VIRGINIA BOARD OF DENTISTRY

Public Hearing

&

Regulatory-Legislative Committee

January 22, 2010 Agenda

Department of Health Professions

Perimeter Center - 9960 Mayland Drive, 2nd Floor Conference Center

Richmond, Virginia 23233

TIME		PAGE
1:00 p.m.	**Call to Order —Myra Howard, Chair**	
	Public Hearing on Dental Assistant II Regulations	
	Public Comment	
	Approval of Minutes - November 20, 2009	**1 - 3**
	Status Report on Regulatory Actions:	
	• **Recovery of Disciplinary Costs**	
	Periodic Review of Regulations	
	• **Chart on Part VI, Direction and Delegation of Duties**	**4 - 7**
	• **Chart on Part VII, Oral and Maxillofacial Surgeons**	**7 - 11**
	• **Regulatory Review Mark-up**	**12 – 53**
	• **Discussion of NOIRA**	
	○ **Organization of Regulations**	
	○ **Description of action to be considered**	
	Schedule Next Meeting	
Adjourn		

VIRGINIA BOARD OF DENTISTRY
MINUTES OF REGULATORY/LEGISLATIVE COMMITTEE
November 20, 2009

TIME AND PLACE: The meeting of the Regulatory/Legislative Committee of the Board of Dentistry was called to order at 10:35 A.M. on November 20, 2009 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Richmond, 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

OTHER BOARD MEMBERS PRESENT: Jeffrey Levin, 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

ESTABLISHMENT OF A QUORUM: All members of the Committee were present.

PUBLIC COMMENT: **None**

MINUTES: Ms. Howard asked if the members had reviewed the minutes of the August 21, 2009 meeting. Dr. Hall moved to accept the minutes. The motion was seconded and passed.

STATUS REPORT ON REGULATORY ACTIONS:

Dental Assistant Regulations – Ms. Yeatts reported that the dental assistant regulations are at the Governor's office for review and she expects approval by the end of the year. Ms. Reen added that once the regs are approved by the Governor, they will be released for a public comment period of 60 days. Ms. Yeatts stated that after the comment period the Committee will review comment and recommend final regulations to the full Board.

Mobile Dental Clinics Regulations – Ms. Yeatts reported these emergency regulations have been approved and will be in effect on January 8, 2010.

Recovery of Disciplinary Costs – Ms. Yeatts reported that these regulations are still in the comment period which will end on November 25, 2009.

DEVELOP REGULATORY LANGUAGE FOR RECOVERY OF DISCIPLINARY COSTS: Ms. Yeatts asked the Committee to take a look at the Draft Proposed Regulations on green paper. She stated that information on other states' laws and regulations had been collected, considered in developing the draft language and is included in the hand out for review and discussion. She then went through each section of the draft as follows.

- Subsection A (Assessment of cost for investigation of a disciplinary case) – She stated that this section provides that the investigation costs to be recovered will be calculated based on rates established in a guidance document and stated in disciplinary orders along with the schedule for payment. Discussion addressed the need for fairness with Dr. Hall noting that standard of care complaints often get reduced to recordkeeping findings. He opined that the full investigative costs should not be recovered in such cases.

Ms. Reen asked the Committee for permission to work with Ms. Yeatts on where these provisions are placed in the regulations because she wanted to consider moving them to the General Provisions section. Ms. Howard agreed.

- Subsection B (Assessment of cost for monitoring a licensee or registrant) – She advised that this section provides that monitoring costs would also be calculated based on a guidance document and stated in the order.

- Subsection C (Total of assessment) – Ms. Yeatts reminded the Committee that cost recovery is limited to $5000. She noted that the fee for inspection of dental offices, the return check fee, and the collection fee are separate charges established in regulations.

- Subsection D (Waiver of recovery of disciplinary costs) – Ms. Yeatts said this section provides for the waiver of costs if there is no reasonable change of recovery and provides that this decision would be addressed in the order. Discussion followed about how the committee or the Board could have objective information about the respondent's finances, about the application of the Administrative Process Act to recovery provisions in an

order and the possibility of addressing cost recovery in a separate document. Mr. Casway advised that cost recovery should be addressed in orders and that the appeal provisions of the APA would apply. Following discussion, Dr. Boyd moved to remove this Subsection D. The motion passed with three members voting in favor – Ms. Howard, Dr. Boyd and Ms. Pace and one member voting against – Dr. Hall.

Ms. Pace moved to take the proposed draft as amended to the Board for consideration at its December meeting. The motion was seconded and passed.

PERIODIC REVIEW OF REGULATIONS:

Chart on Part V, Unprofessional Conduct – Ms. Reen gave a brief review of the part by part internal review the Committee is conducting then stated that she has received the last committee member review on Part IV so the mark-up will be prepared for the next meeting. She then presented the chart on Part V that the members will use to identify possible changes to this section. She asked Committee members to think about any additional concerns or considerations that need to be added while reviewing this part. She reminded the Committee that there are two more sections to be completed. She plans to have all three parts (V, VI, and VII) ready for discussion at the next meeting. Ms. Howard said that the Committee will start the process alphabetically with her being last.

NEXT MEETING: Ms. Howard asked about dates for scheduling the next meeting. It was agreed that staff will either schedule the meeting on Friday, January 22, 2009 or poll the Committee for available dates.

ADJOURNMENT: Ms. Howard adjourned the meeting at 12:13 p.m.

_____
Myra Howard, Chair

_____
Sandra K. Reen, Executive Director

_____
Date

_____
Date

Statutory	Regulatory	Discussion
Part VI. Direction and Delegation Of Duties.		
§ 54.1-2700. Definitions. As used in this chapter, unless the context requires a different meaning: "Dentist" means a person who has been awarded a degree in and is licensed to practice dentistry; "Dentistry" means the evaluation, diagnosis, prevention, and treatment, through surgical, nonsurgical or related procedures, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent and associated structures and their impact on the human body; **§ 54.1-2711. Practice of dentistry.** Any person shall be deemed to be practicing dentistry who (i) uses the words dentist, or dental surgeon, the letters D.D.S., D.M.D., or any letters or title in connection with his name, which in any way represents him as engaged in the practice of dentistry; (ii) holds himself out, advertises or permits to be advertised that he can or will perform dental operations of any kind; (iii) diagnoses, treats, or professes to diagnose or treat any of the diseases or lesions of the oral cavity, its contents or contiguous structures, or (iv) extracts teeth, corrects malpositions of the teeth or jaws, takes impressions for the fabrication of appliances or dental prosthesis, supplies or repairs artificial teeth as substitutes for natural teeth, or places in the mouth and adjusts such substitutes.	**18VAC60-20-190. Nondelegable duties; dentists.** Only licensed dentists shall perform the following duties: 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. Performing pulp capping procedures;~~ 7. 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; 8. Condensing, contouring or adjusting any final, fixed or removable prosthodontic appliance or restoration in the mouth with the exception of placing, packing and carving amalgam and composite resins by dental assistants II with advanced training as specified in 18VAC60-20-61B; 9. Final positioning and attachment of orthodontic bonds and bands; and ~~10. Taking impressions for master casts to be used for prosthetic restoration of teeth or oral structures;~~ 11. Final ~~cementation~~ adjustment and fitting of crowns and bridges in preparation for final cementation; ~~and~~ ~~12. Placement of retraction cord.~~	**The marked amendments are being done in the DA II regs.** **Re highlight in §54.1-2711 - Should a provision be added to address taking impressions and should taking impressions for athletic mouth guards be included or excluded? We get calls on this at the beginning of every school year.**
	18VAC60-20-195. Radiation certification. No person not otherwise licensed by this board shall place or expose dental x-ray film unless he has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, (ii) been certified by the American Registry of Radiologic Technologists, ~~(iii) satisfactorily completed a course and passed an examination in compliance with guidelines provided by the board~~, or (iv) satisfactorily completed a radiation course through a sponsor specified in 18VAC60-20-50 and passed an the Radiation Health and Safety examination given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.	**Consider deleting this provision. No authority to approve, oversee or enforce guidelines. Guidelines last issued in 2001 are out of date and inconsistent with VDH regulations.** **Clarify that the required course does not have to be through DANB.** **Add a grandfather provision for persons who qualified by (iii) prior to effective date of change.**
§ 54.1-2700. Definitions. As used in this chapter, unless the	**18VAC60-20-200. Utilization of dental hygienists and dental assistants II.**	

context requires a different meaning: ""Dental hygiene" means cleaning and polishing teeth and assisting the members of the dental profession in providing oral health care and oral health education to the public; "Dental hygienist" means a person trained in the practice of and practicing dental hygiene;	~~No dentist shall have more than two~~ A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction or general supervision ~~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.	**The marked amendments are being done in the DA II regs.** **Board member question – what does phrase "at one and the same time" mean?**
§ 54.1-2724. Limitations on the employment of dental hygienists. The Board shall determine by regulation how many dental hygienists may work at one time for a dentist. The State Board of Health may employ the necessary number of hygienists in public school dental clinics, subject to regulations of the Board. **§54.1-2722. D.** A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection U of § 54.1-3408, a licensed dental hygienist may 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. A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction. For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided. The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.	**18VAC60-20-210. Requirements for direction and general supervision.** A. In all instances and on the basis of his diagnosis, 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 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 delegated to a dental hygienist under direction shall only be performed when the dentist is present in the facility and 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 rendered within a specific 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 ~~no~~ a dentist ~~will~~ 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.	**The marked amendments are being done in the DA II regs.** **Rephrase to: "The following requirements must be met for a dentist to delegate duties to be performed by a dental hygienist under general supervision:"** **Change " a specific time period " to "the time period specified in the order"** **Consider addressing whether the delegation must be made immediately following the examination or during the same visit as the examination or whether the dentist can enter the order at any time during the 10 month period.** **Board member question – what does phrase "prior to the appointment" mean?** **The marked amendments are being done in the DA II regs.**

	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.	**Re highlight in §54.1-2722.D – Consider addressing how this permissive language applies in dental practices?**
§ 54.1-2400.01. Certain definition. As used in this subtitle, "laser surgery" means treatment through revision, destruction, incision or other structural alteration of human tissue using laser technology. Under this definition, the continued use of laser technology solely for nonsurgical purposes of examination and diagnosis shall be permitted for those professions whose licenses permit such use.	**18VAC60-20-220. Dental hygienists.** A. The following duties shall only be delegated to dental hygienists under direction with the dentist being present: 1. Scaling and/or root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices under anesthesia administered by the dentist. 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. B. 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 and those restricted to dental assistants II in 18VAC60-20-230.C. C. 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.	**Re highlights in §54.1-2400.01 and 18VAC60-20-220 – Do we want to add provisions addressing use of lasers and any other technology appropriate for hygiene treatment?**
	18VAC60-20-230. 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 I under ~~the direction~~ indirect supervision 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 and those restricted to dental assistants II in 18VAC60-20-230.C. .	**New - To be included in final DA II regs.** **New - To be included in final DA II regs.**

	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.	
§ 54.1-2701. Exemptions. This chapter shall not: 6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth in regulations promulgated by the Board.	**18VAC60-20-240. What does not constitute practice.** The following are not considered the practice of dental hygiene and dentistry: 1. Oral health education and preliminary dental screenings in any setting. 2. Recording a patient's pulse, blood pressure, temperature, and medical history.	
Part VII. Oral and Maxillofacial Surgeons.		
§ 54.1-2700. Definitions. As used in this chapter, unless the context requires a different meaning: "Dentistry" means the evaluation, diagnosis, prevention, and treatment, through surgical, nonsurgical or related procedures, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent and associated structures and their impact on the human body; "Maxillofacial" means pertaining to the jaws and face, particularly with reference to specialized surgery of this region. "Oral and maxillofacial surgeon" means a person who has successfully completed an oral and maxillofacial residency program, approved by the Commission on Dental Accreditation of the American Dental Association, and who holds a valid license from the Board. **§ 54.1-2709.2. Registration and certain data required.** The Board of Dentistry shall require all oral and maxillofacial surgeons to annually register with the Board and to report and make available the following information: 1. The names of medical schools or schools of dentistry attended and dates of graduation; 2. Any graduate medical or graduate dental education at any institution approved by the Accreditation Council for Graduation Medical Education, the Commission on Dental Accreditation, American Dental Association; 3. Any specialty board certification or eligibility for	**18VAC60-20-250. Registration of oral and maxillofacial surgeons.** ~~Within 60 days after the effective date of this section,~~ every licensed dentist who practices as an oral and maxillofacial surgeon, as defined in §54.1-2700 of the Code of Virginia, shall register his practice with the board ~~and pay a fee of $175~~. 1. After initial registration, an oral and maxillofacial surgeon shall renew his registration annually on or before December 31 ~~by payment of a fee of $175~~. 2. An oral and maxillofacial surgeon who fails to register or to renew his registration and continues to practice oral and maxillofacial surgery may be subject to disciplinary action by the board. 3. Within one year of the expiration of a registration, an oral and maxillofacial surgeon may renew by payment of the renewal fee and a late fee ~~of $55~~. 4. After one year from the expiration date, an oral and maxillofacial surgeon who wishes to reinstate his registration shall update his profile and pay the reinstatement fee ~~of $350~~. **18VAC60-20-260. Profile of information for oral and maxillofacial surgeons.** A. In compliance with requirements of §54.1-2709.2 of the Code of Virginia, an oral and maxillofacial surgeon registered with the board shall provide, upon initial request, the following information within 30 days ~~or at a later date if so specified~~ of registration: 1. The address of the primary practice setting and all secondary practice settings with the percentage of time spent at each location; 2. Names of dental or medical schools with dates of graduation; 3. Names of graduate medical or dental education programs attended at an institution approved by the Accreditation Council for Graduate Medical Education, the Commission on Dental Accreditation, and the American Dental Association with dates	**18VAC60-20-250** **Move all fees to a newly created section for fees in Part I General Provisions and list fees by type and amount, i.e. OMS Registration - $175** **The 30 day limit has always been applied.**

certification as approved by the Commission on Dental Accreditation, American Dental Association; 4. The number of years in active, clinical practice as specified by regulations of the Board; 5. Any insurance plans accepted, managed care plans in which the oral and maxillofacial surgeon participates, and hospital affiliations, including specification of any privileges granted by the hospital; 6. Any appointments, within the most recent 10-year period, of the oral and maxillofacial surgeon to a dental school faculty and any publications in peer-reviewed literature within the most recent five-year period and as specified by regulations of the Board; 7. The location of any primary and secondary practice settings and the approximate percentage of the oral and maxillofacial surgeon's time spent practicing in each setting; 8. The access to any translating service provided to the primary practice setting of the oral and maxillofacial surgeon; 9. The status of the oral and maxillofacial surgeon's participation in the Virginia Medicaid Program; 10. Any final disciplinary or other action required to be reported to the Board by health care institutions, other practitioners, insurance companies, health maintenance organizations, and professional organizations pursuant to §§ 54.1-2400.6, 54.1-2709.3, and 54.1-2709.4 that results in a suspension or revocation of privileges or the termination of employment or a final order of the Board relating to disciplinary action; and 11. Other information related to the competency of oral and maxillofacial surgeons as specified in the regulations of the Board. The Board shall promulgate regulations to implement the provisions of this section, including, but not limited to, the release, upon request by a consumer, of such information relating to an oral and maxillofacial surgeon. The regulations promulgated by the Board shall provide for reports to include all paid claims in categories indicating the level of significance of each award or settlement. **§ 54.1-2709.4. Further reporting requirements.** A. The following matters shall be reported to the Board: 1. Any disciplinary action taken against an oral and maxillofacial surgeon licensed under this chapter by another	of completion of training; 4. Names and dates of specialty board certification or board eligibility, if any, as recognized by the Council on Dental Education and Licensure of the American Dental Association; 5. Number of years in active, clinical practice in the United States or Canada, following completion of medical or dental training and the number of years, if any, in active, clinical practice outside the United States or Canada; 6. Names of insurance plans accepted or managed care plans in which the oral and maxillofacial surgeon participates and whether he is accepting new patients under such plans; 7. Names of hospitals with which the oral and maxillofacial surgeon is affiliated; 8. Appointments within the past 10 years to dental school faculties with the years of service and academic rank; 9. Publications, not to exceed 10 in number, in peer-reviewed literature within the most recent five-year period; 10. Whether there is access to translating services for non-English speaking patients at the primary practice setting and which, if any, foreign languages are spoken in the practice; and 11. Whether the oral and maxillofacial surgeon participates in the Virginia Medicaid Program and whether he is accepting new Medicaid patients; B. The oral and maxillofacial surgeon may provide additional information on hours of continuing education earned, subspecialities obtained, honors or awards received. C. Whenever there is a change in the information on record with the profile system, the oral and maxillofacial surgeon shall provide current information in any of the categories in subsection A of this section within 30 days. **18VAC60-20-270. Reporting of malpractice paid claims and disciplinary notices and orders.** A. In compliance with requirements of §54.1-2709.4 of the Code of Virginia, a dentist registered with the board as an oral and maxillofacial surgeon shall report all malpractice paid claims in the most recent 10-year period. Each report of a settlement or judgment shall indicate: 1. The year the claim was paid; 2. The total amount of the paid claim in United States dollars; and 3. The city, state, and country in which the paid claim occurred. B. The board shall use the information provided to determine the relative frequency of paid claims described in terms of the percentage who have made malpractice payments within the most recent 10-year period. The statistical methodology used will be calculated on more than 10 paid claims for all dentists reporting, with the top 16% of the paid claims to be displayed as above-average payments, the next 68% of the paid claims to be displayed as average payments, and the last 16% of the paid claims to be displayed as below-average payments. C. Adjudicated notices and final orders or decision documents, subject to §54.1-2400.2	

state or by a federal health institution or voluntary surrender of a license in another state while under investigation; 2. Any malpractice judgment against an oral and maxillofacial surgeon licensed under this chapter; 3. Any incident of two settlements of malpractice claims against an individual oral and maxillofacial surgeon licensed under this chapter within a three-year period; and 4. Any evidence that indicates to a reasonable probability that an oral and maxillofacial surgeon licensed under this chapter is or may be professionally incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of his profession. B. The following persons and entities are subject to the reporting requirements set forth in this section: 1. Any oral and maxillofacial surgeon licensed under this chapter who is the subject of a disciplinary action, settlement judgment or evidence for which reporting is required pursuant to this section; 2. Any other person licensed under this chapter, except as provided in the Health Practitioners' Intervention Program; 3. The presidents of all professional societies in the Commonwealth, and their component societies whose members are regulated by the Board, except as provided for in the protocol agreement entered into by the Health Practitioners' Intervention Program; 4. All health care institutions licensed by the Commonwealth; 5. The malpractice insurance carrier of any oral and maxillofacial surgeon who is the subject of a judgment or of two settlements within a three-year period. The carrier shall not be required to report any settlements except those in which it has participated that have resulted in a least two settlements on behalf of an individual oral and maxillofacial surgeon during a three-year period; and 6. Any health maintenance organization licensed by the Commonwealth. C. No person or entity shall be obligated to report any matter to the Board if the person or entity has actual notice that the matter has already been reported to the Board. D. Any report required by this section shall be in writing directed to the Board, shall give the name and address of the person who is the subject of the report and shall describe the circumstances surrounding the conduct required to be	D of the Code of Virginia, shall be made available on the profile. Information shall also be posted indicating the availability of unadjudicated notices and of orders that are subject to being vacated at determination of the practitioner. **18VAC60-20-280. Noncompliance or falsification of profile.** A. The failure to provide the information required in subsection A of 18VAC60-20-260 may constitute unprofessional conduct and may subject the licensee to disciplinary action by the board. B. Intentionally providing false information to the board for the profile system shall constitute unprofessional conduct and shall subject the licensee to disciplinary action by the board. **18VAC60-20-290. Certification to perform cosmetic procedures; applicability.** A. In order for an oral and maxillofacial surgeon to perform aesthetic or cosmetic procedures on the face, jaws and associated structures, he shall be certified by the board pursuant to §54.1-2709.1 of the Code of Virginia. Such certification shall only entitle the licensee to perform procedures above the clavicle or within the head and neck region of the body. B. Based on the applicant's education, training and experience, certification may be granted to perform one or more of these or similar procedures: 1. Rhinoplasty; 2. Blepharoplasty; 3. Rhytidectomy ; 4. Submental liposuction 5. Laser resurfacing or dermabrasion; 6. Browlift (either open or endoscopic technique); 7. Platysmal muscle plication; and 8. Otoplasty. **18VAC60-20-300. Certification not required.** Certification shall not be required for performance of the following: 1. Treatment of facial diseases and injuries, including maxillofacial structures; 2. Facial fractures, deformity and wound treatment; 3. Repair of cleft lip and palate deformity; 4. Facial augmentation procedures; and 5. Genioplasty. **18VAC60-20-310. Credentials required for certification.** A. An applicant for certification shall: 1. Hold an active, unrestricted license from the board; 2. Submit a completed application and fee ~~of $225~~; 3. Complete an oral and maxillofacial residency program accredited by the Commission on Dental Accreditation;	**Consider expanding this section to more fully address cosmetic treatment that should only be performed by oral and maxillofacial surgeons with certification. For example, the Board decided that the administration of BOTOX and dermal fillers are "similar procedures" to a Rhytidectomy since they are used to treat skin wrinkles. Consider adding language to reflect that decision in a way that would cover these and other substances or methods for cosmetically treating noses, eyelids, brows, skin, ears, facial muscles and throats.** **Move all fees to a newly created section for fees in Part I General Provisions and list fees by type and amount such as:** **OMSCosmetic Procedures Application - $225**

reported. E. Any person making a report required by this section shall be immune from any civil liability or criminal prosecution resulting therefrom unless such person acted in bad faith or with malicious intent. F. The clerk of any circuit court or any district court in the Commonwealth shall report to the Board the conviction of any oral and maxillofacial surgeon known by such clerk to be licensed under this chapter of any (i) misdemeanor involving a controlled substance, marijuana or substance abuse or involving an act of moral turpitude or (ii) felony. **§ 54.1-2709.1. Certain certification required.** A. The Board of Dentistry shall promulgate regulations establishing criteria for certification of board certified or board eligible oral or maxillofacial surgeons to perform certain procedures within the definition of dentistry that **are unrelated to** the oral cavity or **contiguous structures**, provided such services (i) are not for the prevention and treatment of disorders, diseases, lesions and malpositions of the human teeth, alveolar process, maxilla, mandible, or adjacent tissues, or any necessary related procedures, and are services the training for which is included in the curricula of dental schools or advanced postgraduate education programs accredited by the Commission of Dental Accreditation of the American Dental Association or continuing educational programs recognized by the Board of Dentistry, or (ii) are not provided incident to a head or facial trauma sustained by the patient. The regulations shall include, but need not be limited to, provisions for: (1) promotion of patient safety; (2) identification and categorization of procedures for the purpose of issuing certificates; (3) establishment of an application process for certification to perform such procedures; (4) establishment of minimum education, training, and experience requirements for certification to perform such procedures, including consideration of whether a licensee has been granted practice privileges to perform such procedures from an accredited hospital located in the Commonwealth and consideration of the presentation of a letter attesting to the training of the applicant to perform such procedures from the chairman of an accredited postgraduate residency program; (5) development of protocols for proctoring and criteria for requiring such proctoring; and (6) implementation of a quality assurance	4. Hold board certification by the American Board of Oral and Maxillofacial Surgery (ABOMS) or board eligibility as defined by ABOMS; 5. Have current privileges on a hospital staff to perform oral and maxillofacial surgery; and 6. If his oral and maxillofacial residency or cosmetic clinical fellowship was completed after July 1, 1996, and training in cosmetic surgery was a part of such residency or fellowship, the applicant shall submit: a. A letter from the director of the residency or fellowship program documenting the training received in the residency or in the clinical fellowship to substantiate adequate training in the specific procedures for which the applicant is seeking certification; and b. Documentation of having performed as primary or assistant surgeon at least 10 proctored cases in each of the procedures for which he seeks to be certified. 7. If his oral and maxillofacial residency was completed prior to July 1, 1996, or if his oral and maxillofacial residency was completed after July 1, 1996, and training in cosmetic surgery was not a part of the applicant's residency, the applicant shall submit: a. Documentation of having completed didactic and clinically approved courses to include the dates attended, the location of the course, and a copy of the certificate of attendance. Courses shall provide sufficient training in the specific procedures requested for certification and shall be offered by: (1) An advanced specialty education program in oral and maxillofacial surgery accredited by the Commission on Dental Accreditation; (2) A medical school accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association; (3) The American Dental Association (ADA) or one of its constituent and component societies or other ADA Continuing Education Recognized Programs (CERP) approved for continuing dental education; or (4) The American Medical Association approved for category 1, continuing medical education. b. Documentation of either: (1) Holding current privileges to perform cosmetic surgical procedures within a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or (2) Having completed at least 10 cases as primary or secondary surgeon in the specific procedures for which the applicant is seeking certification, of which at least five shall be proctored cases as defined in this chapter. **18VAC60-20-320. Renewal of certification.** In order to renew his certification to perform cosmetic procedures, an oral and maxillofacial surgeon shall possess a current, active, unrestricted license to practice dentistry from the Virginia Board of Dentistry and shall submit ~~along with~~ the renewal application ~~a~~ and fee ~~of $100~~ on or before December 31 of each year. If an oral and maxillofacial surgeon fails to renew his certificate, the certificate is lapsed and performance of cosmetic procedures is not permitted. To renew a lapsed certificate	**Edit for deletions of fee amount.**

review process for such procedures performed by certificate holders. B. In promulgating the minimum education, training, and experience requirements for oral and maxillofacial surgeons to perform such procedures and the regulations related thereto, the Board of Dentistry shall consult with an advisory committee comprised of three members selected by the Medical Society of Virginia and three members selected by the Virginia Society of Oral and Maxillofacial Surgeons. All members of the advisory committee shall be licensed by the Board of Dentistry or the Board of Medicine and shall engage in active clinical practice. The committee shall have a duty to act collaboratively and in good faith to recommend the education, training, and experience necessary to promote patient safety in the performance of such procedures. The advisory committee shall prepare a written report of its recommendations and shall submit this report to the Board of Dentistry and shall also submit its recommendations to the Board of Medicine for such comments as may be deemed appropriate, prior to the promulgation of draft regulations. The advisory committee may meet periodically to advise the Board of Dentistry on the regulation of such procedures. C. In promulgating the regulations required by this section, the Board shall take due consideration of the education, training, and experience requirements adopted by the American Dental Association Council on Dental Education or the Commission on Dental Accreditation. Further, the Board's regulations shall require that complaints arising out of performance of such procedures be enforced solely by the Board of Dentistry and reviewed jointly by a physician licensed by the Board of Medicine who actively practices in a related specialty and by an oral and maxillofacial surgeon licensed by the Board of Dentistry. However, upon receipt of reports of such complaints the Board of Dentistry shall promptly notify the Board of Medicine which shall maintain the confidentiality of such complaint consistent with § 54.1-2400.2.	within one year of expiration, the oral and maxillofacial surgeon shall pay the renewal fees and a late fee ~~of $35~~. To reinstate a certification that has been lapsed for more than one year shall require completion of a reinstatement form documenting continued competency in the procedures for which the surgeon is certified and payment of a reinstatement fee ~~of $225~~. **18VAC60-20-330. Quality assurance review for procedures performed by certificate holders.** A. On a schedule of no less than once every three years, a random audit of charts for patients receiving cosmetic procedures performed by a certificate holder in a facility not accredited by Joint Commission on Accreditation of Healthcare Organizations or other nationally recognized certifying organizations as determined by the board. B. Oral and maxillofacial surgeons certified to perform cosmetic procedures shall maintain separate files, an index, coding or other system by which such charts can be identified by cosmetic procedure. C. Cases selected in a random audit shall be reviewed for quality assurance by a person qualified to perform cosmetic procedures according to a methodology determined by the board. **18VAC60-20-331. Complaints against certificate holders for cosmetic procedures.** Complaints arising out of performance of cosmetic procedures by a certified oral and maxillofacial surgeon shall be adjudicated solely by the Board of Dentistry. Upon receipt of the investigation report on such complaints, the Board of Dentistry shall promptly notify the Board of Medicine, and the investigation report shall be reviewed and an opinion rendered by both a physician licensed by the Board of Medicine who actively practices in a related specialty and by an oral and maxillofacial surgeon licensed by the Board of Dentistry pursuant to §54.1-2502 of the Code of Virginia. The Board of Medicine shall maintain the confidentiality of the complaint consistent with §54.1-2400.2 of the Code of Virginia. DOCUMENTS INCORPORATED BY REFERENCE Current Dental Terminology 2007-2008, Code on Dental Procedures and Nomenclature, American Dental Association. Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 2001, American Dental Association.	**Rephrase to: "A random audit of patients' treatment records shall be conducted on each certificate holder on a schedule of not less than once every three years. Only the records of patients receiving cosmetic treatment in a facility not accredited by the Joint Commission on Accreditation of Healthcare Organizations will be collected in the audit."** **Are there other certifying organizations to include?** **Update to 2009-2010** **Currently being revised – update before final.**

REGULATORY REVIEW MARK-UP

Parts II and III Prepped 1/2009
Part I Prepped 7/2009

Part I. General Provisions.

18VAC60-20-10. 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~~ Minimal Sedation" means ~~the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness or affect the patient's ability to respond normally to verbal commands~~ a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. Put in alpha order

"~~Conscious sedation~~ Moderate Sedation" means a ~~minimally depressed level~~ drug-induced depression of consciousness, ~~that retains the patient's ability to independently and continuously maintain an airway and~~ during which patients respond ~~appropriately~~ purposefully to ~~physical stimulation and~~ verbal commands, either alone or accompanied by light tactile stimulation. ~~produced by pharmacological or nonpharmacological methods, including inhalation, parenteral, transdermal or enteral, or a combination thereof.~~ No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Put in alpha order

"Deep sedation~~/general anesthesia~~" means a drug-induced ~~state of depressed~~ depression of 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~~ during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

"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.

REGULATORY REVIEW MARK-UP

Parts II and III Prepped 1/2009
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"Direction" means the dentist examines the patient and is present for observation, advice, and control over the performance of dental services. (Being amended in DAII regs)

"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 anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

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

"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.~~ Strike the definition and replace the term in the body of the regs with "nitrous oxide/oxygen"

"Local anesthesia" means the ~~loss~~ elimination of sensation, ~~or~~ especially pain, in ~~the oral cavity or the maxillofacial or adjacent and associated structures~~ one part of the body ~~generally produced~~ by ~~a topically applied or injected agent without depressing the level of consciousness~~ the topical application or regional injection of a drug.

"Monitoring" means that a licensed or ancillary member of the treatment team is continuously present with the patient to immediately observe and bring any changes in the patient's level of consciousness and physical condition to the attention of the dentist.

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

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

18VAC60-20-15. Recordkeeping.

A. A dentist shall maintain complete patient records for not less than ~~three~~ five years from the most recent date of service for purposes of review by the board ~~to include the following:~~.

B. Every patient record shall include the following:

1. Patient's name ~~and date of treatment~~ (moved to 7) on each document in the patient record;

2. ~~Updated~~ A health history taken at the initial appointment which is updated at least annually or more often if medically indicated and when administering analgesia, sedation or anesthesia;

3. Diagnosis, options discussed, consent obtained and treatment rendered;

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

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

6. Itemized ~~P~~patient financial records;

7. ~~Name~~ Notation of ~~the~~ each date of treatment as well as the dentist and dental hygienist providing service; and (DAII regs add DAsII)

8. Laboratory work orders which meet the requirements of §54.1-2719 of the Code of Virginia.

Decide if the following provisions should be here or in Part IV:

B. When minimal sedation, moderate sedation, deep sedation or general anesthesia is administered the patient record shall also include:

1. Notation of the patient's ASA classification;

2. Review of medical history, current conditions and NPO status;

3. Informed consent for administration of drugs and for the dental procedure to be performed;

4. Time oriented administration record including the name, dose, strength of drugs and route of administration including the administration of local anesthetics;

5. Physiological monitoring records; and

6. List of staff participating in the administration, treatment and monitoring including name, position and assigned duties.

18VAC60-20-16. Address of record.

At all times, each licensed dentist and 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 of 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.

REGULATORY REVIEW MARK-UP

Parts II and III Prepped 1/2009
Part I Prepped 7/2009

18VAC60-20-?. Posting Requirements

A. A dentist who is practicing under a firm name or who is practicing as an employee of another dentist shall conspicuously display his name at the entrance of the office. The employing dentist or company must enable compliance by designating a space at the entrance of the office for the name to be displayed.

B. A dentist, dental hygienist or dental assistant II shall display a current, active license or registration in the patient receiving area of his place of practice so that it is easily viewed by patients and is accessible for reading. The employing dentist or company must enable compliance by designating a space in the patient receiving area for the documents to be displayed.

C. Certificates of education and registrations with the federal Drug Enforcement Administration required for the administration of moderate sedation, deep sedation and general anesthesia shall be displayed with the current active license of a dentist.

D. If a licensee maintains more than one office, a notarized photocopy of a license, registration or educational certificate may be used. (Moved from 18VAC60-20-30.D)

18VAC60-20-? Fees

A. Application/Registration Fees

1. Dental License by Examination	$400
2. Dental License by Credentials	$500
3. Dental Restricted Teaching License	$285
4. Dental Teacher's License	$285
5. Dental Full-time Faculty License	$285
6. Dental Temporary Resident's License	$60
7. Dental Hygiene License by Examination	$175
8. Dental Hygiene License by Credentials	$275
9. Restricted Volunteer License	$25
10. Volunteer Exemption Registration	$10
11. Oral Maxillofacial Surgeon Registration	$175
12. Cosmetic Procedures Certification	$225

B. Renewal Fees

1. Dental License - Active	$285
2. Dental license – Inactive	$145
3. Dental Temporary Resident's License	$35
4. Dental Hygiene License - Active	$75
5. Dental Hygiene License – Inactive	$40
6. Restricted Volunteer License	$15
7. Oral Maxillofacial Surgeon Registration	$175
8. Cosmetic Procedures Certification	$100

C. Late Fees

1. Dental License - Active	$100
2. Dental License – Inactive	$50
3. Dental Temporary Resident's License	$15

4. Dental Hygiene – Active	$25
5. Dental Hygiene – Inactive	$15
6. Oral Maxillofacial Surgeon Registration	$55
7. Cosmetic Procedures Certification	$35

D. Reinstatement Fees

1. Dental License - Expired	$500
2. Dental License – Suspended	$750
3. Dental License - Revoked	$1000
4. Dental Hygiene License - Expired	$200
5. Dental Hygiene License – Suspended	$400
6. Dental Hygiene License – Revoked	$500
7. Oral Maxillofacial Surgeon Registration	$350
8. Cosmetic Procedures Certification	$225

E. Document Fees

1. Duplicate Wall Certificate	$60
2. Duplicate License	$20
3. License Certification	$35

F. Other Fees

1. Returned Check Fee	$35
2. Practice Inspection Fee	$350

Include fees for mobile dental clinics and DAs II

18VAC60-20-?. Refunds. (Renumber in new fee section)
No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

18VAC60-20-17. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

A. Decision to delegate.

In accordance with §54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate at the time a determination is made that probable cause exists that a practitioner may be subject to a disciplinary action. If delegation to a subordinate is not recommended at the time of the probable cause determination, delegation may be approved by the president of the board or his designee.

B. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

Add new provisions for disciplinary cost recovery.

Part III. Entry, ~~and~~ Licensure and Registration Requirements. (Make Part II)

18VAC60-20-~~100 ?. Other a~~Application requirements. (Move this section and renumber here for better sequencing of information from general to specific to make it clear that these requirements apply to most types of applications).

A. Applications for any dental or dental hygiene license or permit issued by the board, other than for a volunteer exemption or for a restricted volunteer license, shall include:

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

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

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

B. 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.~~ laws and regulations governing the practice of dentistry and dental hygiene in Virginia. ~~Add DAsH?~~

C. 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.

18VAC60-20-60. Education.

A. Dental licensure. An applicant for every type of dental licensure shall be a graduate and a holder of a diploma or a certificate from a dental program accredited by the Commission on Dental Accreditation of the American Dental Association, which consists of either a pre-doctoral dental education program or at least a 12-month post-doctoral advanced general dentistry program or a post-doctoral dental program of at least 24 months in any other advanced specialty which addresses clinical treatment skills. Would exclude some public health and possibly oral maxillofacial radiology, others? Need to review all specialties. Alternative may be to issue licenses restricted to specialty practice.

B. Dental hygiene licensure. 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.

18VAC60-20-70. Licensure ~~examinations~~. Organize by profession so all provision for dental licensure are in one section, all provisions for dental hygiene licensure are in another section, etc.

A. Dental licensure by examinations.

1. All applicants shall have successfully completed Part I and Part II of the examinations of the Joint Commission on National Dental Examinations prior to making application to this board.

2. All applicants to practice dentistry shall satisfactorily pass ~~the complete board-approved examinations in dentistry~~ a dental clinical competency examination which includes a live patient and is accepted by the Board. ~~Applicants who successfully completed 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 examinations or take board-approved continuing education unless they demonstrate that they have maintained clinical, ethical and legal practice for 48 of the past 60 months immediately prior to submission of an application for licensure~~. (In C. below)

3. If the candidate has failed any section of a ~~board-approved~~ clinical competency examination three times, the candidate shall complete a minimum of 14 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.

B. Dental hygiene licensure by 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. ~~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 legal practice for 48 of the past 60 months immediately prior to submission of an application for licensure~~. (In C. below)

2. All applicants to practice dental hygiene shall successfully complete ~~the board-approved examinations in dental hygiene~~ a dental hygiene clinical competency examination which includes a live patient and is accepted by the board~~, 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~~ clinical competency 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. Applicants who successfully completed ~~the board-approved~~ a clinical competency 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~~ an examinations ~~or take board-approved~~ continuing education which meets the requirements of 18VAC60-20-50 unless they demonstrate that they have maintained clinical, ethical and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure. (Move to general application requirements section to clarify that this applies to applicants by credentials and endorsement. Also note that statutory provisions for restricted license applicants, i.e. Temporary Resident, Restricted Volunteer, Temporary Permits for state government practice do not require passage of a clinical examination). Temporary Permit statute requires the applicant to be "otherwise qualified" and to "not have failed an examination for a license to practice dentistry in Virginia;" Could consider developing regulatory language on what "otherwise qualified means to include passage of a clinical competency examination.

~~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.~~ (Move to general application requirements section to clarify that this applies to credentials, endorsement and restricted license applicants.)

18VAC60-20-71. 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 competency examination ~~that involved live patients~~ which included a live patient and is accepted by the Board;

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 as a licensee in another jurisdiction of the United States or in United States federal civil or military service 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.

18VAC60-20-80. Licensure by ~~endorsement~~ credentials for dental hygienists.

REGULATORY REVIEW MARK-UP
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In accordance with §54.1-2722 of the Code of Virginia, an applicant for dental hygiene ~~endorsement~~ 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 legal practice in another jurisdiction of the United States or in United States federal civil or military service for 24 out of the past 48 months 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 dental hygiene clinical ~~licensing~~ competency examination which included a live patient~~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.~~ (Moved to general application requirements section to clarify that this applies to credentials, endorsement and restricted license applicants.)

~~**18VAC60-20-81. Administration of local anesthesia and/or nitrous oxide by dental hygienists.**~~
(Move this section to Part IV Anesthesia, Sedation and Analgesia)

~~A. A dental hygienist who meets the qualifications set forth in this section and who is under the direction of a dentist may administer nitrous oxide/inhalation analgesia or, 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.~~

~~B. To be eligible to administer only nitrous oxide/inhalation analgesia, a dental hygienist shall:~~

~~1. Successfully complete 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 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. To be eligible to administer both local anesthesia and nitrous oxide/inhalation analgesia, a dental hygienist shall:~~

~~1. Successfully complete 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.~~

~~D. 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.~~

18VAC60-20-90. Temporary permit, teacher's license, and full-time faculty license.

A. A temporary permit shall be issued only for the purpose of allowing dental and dental hygiene practice as limited by §§ 54.1-2715 and 54.1-2726 of the Code of Virginia. Applicants must meet the requirements of 18VAC60-20-? to be otherwise qualified for practice in Virginia.

B. 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.

C. A teacher's license or full-time faculty license shall be issued to any dentist who meets the entry requirements of § 54.1-2713 of the Code of Virginia, who is certified by the dean of a dental school in the Commonwealth and who is serving ~~full time~~ on the faculty of a dental school ~~or its affiliated clinics intramurally in the Commonwealth~~. Applicants must meet the requirements of 18VAC60-20-? to be otherwise qualified for practice in Virginia. (Consider why we have a teacher's license §54.1-2713 and a faculty license §54.1-2714.1 – is it only intended to distinguish part time vs full time?)

1. A full-time faculty license shall remain valid only while the license holder is serving full time on the faculty of a dental school in the Commonwealth. When any such license holder ceases to continue serving full time on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of full-time employment. The dean

of the dental school shall notify the board within five working days of such termination of full-time employment.

2. A full-time faculty licensee is eligible to work~~ing~~ in a faculty intramural clinic affiliated with a dental school and may accept a fee for service.

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

E. Applicants for a full-time faculty license or temporary permit 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 in Virginia.

18VAC60-20-91. Temporary licenses to persons enrolled in advanced dental education programs.

A. A dental intern, resident or post-doctoral certificate or degree candidate applying for a temporary license to practice in Virginia shall:

1. Successfully complete a D.D.S. or D.M.D. dental degree program required for admission to board-approved examinations and submit a letter of confirmation from the registrar of the school or college conferring the professional degree, or official transcripts confirming the professional degree and date the degree was received.

2. Submit a recommendation from the dean of the dental school or the director of the accredited graduate program specifying the applicant's acceptance as an intern, resident or post-doctoral certificate or degree candidate in an advanced dental education program. The beginning and ending dates of the internship, residency or post-doctoral program shall be specified.

B. The temporary license applies only to practice in the hospital or outpatient clinics of the hospital or dental school where the internship, residency or post-doctoral time is served. Outpatient clinics in a hospital or other facility must be a recognized part of an advanced dental education program.

C. The temporary license may be renewed annually, for up to five times, upon the recommendation of the dean of the dental school or director of the accredited graduate program.

D. The temporary license holder shall be responsible and accountable at all times to a licensed dentist, who is a member of the staff where the internship, residency or post-doctoral candidacy is served. The temporary licensee is prohibited from employment outside of the advanced dental education program where a full license is required.

E. The temporary license holder shall abide by the accrediting requirements for an advanced dental education program as approved by the Commission on Dental Accreditation of the American Dental Association.

~~**18VAC60-20-100. Other application requirements.**~~ **Move to be the first section in Part III above.**

~~A. All applications for any license or permit issued by the board shall include:~~

~~1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral 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.~~

18VAC60-20-105. 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 current 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 which includes evidence of continuing competence, and payment of the current renewal fee~~;~~. ~~and~~ To evaluate continuing competence the board shall ~~include~~ consider (i) hours of continuing education ~~as required by~~ which meets the requirements of subsection H of 18 VAC 60-20-50; (ii) evidence of active practice in another state or in federal service; ~~or~~ (iii) current specialty board certification; (iv) recent passage of a clinical competency examination which included a live patient and which is accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.

1. 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 must be included with the application. 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.

2. 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 or who is unable to demonstrate continuing competence.

18VAC60-20-106. Voluntary practice.

A. Restricted volunteer license.

REGULATORY REVIEW MARK-UP
Parts II and III Prepped 1/2009
Part I Prepped 7/2009

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 18VAC60-20-15.

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

5. 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.

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:

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 ~~of $10~~; 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.

Include registration of mobile dental clinics and DAs II

Part II. Licensure and Registration Renewal ~~and Fees.~~ (Make Part III)

18VAC60-20-20. License renewal and reinstatement.

A. The license of any person who does not return the completed renewal form and fees by the deadline shall automatically expire and become invalid and his practice of dentistry/dental hygiene shall be illegal. With the exception of practice with a current 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 by the board. (Moved from C. below and edited)

A. Renewal ~~fees~~. Every person holding an active or inactive license or a full-time faculty license shall annually, 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, request renewal of his license. Renumber

~~1. The fee for renewal of an active license or permit to practice or teach dentistry shall be $285, and the fee for renewal of an active license or permit to practice or teach dental hygiene shall be $75.~~

~~2. The fee for renewal of an inactive license shall be $145 for dentists and $40 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 $60. The annual renewal fee shall be $35 a year. An additional fee for late renewal of licensure shall be $15.~~ (Move 1 to 4 to new fee section)

B. Late ~~fees~~ renewals. 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 $100 for dentists with an active license and $25 for dental hygienists with an active license. The late fee shall be $50 for dentists with an inactive license and $15 for dental hygienists with an inactive license.~~ (Move to new fee section)

C. 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 provided that no grounds exist pursuant to § 54.1-2706 of the Code of Virginia and 18 VAC 60-20-170 to deny said renewal.

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.~~ (Moved to new A.)

1. Any person whose license has expired for more than one year or whose license has been revoked or suspended (Moved from D) and who wishes to reinstate such license shall submit to the board a reinstatement application and the reinstatement fee. ~~of $500 for dentists and $200 for dental hygienists.~~ (Move to new fee section) The application must include ~~E~~evidence of continuing competence.

2. To evaluate continuing competence the board shall ~~include~~ consider (i) hours of continuing education ~~as required by~~ which meets the requirements of subsection H of 18 VAC 60-20-50; (ii) evidence of active practice in another state or in federal service; ~~or~~ (iii) current specialty board certification; (iv) recent passage of a clinical competency examination which included a live patient accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association. (Some of this moved from 3 and edited)

~~2. With the exception of practice with a current 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 by the board.~~ (Moved to new A)

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 reinstatement fee and any fines or assessments. ~~Evidence of continuing competence shall include hours of of continuing education as required by subsection H of 18VAC60-20-50 and may also include evidence of active practice in another state or in federal service or current specialty board certification.~~ (Move to C.1)

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 $1,000~~

~~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 $750 for dentists and $400 for dental hygienists.~~ (Move to new fee section)

~~**18VAC60-20-30. Other fees.**~~ **(Move all to new fee section except as noted)**

~~A. Dental licensure application fees. The application fee for a dental license by examination, a license to teach dentistry, a full-time faculty license, or a temporary permit as a dentist shall be $400. The application fee for dental license by credentials shall be $500.~~

~~B. Dental hygiene licensure application fees. The application fee for a dental hygiene license by examination, a license to teach dental hygiene, or a temporary permit as a dental hygienist shall be $175. The application fee for dental hygienist license by endorsement shall be $275.~~

~~C. Duplicate wall certificate. Licensees desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of $60.~~

~~D. Duplicate license. Licensees desiring a duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of $20. If a licensee maintains more than one office, a notarized photocopy of a license may be used.~~ (Move to new section on posting in Part 1)

~~E. Licensure certification. Licensees requesting endorsement or certification by this board shall pay a fee of $35 for each endorsement or certification.~~

~~F. Restricted license. Restricted license issued in accordance with §54.1-2714 of the Code of Virginia shall be at a fee of $285.~~

~~G. Restricted volunteer license. The application fee for licensure as a restricted volunteer dentist or dental hygienist issued in accordance with §54.1-2712.1 or §54.1-2726.1 of the Code of Virginia shall be $25.~~

~~H. Returned check. The fee for a returned check shall be $ 35.~~

~~I. Inspection fee. The fee for an inspection of a dental office shall be $350.~~

~~**18VAC60-20-40. Refunds.**~~ **(Move to new fee section)**

~~No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.~~

18VAC60-20-50. Requirements for continuing education.

A. 1. ~~After April 1, 1995,~~ a dentist or a dental hygienist shall ~~be required to have~~ completed a minimum of 15 hours of ~~approved~~ continuing education, which meets the requirements for content, sponsorship and documentation set out in this section, for each annual renewal of licensure except for the first renewal following initial licensure and for any renewal of a restricted volunteer license.

2. All renewal applicants shall 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.~~ laws and regulations governing the practice of dentistry and dental hygiene in Virginia. Continuing education credit may be earned for passage of the online Virginia Dental Law Exam.

1. ~~Effective June 29, 2006,~~ a dentist or a dental hygienist shall ~~be required to~~ maintain ~~evidence of successful completion of~~ current training in basic cardiopulmonary resuscitation or basic life support with laboratory simulated airway training.

2. ~~Effective June 29, 2006,~~ a dentist who administers or 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. To be accepted for license renewal, ~~An approved~~ continuing ~~dental~~ education programs shall be directly relevant to the treatment and care of patients and shall be:

1. Clinical courses in dentistry and dental hygiene; or

2. Nonclinical subjects that relate to the skills necessary to provide dental or dental hygiene services and which 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, business management, marketing 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 subsection B 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, and approved providers;

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 and approved providers;

7. Community colleges with ~~an accredited~~ dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association 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~~; separate these provisions

11. A dental school or dental specialty residency program accredited by the Commission on Dental Accreditation of the American Dental Association; Consider expanding to include dental hygiene and dental assisting programs and deleting # 7

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.~~ (Moved to A)

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. A written request with supporting documents must be submitted prior to renewal of the license.

F. A licensee is required to ~~provide information on~~ verify compliance with the 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, the sponsor and the amount of time earned. 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.

Part IV. ~~Anesthesia, Sedation and Analgesia~~. Administering Controlled Drugs, Sedation and Anesthesia

- Restructure to include sections specific to dentists, dental hygienists and dental assistants/auxiliaries/authorized agents.

18 VAC 60-20-107. General provisions.

A. This part (18 VAC 60-20-107 et seq.) shall not apply to:

~~1. The administration of local anesthesia in dental offices; or~~ Delete to address administration of fluoride, sealants, local anesthesia and nitrous oxide by hygienists in this part as well as topical administration by dental assistants/auxiliaries, and also administration by an authorized agent.

~~2. T~~the administration of ~~anesthesia~~ controlled drugs by a dentist in (i) a licensed hospital as defined in § 32.1-123 of the Code of Virginia or (ii) state-operated hospitals or (iii) a facility directly maintained or operated by the federal government.

B. Appropriate~~ness of~~ administration of ~~general anesthesia or~~ any level of sedation or general anesthesia in a dental office, clinic or other practice setting except those exempted in A. above.

Add: Children aged 12 and under shall be monitored by a licensed healthcare provider or a person meeting the requirements in 18VAC60-20-135 when any level of sedation or general anesthesia is administered. Pre-medication at home is prohibited.

Add section on dosing:

- incremental dosing shall not exceed maximum recommended dose

- supplemental dosing only after clinical half-life of initial dose and shall not exceed 1.5x the maximum recommended dose

- **only inhalation analgesia is administered or when it is administered with a local anesthetic or with a single enteral drug -ADA Guidelines pg46**
  - **appropriate initial dose is a single Enteral drug in a dose no more than the maximum recommended dose of the drug that can be prescribed for unmonitored home use**

Add: The decision to administer controlled drugs must be based on a documented evaluation of the health history and current medical condition of the patient in accordance with the risk category classifications of the American Society of Anesthesiologists (ASA). The findings of the evaluation, the ASA risk assessment category assigned and any special considerations must be recorded in the patient's record.

1. ~~Anesthesia and~~ Any level of sedation and general anesthesia may be provided ~~in a dental office~~ for patients who are Class I and II as classified by the American Society of Anesthesiologists (ASA).

Add: Minimal sedation may be provided for patients who are in ASA risk categories of Class III, IV or V.

~~2. Conscious sedation, deep sedation or general anesthesia shall not be provided in a dental office for patients in ASA risk categories of Class IV and V.~~ Move to follow after Class III provisions

3. Patients in ASA risk category Class III shall only be provided conscious sedation, deep sedation or general anesthesia ~~or sedation~~ by:

a. A dentist after he has documented a consultation with their primary care physician or other medical specialist regarding potential risks and special monitoring requirements that may be necessary; or

b. An oral and maxillofacial surgeon after performing ~~an~~ physical evaluation and documenting the findings and the ASA risk assessment category of the patient and any special monitoring requirements that may be necessary.

Moderate sedation, deep sedation or general anesthesia shall not be provided for patients in ASA risk categories of Class IV and V.

C. Informed written consent. Prior to administration of any level of sedation or general anesthesia, the dentist shall discuss the nature and objectives of the ~~anesthesia or~~ planned level of sedation or general anesthesia ~~planned~~ along with the risks, benefits and alternatives and shall obtain informed, written consent from the patient or other responsible party for the administration and for the treatment to be provided. The written consent must be maintained in the patient record.

D. Level of sedation. The determinant for the application of these rules shall be the degree of sedation or consciousness level of a patient that should reasonably be expected to result from the type and dosage of medication, the method of administration and the individual characteristics of the patient as documented in the patient's record. The drugs and techniques used must carry a margin of safety wide enough to render the unintended reduction of or loss of consciousness unlikely factoring in titration, and patient's age, weight and ability to metabolize drugs.

E. ~~A dentist who is administering anesthesia or sedation to patients prior to June 29, 2005 shall have one year from that date to comply with the educational requirements set forth in this chapter for the administration of anesthesia or sedation.~~ Emergency management. A dentist shall stop the dental procedure when a patient enters a deeper level of sedation than intended until patient returns to the intended level.

Decide if the following additional recordkeeping provisions should be in 18VAC60-20-15 or in this part:

F. When minimal sedation, moderate sedation, deep sedation or general anesthesia is administered the patient record shall also include:

1. Notation of the patient's ASA classification;
2. Review of medical history, current conditions and NPO status;
3. Informed consent for administration of drugs and for the dental procedure to be performed;
4. Time oriented administration record including the name, dose, strength of drugs and route of administration including the administration of local anesthetics;
5. Physiological monitoring records;
6. List of staff participating in the administration, treatment and monitoring including name, position and assigned duties; and
7. Notation of medical consultations and telephone contacts with the patient.

Add: Assisting in administration. A dentist, consistent with the planned level of administration (local anesthesia, minimal sedation, moderate sedation, deep sedation or general anesthesia) and appropriate to his education, training and experience, may utilize the services of a dentist, anesthesiologist, certified registered nurse anesthetist, dental hygienist, dental assistant and/or nurse to perform functions appropriate to such practitioner's education, training and experience and consistent with that practitioner's respective scope of practice.

Add: Patient monitoring. A dentist may delegate monitoring of a patient to a dental hygienist, dental assistant or nurse who is under his direction or to another dentist, anesthesiologist or certified registered nurse anesthetist. The person assigned to monitor the patient shall be continuously in the presence of the patient in the office, operatory and recovery area (a) before administration is initiated or immediately upon arrival if the patient self-administered a sedative agent; (b) throughout the administration of drugs; (c) throughout the treatment of the patient; and (d) throughout recovery until the patient is discharged by the dentist.

The person monitoring the patient shall:

- have the patient's entire body in sight,
- be in close proximity so as to speak with the patient,

- converse with the patient to assess the patient's ability to respond in order to determine the patient's level of sedation,
- closely observe the patient for coloring, breathing, level of physical activity, facial expressions, eye movement and bodily gestures in order to immediately recognize and bring any changes in the patient's condition to the attention of the treating dentist, and
- read, report and record the patient's vital signs.

18 VAC60-20-108. Administration of ~~anxiolysis or inhalation analgesia~~ minimal sedation.

A. Education and training requirements. A dentist who utilizes ~~anxiolysis or inhalation analgesia~~ minimal sedation shall have training in and knowledge of:

1. Medications used, the appropriate dosages, ~~and~~ the potential complications of administration, the indicators for complications and the interventions to address the complications.

2. Physiological effects of nitrous oxide, ~~and~~ potential complications of administration, the indicators for complications and the interventions to address the complications.

3. The use and maintenance of the equipment required in subsection B of this section.

B. Equipment requirements. A dentist who utilizes ~~anxiolysis or inhalation analgesia~~ minimal sedation or who directs the administration of ~~inhalation analgesia~~ nitrous oxide/oxygen by a dental hygienist as permitted in 18VAC60-20-? shall maintain the following equipment in ~~his office and be trained in its use~~ working order in the areas where patients will be sedated and treated and will recover:

1. Blood pressure monitoring equipment.

2. Positive pressure oxygen.

3. Mechanical (hand) respiratory bag.

4. Suction apparatus.
5. Electrocardiographic monitor.
6. Defibrillator.

New heading - Required Staffing.

1. a. The treatment team for ~~anxiolysis~~ minimal sedation administered by a route other than just inhalation of nitrous oxide/oxygen shall consist of the dentist and a second person in the operatory with the patient to assist the dentist~~,~~ and monitor ~~and observe~~ the patient. The second person shall be a licensed health care professional or a person qualified in accordance with 18VAC60-20-135; or ~~Once the administration of anxiolysis has begun, the dentist shall ensure that a person qualified in accordance with 18VAC60-20-135 is present with the patient at all times to determine the level of consciousness by continuous visual monitoring of the patient.~~ Separate and expand this provision – see 3rd "add" below

Add: b. When only nitrous oxide/oxygen is administered for minimal sedation a second person is not required. Either the dentist or qualified dental hygienist may administer the nitrous oxide/oxygen and treat and monitor the patient.

D. Monitoring requirements.
Add: Baseline vital signs will be taken and recorded prior to administration of sedation and prior to discharge.
Blood pressure and heart rate shall be monitored during the administration.

Add: Once the administration of ~~anxiolysis~~ minimal sedation has begun by any route of administration, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-20-135 ~~is present with the~~ monitors the patient at all times ~~to determine the level of consciousness by continuous visual monitoring of the patient~~ until discharged as required in subsection D of this section.

~~2. A dentist or a dental hygienist who utilizes inhalation analgesia administers nitrous oxide/oxygen shall ensure that there is continuous visual monitoring of the patient throughout such administration to determine the level of consciousness.~~

3. If ~~inhalation analgesia~~ nitrous oxide/oxygen is used, monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or ~~a~~ qualified dental hygienist ~~qualified in accordance with requirements of 18VAC60-20-81 to administer nitrous oxide during administration of the sedation and observing the patient's vital signs~~. Only the dentist or qualified dental hygienist may turn the nitrous oxide/oxygen machines on or off.

D. Discharge requirements. The dentist shall ~~ensure that the patient is~~ not discharged ~~a~~ a patient to his own care until he exhibits normal responses in a post-operative evaluation of the level of consciousness, oxygenation, ventilation and circulation. Vital signs will be taken and recorded prior to discharge.

Add: Postoperative instructions shall be given verbally and in writing. The written instructions shall include a 24 hour emergency telephone number.

18VAC60-20-~~81~~. Administration of local anesthesia and/or nitrous oxide by dental hygienists.
Moved from Part III Entry and Licensure Requirements

A. A dental hygienist who meets the qualifications set forth in this section and who is under the direction of a dentist may administer nitrous oxide/inhalation analgesia or, 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.

B. To be eligible to administer only nitrous oxide/inhalation analgesia, a dental hygienist shall:

1. Successfully complete 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 in the following topics:

Minimum hours of training for inhalation sedation 14 hours pg11 ADA Teaching Guidelines – Discuss with Dr. Hunt

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. To be eligible to administer both local anesthesia and nitrous oxide/inhalation analgesia, a dental hygienist shall:

1. Successfully complete 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.

D. 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 and shall maintain documentation of compliance for inspection by the board.

18VAC60-20-~~110~~. Requirements to administer deep sedation~~/~~ or general anesthesia. Move this section to follow after Moderate Sedation.

Add requirements for Board registration/permit for practices and for periodic inspections. Make provisions for accepting inspections by national certifying boards. Consider a 3 year renewal cycle.

A. Educational requirements. A dentist may employ or use deep sedation~~/~~ or general anesthesia ~~on an outpatient basis~~ by meeting ~~one of~~ the following educational criteria: ~~and by posting the educational certificate, in plain view of the patient, which verifies completion of the advanced training as required in subdivision 1 or 2 of this subsection . These requirements shall not apply nor interfere with requirements for obtaining hospital staff privileges.~~

1. ~~Has completed~~ Completion of a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with published guidelines by the American Dental Association (Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry) in effect at the time the training occurred; or Does this training need to be through a CODA accredited program or an ADA recognized continuing

education provider or any sponsor recognized in 18VAC60-20-50? If it is the latter, how is conformity with ADA Guidelines determined? See similar provision for moderate sedation.

2. Completion of an American Dental Association ~~approved~~ accredited residency in any dental specialty which incorporates into its curriculum a minimum of one calendar year of full-time training in clinical anesthesia and related clinical medical subjects (i.e. medical evaluation and management of patients), comparable to those set forth in published guidelines by the American Dental Association for Graduate and Postgraduate Training in Anesthesia in effect at the time the training occurred; and

3. a. ~~After June 29, 2006, dentists who administer deep sedation/general anesthesia shall~~ hold current certification in advanced resuscitative techniques with laboratory simulated airway training, such as courses in Advanced Cardiac Life Support or Pediatric Advanced Life Support; and

b. hold current federal Drug Enforcement Administration registration. Move this to general provisions and specify in order to prescribe, administer or dispense Schedule II through V controlled drugs.

Add that a dentist who self-certified prior to January 1989 may not administer deep sedation or general anesthesia without meeting the educational requirements in 18VAC60-20-?.

B. Exceptions. Move this subsection to General provisions to apply to any level of sedation

1. A dentist who has not met the requirements specified in subsection A of this section may treat patients under deep sedation~~/~~ or general anesthesia in his practice if a qualified anesthesiologist or a dentist who fulfills the requirements specified in subsection A of this section, ~~is present and is responsible for the administration of~~ administers the anesthetic and remains with the patient to monitor the patient's condition.

2. If a dentist fulfills the requirements specified in subsection A of this section, he may employ the services of a certified registered nurse anesthetist.

C. Posting. Any dentist who utilizes deep sedation~~/~~ or general anesthesia shall post ~~with the dental license and~~ federal Drug Enforcement Administration registration, and the certificate verifying completion of the education required under subsection A of this section with the dental license as provided in 18VVAC60-20-?.

Pre-operative requirements. Verbal and written instructions on dietary restrictions, driving, etc.

D. ~~Emergency~~ Equipment ~~and techniques~~ requirements. A dentist who administers deep sedation~~/~~ or general anesthesia ~~shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway and cardiopulmonary resuscitation, and~~ Make this stricken language a separate subsection below shall maintain the following ~~emergency~~ equipment in ~~the dental facility~~ working order in the areas where patients will be sedated and treated and will recover:

1. Full face mask for children or adults, as appropriate for the patient being treated;

2. Oral and nasopharyngeal airways;

3. Endotracheal tubes for children or adults, or both, with appropriate connectors or laryngeal mask airway or King Airway;

4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both;

5. Source of delivery of oxygen under controlled positive pressure;

6. Mechanical (hand) respiratory bag;

7. Pulse oximetry and blood pressure monitoring equipment available and used in the treatment room;

8. Appropriate emergency drugs for patient resuscitation;

9. EKG monitoring equipment ~~and~~

temperature measuring devices;

10. Pharmacologic antagonist agents;

11. External defibrillator (manual or automatic); ~~and~~

12. For intubated patients, an End-Tidal CO^2 monitor;

13. Suction apparatus; and

14. Throat pack.

Required Staffing. At a minimum there shall be a three person treatment team for deep sedation~~/~~ or general anesthesia. The team shall ~~consisting of~~ include the operating dentist, a second person to monitor ~~and observe~~ the patient as provided in 18VAC60-20-? and a third person to assist the operating dentist as provided in 18VAC60-20-?, all of whom shall be in the operatory with the patient during the dental procedure. If a second dentist, an anesthesiologist or a certified registered nurse anesthetist administers the drugs as permitted in 18VAC60-20-?, the person administering the drugs may also serve as the second person to monitor the patient.

E. Monitoring requirements.

Add: Baseline vital signs shall be taken and recorded prior to the administration of sedation to include. Blood pressure, pulse, pulse Ox, O2 saturation, respiration and heart rate shall be monitored during the administration.

When depolarizing medications are administered Temperature shall be monitored constantly when depolarizing medications are administered.

~~2.~~ Monitoring of the patient under deep sedation~~/~~ or general anesthesia~~, including direct, visual observation of the patient by a member of the team,~~ is to begin prior to ~~induction~~ the administration of ~~anesthesia~~ any drugs and shall take place continuously during administration, the dental procedure and recovery from anesthesia. The person who administered the anesthesia or another licensed practitioner qualified to administer the same level of anesthesia must remain on the premises of the dental facility until the patient has regained consciousness and is discharged.

3. Monitoring deep sedation~~/~~ or general anesthesia shall include ~~the following:~~ periodically recording and reporting of blood pressure, pulse, respiration and other vital signs to the attending dentist.

Emergency Management. The dentist shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway and cardiopulmonary resuscitation.

Discharge requirements. The dentist shall not discharge a patient to his own care until he exhibits normal responses in a post-operative evaluation of the level of consciousness, oxygenation, ventilation and circulation. Vital signs will be taken and recorded prior to discharge.
Add: Postoperative instructions shall be given verbally and in writing. The written instructions shall include a 24 hour emergency telephone number.

18VAC60-20-120. Requirements to administer ~~conscious~~ moderate sedation. ~~Renumber to follow after minimal sedation~~

A. Automatic qualification. Dentists qualified to administer deep sedation~~/~~ or general anesthesia may administer ~~conscious~~ moderate sedation.

B. Educational requirements ~~for administration of conscious sedation by any method~~.

1. A dentist may ~~employ or~~ use any method of ~~conscious sedation~~ administration by meeting one of the following criteria:

a. Completion of training for this treatment modality according to guidelines published by the American Dental Association (Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry) in effect at the time the training occurred, while enrolled at an accredited dental program or while enrolled in a post-doctoral university or teaching hospital program; or

b. Completion of an approved continuing education course consisting of 60 hours of didactic instruction plus the management of at least 20 patients per participant, demonstrating competency and clinical experience in parenteral ~~conscious~~ moderate sedation and management of a compromised airway. The course content shall be consistent with ~~guidelines published by~~ the American Dental Association ~~(~~Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry~~)~~ in effect at the time the training occurred. Why is the training experience limited to one method of administration? Does this training need to be through a CODA accredited program or an ADA recognized continuing education provider or any sponsor recognized in 18VAC60-20-50? If it is the latter, how is conformity with ADA Guidelines determined? See similar provision for deep sedation or general anesthesia.

~~2.~~ Exception. A dentist who ~~was~~ self-certified his qualifications in anesthesia and ~~conscious~~ moderate sedation prior to January 1989 may continue to administer only ~~conscious~~ moderate sedation. Move to follow after education requirements.

~~C~~2. ~~Educational requirement for~~ enteral administration ~~of conscious sedation~~ only. A dentist may administer ~~conscious~~ moderate sedation by an enteral method if he has completed an approved continuing education program of not less than 18 hours of didactic instruction plus 20 clinically-oriented experiences in enteral and/or combination inhalation-enteral ~~conscious~~ moderate sedation techniques. The course content shall be consistent with ~~the guidelines published by~~ the American Dental Association ~~(~~Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry~~)~~ in effect at the time the training occurred. Does this training need to be through a CODA accredited program or an ADA recognized continuing education provider or any sponsor recognized in 18VAC60-20-50? If it is the latter, how is conformity with ADA Guidelines determined? See similar provision for deep sedation or general anesthesia.

D. Additional training required. ~~After June 29, 2006,~~ dentists who administer ~~conscious~~ moderate sedation shall hold current certification in advanced resuscitation techniques with laboratory simulated airway training,, such as Advanced Cardiac Life Support or Pediatric Advanced Life Support as evidenced by a certificate of completion posted with the dental license, ~~and current registration with the Drug Enforcement Administration~~. Address in general provisions

E. ~~Emergency~~ equipment ~~and techniques~~ requirements. A dentist who administers ~~conscious~~ moderate sedation ~~shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway and cardiopulmonary resuscitation, and~~ Make this stricken language a separate subsection below shall maintain the following ~~emergency airway~~ equipment in ~~the dental facility~~ working order in the areas where patients will be sedated and treated and will recover::

1. Full face mask for children or adults, as appropriate for the patient being treated;

2. Oral and nasopharyngeal airways;

3. Endotracheal tubes for children or adults, or both, with appropriate connectors

a laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both or laryngeal mask airway or King Airway. In lieu of a laryngoscope and endotracheal tubes, a dentist may maintain airway adjuncts designed for the maintenance of a patent airway and the direct delivery of positive pressure oxygen. Call Bob

4. Pulse oximetry;

5. Blood pressure monitoring equipment;

6. Pharmacologic antagonist agents;

7. Source of delivery of oxygen under controlled positive pressure;

8. Mechanical (hand) respiratory bag; and

9. Appropriate emergency drugs for patient resuscitation.

13. Suction apparatus; and

14. Throat pack.

Required Staffing. At a minimum there shall be a two person treatment team for moderate sedation. The team shall ~~consisting of~~ include the operating dentist and a second person to monitor ~~and observe~~ the patient as provided in 18VAC60-20-? and assist the operating dentist as provided in 18VAC60-20-?, both of whom shall be in the operatory with the patient during the dental procedure. If a second dentist, an anesthesiologist or a certified registered nurse anesthetist administers the drugs as permitted in 18VAC60-20-?, the person administering the drugs may also serve as the second person to monitor the patient.

F. Monitoring requirements.

~~1. The administration team for conscious sedation shall consist of the operating dentist and a second person to assist, monitor and observe the patient.~~

2. Monitoring of the patient under ~~conscious~~ moderate sedation~~, including direct, visual observation of the patient by a member of the team,~~ is to begin prior to administration of sedation, or if medication is self-administered by the patient, when the patient arrives at the dental office and shall take place continuously during the dental procedure and recovery from sedation. The person who administers the sedation or another licensed practitioner qualified to administer the same level of sedation must remain on the premises of the dental facility until the patient is responsive and is discharged.

and address monitoring in provisions for moderate sedation, deep sedation and general anesthesia to include:

- has the patient's entire body in sight,
- is in close proximity so as to speak with and touch the patient,
- is conversing with the patient to assess the patient's ability to respond in order to determine the patient's level of sedation and is closely observing the patient for coloring, breathing, level of physical activity, facial expressions, eye movement and bodily gestures in order to immediately observe and bring any changes in the patient's condition to the attention of the dentist, and

includes the reading, reporting and recording of vital signs for patients

Emergency Management. The dentist shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway and cardiopulmonary resuscitation.

18VAC60-20-130. (Repealed.).

18VAC60-20-135. Ancillary personnel.

After June 29, 2006, dentists who employ ancillary personnel to assist in the administration and monitoring of any form of conscious sedation or deep sedation/general anesthesia shall maintain documentation that such personnel have:

1. Minimal training resulting in current certification in basic resuscitation techniques, such as Basic Cardiac Life Support or an approved, clinically oriented course devoted primarily to responding to clinical emergencies offered by an approved provider of continuing education as set forth in 18 VAC 60-20-50 C; or

2. Current certification as a certified anesthesia assistant (CAA) by the American Association of Oral and Maxillofacial Surgeons or the American Dental Society of Anesthesiology (ADSA).

18VAC60-20-140. Report of adverse reactions.

A written report shall be submitted to the board by the treating dentist within 30 days following any mortality or morbidity which directly results from the administration of local anesthesia, general anesthesia, conscious sedation, or nitrous oxide oxygen inhalation analgesia and which occurs in the facility or during the first 24 hours immediately following the patient's departure from the facility.

Part V. Unprofessional Conduct.

18VAC60-20-150 to 18VAC60-20-160. [Repealed]

18VAC60-20-170. Acts constituting unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of §54.1-2706 of 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 dentist or dental hygienist as authorized by this chapter;

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

7. Knowingly or negligently violating any applicable statute or regulation governing ionizing radiation in the Commonwealth of Virginia, including, but not limited to, current regulations promulgated by the Virginia Department of Health; and

8. Permitting or condoning the placement or exposure of dental x-ray film by an unlicensed person, except where the unlicensed person has complied with 18VAC60-20-195.

18VAC60-20-180. Advertising.

A. Practice limitation. A general dentist who limits his practice shall state in conjunction with his name that he is a general dentist providing only certain services, e.g., orthodontic services.

B. Fee disclosures. Any statement specifying a fee for a dental service which does not include the cost of all related procedures, services, and products which, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts. Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.

D. Retention of broadcast advertising. A prerecorded copy of all advertisements on radio or television shall be retained for a six-month period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services. Advertising of fees pursuant to subdivision F 3 of this section is limited to procedures which are determined by the board to be routine dental services as set forth in the American Dental Association's "Code on Dental Procedures and Nomenclature," as published in Current Dental Terminology (CDT-2007/2008), which is hereby adopted and incorporated by reference.

F. The following practices shall constitute false, deceptive, or misleading advertising within the meaning of §54.1-2706 (7) of the Code of Virginia:

1. Publishing an advertisement which contains a material misrepresentation or omission of facts;

2. Publishing an advertisement which contains a representation or implication that is likely to cause an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive;

3. Publishing an advertisement which fails to include the information and disclaimers required by this section;

4. Publishing an advertisement which contains a claim of professional superiority, claims to be a specialist, or uses any of the terms to designate a dental specialty unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 1995), or such guidelines or requirements as subsequently amended and approved by the dental disciplinary board, or other such organization recognized by the board; and

5. A dentist not currently entitled to such specialty designation shall not represent that his practice is limited to providing services in a specialty area without clearly disclosing in the representation that he is a general dentist. A specialist who represents services in areas other than his specialty is considered to be practicing general dentistry.

G. Signage. Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§54.1-2718 and 54.1-2720 of the Code of Virginia are complied with.

Part VI. Direction and Delegation Of Duties.

18VAC60-20-190. Nondelegable duties; dentists.

Only licensed dentists shall perform the following duties:

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;

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. Performing pulp capping procedures;

7. 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;

8. Condensing, contouring or adjusting any final, fixed or removable prosthodontic appliance or restoration in the mouth;

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

10. Taking impressions for master casts to be used for prosthetic restoration of teeth or oral structures;

11. Final cementation of crowns and bridges; and

12. Placement of retraction cord.

18VAC60-20-195. Radiation certification.

No person not otherwise licensed by this board shall place or expose dental x-ray film unless he has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, (ii) been certified by the American Registry of Radiologic Technologists, (iii) satisfactorily completed a course and passed an examination in compliance with guidelines provided by the board, or (iv) satisfactorily completed a radiation course and passed an examination given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

18VAC60-20-200. Utilization of dental hygienists.

No dentist shall have more than two dental hygienists practicing under direction or general supervision 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.

18VAC60-20-210. 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 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 delegated to a dental hygienist under direction shall only be performed when the dentist is present in the facility and 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 rendered within a specific 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 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.

18VAC60-20-220. Dental hygienists.

A. The following duties shall only be delegated to dental hygienists under direction with the dentist being present:

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

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.

B. 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.

C. 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.

18VAC60-20-230. 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 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.

18VAC60-20-240. What does not constitute practice.

The following are not considered the practice of dental hygiene and dentistry:

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

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

Part VII. Oral and Maxillofacial Surgeons.

18VAC60-20-250. Registration of oral and maxillofacial surgeons.

Within 60 days after the effective date of this section, every licensed dentist who practices as an oral and maxillofacial surgeon, as defined in §54.1-2700 of the Code of Virginia, shall register his practice with the board ~~and pay a fee of $175~~.

1. After initial registration, an oral and maxillofacial surgeon shall renew his registration annually on or before December 31 ~~by payment of a fee of $175~~.

2. An oral and maxillofacial surgeon who fails to register or to renew his registration and continues to practice oral and maxillofacial surgery may be subject to disciplinary action by the board.

3. Within one year of the expiration of a registration, an oral and maxillofacial surgeon may renew by payment of the renewal fee and a late fee ~~of $55~~.

4. After one year from the expiration date, an oral and maxillofacial surgeon who wishes to reinstate his registration shall update his profile and pay the reinstatement fee ~~of $350~~.

18VAC60-20-260. Profile of information for oral and maxillofacial surgeons.

A. In compliance with requirements of §54.1-2709.2 of the Code of Virginia, an oral and maxillofacial surgeon registered with the board shall provide, upon initial request, the following information within 30 days or at a later date if so specified:

1. The address of the primary practice setting and all secondary practice settings with the percentage of time spent at each location;

2. Names of dental or medical schools with dates of graduation;

3. Names of graduate medical or dental education programs attended at an institution approved by the Accreditation Council for Graduate Medical Education, the Commission on Dental Accreditation, and the American Dental Association with dates of completion of training;

4. Names and dates of specialty board certification or board eligibility, if any, as recognized by the Council on Dental Education and Licensure of the American Dental Association;

5. Number of years in active, clinical practice in the United States or Canada, following completion of medical or dental training and the number of years, if any, in active, clinical practice outside the United States or Canada;

6. Names of insurance plans accepted or managed care plans in which the oral and maxillofacial surgeon participates and whether he is accepting new patients under such plans;

7. Names of hospitals with which the oral and maxillofacial surgeon is affiliated;

8. Appointments within the past 10 years to dental school faculties with the years of service and academic rank;

9. Publications, not to exceed 10 in number, in peer-reviewed literature within the most recent five-year period;

10. Whether there is access to translating services for non-English speaking patients at the primary practice setting and which, if any, foreign languages are spoken in the practice; and

11. Whether the oral and maxillofacial surgeon participates in the Virginia Medicaid Program and whether he is accepting new Medicaid patients;

B. The oral and maxillofacial surgeon may provide additional information on hours of continuing education earned, subspecialities obtained, honors or awards received.

C. Whenever there is a change in the information on record with the profile system, the oral and maxillofacial surgeon shall provide current information in any of the categories in subsection A of this section within 30 days.

18VAC60-20-270. Reporting of malpractice paid claims and disciplinary notices and orders.

A. In compliance with requirements of §54.1-2709.4 of the Code of Virginia, a dentist registered with the board as an oral and maxillofacial surgeon shall report all malpractice paid claims in the most recent 10-year period. Each report of a settlement or judgment shall indicate:

1. The year the claim was paid;

2. The total amount of the paid claim in United States dollars; and

3. The city, state, and country in which the paid claim occurred.

B. The board shall use the information provided to determine the relative frequency of paid claims described in terms of the percentage who have made malpractice payments within the most recent 10-year period. The statistical methodology used will be calculated on more than 10 paid claims for all dentists reporting, with the top 16% of the paid claims to be displayed as above-average payments, the next 68% of the paid claims to be displayed as average payments, and the last 16% of the paid claims to be displayed as below-average payments.

C. Adjudicated notices and final orders or decision documents, subject to §54.1-2400.2 D of the Code of Virginia, shall be made available on the profile. Information shall also be posted indicating the availability of unadjudicated notices and of orders that are subject to being vacated at determination of the practitioner.

18VAC60-20-280. Noncompliance or falsification of profile.

A. The failure to provide the information required in subsection A of 18VAC60-20-260 may constitute unprofessional conduct and may subject the licensee to disciplinary action by the board.

B. Intentionally providing false information to the board for the profile system shall constitute unprofessional conduct and shall subject the licensee to disciplinary action by the board.

18VAC60-20-290. Certification to perform cosmetic procedures; applicability.

A. In order for an oral and maxillofacial surgeon to perform aesthetic or cosmetic procedures, he shall be certified by the board pursuant to §54.1-2709.1 of the Code of Virginia. Such certification shall only entitle the licensee to perform procedures above the clavicle or within the head and neck region of the body.

B. Based on the applicant's education, training and experience, certification may be granted to perform one or more of these or similar procedures:

1. Rhinoplasty;

2. Blepharoplasty;

3. Rhytidectomy;

4. Submental liposuction;

5. Laser resurfacing or dermabrasion;

6. Browlift (either open or endoscopic technique);

7. Platysmal muscle plication; and

8. Otoplasty.

18VAC60-20-300. Certification not required.

Certification shall not be required for performance of the following:

1. Treatment of facial diseases and injuries, including maxillofacial structures;

2. Facial fractures, deformity and wound treatment;

3. Repair of cleft lip and palate deformity;

4. Facial augmentation procedures; and

5. Genioplasty.

18VAC60-20-310. Credentials required for certification.

A. An applicant for certification shall:

1. Hold an active, unrestricted license from the board;

2. Submit a completed application and fee ~~of $225~~;

3. Complete an oral and maxillofacial residency program accredited by the Commission on Dental Accreditation;

4. Hold board certification by the American Board of Oral and Maxillofacial Surgery (ABOMS) or board eligibility as defined by ABOMS;

5. Have current privileges on a hospital staff to perform oral and maxillofacial surgery; and

6. If his oral and maxillofacial residency or cosmetic clinical fellowship was completed after July 1, 1996, and training in cosmetic surgery was a part of such residency or fellowship, the applicant shall submit:

a. A letter from the director of the residency or fellowship program documenting the training received in the residency or in the clinical fellowship to substantiate adequate training in the specific procedures for which the applicant is seeking certification; and

b. Documentation of having performed as primary or assistant surgeon at least 10 proctored cases in each of the procedures for which he seeks to be certified.

7. If his oral and maxillofacial residency was completed prior to July 1, 1996, or if his oral and maxillofacial residency was completed after July 1, 1996, and training in cosmetic surgery was not a part of the applicant's residency, the applicant shall submit:

a. Documentation of having completed didactic and clinically approved courses to include the dates attended, the location of the course, and a copy of the certificate of attendance. Courses shall provide sufficient training in the specific procedures requested for certification and shall be offered by:

(1) An advanced specialty education program in oral and maxillofacial surgery accredited by the Commission on Dental Accreditation;

(2) A medical school accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association;

(3) The American Dental Association (ADA) or one of its constituent and component societies or other ADA Continuing Education Recognized Programs (CERP) approved for continuing dental education; or

(4) The American Medical Association approved for category 1, continuing medical education.

b. Documentation of either:

(1) Holding current privileges to perform cosmetic surgical procedures within a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or

(2) Having completed at least 10 cases as primary or secondary surgeon in the specific procedures for which the applicant is seeking certification, of which at least five shall be proctored cases as defined in this chapter.

18VAC60-20-320. Renewal of certification.

In order to renew his certification to perform cosmetic procedures, an oral and maxillofacial surgeon shall possess a current, active, unrestricted license to practice dentistry from the Virginia Board of Dentistry and shall submit along with the renewal application and fee ~~of $100~~ on or before December 31 of each year. If an oral and maxillofacial surgeon fails to renew his certificate, the certificate is lapsed and performance of cosmetic procedures is not permitted. To renew a lapsed certificate within one year of expiration, the oral and maxillofacial surgeon shall pay the renewal fees and a late fee ~~of $35~~. To reinstate a certification that has been lapsed for more than one year shall require completion of a reinstatement form documenting continued competency in the procedures for which the surgeon is certified and payment of a reinstatement fee ~~of $225~~.

18VAC60-20-330. Quality assurance review for procedures performed by certificate holders.

A. On a schedule of no less than once every three years, a random audit of charts for patients receiving cosmetic procedures shall be performed by a certificate holder in a facility not accredited by Joint Commission on Accreditation of Healthcare Organizations or other nationally recognized certifying organizations as determined by the board.

B. Oral and maxillofacial surgeons certified to perform cosmetic procedures shall maintain separate files, an index, coding or other system by which such charts can be identified by cosmetic procedure.

C. Cases selected in a random audit shall be reviewed for quality assurance by a person qualified to perform cosmetic procedures according to a methodology determined by the board.

18VAC60-20-331. Complaints against certificate holders for cosmetic procedures.

Complaints arising out of performance of cosmetic procedures by a certified oral and maxillofacial surgeon shall be adjudicated solely by the Board of Dentistry. Upon receipt of the investigation report on such complaints, the Board of Dentistry shall promptly notify the Board of Medicine, and the investigation report shall be reviewed and an opinion rendered by both a physician licensed by the Board of Medicine who actively practices in a related specialty and by an oral and maxillofacial surgeon licensed by the Board of Dentistry pursuant to §54.1-2502 of the Code of Virginia. The Board of Medicine shall maintain the confidentiality of the complaint consistent with §54.1-2400.2 of the Code of Virginia.

DOCUMENTS INCORPORATED BY REFERENCE

Current Dental Terminology 2007-2008, Code on Dental Procedures and Nomenclature, American Dental Association.

Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 2001, American Dental Association.