

PROPOSED REGULATIONS
FOR ORAL AND MAXILLOFACIAL SURGEONS
(Adopted by the Board of Dentistry – 5/3/02)

18 VAC 60-20-10 et seq.
Regulations Governing the Practice of Dentistry and Dental Hygiene

18 VAC 60-20-10. Definitions.

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

"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.

"Approved schools" means those dental schools, colleges, departments of universities or colleges, or schools of dental hygiene currently accredited by the Commission on Dental Accreditation of the American Dental Association.

"Competent instructor" means any person appointed to the faculty of a dental school, college or department or a university or a college who holds a license or teacher's license to practice dentistry or dental hygiene in this Commonwealth.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

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

"Direction" means the presence of the dentist for the evaluation, observation, advice, and control over the performance of dental services.

"General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and

respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

"*Local anesthesia*" means the loss of sensation or pain in the oral cavity or its contiguous structures generally produced by a topically applied agent or injected agent without causing the loss of consciousness.

"*Monitoring general anesthesia and conscious sedation*" includes the following: recording and reporting of blood pressure, pulse, respiration and other vital signs to the attending dentist during the conduct of these procedures and after the dentist has induced a patient and established a maintenance level.

"*Monitoring nitrous oxide oxygen inhalation analgesia*" means making the proper adjustments of nitrous oxide machines at the request of the dentist during the administration of the sedation, and observing the patient's vital signs.

"*Nitrous oxide oxygen inhalation analgesia*" means the utilization of nitrous oxide and oxygen to produce a state of reduced sensibility to pain designating particularly the relief of pain without the loss of consciousness.

"Proctored cases" means surgical procedures proctored by a person who either: a) has current privileges to perform cosmetic surgery in an accredited hospital; b) has current certification from the board to perform cosmetic surgical procedures; or c) is a member of a faculty in an accredited program offering advanced specialty education in oral and maxillofacial surgery.

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

PART VII. **ORAL AND MAXILLOFACIAL SURGEONS.**

18 VAC 60-20-250. Registration of oral and maxillofacial surgeons.

Within sixty 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 renewal fee and a reinstatement fee of \$175.

18 VAC 60-20-260. 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, 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 ten years to dental school faculties with the years of service and academic rank;
9. Publications, not to exceed ten 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, subspecialties 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.

18 VAC 60-20-270. 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 ten 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.
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 ten 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.

18 VAC 60-20-280. Non-compliance or falsification of profile.

A. The failure to provide the information required in subsection A of 18 VAC 60-20-260 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.

18 VAC 60-20-290. 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.

18 VAC 60-20-300. 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.

18 VAC 60-20-310. 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.
 - 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.

18 VAC 60-20-320. 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 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.

18 VAC 60-20-330. 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.

18 VAC 60-20-331. 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.