VIRGINIA BOARD OF DENTISTRY

Regulatory-Legislative Committee
November 5, 2010 Agenda

Department of Health Professions
Perimeter Center - 9960 Mayland Drive, 2nd Floor Conference Center
Henrico, Virginia 23233

TIME		PAGE
9:00 a.m.	**Call to Order – Robert B. Hall, Jr., DDS, Acting Chair**	
	Public Comment	
	Approval of Minutes - September 10, 2010	**P1-P4**
	Status Report on Regulatory Actions	**P5**
	Periodic Review of Regulations o **Discussion Draft of Dental Hygiene Chapter**	**P6-P19**
	Dental Lab Forms	
	Next Meeting – December 2, 2010 at 1:00 pm	

Adjourn

VIRGINIA BOARD OF DENTISTRY
MINUTES OF REGULATORY/LEGISLATIVE COMMITTEE
SEPTEMBER 10, 2010

TIME AND PLACE: The meeting of the Regulatory/Legislative Committee of the Board of Dentistry was called to order at 9:05 a.m. on September 10, 2010 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Myra Howard, Chair

MEMBERS PRESENT: Jacqueline G. Pace, R.D.H.
Robert B. Hall, Jr., D.D.S.
Herbert R. Boyd., D.D.S

STAFF PRESENT: Sandra K. Reen, Executive Director
Huong Vu, Administrative Assistant

OTHERS PRESENT: Howard M. Casway, Senior Assistant Attorney General
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

QUORUM: All members of the Committee were present.

PUBLIC COMMENT: Mr. Paul Werbin, CRNA, with the Virginia Association of Nurse Anesthetists, stated that CRNAs are often being called into dental offices to administer sedation and anesthesia and that Dentistry's regulations limit them to working only with dentists who are trained to administer themselves. He asked that CRNA's be allowed to practice in all dental settings regardless of the training of the dentist to provide consistency with their practice in medical settings and with the revised American Dental Association (ADA) guidelines.

MINUTES: Ms. Howard asked if the members had reviewed the minutes of the January 22, 2010 meeting. Dr. Boyd moved to accept the minutes. The motion was seconded and passed.

STATUS REPORT ON REGULATORY ACTIONS:

Recovery of Disciplinary Costs – Ms. Yeatts reported that these regulations are at the Governor's office for approval.

Registration of Mobile Clinics – Ms. Yeatts reported that these regulations are the replacement of the emergency regulations that will expire on January 7, 2011. They are at the Governor's office for approval. She advised that there is no longer enough time to complete the regulatory process before the emergency regulations expire so there will be a period when no regulations will be in force.

Registration and Practice of Dental Assistants – Ms. Yeatts reported that these regulations are also at the Governor's office for approval. She added that once they are approved, they will be effective 30 days after publication in the Virginia Register of Regulations.

Periodic Review; Reorganization of Chapter - Ms. Yeatts reported that the NOIRA was issued on August 2, 2010 and the comment period ended on September 1, 2010.

DENTAL ASSISTANT II REGULATIONS:

Education Requirements for Pulp Capping Procedures - Ms. Yeatts stated there is a need to amend these regulations to address the education requirement for pulp capping procedures but such an amendment cannot be advanced until the regulations are final. Ms. Reen advised that action was needed so that education programs, which are starting, know to address pulp capping procedures in the training. She said the Board needs to be in a position to act as soon as possible to amend the regulations and it could assign approval of a fast track action on this proposed amendment to the Executive Committee. Mr. Casway advised that the Board could adopt the revision in principle for fast track action when the regulations are final and could also at that time issue a guidance document. Dr. Hall recommended that the language "and pulp capping procedures" also be added to training requirement for amalgam restorations in 18VAC60-20-61(B)(2)(a). This addition was agreed to by consensus. Dr. Hall then moved to advance the proposal as amended to the Board. The motion was seconded and passed.

PERIODIC REVIEW OF REGULATIONS:

Comments on the NOIRA – Ms. Reen noted that the Virginia Association of Nurse Anesthetists submitted the only comment received. She stated this comment will be considered as regulatory language is developed. Dr. Hall asked Mr. Werbin to address the supervision requirements and was advised that CRNA's are not required to practice under supervision, they practice under agreements with doctors or dentists which are reviewed periodically. Dr. Boyd asked about who is responsible for the medications and equipment used and was advised that it varies from practice to practice. Mr. Werbin also stated in response to a question by Ms. Howard that the CRNA practice protocol is developed specific to each practice setting.

VDA Recommendation for Mobile Clinics – Ms. Reen stated that the VDA is asking the Board to amend these regulations to require that the name of the dentist that has agreed to provide follow-up care is provided on the patient information sheet. She said that she can modify the application instructions to give guidance to this effect since the current regulations require referral when follow-up care is needed. She added that amending the regulations to clarify that the required referral information should be the dentist who has agreed to provide follow-up care might also be considered. Ms. Yeatts recommended that the VDA be encouraged to resubmit this comment when the proposed final regulations are published for public comment. Ms. Reen agreed to do this.

Dental Labs- disclosure of the materials used – Ms. Reen noted that in response to concerns addressed nationally about substandard materials being used in overseas labs, Dr. Levin obtained the information in the agenda package about other state boards' oversight of dental labs. She said that the Committee was asked to review these

materials to decide if action should be taken in Virginia. She also noted that the Board has the authority to inspect dental labs, but does not have regulatory authority over the labs to address the use of substandard materials. She added that the Board does have the legal authority to prescribe the work orders dentists use to order work from a lab including the specification of materials.

Dr Boyd asked if the Board should be pursuing legislation for the regulation of labs. Mr. Casway noted that the Board's authority is limited to Virginia so such authority would not address overseas or out of state labs. There was general agreement that it is the responsibility of the dentist to ensure that the materials specified are delivered.

Ms. Howard recommended creating a template with the required content and allowing the format to be modified or augmented. It was noted that labs generally require submission of their own forms and may not accept a Board prescribed form. Mr. Casway indicated that the form could be issued as a guidance document until it can be addressed in regulation. By consensus, the Committee agreed to develop a proposed form. Dr. Hall agreed to work with a lab tech in his area and Ms. Reen to draft a proposal.

Mr. Casway advised that the Board would need to amend the statute if it wants to regulate dental labs. After much discussion pro and con, the agreement was to get more information from other states that currently regulate dental labs.

Ad Hoc Workgroup on Advertising Recommendations – Dr. Boyd reported that the discussion of the Ad Hoc Work Group on August 20, 2010 was spirited and emotional. He added that the group concluded the current law and regulations are sufficient but that educational information and stronger Board actions are needed. The recommendations agreed to by the group were:

- **Guidance Document 60-10 should be amended.** Ms. Reen stated that the Committee can recommend acceptance, denial or modification of the proposals. Following discussion of the concerns of the group and Mr. Casway's explanation of the legal standard for probable cause review, the Committee agreed by consensus:
    - to recommend striking the marked through sentence on anonymous complaints in the section "Making a Probable Cause Decision", item 1.
    - not to recommend adding the bold underlined language on clear and convincing evidence in that same section.

  In regard to section B. Guidelines for Offering a Confidential Consent Agreement, item 1, Ms. Pace moved to recommend retaining the current language on offering a CCA for subsequent violations. The motion was seconded and passed with Dr. Boyd abstaining.
  In regard to section C. Guidelines for Imposing Disciplinary Sanctions, items 2.a and b, Ms. Pace moved to recommend adding the proposed language "per violation, a reprimand" and "subsequent". The motion was seconded and passed with Dr. Boyd abstaining.

- **Board members should resume the review of advertising cases.** Ms. Reen reported that out of the 1,355 cases closed in calendar years 2008 and 2009, 43 cases addressed advertising. She further reported that the decisions on the 43 cases were to close 2 with violations, 3 as undetermined, 8 with confidential consent agreements, 6 with advisory letters and 24 no violation. She stated that the Board assigned probable cause review to her as one strategy to first reduce and then to prevent a backlog of standard of care cases. She indicated that, given the caseload is currently managed in compliance with the performance goals, the decision on this recommendation is completely discretionary. Ms. Pace stated she favors keeping the current process and the committee agreed by consensus.
- **A guidance document and information on cases should be provided to licensees**. There was consensus that a guidance document should be developed, with Mr. Casway recommending a question and answer format. It was also agreed that data on case outcomes should be included in **BRIEFS**.

NEXT MEETING: It was agreed that the Committee would meet on October 29, 2010 and that Ms. Howard and Ms. Reen will propose dates for subsequent meetings.

ADJOURNMENT: Ms. Howard adjourned the meeting at 12:15 p.m.

Myra Howard, Chair	Sandra K. Reen, Executive Director
Date	Date

Current Status of Regulatory Actions

Board of Dentistry

Chapter	Action / Stage Information	
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	Action:	Periodic review; reorganization of chapter
	Stage:	NOIRA - *Register Date: 8/2/10*
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	Action:	Recovery of disciplinary costs
	Stage:	Proposed - *At Governor's Office* *109 days in review*
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	Action:	Registration of mobile clinics
	Stage:	Proposed - *At Governor's Office* *Emergency regulation currently in effect expires 1/7/11; extension requested, not yet granted* *108 days in review*
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]	Action:	Registration and practice of dental assistants
	Stage:	Final - *At Governor's Office* *135 days in review*

Project 2487 - DRAFT

BOARD OF DENTISTRY
Dental Hygiene regulations

CHAPTER 25
REGULATIONS GOVERNING THE PRACTICE OF DENTAL HYGIENE

Part I. General Provisions.

18VAC60-25-10. Definitions.

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

"Active practice" means clinical practice as a dental hygienist for at least 600 hours per year.

"ADA" means the American Dental Association.

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

"Dental assistant I" means any unlicensed person under the direction 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 level of supervision that a dentist is required to exercise with a dental hygienist or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered to perform reversible, intraoral procedures as specified in this chapter.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. The order may authorize the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Indirect supervision" means the dentist examines the patient at some point during the appointment, and is continuously present in the office to advise and assist a dental hygienist who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist, or (iii) preparing the patient for dismissal following treatment.

"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, submucosal, subcutaneous, or intraocular).

18VAC60-25-20. Address of record.

At all times, each licensed dental hygienist shall provide the board with a current address of record. All required notices mailed by the board to any such licensee shall be validly given when mailed to the latest address of record given by the licensee. All changes in the address of record or in the public address, if different from the address of record, shall be furnished to the board in writing within 30 days of such changes.

18VAC60-25-30. Posting of license.

In accordance with § 54.1-2727, a dental hygienist shall display a current, active license in the patient receiving area where it is conspicuous and readable by patients. If a licensee is employed in more than one office, ~~a notarized photocopy of the license or~~ a duplicate license obtained from the board may be displayed.

18VAC60-25-40. Required fees.

A. Application fees.

1. License by examination	$175
2. License by credentials	$275
3. License to teach dental hygiene pursuant to § 54.1-2725	$175
4. Temporary permit pursuant to § 54.1-2726	$175
3. Restricted volunteer license	$25
4. Volunteer practice registration	$10

B. Renewal fees.

1. Active license	$75
2. Inactive license	$40
3. License to teach dental hygiene pursuant to § 54.1-2725	$75
4. Temporary permit pursuant to § 54.1-2726	$75
5. Restricted volunteer license	$15

C. Late fees.

1. Active license	$25
2. Inactive license	$15
3. License to teach dental hygiene pursuant to § 54.1-2725	$25
4. Temporary permit pursuant to § 54.1-2726	$25

D. Reinstatement fees.

1. Expired license	$200
2. Suspended license	$400
3. Revoked license	$500
E. Administrative fees.	
1. Duplicate wall certificate	$60
2. Duplicate license	$20
3. Certification of licensure	$35
4. Returned check	$35

Part II. Practice of Dental Hygiene.

18VAC60-25-50. Scope of practice.

A. Pursuant to § 54.1-2722 of the Code of Virginia, a licensed dental hygienist may perform services that are educational, diagnostic, therapeutic, or preventive under the indirect or general supervision of a licensed dentist.

B. The following duties of a dentist shall not be delegated:

1. Final diagnosis and treatment planning;

2. Performing surgical or cutting procedures on hard or soft tissue;

3. Prescribing or parenterally administering drugs or medicaments, except a dental hygienist, who meets the requirements of 18VAC60-20-81, may parenterally administer Schedule VI local anesthesia to patients 18 years of age or older;

4. Authorization of work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;

5. Operation of high speed rotary instruments in the mouth;

6. Administering and monitoring general anesthetics and conscious sedation except as provided for in § 54.1-2701 of the Code of Virginia and 18VAC60-20-108 C, 18VAC60-20-110 F, and 18VAC60-20-120 F;

7. Condensing, contouring or adjusting any final, fixed or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam and placing and shaping composite resins by dental assistants II with advanced training as specified in 18VAC60-30-10 et seq.;

8. Final positioning and attachment of orthodontic bonds and bands; and

9. Final adjustment and fitting of crowns and bridges in preparation for final cementation.

C. The following duties shall only be delegated to dental hygienists under <u>direction</u> and may be performed under indirect supervision:

1. Scaling and/or root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices under anesthesia.

2. Performing an initial examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.

3. Administering nitrous oxide or local anesthesia by dental hygienists qualified in accordance with the requirements of 18VAC60-20-81.

D. The following duties shall only be delegated to dental hygienists and may be delegated by written order in accordance with § 54.1-3408 of the Code of Virginia to be performed under general supervision without the dentist being present:

1. Scaling and/or root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices.

2. Polishing of natural and restored teeth using air polishers.

3. Performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for further evaluation and diagnosis by the dentist.

4. Subgingival irrigation or subgingival application of topical Schedule VI medicinal agents.

5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed in subsection A of this section and those listed as nondelegable in 18VAC60-20-190.

E. Nothing in this section shall be interpreted so as to prevent a licensed dental hygienist from providing educational services, assessment, screening or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.

F. The following do not require a license to practice dental hygiene:

1. Oral health education and preliminary dental screenings in any setting.

2. Recording a patient's pulse, blood pressure, temperature, and medical history.

18VAC60-25-60. Utilization of dental hygienists.

A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction at one and the same time, with the exception that a dentist may issue written orders for services to be provided by dental hygienists under general supervision in a free clinic, a public health program, or on a voluntary basis.

18VAC60-25-70. Delegation of services to a dental hygienist.

A. In all instances and on the basis of his diagnosis, a licensed dentist assumes ultimate responsibility for determining the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, 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 18VAC60-20-200. 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 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 rendered within a specified time period, not to exceed 10 months from the date the dentist last examined the patient. Upon expiration of the order, the dentist shall have 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 a dentist may not 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.

D. 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.

18VAC60-25-80. Delegation of services to a dental assistant.

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 18VAC60-20-210, with the exception of those listed as nondelegable in 18VAC60-20-190 and those which may only be delegated to dental hygienists as listed in 18VAC60-20-220.

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.

18VAC60-25-90. Administration of anesthesia or sedation.

A. Pursuant to subsection V of § 54.1-3408 of the Code of Virginia and in accordance with regulations of the board, a licensed dental hygienist may:

1. Administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine; or

2. Administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia under the indirect supervision of a dentist.

B. A dental hygienist, under the indirect supervision of a dentist, who meets the following qualifications, may administer nitrous oxide/inhalation analgesia:

1. Successful completion of a didactic and clinical course leading to certification in administration of nitrous oxide offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, which includes a minimum of eight hours in didactic and clinical instruction in the following topics:

a. Patient physical and psychological assessment;

b. Medical history evaluation;

c. Equipment and techniques used for administration of nitrous oxide;

d. Neurophysiology of nitrous oxide administration;

e. Pharmacology of nitrous oxide;

f. Recordkeeping, medical and legal aspects of nitrous oxide;

g. Adjunctive uses of nitrous oxide for dental patients; and

h. Clinical experiences in administering nitrous oxide, including training with live patients.

2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia given by the accredited program.

C. A dental hygienist, under the indirect supervision of a dentist, who meets the following qualifications may administer both nitrous oxide/inhalation analgesia and, to patients 18 years of age or older, local anesthesia. Local anesthesia shall not include topical Schedule VI medicinal agents that may be administered under general supervision pursuant to 18VAC60-20-220 B.

1. Successful completion of a didactic and clinical course leading to certification in administration of local anesthesia and nitrous oxide/inhalation analgesia that is offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, which includes a minimum of 36 didactic and clinical hours in the following topics:

a. Patient physical and psychological assessment;

b. Medical history evaluation and recordkeeping;

c. Neurophysiology of local anesthesia;

d. Pharmacology of local anesthetics and vasoconstrictors;

e. Anatomical considerations for local anesthesia;

f. Techniques for maxillary infiltration and block anesthesia;

g. Techniques for mandibular infiltration and block anesthesia;

h. Local and systemic anesthetic complications;

i. Management of medical emergencies;

j. Clinical experiences in maxillary and mandibular infiltration and block injections;

k. Pharmacology of nitrous oxide;

l. Adjunctive uses of nitrous oxide for dental patients; and

m. Clinical experiences in administering nitrous oxide and local anesthesia injections on patients.

2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia and local anesthesia given by the accredited program.

C. A dental hygienist who holds a certificate or credential issued by the licensing board of another U.S. jurisdiction that authorizes the administration of nitrous oxide/inhalation analgesia or local anesthesia may be authorized for such administration in Virginia if:

1. The qualifications on which the credential or certificate was issued were substantially equivalent in hours of instruction and course content to those set forth in subsections B and C of this section; or

2. If the certificate or credential issued by another jurisdiction was not substantially equivalent, the hygienist can document experience in such administration for at least 24 of the past 48 months preceding application for licensure in Virginia.

E. A dentist who provides direction for the administration of nitrous oxide/inhalation analgesia or local anesthesia shall ensure that the dental hygienist has met the qualifications for such administration as set forth in this section.

Part III. Standards of conduct.

18VAC60-25-100. Patient records; confidentiality.

A. A dental hygienist shall be responsible for accurate and complete information in patient records for those services provided by a hygienist or a dental assistant under supervision to include the following:

1. Patient's name on each document in the patient record;

2. A health history taken at the initial appointment, which updated at least annually or more often if medically indicated, (DISCUSS) and when administering local anesthesia, nitrous oxide or oxygen inhalation analgesia;

3. Options discussed and consent for any treatment rendered;

4. List of drugs administered and the route of administration, quantity, dose and strength;

5. Radiographs, digital images and photographs clearly labeled with the patient name and date taken; and

6. Notation of each date of treatment and the name of dentist and the dental hygienist providing service.

B. A dental hygienist shall comply with the provisions of § 32.1-127.1:03of the Code of Virginia related to the confidentiality and disclosure of patient records. A dental hygienist shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the hygienist shall not be considered negligent or willful.

18VAC60-25-110. Acts constituting unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of § 54.1-2706of the Code of Virginia:

1. Fraudulently obtaining, attempting to obtain or cooperating with others in obtaining payment for services;

2. Performing services for a patient under terms or conditions which are unconscionable. The board shall not consider terms unconscionable where there has been

a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress;

3. Misrepresenting to a patient and the public the materials or methods and techniques the licensee uses or intends to use;

4. Committing any act in violation of the Code of Virginia reasonably related to the practice of dentistry and dental hygiene;

5. Delegating any service or operation which requires the professional competence of a dentist or dental hygienist to any person who is not a licensee or registrant as authorized by this chapter;

6. Certifying completion of a dental procedure that has not actually been completed;

7. Violating or cooperating with others in violating provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.) or the Drug Control Act (§ 54.1-3400 et seq.).

Part IV. Requirements for Licensure.

18VAC60-25-120. Licensure by examination.

A. An applicant for dental hygiene licensure shall have graduated from or have been issued a certificate by a program of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association.

B. Dental hygiene examinations.

1. All applicants are required to successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board for licensure.

2. All applicants to practice dental hygiene shall successfully complete the board-approved examinations in dental hygiene, except those persons eligible for licensure pursuant to 18 VAC 60-20-80.

3. If the candidate has failed any section of a board-approved examination three times, the candidate shall complete a minimum of seven hours of additional clinical training in each section of the examination to be retested in order to be approved by the board to sit for the examination a fourth time.

C. All applicants who successfully complete the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake the board-approved examinations or take board-approved continuing education unless they demonstrate that they have maintained clinical, ethical, and active practice for three of the past five years immediately prior to submission of an application for licensure.

D. All applicants for licensure by examination shall be required to attest that they have read and understand and will remain current with the applicable Virginia dental and dental hygiene laws and the regulations of this board.

18VAC60-25-130. Licensure by credentials.

An applicant for dental hygiene licensure by credentials shall:

1. Be a graduate or be issued a certificate from an accredited dental hygiene school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association;

2. Be currently licensed to practice dental hygiene in another state, territory, District of Columbia, or possession of the United States, and have clinical, ethical, and active practice for two of the past four years immediately preceding application for licensure;

3. Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;

4. Have successfully completed a clinical competency examination substantially equivalent to that required by Virginia;

5. Not have failed the clinical examination accepted by the board within the last five years;

6. Be of good moral character;

7. Not have committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia;

8. Have successfully completed the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board; and

9. Attest to having read and understand and to remain current with the laws and the regulations governing the practice of dentistry and dental hygiene in Virginia.

18VAC60-25-140. Other application requirements.

A. All applications for licensure by examination or by credentials shall include:

1. A final certified transcript of the grades from the college from which the applicant received the dental hygiene degree or certificate;

2. An original grade card issued by the Joint Commission on National Dental Examinations; and

3. A current report from the Healthcare Integrity and Protection Data Bank (HIPDB) and a current report from the National Practitioner Data Bank (NPDB).

B. If a transcript or other documentation required for licensure cannot be produced by the entity from which it is required, the board, in its discretion, may accept other evidence of qualification for licensure.

18VAC60-25-150. Temporary permit; teacher's license.

A. Issuance of a temporary permit.

1. A temporary permit shall be issued only for the purpose of allowing dental hygiene practice as limited by § 54.1-2726 of the Code of Virginia. An applicant for a temporary permit shall submit a completed application and a final certified transcript of the grades from the college from which the applicant received the dental hygiene degree or certificate.

2. A temporary permit will not be renewed unless the permittee shows that extraordinary circumstances prevented the permittee from taking the licensure examination during the term of the temporary permit.

B. The board may issue a teacher's license pursuant to provisions of § 54.1-2725 of the Code of Virginia.

C. A temporary permit or a teacher's license may be revoked for any grounds for which the license of a regularly licensed dental hygienist may be revoked and for any act indicating the inability of the permittee or licensee to practice dental hygiene that is consistent with the protection of the public health and safety as determined by the generally accepted standards of dental practice in Virginia.

D. Applicants for a temporary permit or a teacher's license shall be required to attest to having read and understand and to remaining current with the laws and the regulations governing the practice of dentistry and dental hygiene in Virginia.

18VAC60-25-160. Inactive license.

A. Any 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 § 54.1-2726.1 of the Code of Virginia, the holder of an inactive license shall not be entitled to perform any act requiring a license to practice 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.

18VAC60-25-170. Voluntary practice.

A. Restricted volunteer license.

1. In accordance with § 54.1-2726.1, the board may issue a restricted volunteer license to 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 and dental hygiene in Virginia;

d. Has not failed a clinical examination within the past five years; and

e. Has had at least five years of active 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. 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.

4. A restricted voluntary license granted pursuant to this section shall expire on the June 30 of the second year after its issuance, or shall terminate when the supervising dentist withdraws his sponsorship.

5. A 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 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:

a. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;

b. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;

c. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

d. Pay a registration fee as required in 18VAC60-25-40; and

e. 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.

Part V. Licensure Renewal and Reinstatement

18VAC60-25-180. Licensure renewal.

A. Every person holding an active or inactive license shall, on or before March 31, renew his license. Every person holding a teacher's license, a restricted volunteer license to practice dental hygiene or a temporary permit to practice dentistry or dental hygiene shall renew, on or before June 30.

B. 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. 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. 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. 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 and the reinstatement fee.

1. With the exception of practice with a restricted volunteer license as provided in § 54.1-2726.1 of the Code of Virginia, practicing in Virginia with an expired license may subject the licensee to disciplinary action by the board.

2. 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 60-25-110 to deny said reinstatement, and that the applicant has paid the unpaid reinstatement fee and any fines or assessments. Evidence of continuing competence shall include hours of continuing education as required by subsection H of 18VAC60-25-190 and may also include evidence of active practice in another state or in federal service or current specialty board certification.

18VAC60-25-190. Requirements for continuing education.

A. A dental hygienist shall be required to have completed a minimum of 15 hours of approved continuing education for each annual renewal of licensure.

1. A dental hygienist shall be required to maintain evidence of successful completion of training in basic cardiopulmonary resuscitation.

2. A dental hygienist who monitors patients under general anesthesia, deep sedation or conscious sedation shall complete four hours every two years of approved continuing education directly related to administration or monitoring of such anesthesia or sedation as part of the hours required for licensure renewal.

3. Continuing education hours in excess of the number required for renewal may be transferred or credited to the next renewal year for a total of not more than 15 hours.

B. An approved continuing dental education program shall be relevant to the treatment and care of patients and shall be:

1. Clinical courses in dental practice; or

2. Nonclinical subjects that relate to the skills necessary to provide dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, stress management). Courses not acceptable for the purpose of this subsection include, but are not limited to, estate planning, financial planning, investments, and personal health.

C. Continuing education credit may be earned for verifiable attendance at or participation in any courses, to include audio and video presentations, which meet the requirements in subdivision B 1 of this section and which are given by one of the following sponsors:

1. American Dental Association and National Dental Association, their constituent and component/branch associations;

2. American Dental Hygienists' Association and National Dental Hygienists Association, their constituent and component/branch associations;

3. American Dental Assisting Association, its constituent and component/branch associations;

4. American Dental Association specialty organizations, their constituent and component/branch associations;

5. American Medical Association and National Medical Association, their specialty organizations, constituent, and component/branch associations;

6. Academy of General Dentistry, its constituent and component/branch associations;

7. Community colleges with an accredited dental hygiene program if offered under the auspices of the dental hygienist program;

8. A college or university that is accredited by an accrediting agency approved by the U.S. Department of Education or a hospital or health care institution accredited by the Joint Commission on Accreditation of Health Care Organizations;

9. The American Heart Association, the American Red Cross, the American Safety and Health Institute and the American Cancer Society;

10. A medical school which is accredited by the American Medical Association's Liaison Committee for Medical Education or a dental school or dental specialty residency program accredited by the Commission on Dental Accreditation of the American Dental Association;

11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);

12. The Commonwealth Dental Hygienists' Society;

13. The MCV Orthodontic and Research Foundation;

14. The Dental Assisting National Board; or

15. A regional testing agency (i.e., Central Regional Dental Testing Service, Northeast Regional Board of Dental Examiners, Southern Regional Testing Agency, or Western Regional Examining Board) when serving as an examiner.

D. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following the licensee's initial licensure.

E. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

F. A licensee is required to provide information on compliance with continuing education requirements in his annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. Licensees selected for audit must provide original documents certifying that they have fulfilled their continuing education requirements by the deadline date as specified by the board.

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity. Documentation must be maintained for a period of four years following renewal.

H. A licensee who has allowed his license to lapse, or who has had his license suspended or revoked, must submit evidence of completion of continuing education equal to the requirements for the number of years in which his license has not been active, 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 preceding an application for reinstatement.

I. Continuing education hours required by board order shall not be used to satisfy the continuing education requirement for license renewal or reinstatement.

J. Failure to comply with continuing education requirements may subject the licensee to disciplinary action by the board.