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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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

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

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

In response to a petition for rulemaking, the Board is proposing to amend 18VAC60-21-240 and 18VAC60-25-210 to expand the type of refresher courses reinstatement applicants may take. The Board is also proposing to amend these regulations to clarify that the number of course hours required, and the amount of didactic training and clinical training required, will depend on the number of years a dentist or dental hygienist has been out of practice.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

N/A

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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There is no mandate for this action. The impetus for expansion of types of refresher courses accepted is a petition for rulemaking filed by a petitioner requesting that the Board amend 18VAC60-25-240 to accept refresher courses accepted by the American Dental Association or the American Academy of Dental Hygiene. Because the same limitations apply to regulations regarding dentists applying for reinstatement or reactivation of a license, the Board intends to amend 18VAC60-21-240 as well.

In addition, the Board has received numerous applications for reinstatement or reactivation with insufficient completion of refresher courses. For example, the Board feels that a dentist who has not practiced in Virginia or any other jurisdiction for ten years should complete more than a refresher course that totaled three hours of didactic training. The Board intends to clarify that didactic and clinical training may be required due to time out of practice and that course hours will be dependent on time out of practice.

## Legal Basis

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

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

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The Board is initiating this rulemaking following receipt and consideration of a petition for rulemaking to expand the available refresher courses for dental hygienists applying for reinstatement or reactivation. The Board, in its review of the petition, recognized that the same limitation applied to dentists applying for reinstatement or reactivation. In order to ensure application for reinstatement or reactivation is less burdensome on both categories of licensure, the Board determined to initiate rulemaking.

Additionally, the Board has received numerous applications for reinstatement or reactivation with insufficient completion of refresher courses. For example, the Board feels that a dentist who has not practiced in Virginia or any other jurisdiction for ten years should complete more than a refresher course that totaled three hours of didactic training. The Board intends to clarify that didactic and clinical training may be required due to time out of practice and that course hours will be dependent on time out of practice. This change will protect the public because the Board and the public can be confident that licensees who have been inactive for significant periods of time are able to safely practice on citizens of the Commonwealth.

## Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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The Board will consider amending 18VAC60-21-240 and 18VAC60-25-210 to (1) expand the types of refresher programs accepted for reinstatement or reactivation of a license, and (2) clarify that the number of hours and type of training, including amount of didactic training and amount of clinical training, will vary depending on the amount of time an applicant has been out of practice.

## Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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Licensure of dentists and dental hygienists, including requirements for reinstatement and reactivation, are dictated by regulation. There is no alternative to amending regulations to lessen the burden on applicants searching for acceptable refresher courses.

## Periodic Review and Small Business Impact Review Announcement

This NOIRA is not being used to announce a periodic review or a small business impact review.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Board of Dentistry is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Erin Barrett, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov) or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.