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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Board of Dentistry, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC60-20-10 et seq.
<b>Regulation title(s)</b>	Regulations Governing Dental Practice
<b>Action title</b>	Acceptance of dental programs accredited in Canada
<b>Date this document prepared</b>	6/29/15

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*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

In response to a petition for rulemaking, the Board proposes to amend sections 60 and 71 to recognize dental or dental hygiene programs accredited by the Commission on Dental Accreditation of Canada as acceptable for licensure in Virginia.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

N/A

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

On June 12, 2015, the Board of Dentistry amended 18VAC60-20-10 et seq., Regulations Governing Dental Practice.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’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 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...*

**§ 54.1-2722. License; application; qualifications; practice of dental hygiene.**

*A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.*

*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 a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.*

*C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.*

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

In commenting of the petition for rulemaking that led to this regulatory action, the Commission on Dental Accreditation (CODA) noted that the two Commissions agree that the educational programs are equivalent and that no further education is required for eligibility for licensure. The commissioners and staff regularly attend meetings of each Commission and participate annually in at least one site visit conducted by the other agency to ensure that accreditation processes in each country continue to be equivalent. With the assurances of equivalency by CODA, the Board is confident that graduates of educational programs accredited by the Commission on Dental Accreditation of Canada are as prepared to practice with safety and competency as the graduates of U. S. programs.

**Rationale for using fast-track process**

*Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

Since the Commission on Dental Accreditation of the American Dental Association has a long-standing reciprocal agreement with the Commission on Dental Accreditation of Canada, the Board does not believe this proposal will be controversial. It is being fast-tracked to facilitate licensure for any applicant who was educated in Canada and may want to locate his or her practice in the Commonwealth.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.*

As requested by a petitioner, the Board has amended sections 60 and 71 to recognize accreditation by the Commission on Dental Accreditation of Canada in addition to the Commission on Dental Accreditation of the American Dental Association for licensure by examination as a dentist or a dental hygienist and for licensure by credentials for dentist.

Current regulations in section 80 specify that an applicant for licensure by endorsement as a dental hygienist "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." Since the Commission on Dental Accreditation has a reciprocal agreement with the Commission on Dental Accreditation of Canada to "recognize" the accreditation by the other agency, the Board has determined that no amendment to that section is necessary in order to license applicants in dental hygiene from accredited programs in Canada.

## Issues

*Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

- 1) The primary advantage to the public is the potential for an increased supply of dentists and dental hygienists to meet the dental care needs of the citizens of the Commonwealth. There are no disadvantages; the two Commissions have had reciprocal recognition of educational programs for several decades.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other pertinent matters of interest.

## Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements.

## Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

There are no alternative methods for accomplishing the purpose of this action.

### Economic impact

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including:</b> a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	There are no costs for implementation and no on-going expenditures.
<b>Projected cost of the new regulations or changes to existing regulations on localities.</b>	There are no costs for localities.
<b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b>	Persons who received their dental or dental hygiene education at a program accredited by the Commission on Dental Accreditation of Canada who want to apply for licensure in Virginia.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There is no estimate of the number of entities affected.
<b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other</b>	There are no projected costs.

<p><b>entities. Please be specific and include all costs including:</b>  <b>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</b>  <b>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p>	
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>Will allow applicants who obtained their education at a program accredited in Canada to be eligible for licensure in Virginia.</p>

### 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.*

There are no alternatives to the proposal; this is the least burdensome alternative that meets the essential purpose of inclusiveness and access to dental care.

### Public participation notice

*If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This action has no impact on the institution of the family and family stability.

### Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the **pre-emergency** regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.*

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
60	Sets out the educational requirements for dentists and dental hygienists	<p>Adds accreditation by the Commission on Dental Accreditation of Canada as acceptable for licensure as a dentist or dental hygienist.</p> <p>The Commission on Dental Accreditation (CODA) of the American Dental Association has a reciprocal agreement with the Canadian Commission to recognize programs in pre-doctoral dental education and dental hygiene. The Commissions agree that educational programs accredited by the other agency are equivalent and no further education is required for licensure. The likely impact is eligibility for licensure by some applicants who were previously denied or required to obtain additional training.</p>
71	Sets out the requirement for licensure by credentials for dentists.	Same change as above.