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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Dentistry, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC60-21 18VAC60-25
VAC Chapter title(s)	Regulations Governing the Practice of Dentistry Regulations Governing the Practice of Dental Hygiene
Action title	Continuing Education Requirements for Jurisprudence
Date this document prepared	June 17, 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).

The Board is proposing to amend 18VAC60-21-250 and 18VAC60-25-190. The Board is considering amendments to 18VAC60-21-250 to require that all licensed dentists obtain 2 hours of continuing education every other year in jurisprudence, and that dentists who administer or monitor patients under general anesthesia, deep sedation, or moderate sedation complete an additional 2 hours of continuing education in sedation jurisprudence every other year. These hours will be counted as part of the 15 hours a dentist is required to obtain per year (30 hours every two years). Additionally, the Board is considering an amendment to 18VAC60-25-190 to require that all licensed dental hygienists obtain 2 hours of continuing education every other year in jurisprudence. The Board is initiating this rulemaking in response to approximately 45 disciplinary cases since January 2020 in which licensees, despite certifying on initial application or renewal that they read and understood the laws and regulations of the Board, state at disciplinary hearings that they were not aware of the laws and regulations governing their 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."

There is no mandate associated with this regulatory action. The impetus is the high number of disciplinary cases the Board conducts at which licensees state that they are not aware of laws and regulations governing the profession of dentistry or dental hygiene, yet all have certified on renewal of licensure that they have read and understand the laws and regulations governing the profession.

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.

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." Additionally, Virginia Code §§ 54.1-2709(E) and 54.1-2729 require the Board to promulgate regulations requiring continuing education for dentists and dental hygienists.

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.

The Board is initiating this rulemaking to ensure that licensees are familiar with current laws and regulations governing the practice of dentistry or the practice of dental hygiene. The Board feels this is necessary given the high number of disciplinary cases the Board conducts at which licensees state that they are not aware of laws and regulations governing the profession of dentistry or dental hygiene, yet all have certified on renewal of licensure that they have read and understand the laws and regulations governing the profession.

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.

The Board is considering amendments to 18VAC60-21-250 to require that all licensed dentists obtain 2 hours of continuing education every other year in jurisprudence, and that dentists who administer or monitor patients under general anesthesia, deep sedation, or moderate sedation complete an additional 2 hours of continuing education in sedation jurisprudence every other year. These hours will be counted as part of the 15 hours a dentist is required to obtain per year (30 hours every two years). Additionally, the Board is considering an amendment to 18VAC60-25-190 to require that all licensed dental hygienists obtain 2 hours of continuing education every other year in jurisprudence. This requirement for dental hygienists will also count toward the current requirement to complete 15 hours of continuing education per year (30 hours every two years).

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.

Pursuant to Virginia Code §§ 54.1-2709(E) and 54.1-2729, the Board must promulgate regulations requiring continuing education for dentists and dental hygienists. Continuing education requirements are currently in the regulations for both professions; there is no alternative to regulation.

Periodic Review and Small Business Impact Review Announcement

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

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 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.