-Time Faculty License, and Temporary Permit Application Requirements for Dentists (rev. 42/02 8/05).~~

Application for Licensure to Practice Dentistry (rev. 42/02 8/05).

Application for Restricted Volunteer Licensure to Practice Dentistry and Dental Hygiene (eff. 7/98).

Requirements and Instructions for a Temporary Resident's License to Persons Enrolled in Advanced Dental Education Programs (eff. 7/04).

Application for Temporary Resident's License (eff. 7/04).

Form A, Certification of Dental School for Temporary Resident's License (eff. 7/04).

Form B, Certification from Dean of Dental School or Director of Accredited Graduate Program, Temporary Resident's License (eff. 7/04).

Form C, Certification of Dental Licensure, Temporary Resident's License (eff. 7/04).

Form D, Chronology, Temporary Resident's License (eff. 7/04).

Form A, Certification of Dental/Dental Hygiene School (rev. 42/02 8/05).

Form AA, Sponsor Certification for Dental/Dental Hygiene Volunteer License (eff. 7/98).

Form B, Chronology (rev. 42/02 8/05).

Form C, Certification of Dental/Dental Hygiene Boards (rev. 42/02 8/05).

Outline and Explanation of Documentation Required for Dental Hygiene Licensure by Exam, Teacher's License, Dental Hygiene by Endorsement, and Dental Hygiene Temporary Permit (rev. 12/02).

Application for Licensure to Practice Dental Hygiene (rev. 12/02).

Instructions for Reinstatement (rev. 12/02).

Reinstatement Application for Dental/Dental Hygiene Licensure (rev. 12/02).

Radiology Information for Dental Assistants (rev. 7/97).

Renewal Notice and Application, 0401 Dentist (rev. 12/02).

Renewal Notice and Application, 0402 Dental Hygienist (rev. 12/02).

Renewal Notice and Application, 0404 Dental Teacher (rev. 12/02).

Renewal Notice and Application, 0406 Dental Hygiene Teacher (rev. 12/02).

Renewal Notice and Application, 0411 Full-time Faculty (rev. 12/02).

Renewal Notice and Application, 0438 Cosmetic Procedure Certification (rev. 12/02).

Renewal Notice and Application, 0439 Oral and Maxillofacial (rev. 12/02).

Application for Certification to Perform Cosmetic Procedures (rev. 12/02).

Rhinoplasty/similar Procedures (rev. 7/02).

Bletharoplasty/similar Procedures (rev. 7/02).

Rhytidectomy/similar Procedures (rev. 7/02).

Submental liposuction/similar Procedures (rev. 7/02).

Browlift/either open or endoscopic technique/similar Procedures (rev. 7/02).

Otoplasty/similar Procedures (7/02).

Laser Resurfacing or Dermabrasion/similar Procedures (rev. 7/02).

Platysmal muscle plication/similar Procedures (rev. 7/02).

Application Review Worksheet (rev. 7/02).

Practitioner Questionnaire (rev. 12/02).

Oral and Maxillofacial Surgeon Registration of Practice (rev. 12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

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