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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Board of Dentistry, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC60-21 18VAC60-25 18VAC60-30
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Dentistry Regulations Governing the Practice of Dental Hygiene Regulations Governing the Practice of Dental Assistants
<b>Date this document prepared</b>	June 10, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

N/A

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

Regulations of the Board of Dentistry are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

### Alternatives to Regulation

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

The Code of Virginia requires the Board of Dentistry to regulate the practice of dentistry, the practice of dental hygiene, and the practice of dental assistants through the promulgation of regulations. No alternative to regulation exists. See Va. Code § 54.1-2700 et seq. There are no alternatives to the purpose of the regulations, which is to ensure minimal competency by practitioners and protect public health and safety in the provision of dental services.

### Public Comment

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

A notice of periodic review was posted on Town Hall and published in the Virginia Register with comment requested from April 11, 2022 to May 11, 2022. The Board received no public comment for Chapters 21 and 30.

Comments to Chapter 25 following the notice of the periodic review related to line item changes, new definitions, fees, delegation of duties to a dental hygienist, and remote supervision. As these comments were received in the form of existing Chapter 25 regulations with highlighted provisions, and it is unclear what highlighted portions are additions and what are deletions, the Board’s Regulatory Committee will review the highlighted portions in detail as it considers what changes to include in the Notice of Intended Regulatory Action.

### Effectiveness

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The regulations are mandated by law and necessary to protect the public health, welfare, and safety. Amendments can be made to provide greater clarity, remove outdated provisions, and provide greater patient protection.

### Decision

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

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The Board of Dentistry reviewed Chapters 21, 25, and 30.

After further opportunity for comment and recommendations for amendments, the Board will publish a Notice of Intended Regulatory Action.

### **Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

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- (1) These chapters of regulation are necessary for public protection since statutory mandates require licensure or oversight of these professions. See Va. Code §§ 54.1-2709(A) (requiring a license to practice dentistry), 54.1-2722(A) (requiring a license to practice as a dental hygienist), and 54.1-2729.01 (restricting practice as a dental assistant).
- (2) Comments to Chapter 25 following the notice of the periodic review related to line item changes, new definitions, fees, delegation of duties to a dental hygienist, and remote supervision. No comments were received related to Chapters 21 or 30.
- (3) Chapters 21, 25, and 30 are complex regulations by necessity in that they regulate healthcare professions related to the provision of dental services to the public. Dental services can include invasive procedures, surgery, sedation of patients, and other highly impactful healthcare.
- (4) These regulations do not overlap, duplicate, or conflict with federal or state laws or regulations.
- (5) These chapters, like all chapters for boards under the Department of Health Professions, are updated multiple times per year in response to legislation, petitions for rulemaking, and updates to practice or protection of the public needs. Since January 1, 2018, Chapter 21 has been amended 13 times, Chapter 25 has been amended 6 times, and Chapter 30 has been amended 6 times.