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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| Agency name | Board of Dentistry, Department of Health Professions |
| Virginia Administrative Code (VAC) citation(s) | 18VAC60-20 |
| Regulation title(s) | Regulations Governing Dental Practice |
| Action title | Requirement for jurisprudence exam |
| Date this document prepared | 3/18/15 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The Board intends to amend regulations for initial licensure and renewal of licensure to require passage of an examination on the laws and regulations governing the practice of dentistry. The goal of the planned regulatory action is to improve licensee familiarity with laws and regulations to facilitate compliance, reduce the number of complaints received, and eliminate some of the violations the Board has found in adjudicating disciplinary matters.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific

provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...*

The statutory authority for the Board to promulgate regulations to determine the qualifications for initial licensure and to specify continuing education for renewal of licensure is found in Chapter 27 of Title 54.1:

§ 54.1-2709. License; application; qualifications; examinations.

A. No person shall practice dentistry unless he possesses a current valid license from the Board of Dentistry.

*B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character; (ii) is a graduate of an accredited dental school or college, or dental department of a university or college; (iii) has passed all parts of the examination given by the Joint Commission on National Dental Examinations; (iv) has successfully completed a clinical examination acceptable to the Board; and (v) **has met other qualifications as determined in regulations promulgated by the Board...***

*E. The Board shall **promulgate regulations requiring continuing education for any dental license renewal or reinstatement.** The Board may grant extensions or exemptions from these continuing education requirements.*

§ 54.1-2729. Continuing education.

*The Board shall **promulgate regulations requiring continuing education for any dental hygienist license renewal or reinstatement.** The Board may grant exceptions or exemptions from these continuing education requirements.*

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The purpose of the proposed action is to improve the knowledge of dental laws and regulations for persons who are licensees of the Board. By doing so, the public is better assured of compliance with rules for professional practice. Dentists and dental hygienists will be required to keep up with changes in laws and regulations, such as those for sedation and anesthesia which were adopted to protect the health and safety of dental patients.

Substance

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

The proposed action would require passage of a jurisprudence examination for all persons applying for licensure. All licensees would also have to certify at renewal that they have passed the examination within the preceding three years, which would be verifiable by score reports from an on-line testing company. Continuing education credits of three hours could be awarded for passage. The intent is for the examination to be “open book” and to be available electronically. It is anticipated that the cost to the applicant or licensee would be approximately \$50 for the services of a testing company to host the website, trouble-shoot issues, score the examination and provide reports to the Board.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

A jurisprudence examination has been available and is required by Board Order for some licensees who are found in violation of law or regulation. However, since it is not required for licensure, it is not financially feasible for a testing agency to contract for its administration and is currently administered by board staff only to persons under a Board Order. To achieve the intent of ensuring that all licensees are current in their knowledge of the laws and regulations governing their practice, the Board must amend regulations and develop an examination that is readily available for all applicants and licensees.

Public participation

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Elaine Yeatts, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or at elaine.yeatts@dhp.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time. A regulatory panel will not be used, but the language will be drafted in an open meeting of the Regulation Committee.