Virginia Department of Health Professions

# VIRGINIA BOARD OF DENTISTRY
# BOARD BUSINESS MEETING AGENDA
## DECEMBER 13, 2024

# VIRGINIA BOARD OF DENTISTRY
# BUSINESS MEETING MINUTES
## September 13, 2024

**TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 9:00 a.m., on September 13, 2024, at the Perimeter Center, 9960 Mayland Drive, in Board Room 1, Henrico, Virginia 23233.

**PRESIDING:** Margaret F. Lemaster, R.D.H., President

**MEMBERS PRESENT:**
J. Michael Martinez de Andino, J.D., Secretary-Treasurer
William C. Bigelow, D.D.S.
Sidra Butt, D.D.S.
Sultan E. Chaudhry, D.D.S.
Surya Dhakar, D.D.S.
Emelia H. McLennan, R.D.H.
Jennifer Szakaly, D.D.S.

**MEMBERS ABSENT:**
Alf Hendricksen, D.D.S., Vice-President
Jamiah Dawson, D.D.S

**STAFF PRESENT:**
Jamie C. Sacksteder, Executive Director
Erin Weaver, Deputy Executive Director
Sarah Moore, Executive Assistant
Arne Owens, Agency Director, DHP
Matthew Novak., Policy and Economic Analyst, DHP

**COUNSEL PRESENT:** James E. Rutkowski, Assistant Attorney General

**ESTABLISHMENT OF A QUORUM:** With 8 members of the Board present, a quorum was established.

Ms. Sacksteder read the emergency evacuation procedures.

**PUBLIC COMMENT:** Ms. Lemaster explained the parameters for public comment and opened the public comment period.

Ms. Lemaster advised that no one registered for public comments prior to the meeting and closed the public comment period.

**APPROVAL OF MINUTES:** Ms. Lemaster asked if there were any edits or corrections to the June 20, 2024, Formal Hearing Minutes, or the June 21, 2024, Business Meeting Minutes. Hearing none, Dr. Bigelow moved to approve the minutes as presented. The motion was seconded and passed unanimously.

**BOARD COUNSEL REPORT:**

Mr. Rutkowski had no report for the Board, as there are currently no pending appeals.

**LIAISON & COMMITTEE REPORTS:**

**Nominating Committee Meeting:**
Ms. Lemaster read the Nominating Committee officer nominations:

**Sultan E. Chaudhry, D.D.S. – President**
**Alf Hendricksen, D.D.S.– Vice-President**
**Sidra Butt, D.D.S. – Secretary-Treasurer**

Dr. Bigelow made a motion to approve the nominations as read, it was seconded and passed unanimously.

***Sultan E. Chaudhry, D.D.S. took over as chair of meeting as new Board President.***

**LEGISLATION, REGULATION, AND GUIDANCE:**

**Status Report on Regulatory Actions Chart –** Mr. Novak reviewed the updated Regulatory Actions chart of the nine ongoing regulatory actions as of August 17, 2024, which was included in the agenda packet. A synopsis of the progress of the bills was provided.

**18VAC60-21-80 Withdrawal of 2018 action regarding advertising dental specialties:** Mr. Novak explained the proposed action for withdrawing 18VAC60-21-80 regulatory action as the included fast-track amendments to 18VAC60-21-80 will become effective on October 24, 2024. Mr. Martinez made a motion to withdraw the regulatory action regarding 18VAC60-21-80. The motion was seconded and passed unanimously

**Fast-Track Regulatory Action regarding agency subordinates:** Mr. Novak explained the fast-track regulatory action regarding agency subordinates hearing credential cases and HB1622. Dr. Butt made a motion to adopt the fast-track regulatory action. The motion was seconded and passed unanimously.

**Proposed regulatory action regarding cosmetic Botox:** Mr. Novak referenced the proposed regulations regarding training requirements for dentists to perform botulinum toxin injections for cosmetic purposes. Dr. Bigelow made a motion to adopt the proposed regulations. The motion was seconded and passed unanimously.

**BOARD DISCUSSION TOPICS:**

**Consideration of Public Comment –** Dr. Chaudhry reported there were no public comments.

**DEPUTY EXECUTIVE DIRECTOR'S REPORT:**

**Disciplinary Report -** Ms. Weaver updated the Board on the Disciplinary Report for May 15, 2024 – August 16, 2024, of the number of cases received and cases closed. She advised there were no summary suspensions during this period. She advised there were 3 revocations of licenses during this period. She thanked the Board for their case reviews contributing to a more efficient workflow.

**EXECUTIVE DIRECTOR'S REPORT:**

**Update on Dentist and Dental Hygienist Compact: Ms. Sacksteder** – Ms. Sacksteder advised the that an informational meeting was held on August 28, 2024, regarding the compact.

**Election of Virginia Commissioner:** Mr. Martinez made a motion to elect Ms. Jamie Sacksteder as the Virginia Compact Commissioner, and Ms. Erin Weaver as the authorized temporary representative. The motion was seconded and passed unanimously.

**Upcoming Meetings**: Ms. Sacksteder advised she, Dr. Hendricksen, and Dr. Chaudhry would attend the upcoming AADB, AADA, ADEX, and CDCA-WREB-CITA meetings will be held consecutively on September 25-29, 2024, in Louisville, KY. BOD is now a member of the AADB.

**Staffing Updates:** Ms. Sacksteder advised that Ashley Epperly, D.D.S., would start on September 25, 2024, as the BOD Dental Review Coordinator.

**Budget Update:** Ms. Sacksteder reviewed the BOD 2024 cash balance.

**Licensure and Clearance Rate Reports:** Ms. Sacksteder discussed the Quarter 4 – Fiscal Year Summary.

**DHP DIRECTOR'S REPORT**

Arne Owens, Agency Director, discussed the enhanced security screening at the perimeter center, the authorization of Budget Appropriation Agency spending passed effective July 1, 2024, which added 12 new DHP full-time employee (FTE) positions, the current Gallagher Study for employee retention, and that DHP has submitted several solid proposals for the upcoming General Assembly starting in January 2025.

**ADJOURNMENT:** With all business concluded, the Board adjourned at 9:40 a.m.

Sultan E. Chaudhry, D.D.S., President

Jamie C. Sacksteder, Executive Director

Date

Date

**UNAPPROVED**

**VIRGINIA BOARD OF DENTISTRY**

**MINUTES**
**SPECIAL SESSION**

**CALL TO ORDER:** Pursuant to Virginia Code § 54.1-2408.1(A), the Board of Dentistry convened by telephone conference call on October 2, 2024 at 5:15 p.m., to consider possible summary suspensions in case numbers 222445, 225344, and 229224.

**PRESIDING:** Sultan E. Chaudhry, D.D.S., President

**MEMBERS PRESENT:**
Sidra Butt, D.D.S.
Jamiah Dawson, D.D.S.
Surya Dhakar, D.D.S.
Alf Hendricksen, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Emelia H. McLennan, R.D.H.
Jennifer Szakaly, D.D.S.

**MEMBERS ABSENT:** William C. Bigelow, D.D.S.

**POLLING OF BOARD MEMBERS:** The Board members were polled prior to scheduling the telephone conference call as to whether they could attend the meeting in Richmond.

**QUORUM:** With nine members present, a quorum was established.

**STAFF PRESENT:**
Jamie C. Sacksteder, Executive Director
Erin T. Weaver, Deputy Executive Director
Ashley Epperly, D.D.S., Dental Review Coordinator
Donna M. Lee, Discipline Case Manager

**OTHERS PRESENT:**
James Rutkowski, Senior Assistant Attorney General, Board Counsel
Sean Murphy, Senior Assistant Attorney General
Rebecca Smith, Senior Adjudication Specialist

**Shahrzad Salartash, D.D.S.**
**Case Nos.: 222445, 225344**

The Board received information from Mr. Murphy to determine if Dr. Salartash's practice of dentistry constituted a substantial danger to public health and safety. Mr. Murphy reviewed the cases and responded to questions.

**CLOSED MEETING:** Dr. Hendricksen moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Shahrzad Salartash. Additionally, Dr. Hendricksen moved that Ms. Sacksteder, Ms. Weaver Dr. Epperly, Ms. Lee, and Mr. Rutkowski attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Board in its deliberations. The motion was seconded and passed.

During closed session, Ms. Lemaster was disconnected from the call. With eight Board members participating in the call, a quorum was still established.

**RECONVENE:**

Dr. Hendricksen moved that the Board certify that it heard, discussed, or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

**DECISION:**

Dr. Szakaly moved that the Board summarily suspend Dr. Salartash's license to practice dentistry in the Commonwealth of Virginia in that her practice of dentistry constituted a substantial danger to public health and safety; and schedule a formal hearing. The motion was seconded and passed unanimously.

**Craig A. Zunka, D.D.S.**
**Case No.: 229224**

**PRESIDING:**

Sultan E. Chaudhry, D.D.S., President

**MEMBERS PRESENT:**

Sidra Butt, D.D.S.
Jamiah Dawson, D.D.S.
Surya Dhakar, D.D.S.
Alf Hendricksen, D.D.S.
J. Michael Martinez de Andino, J.D.
Emelia H. McLennan, R.D.H.
Jennifer Szakaly, D.D.S.

**MEMBERS ABSENT:**

William C. Bigelow, D.D.S.
Margaret F. Lemaster, R.D.H.

**QUORUM:**

With eight members present, a quorum was established.

**STAFF PRESENT:**

Jamie C. Sacksteder, Executive Director
Erin T. Weaver, Deputy Executive Director
Ashley Epperly, D.D.S., Dental Review Coordinator
Donna M. Lee, Discipline Case Manager

**OTHERS PRESENT:**

James E. Rutkowski, Assistant Attorney General, Board Counsel
Sean Murphy, Assistant Attorney General
Rebecca Smith, Senior Adjudication Specialist

The Board received information from Mr. Murphy to determine if Dr. Zunka's practice of dentistry constituted a substantial danger to public health and safety. Mr. Murphy reviewed the case and responded to questions.

**Closed Meeting:**

Dr. Hendricksen moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Craig A. Zunka Additionally, Dr. Hendricksen moved that Ms. Sacksteder, Ms. Weaver Dr. Epperly, Ms. Lee, and Mr. Rutkowski attend the closed meeting because their presence in the closed meeting was deemed necessary

and their presence would aid the Board in its deliberations. The motion was seconded and passed.

**RECONVENE:** Dr. Hendricksen moved that the Board certify that it heard, discussed, or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

**DECISION:** Mr. Martinez moved that the Board summarily suspend Dr. Zunka's license to practice dentistry in the Commonwealth of Virginia in that his practice of dentistry constituted a substantial danger to public health and safety; and schedule a formal hearing. The motion was seconded and passed unanimously.

**ADJOURNMENT:** With all business concluded, the Board adjourned at 6:08 p.m.

_____
Sultan E. Chaudhry, D.D.S., Chair

_____
Date

_____
Jamie C. Sacksteder, Executive Director

_____
Date

# VIRGINIA BOARD OF DENTISTRY
# FORMAL HEARING MINUTES
# November 1, 2024

**TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 10:06 a.m., on November 1, 2024, in Board Room 4 at the Perimeter Center, 9960 Mayland Drive, Suite 201, Henrico, Virginia, 23233.

**PRESIDING:** Sultan E. Chaudhry, D.D.S., President

**MEMBERS PRESENT:**
Sidra Butt, D.D.S., Secretary-Treasurer
Jamiah Dawson, D.D.S.
Surya Dhakar, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Emelia H. McLennan, R.D.H

**MEMBERS ABSENT:** None

**STAFF PRESENT:**
Jamie C. Sacksteder, Executive Director
Sarah Moore, Executive Assistant

**COUNSEL PRESENT:** James E. Rutkowski, Senior Assistant Attorney General

**OTHERS PRESENT:**
David Robinson, Assistant Attorney General
Scott R. Pearl, Senior Adjudication Specialist
Juan Ortega, Court Reporter

**ESTABLISHMENT OF A QUORUM:** With seven Board members present, a quorum was established.

**Freddy A. Uribe, Dental Hygienist**
**Case No.:223726**

Mr. Uribe was present without counsel in accordance with the notice dated September 1, 2024.

Dr. Chaudhry swore in the witnesses.

Following Mr. Robinson' s opening statement, Dr. Chaudhry admitted into evidence Commonwealth's Exhibits 1-6.

Testifying on behalf of the Commonwealth:
- Meghan Wingate, DHP Senior Investigator

Mr. Uribe testified on his own behalf.

Mr. Robinson and Mr. Uribe provided closing statements.

**Closed Meeting:** Dr. Butt moved that the Board enter into a closed meeting pursuant to §2.1-311(A)(27) and Section 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter Freddy A. Uribe. Additionally, he moved that Board staff, Ms. Sacksteder, and Ms. Moore and the Board Counsel, Mr. Rutkowski attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

**Reconvene:** Dr. Butt moved to certify that the Board heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and passed.

**Decision:** Mr. Rutkowski reported that Mr. Uribe's license to practice dental hygiene in the Commonwealth of Virginia was revoked.

Dr. Butt moved to accept the Board's decision as read by Mr. Rutkowski. The motion was seconded and passed.

**Adjournment:** The Board adjourned at 11:56 a.m.

Sultan E. Chaudhry, D.D.S., President

Jamie C. Sacksteder, Executive Director

Date

Date

**UNAPPROVED**

**VIRGINIA BOARD OF DENTISTRY**

**MINUTES**
**SPECIAL SESSION**

**CALL TO ORDER:** This meeting of the Virginia Board of Dentistry was called to order at 1:00 p.m., on November 1, 2024, at the Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, Board Room 4, 9960 Mayland Drive, Henrico, Virginia 23233, to consider a possible summary suspension in case number 236806.

**PRESIDING:** Sultan E. Chaudhry, D.D.S., President

**MEMBERS PRESENT:**
Sidra Butt, D.D.S.
Jamiah Dawson, D.D.S.
Surya Dhakar, D.D.S.
Margaret F. Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Emelia H. McLennan, R.D.H.

**QUORUM:** With seven members present, a quorum was established.

**STAFF PRESENT:**
Jamie C. Sacksteder, Executive Director
Erin T. Weaver, Deputy Executive Director
Sarah Moore, Executive Assistant
Donna M. Lee, Discipline Case Manager

**OTHERS PRESENT:**
James Rutkowski, Senior Assistant Attorney General, Board Counsel
Amanda C. Padula-Wilson, Senior Assistant Attorney General
Rebecca Smith, Senior Adjudication Specialist

**Christina P. Mills, D.D.S.**
**Case No.: 236806**

The Board received information from Ms. Padula-Wilson to determine if Dr. Mills' practice of dentistry constituted a substantial danger to public health or safety. Ms. Padula-Wilson reviewed the cases and responded to questions.

**DECISION:** Mr. Martinez moved that the Board summarily suspend Dr. Mills' license to practice dentistry in the Commonwealth of Virginia in that her practice of dentistry constituted a substantial danger to public health or safety; and schedule a formal hearing. The motion was seconded and passed unanimously.

**ADJOURNMENT:** With all business concluded, the Board adjourned at 1:13 p.m.

Sultan E. Chaudhry, D.D.S., Chair

Jamie C. Sacksteder, Executive Director

Date

Date

**UNAPPROVED**

**VIRGINIA BOARD OF DENTISTRY**

**MINUTES**
**SPECIAL SESSION – TELEPHONE CONFERENCE CALL**

**CALL TO ORDER:** The Board of Dentistry convened by telephone conference call on November 19, 2024, at 5:16 p.m., to consider a consent order for Case number 236806.

**PRESIDING:** Sultan E. Chaudhry, D.D.S. President

**MEMBERS PRESENT:**
Suya Dhakar, D.D.S.
Alf Hendricksen, D.D.S.
Margaret Lemaster, R.D.H.
J. Michael Martinez de Andino, J.D.
Emelia H. McLennan, R.D.H.
Jennifer Szakaly, D.D.S.

**MEMBERS ABSENT:** Sidra Butt, D.D.S.

**QUORUM:** With seven members present, a quorum was established.

**STAFF PRESENT:**
Jamie C. Sacksteder, Executive Director
Donna M. Lee, Discipline Case Manager

**OTHERS PRESENT:** James E. Rutkowski, Senior Assistant Attorney General, Board Counsel

**Christina P. Mills, D.D.S.**
**Case No.: 236806**

The Board received information from Ms. Sacksteder regarding a proposed consent order pertaining to Dr. Mills in lieu of proceeding with the scheduled Formal Hearing.

**DECISION:** Ms. Lemaster moved that the Board offer a consent order to Dr. Mills that would accept the permanent voluntary surrender of her license to practice dentistry in lieu of proceeding with the Formal Hearing. The motion was seconded and passed unanimously.

**ADJOURNMENT:** With all business concluded, the Board adjourned at 5:21 p.m.

_____
Sultan E. Chaudhry, D.D.S., Chair

_____
Jamie C. Sacksteder, Executive Director

_____
Date

_____
Date

**Board of Dentistry**
**Current Regulatory Actions**
**As of November 18, 2024**

## In the Governor's Office

None.

## In the Secretary's Office

| VAC | Stage | Subject Matter | Submitted from agency | Time in current location | Notes |
|---|---|---|---|---|---|
| 18VAC60-21<br>18VAC60-30 | Final | Training in infection control | 7/5/2022 | 867 days (2.3 years) | Amendments require specific training in infection control for dental assistants. Promulgated in response to a petition for rulemaking. |
| 18VAC60-21<br>18VAC60-25 | NOIRA | Continuing education requirements for jurisprudence | 7/12/2022 | 860 days (2.3 years) | Board is considering amendments to Chapters 21 and 25 to require jurisprudence continuing education for dentists and dental hygienists. |
| 18VAC60-21 | Proposed | Digital Scan Technicians | Withdrawn 5/19/2022; Re-Proposed 8/18/2022 | 823 days (2.2 years) | Regulations for the training of digital scan technicians to practice under a licensed dentist |
| 18VAC60-30 | Proposed | Elimination of direct pulp-capping as a delegable task | 7/22/2022 | 816 days (2.1 years) | Eliminates direct pulp-capping as a delegable task for a DAII. |

## At DPB

None.

**At OAG**

| VAC | Stage | Subject Matter | Submitted from agency | Time in current location | Notes |
|---|---|---|---|---|---|
| 18VAC60-15 | Fast-Track | Amendment to allow agency subordinates to hear credentials cases | 9/16/2024 | 63 days | Conforms agency subordinate regulation to statutory changes from 2023 General Assembly session. |
| 18VAC60-21 | Proposed | Training requirements for botulinum toxin injections for cosmetic purposes | 9/16/2024 | 63 days | Pursuant to legislative directive. This action will replace emergency regulations that will be in effect until 11/05/2025. |

**Recently effective, published, or awaiting publication**

| VAC | Stage | Subject Matter | Publication date | Effective date/ next steps |
|---|---|---|---|---|
| 18VAC60-21<br>18VAC60-25 | NOIRA | Expansion and clarification of refresher courses required for reinstatement | 8/12/2024 | Comment period 8/12/2024 – 9/11/2024. Portions of this action may have been accomplished with the fast-track reduction. Will need to be reviewed by regulatory committee prior to proposed stage. |
| 18VAC60-21 | Exempt | Changes to patient counseling regulations pursuant to HB699 | 9/9/2024 | Effective 10/9/2024 |
| 18VAC60-21<br>18VAC60-25<br>18VAC60-30 | Fast-track | Implementation of amendments identified during 2022 periodic review of | 9/9/2024 | Comment period 9/9/2024 – 10/9/2024; |

| | | | | |
|---|---|---|---|---|
| | | Chapters 21, 25, and 30 | | effective date 10/24/2024. |

**Agenda Item: Adoption of Guidance Document 60-3**

**Included in your agenda package:**

- Proposed Guidance Document 60-3.

**Staff note:** With the fast-track reduction approved by the Board in 2022 becoming effective, the list in regulation of approved continuing education sponsors has been repealed. This guidance document includes the same list that was included in regulation.

In the future, the Board will be able to add or remove entities from the approved list more easily.

**Action needed:**

- Motion to adopt Guidance Document 60-3.

# Virginia Board of Dentistry

## Approved Continuing Education Sponsors and CPR Training for Dentists and Dental Hygienists

**Approved continuing education sponsors**

The following continuing education sponsors are approved by the Virgnia Board of Dentistry:

1. The American Dental Association and the National Dental Association, their constituent and component/branch associations, and approved continuing education providers;
2. The American Dental Hygienists' Association and the National Dental Hygienists Association, and their constituent and component/branch associations;
3. The American Dental Assisting Association and its constituent and component/branch associations;
4. The American Dental Association specialty organizations and their constituent and component/branch associations;
5. A provider accredited by the Accreditation Council for Continuing Medical Education for Category 1 credits;
6. The Academy of General Dentistry, its constituent and component/branch associations, and approved continuing education providers;
7. A college or university that is accredited by an accrediting agency approved by the U.S. Department of Education or a hospital or health care institution accredited by the Joint Commission on Accreditation of Healthcare Organizations;
8. A medical school accredited by the American Medical Association's Liaison Committee for Medical Education;
9. A dental, dental hygiene, or dental assisting program or advanced dental education program accredited by the Commission on Dental Accreditation of the American Dental Association;
10. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);
11. The Commonwealth Dental Hygienists' Society;
12. The MCV Orthodontic Education and Research Foundation;
13. The Dental Assisting National Board and its affiliate, the Dental Auxiliary Learning and Education Foundation;
14. A regional testing agency when serving as an examiner; or
15. American Association of Dental Boards, its affiliate, Accredited Continuing Education (ACE)

**Additional Requirements in Regulation**

A dentist and dental hygienist **will maintain current training** certification in basic cardiopulmonary resuscitation with **hands-on** airway training for healthcare providers or basic life support by the American Heart Association, the American Red Cross, the

American Safety and Health Institute, or the American Cancer Society unless the dentist is required by 18VAC60-21-290 or 18VAC60-21-300 to hold current certification in advanced life support with **hands-on** simulated airway and megacode training for healthcare providers. *See* 18VAC60-21-250(A)(1), 18VAC60-25-190(A)(1).

**Please review sections 18VAC60-21-250 for dentists and 18VAC60-25-190 for dental hygienists for all requirements of continuing education.**

**References**

18VAC60-21-250(A) – basic requirements, including emergency care and anesthesia, and proof of attendance
18VAC60-25-190(A) – basic requirements, including emergency care and anesthesia, and proof of attendance
18VAC60-21-106 – specific requirements for dentists prescribing controlled substances in Schedules II – IV

**Agenda Item: Repeal of Guidance Document 60-4**

**Included in your agenda package:**

- Guidance Document 60-4.

**Staff Note:** Board staff does not believe this document is necessary.

**Action needed:**

- Motion to repeal Guidance Document 60-4.

# VIRGINIA BOARD OF DENTISTRY
# Questions and Answers
# On
# Analgesia, Sedation and Anesthesia Practice

## WHAT ARE THE REQUIREMENTS FOR MANAGING ANXIOLYSIS?

- Anxiolysis is addressed in the Regulations Governing the Practice of Dentistry (Regulations) in the definition of minimal sedation in section 18VAC60-21-10(D) and in the provisions for minimal sedation in subsections B, C, E, F, G, H, I, J, and K of section 18VAC60-21-260, and in 18VAC60-21-280.

## DOES PRESCRIBING XANAX FOR PRE-APPOINTMENT USE CONSTITUTE SEDATION PRACTICE?

- Yes, benzodiazepines such as Xanax and Valium which are prescribed or are administered or dispensed for self-administration to reduce anxiety for dental treatment generally fall within the definition of minimal sedation. Adding nitrous oxide or another drug may induce a deeper level of sedation. It is important to keep in mind that the type and dosage of medication, the method of administration and the individual characteristics of the patient must be considered in deciding the level of sedation being administered. See sections 18VAC60-21-260(G) and 18VAC60-21-280 in the Regulations to review provisions on minimal sedation.

## ARE THERE MODEL FORMS OR TEMPLATES AVAILABLE FOR KEEPING A RECORD OF DRUGS, FOR PERFORMING BIENNIAL INVENTORIES?

- No, the Board has not adopted model forms.

## HOW SHOULD COMPLETION OF STAFF TRAINING IN EMERGENCY PROCEDURES BE DOCUMENTED?

- This is guidance for implementing section 18VAC-60-21-260(H) of the Regulations. The employing dentist is responsible for keeping a record of the training provided. The record must include the date of the training, the content of the training, and a list of the staff who participated in the training.

## WHO CAN DISMISS THE PATIENT UNDER SEDATION OR GENERAL ANESTHESIA?

- When minimal sedation has been administered, the dentist is responsible for discharging the patient. See section 18VAC60- 21-280(G).
- When moderate sedation has been administered, the dentist or the designated licensed professional who administered the drugs or another practitioner qualified to administer the drugs is responsible for assessing and discharging the patient. See sections 18VAC60-21-291(D)(3) and (E).
- When deep sedation or general anesthesia has been administered, the dentist or the designated licensed professional who administered the drugs or another practitioner

qualified to administer the drugs is responsible for assessing and discharging the patient. See sections 18VAC60-21-301(E)(3) and (G).

**WHAT REGULATIONS APPLY WHEN A PATIENT WANTS SEDATION FOR SCALING AND ROOT PLANING TREATMENT BY A DENTAL HYGIENIST? DOES THE DDS WHO HOLDS A MODERATE SEDATION PERMIT HAVE TO STAY IN THE TREATMENT ROOM AFTER PROVIDING THE SEDATION WHILE THE RDH TREATS THE PATIENT?**

- The treatment team for moderate sedation must include the operating dentist. There is no statute or regulation which permits a dental hygienist to treat patients under moderate sedation, deep sedation or general anesthesia with or without a dentist present during treatment. See the staffing requirements in section 18VAC60-21-291(C) and 18VAC60-21-301(D).

**DOES INFORMED CONSENT HAVE TO BE GIVEN PRIOR TO EACH SEDATION ADMINISTRATION OR IF A LONG-STANDING PATIENT, CAN THERE BE A BLANKET SEDATION INFORMED CONSENT?**

- To meet the requirement in 18 VAC 60-21-260(D)(2) and (3), written informed consent must be obtained each time sedation will be administered.

**Agenda Item: Repeal of Guidance Document 60-8**

**Included in your agenda package:**

- Guidance Document 60-8

**Staff Note:** This guidance document does not interpret statute or regulation, which is the definition of a guidance document. It instead restates regulatory requirements. Board staff does not believe this document is necessary.

**Action needed:**

- Motion to repeal Guidance Document 60-8.

# Virginia Board of Dentistry

## Educational Requirements for Dental Assistants II

**Excerpts of Applicable Law and Regulation**

- §54.1-2729.01 of the Code of Virginia permits the Board to prescribe the education and training requirements that must be completed for a person to qualify for registration as a dental assistant II.

**Educational Requirements**

- Every applicant for registration shall complete a competency-based program from an educational institution that meets the requirements of 18VAC60-30-116 and includes **all** of the following. 18VAC60-30-120 (B) (1-4):
    - Didactic coursework in dental anatomy that includes basic histology, understanding of the periodontium and temporal mandibular joint, pulp tissue and nerve innervation, occlusion and function, muscles of mastication, and any other item related to the restorative dental process.
    - Didactic coursework in operative dentistry to include materials used in direct and indirect restorative techniques, economy of motion, fulcrum techniques, tooth preparations, etch and bonding techniques and systems, and luting agents.
    - Laboratory training to be completed in the following modules:
        - No less than 15 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-epinephrine retraction cord, and pulp capping procedures and no less than six class I and six class II restorations completed on a manikin simulator to competency;
        - No less than 40 hours of placing and shaping composite resin restorations, placement of a nonepinephrine retraction cord, and pulp capping procedures, and no less than 12 class I, 12 class II, five class III, five class IV, and five class V restorations completed on a manikin simulator to competency; and
        - At least 10 hours of making final impressions, placement of a non-epinephrine retraction cord, final cementation of crowns and bridges after preparation, and adjustment and fitting by the dentist, and no less than four crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a manikin simulator to competency.
    - Clinical experience applying the techniques learned in the preclinical coursework and laboratory training in the following modules:
        - At least 30 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-epinephrine retraction cord, and no less than six class I and six class II restorations completed on a live patient to competency;
        - At least 60 hours of placing and shaping composite resin restorations, placement of a nonepinephrine retraction cord, and no less than six class I, six class II, five class III, three class IV, and five class V restorations completed on a live patient to competency; and

- At least 30 hours of making final impressions ; placement of non-epinephrine retraction cord; final cementation of crowns and bridges after preparation, adjustment, and fitting by the dentist; and no less than four crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a live patient to competency.

**Competency Exam Requirements**

- Every applicant for registration shall submit the successful completion of the following competency examinations given by the accredited educational programs. 18VAC60-30-120 (B) (5):
  - A written examination at the conclusion of didactic coursework; and
  - A clinical competency exam

**Delegation to dental assistants II**

- Duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II who has completed the coursework, corresponding module of laboratory training, corresponding module of clinical experience, and examinations specified in 18VAC60-30-120. 18VAC60-30-60.

**Registration by Endorsement as a dental assistant II**

- Every applicant for registration as a dental assistant II by endorsement shall hold a credential, registration, or certificate with qualifications substantially equivalent in hours of instruction and course content to those set forth in 18VAC60-30-120 or if the qualifications were not substantially equivalent the dental assistant can document experience in the restorative and prosthetic expanded duties set forth in 18VAC60-30-60 for at least 24 of the past 48 months preceding application for registration in Virginia. 18VAC60-30-140 (A) (3).

**Agenda Item: Repeal of Guidance Document 60-23**

**Included in your agenda package:**

- Guidance Document 60-23.

**Staff note:** This guidance document was originally created when teledentistry was not addressed in Code. It is an almost identical copy of a Board of Medicine guidance document which is itself problematic.

**Action needed:**

- Motion to repeal Guidance Document 60-23.

Adopted: December 11, 2015
Reaffirmed: December 13, 2019

# Virginia Board of Dentistry

## Teledentistry

## *NOTE: DOES NOT REFLECT RECENT FEDERAL GUIDANCE ON HIPAA COMPLIANCE*
## *(See link on Board's website for current federal guidance)*

**Section One: Preamble.**
The Virginia Board of Dentistry ("Board") recognizes that using teledentistry services in the delivery of dental services offers potential benefits in the provision of dental care. The appropriate application of these services can enhance dental care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying dental advice. The Virginia General Assembly has not established statutory parameters regarding the provision and delivery of teledental services. Therefore, practitioners must apply existing laws and regulations to the provision of teledentistry services. The Board issues this guidance document to assist practitioners with the application of current laws to teledentistry service practices.
These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For clarity, a practitioner using teledentistry services in the provision of dental services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303 and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of teledentistry services as a component of, or in lieu of, in-person provision of dental care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of teledentistry services in the practice of dentistry. The Board is committed to ensuring patient access to the convenience and benefits afforded by teledentistry services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide dental care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;

- In the case of dentists, properly supervise non-dentist clinicians when required to do so by statute; and
- Protect patient confidentiality.

**Section Two: Definitions.**
For the purpose of these guidelines, the Board defines "teledentistry services" consistent with the definition of "telemedicine services" in § 38.2-3418.16 of the Code of Virginia. "Teledentistry services," as it pertains to the delivery of dental services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Teledentistry services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.

**Section Three: Establishing the Practitioner-Patient Relationship.**
The practitioner-patient relationship is fundamental to the provision of acceptable dental care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship.
Where an existing practitioner-patient relationship is not present,[1] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[2] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

Specifically, Virginia Code § 54.1-3303(A) provides the requirements to establish a practitioner-patient relationship. *See* Va. Code § 54.1-3303(A).

A practitioner is discouraged from rendering dental advice and/or care using teledentistry services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of teledental services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

**Section Four: Guidelines for the Appropriate Use of Teledentistry Services.**
The Board has adopted the following guidelines for practitioners utilizing teledentistry services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

Licensure:

[1] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.
[2] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

The practice of dentistry occurs where the patient is located at the time teledentsitry services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:
A documented dental evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

Informed Consent:
Evidence documenting appropriate patient informed consent for the use of teledentistry services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using teledentistry services (e.g. prescription refills, appointment scheduling, patient education, etc.);
- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a teledentistry encounter;
- Details on security measures taken with the use of teledentistry services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Dental Records:
The dental record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of teledentistry services. Informed consents obtained in connection with an encounter involving teledentistry services should also be filed in the dental record. The patient record established during the use of teledentistry services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:
Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using teledentistry services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Prescribing:
Prescribing medications, in-person or via teledentistry services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via teledentistry services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe medications as part of teledentistry encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Additionally, practitioners issuing prescriptions as part of teledentistry services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

**Section Five: Guidance Document Limitations.**
Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of teledentistry services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

**Agenda Item: Revision of Guidance Document 60-6**

**Included in your agenda package:**

- Guidance Document 60-6 with suggested edits added;
- Guidance Document 60-6 with suggested edits shown in redline.

**Action needed:**

- Motion to amend Guidance Document 60-6 as presented or amended.

# Virginia Board of Dentistry
# Guidance on Death or Retirement of a Dentist or Selling or Closing of a Dental Practice

Virginia Code § 54.1-2405(A) requires a dentist to give notice to patients and provide records when closing, selling or relocating a practice. Transfer and treatment of patient records is covered under Virginia Code §§ 8.01-324 and 54.1-2405(A) and 18VAC60-21-90(E) and (F).

## Patient Notification

Notification to patients of the changes to the dental practice should occur as soon as possible to assist with continued patient care upon the death or retirement of the dentist, or the sale or closure of a dental practice.

**Suggested guidelines for notification of patients include:**

- Calling patients with scheduled appointments to enable patients to find another provider or make an informed decision to stay with another provider within the same practice, if applicable.
- Consider changing any telephone answering message or website response to advise patients contacting the dental office that the dentist's appointments are being canceled and the dentist will not be scheduling any additional appointments.
- Providing contact information of any other provider who has agreed to provide dental care to the dentist's patients. Any answering message or website response should include the other provider's contact information.
- Sending the required notification letters via registered mail with return receipt requested, to the dentist's patients of the death or retirement of the dentist or closure or sale of the dental practice. The dental office should retain the return receipts to have proof that notifications were sent. The American Dental Association provides example notification letters for assistance.[1]
- Facilitating the transfer of care by explaining how a patient can find a new dentist. This could include:
    - informing patients of any dentists within the practice, if the practice is not closing;
    - contacting insurance companies to get names of other providers in their area;
    - conducting Internet searches to assist in identifying other providers;
    - reviewing phone book information; and
    - contacting dental associations for potential referrals.

[1] The American Dental Association provides a guide for closing a dental practice available at https://www.ada.org/resources/practice/practice-management/what-to-do-when-closing-a-practice.

- Providing patients with information about their dental records pursuant to Virginia Code § 54.1-2405(A) and in accordance with the dental office's current record retention policy, including:
    - how a patient can obtain a copy of their dental records pursuant to 18VAC60-21-90(D) (please note that records cannot be withheld because the patient has an outstanding financial obligation);
    - providing contact information where dental records are maintained; and
    - informing patients of any charges for obtaining or sending a copy of dental records pursuant to 18VAC60-21-90(E).

## Patient Record Retention

Dental patient record retention after the death or retirement of a dentist or the sale or closing of a dental practice will create regulatory concerns if the records are not properly maintained. The length and manner of retention as are addressed in 18VAC60-21-90(A), (C), and (H). Confidentiality requirements are contained in 18VAC60-21-90(F). These provisions should be regularly reviewed for compliance.

## Professional Liability Issues

Exposure to professional liability can continue after the closure, transfer, or sale of a dental practice. In Virginia, the statute of limitations for filing a civil lawsuit for malpractice is two years unless a minor is involved. *See* Va. Code § 8.01-243.1. Accordingly, beneficiaries and dental practice office managers may want to verify the dentist's malpractice insurance policy to see if the coverage under the policy is sufficient.

## Other Notifications

Notifications should be sent to the listed entities below regarding: (1) the death or retirement of a dentist; (2) the closure, transfer, or sale of a dental practice; (3) discontinuation of administration of controlled substances; or (4) change of address, as necessary. Not every entity should receive notification of these four changes.

- Drug Enforcement Agency;
- Virginia Board of Dentistry;
- Pharmacies where prescriptions have previously been submitted;
- Insurance agencies holding a policy with the dentist at issue including disability, professional liability, and practice interruption insurance companies; and
- Social Security Administration for any request for Medicare coverage or beneficiary benefits.

The list above is not exclusive. Each practice is unique and additional organizations may need to be notified.

## Staff and Management Personnel

Appropriate staff will be needed to assist in the process of any closing, transferring, or selling of a practice. This may include the hiring of temporary staff to replace any personnel who may have left the practice in the interim. Such staff can assist in continuing to collect payments, sending notifications, handling the daily operation needs up to the closing or transfer date, and addressing patient inquiries. The practice should provide staff information about their pay and benefits, including any staff retirement or health insurance plan information.

**Note**: In connection with staff and bill payments, having the spouse, a trusted advisor or partner be given check writing authority will enable bills to be paid during the transition period.

## Estate Planning

The concerns raised by the death or retirement of a dentist demonstrate the need for a good and specific estate plan. Planning to protect one's personal estate and dental practice is essential, which can include a will or a trust. A will can protect your estate from entering probate court, which is normally where a court makes decisions about the distribution of your assets and names an executor. The probate process can take several months or longer depending on the size of the estate. Additionally, a probate court will assess court fees that will be taken out of the estate. This process is complicated and can impose emotional burdens on the family. However, a will alone may not be enough. A trust may also be needed. A trust can protect your estate and assist in managing your dental practice temporarily upon your death until your practice is sold or transferred. The Board recommends retaining a legal professional who has specific estate expertise and a tax advisor to assist with estate planning.

## Conclusion

To help avoid the unexpected and emotional distress caused by the death or retirement of a dentist or closing, transfer or sale of a dental practice, it is essential to be prepared to assist your family, staff, and colleagues. This includes proper estate planning, retention of patient records, appropriate notification to patients and organizations, and sufficient professional insurance. Awareness of these issues and advanced planning can help to assure continuity of care of patients and peace of mind to the family.

## Additional Resource Information

1. The American Dental Association's guide to closing a dental practice is available at https://www.ada.org/resources/practice/practice-management/what-to-do-when-closing-a-practice.
2. The Virginia Dental Association provides information on understanding the common pitfalls of patient abandonment, available at https://www.vadental.org/news-hub/2018/05/17/understanding-the-common-pitfalls-of-patient-abandonment.

**Guidance Document: 60-6**
~~Adopted: September 10, 2021~~

Revised: December 13, 2024

~~Effective: November 11, 2021~~

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# Virginia Board of Dentistry
# Guidance on Death or Retirement of a Dentist or Selling or Closing of a Dental Practice
# ~~DEATH OR RETIREMENT OF A DENTIST or SELLING OR CLOSING OF A DENTAL PRACTICE~~

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~~Excerpts of Applicable Law, Regulation and Guidance~~

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Virginia Code § 54.1-2405(A) requires a~~A~~ dentist ~~must~~ to give notice to patients and provide records when closing, selling or relocating a practice. Transfer and treatment of patient records is covered under Virginia Code §§ 8.01-324 and 54.1-2405(A) and 18VAC60-21-90(E) and (F).~~18VAC60-21-90 (F) 54.1-2405 (A)~~

- ~~A dentist shall not transfer records pertaining to a current patient in conjunction with the closure, sale or relocation of their dental office until the dentist has first attempted to notify the patient of the pending transfer, by mail, at the patient's last known address, and by publishing prior notice in a newspaper of general circulation within the provider's practice area, as specified in § 8.01-324. § 54.1-2405(A)~~
- ~~Records shall not be abandoned or otherwise left in the care of someone who is not licensed by the board except that, upon the death of a licensee, a trustee or executor of the estate may safeguard the records until they are transferred to a licensed dentist, are sent to the patients of record, or are destroyed. 18VAC60-21-90 (E)(G)~~
- ~~Patient confidentiality must be preserved when records are destroyed. 18VAC60-21-90 (F)(H)~~

## Patient Notification

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~~Notification to patients should occur as soon as possible to assist with continued patient careupon the death or retirement of the dentist, or the sale or closure of a dental practice.~~

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Notification to patients of the changes to the dental practice should occur as soon as possible to assist with continued patient care upon the death or retirement of the dentist, or the sale or closure of a dental practice.

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~~**Requirements in § 54.1-2405(A) include**:~~

- ~~Notifying the patient via mail at the last known address.~~
- ~~Publishing the prior notice in a newspaper of general circulation within the provider's practice area that meet the below requirements, as specified in §8.01-324:~~
  - ~~Have a bona fide list of paying subscribers;~~
  - ~~Have been published and circulated in printed form at least once a week for at least 50 of the preceding 52 weeks;~~
  - ~~Provide general news coverage of the area in which the notice is required to be published;~~
  - ~~Be printed in the English language; and~~

- ~~Have a periodicals mailing permit issued by the United States Postal Service (USPS). If the newspaper has such a mailing permit, it must publish the USPS Statement of Ownership (Form 3526) in such newspaper at least once per calendar year and maintain a copy of such form that is available for public inspection during regular business hours.~~[1]

**Suggested guidelines for notification of patients include:**

- Calling patients with scheduled appointments to enable patients to find another provider or make an informed decision to stay with another provider within the same practice, if applicable.
- Consider changing any telephone answering message or website response to advise patients contacting the dental office that the dentist's appointments are being canceled and the dentist will not be scheduling any additional appointments.
- Providing contact information of any other provider who has agreed to provide dental care to the dentist's patients. Any answering message or website response should include the other provider's contact information.
- Sending the required notification letters via registered mail with return receipt requested, to the dentist's patients of the death or retirement of the dentist or closure or sale of the dental practice. The dental office should retain the return receipts to have proof that notifications were sent. The American Dental Association provides example notification letters for assistance.[2]
- Facilitating the transfer of care by explaining how a patient can find a new dentist. This could include:
  - informing patients of any dentists within the practice, if the practice is not closing;
  - contacting insurance companies to get names of other providers in their area;
  - conducting Internet searches to assist in identifying other providers;
  - reviewing phone book information; and
  - contacting dental associations for potential referrals.
- Providing patients with information about their dental records pursuant to Virginia Code § 54.1-2405 (A) and in accordance with the dental office's current record retention policy ~~(18VAC60-21-90 (F)). This would include~~, including:
  - how a patient can obtain a copy of their dental records pursuant to 18VAC60-21-90(D) (please note that records cannot be withheld because the patient has an outstanding financial obligation) ~~18VAC60-21-90 (D)~~;

[1] ~~There are exceptions listed in § 8.01-327.~~
[2] The American Dental Association provides a guide for closing a dental practice available at https://www.ada.org/resources/practice/practice-management/what-to-do-when-closing-a-practice. ~~"A Guide to Closing a Dental Practice."~~



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- providing contact information where dental records are maintained; and
- informing patients of any charges for obtaining or sending a copy of dental records pursuant to 18VAC60-21-90 (E).
- ~~following the current dental office's record retention policy. 18VAC60-21-90.A.(1-3)~~

## Patient Record Retention

Dental patient record retention after the death or retirement of a dentist or the sale or closing of a dental practice will create regulatory concerns if the records are not properly maintained. ~~This includes the~~The length and manner of retention as ~~discussed below:~~are addressed in 18VAC60-21-90.A, (C), and (H). Confidentiality requirements are contained in 18VAC60-21-90(F). These provisions should be regularly reviewed for compliance.

- ~~It is required that dentists keep records for at least six years after the last service was provided. Additionally, records of a minor child shall be maintained until the child reaches the age of 18 years or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child. 18VAC60-21-90.A.(1-3)~~
- ~~Virginia and HIPAA require that patients have access to their dental records and that the records be confidentially maintained. 18VAC60-21-90. (C) and (H)~~
- ~~If the deceased dentist worked in a group practice, then the group could keep the deceased dentist's patient records with its other patient records.~~
- ~~If the deceased dentist was a solo practitioner, upon the death of the licensee, a trustee or executor of the estate may safeguard the records until they are transferred to a licensed dentist, are sent to the patients of record, or are destroyed. 18VAC60-21-90 (E)(G)~~
- ~~If the patient records are to be released or transferred, then a release form for releasing the record should be signed by the patient and made part of the dental record.~~
- ~~If the patient records are destroyed, then confidentiality must be maintained. 18VAC60-21-90 (F)(H)~~

## Professional Liability Issues

Exposure to professional liability can continue after the closure, transfer, or sale of a dental practice. In Virginia, the statute of limitations for ~~the~~ filing ~~of~~ a civil lawsuit for ~~professional liability~~malpractice is ~~2~~two years unless a minor is involved. *See* Va. Code ~~(~~§ 8.01-243.1~~)~~. ~~However, if in connection with a minor who was less than eight years of age, then the minor will have until his tenth birthday to commence a lawsuit (§ 8.01-243.1).~~ Accordingly, beneficiaries and dental practice office managers may want to verify the dentist's malpractice insurance policy to see if the coverage under the policy is sufficient.

## Other Notifications

Notifications should be sent to the listed entities below regarding: (1) the death or retirement of a dentist; (2) the closure, transfer, or sale of a dental practice; (3)

discontinuation of administration of controlled substances; or (4) change of address, as necessary. Not every entity should receive notification of these four changes. ~~Additionally, other notifications that should be sent include informing the following agencies and entities of discontinuation of any administration of controlled substances or of a change of address.~~

- ~~The~~ Drug Enforcement Agency;
- ~~The~~ Virginia Board of Dentistry;
- Pharmacies ~~–~~where prescriptions have previously been submitted;
- Insurance aAgencies ~~having~~ holding a policy with the dentist at iIssue~~.~~ ~~I~~including disability, professional liability, and practice iInterruption iInsurance companies; and
  - ~~Accountant for the dentist or practice;~~
  - ~~Financial advisor for the dentist;~~
  - ~~Legal counsel hired by the dentist or practice who specializes in healthcare regulatory issues;~~
  - ~~Colleagues of the dentist;~~
  - ~~Landlord or lease holder of the practice;~~
  - ~~Newspaper and marketing organizations to assist in notifying the public; and~~
- ~~The~~ Social Security Administration for any request for Medicare coverage or beneficiary benefits.

The list above is not exclusive. ~~Note:~~ Each practice is unique and additional organizations may need to be notified.

**Staff and Management Personnel**

Appropriate staff will be needed to assist in the process of any ~~In the event of~~ closing, transferring, or selling of a practice~~. consideration is needed for maintaining appropriate staff to assist in the process~~. ~~This could~~ may include the hiring of temporary staff to replace any personnel who may have left the practice in the interim. ~~The needed appropriate~~Such staff can assist in continuing to collect payments, sending notifications, handling the daily operation needs up to the closing or transfer date, and addressing patient inquiries. The practice should ~~include a means for providing~~provide staff information about their pay and benefits, including any staff retirement or health insurance plan information.

**Note**: In connection with staff and bill payments, having the spouse, a trusted advisor or partner be given check writing authority will enable bills to be paid during the transition period.

**Estate Planning**

The concerns raised by the death or retirement of a dentist ~~identify~~ demonstrate the need for a good and specific estate plan. Planning to protect one's personal estate and dental practice is essential, which. ~~This~~ can include a will ~~and~~/or a trust. ~~–~~A will can protect your

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estate from entering probate court, which is normally where a court makes decisions about the distribution of your assets and names an executor. The probate process can take several months or longer depending on the size of the estate. Additionally, a probate court will assess court fees that will be taken out of the estate. This process is complicated and can impose emotional burdens on the family. However, a will alone may not be enough. A trust may also be needed. A trust can protect your estate and assist in managing your dental practice temporarily upon your death until your practice is sold or transferred. The Board recommends retaining Aa legal professional who has specific estate expertise and a tax advisor ~~will~~ to assist~~help~~ with estate planning.

**Conclusion**

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To help avoid the unexpected and emotional distress caused by the death or retirement of a dentist or closing, transfer or sale of a dental practice, it is essential to be prepared to assist your family, staff, and colleagues. This includes proper estate planning, retention of patient records, appropriate notification to patients and organizations, and sufficient professional insurance. Awareness of these issues and advanced planning can help to assure continuity of care of patients and peace of mind to the family.

**Additional Resource Information**

1. The American Dental Association's guide to closing a dental practice is available at https://www.ada.org/resources/practice/practice-management/what-to-do-when-closing-a-practice. ~~Guide to Closing a Dental Practice. 2004-2008. https://success.ada.org/en/career/closing-a-dental-practice~~
2. ~~The New York State Dental Association. When a Dentist Dies - A Guide to Widows and Widowers. 2014. http://www.7dds.org/uploads/knowledge_base/pdf/When_Dentist_Dies.pdf~~
3. 2. Virginia Dental Association provides information on understanding the common pitfalls of patient abandonment, available at https://www.vadental.org/news-hub/2018/05/17/understanding-the-common-pitfalls-of-patient-abandonment. ~~Understanding the Common Pitfalls of Patient Abandonment. May 17, 2018. https://www.vadental.org/vda-hub/2018/05/17/understanding-the-common-pitfalls-of-patient-abandonment~~

**Agenda Item: Revision of Guidance Document 60-12**

**Included in your agenda package:**

- Proposed changes to Guidance Document 60-12;
- Proposed changes to Guidance Document 60-12 with edits shown in redline.

**Action needed:**

- Motion to revise Guidance Document 60-12 as presented or amended.

# BOARD OF DENTISTRY

## CLINICAL COMPETENCY REQUIREMENTS FOR APPLICANTS FOR LICENSURE, REACTIVATION, OR REINSTATEMENT

## I. Dentists

### A. Unrestricted License by Examination Applicants

18VAC60-21-210(A)(3) states that applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or complete clinical training as required by the board unless the applicant demonstrates that the applicant has maintained clinical, ethical, and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure.

- The Board will only consider training that is 75% hands-on clinical courses to satisfy 18VAC60-21-210(A)(3). The amount of hours needed will be decided on a case by case basis.

Clinical training for unrestricted license by examination applicants:

- Must be a minimum of 8 hours for every year the applicant has not clinically practiced, not to exceed 24 hours;
- Must be a program accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA"); and
- Must have a certificate of completion that states 75% of the training was clinical hands-on.

### B. Reactivation of an Inactive License

For reactivation of an inactive license pursuant to 18VAC60-21-220(B):

- The Board will only consider courses that are 75% hands-on clinical courses to satisfy the requirements of 18VAC60-21-220(B)(i). The amount of hours needed will be decided on a case by case basis, in accordance the regulation.
    - Continuing education hours equal to the requirement for the number of years in which the licensee has not been active, not to exceed a total of 45 hours, must be included with the application. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation. *See* 18VAC60-21-

220(B)(1).

- The Board will also consider refresher courses offered by a CODA-accredited program to demonstrate clinical competence pursuant to 18VAC60-21-220(B)(v).

Refresher courses for reactivation of an inactive license:

- Must be a minimum of 8 hours for every year the licensee has not been clinically practicing, not to exceed 24 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

C. Reinstatement of a License

For reinstatement of a license pursuant to 18VAC60-21-240(F):

- The Board will only consider courses that are 75% hands-on clinical courses for 18VAC60-21-240(F)(2)(i). The amount of hours needed will be decided on a case by case basis and dependent on the amount of time the license has lapsed, the practitioner has been inactive, and any other circumstances related to reinstatement.
    - Completion of continuing education hours equal to the requirement for the number of years in which the license has been expired, revoked, or suspended, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for reinstatement. 18VAC60-21-240(F)(2)(a)
- The Board will also consider refresher courses offered by a CODA-accredited program to demonstrate clinical competence pursuant to 18VAC60-21-240(F)(2)(v).

Refresher courses for reinstatement of a license:

- Must be a minimum of 8 hours for every year the applicant has not been clinically practicing, not to exceed 24 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

## II. Dental Hygienists

### A. Unrestricted License by Examination Applicants

18VAC60-25-140(C) states that applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or take continuing education that meets the requirements of 18VAC60-25-190.

- The Board will only consider courses that are 75% hands-on clinical courses to satisfy 18VAC60-25-140(C). The amount of hours needed will be decided on a case by case basis and dependent on the amount of time the practitioner has not been clinically practicing.

- In the alternative, an applicant may take a refresher course offered by a CODA-accredited program.

Refresher courses for unrestricted license by examination applicants:

- Must be a minimum of 4 hours for every year the licensee has not been clinically practicing, not to exceed 12 hours;

- Must be a CODA-accredited program; and

- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

### B. Reactivation of an Inactive License

For reactivation of an inactive license pursuant to 18VAC60-25-220(B):

- The Board will only consider the following to determine clinical competency:
    - (i) documentation of active practice in another state or in federal service,
    - (ii) recent passage of a clinical competency examination accepted by the board, or
    - (iii) completion of a clinical, hands-on refresher program offered by a CODA accredited program.

- The Board will only consider courses that are 75% hands-on refresher program offered by a CODA accredited program to satisfy the requirements of 18VAC60-25-210(B)(2)(iii). The amount of hours needed will be decided on a case by case basis and dependent on the amount of time the practitioner has not been clinically practicing.

Refresher courses for reactivation of an inactive license:

- Must be a minimum of 4 hours for every year the licensee has not clinically practice not to exceed 12 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

C. Reinstatement of a License

For reinstatement of a license pursuant to 18VAC60-25-210:

- 18VAC60-25-210(A)(3) requires an applicant for reinstatement to provide evidence of continuing competence.
    - An applicant for reinstatement shall submit evidence of completion of continuing education that meets the requirements of 18VAC60-25-190 and is equal to the requirement for the number of years in which the applicant's license has not been active in Virginia, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months preceding an application for reinstatement.
    - The Board will on consider the following to determine clinical competence:
        - documentation of active practice in another state or in federal service;
        - recent passage of a clinical competency examination accepted by the board; or
        - completion of a clinical, hands-on refresher program offered by a CODA accredited program.
- The Board will consider refresher courses offered by a CODA-accredited program to demonstrate clinical competence pursuant to 18VAC60-25-210(A)(3)(iii).

Refresher courses for reinstatement of a license:

- Must be a minimum of 4 hours for every year the applicant has not clinically practiced, not to exceed 12 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

## III. Dental Assistants

### A. Reactivation of an Inactive Registration

For reactivation of an inactive registration pursuant to 18VAC60-30-160(B)(ii), an applicant may take a refresher course offered by a CODA-accredited program.

- An inactive registration may be reactivated upon submission of evidence of current certification from the Dental Assisting National Board or a national credentialing organization recognized by the American Dental Association.
- The Board will only consider the following for clinical competency:
  - documentation of active practice in another state or in federal service; or
  - a refresher course offered by a CODA accredited educational program.

Refresher courses for reactivation of inactive registrations:

- Must be a minimum of 2 hours for every year the license has been inactive, not to exceed 6 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

### B. Reinstatement of a Registration

For reinstatement of a registration pursuant to 18VAC60-30-170(D)(2), an applicant may take a refresher course offered by a CODA-accredited program.

- A dental assistant II who has allowed dental assistant II registration to lapse or who has had such registration suspended or revoked must submit evidence of current certification from the Dental Assisting National Board or a credentialing organization recognized by the American Dental Association to reinstate registration.
- The Board will only consider the following for clinical competency:
  - documentation of active practice in another state or in federal service; or
  - a refresher course offered by a CODA-accredited educational program.

Refresher courses for reinstatement of registrations:

- Must be a minimum of 2 hours for every year the license has been inactive, not to exceed 6 hours;

- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

Guidance Document: 60-12
~~Effective: February 2, 2023~~Revised, December 13, 2024

~~Adopted: December 2, 2022~~

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**BOARD OF DENTISTRY**

**CLINICAL COMPETENCY REQUIREMENTS FOR APPLICANTS FOR LICENSURE, REACTIVATION, OR REINSTATEMENT**

## I. Dentists

### A. Unrestricted License by Examination Applicants

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18VAC60-21-210(A)(3) states that applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or complete clinical training as required by the board unless the applicant demonstrates that the applicant has maintained clinical, ethical, and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure. ~~or take continuing education that meets the requirements of 18VAC60-21-250.~~

- The Board will only consider ~~courses~~ training that is ~~are~~ 75% hands-on clinical courses to satisfy 18VAC60-21-210(A)(3). The amount of hours needed will be decided on a case by case basis. ~~and dependent on the amount of time the practitioner has been inactive.~~

- ~~In the alternative, an applicant may take a refresher course offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA").~~

~~Refresher courses~~Clinical training for unrestricted license~~d~~ by examination applicants:

- Must be a minimum of 8 hours for every year the applicant has not clinically practiced~~license has been inactive~~, not to exceed 24 hours;
- Must be a program accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA")~~accredited program~~; and
- Must have a certificate of completion that states 75% of the training ~~refresher course~~ was clinical hands-on.

### B. Reactivation of an Inactive License

For reactivation of an inactive license pursuant to 18VAC60-21-220(B):

- The Board will only consider courses that are 75% hands-on clinical courses to satisfy the requirements of 18VAC60-21-220(B)(i). The amount of hours needed will be decided on a case by case basis in accordance the regulation.

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~~and dependent on the amount of time the practitioner has been inactive.~~

- Continuing education hours equal to the requirement for the number of years in which the licensee has not been active, not to exceed a total of 45 hours, must be included with the application. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation. *See* 18VAC60-21-220(B)(1).

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- The Board will also consider refresher courses offered by a CODA-accredited program to demonstrate clinical competence pursuant to 18VAC60-21-220(B)(iv).

Refresher courses for reactivation of an inactive license:

- Must be a minimum of 8 hours for every year the licensee has ~~been inactive~~not been clinically practicing, not to exceed 24 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

C. Reinstatement of a License

For reinstatement of a license pursuant to 18VAC60-21-240(F):

- The Board will only consider courses that are 75% hands-on clinical courses for 18VAC60-21-240(F)(2)(i). The amount of hours needed will be decided on a case by case basis and dependent on the amount of time the license has lapsed, the practitioner has been inactive, and any other circumstances related to reinstatement.
  - Completion of continuing education hours equal to the requirement for the number of years in which the license has been expired, revoked, or suspended, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for reinstatement. 18VAC60-21-240(F)(2)(a)

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- The Board will also consider refresher courses offered by a CODA-accredited program to demonstrate clinical competence pursuant to 18VAC60-21-240(F)(2)(v).

Refresher courses for reinstatement of a license:

- Must be a minimum of 8 hours for every year the applicant ~~license~~ has not been clinically practicing ~~inactive~~, not to exceed 24 hours;
- Must be a CODA-accredited program; and

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- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

## II. Dental Hygienists

### A. Unrestricted License by Examination Applicants

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18VAC60-25-140(C) states that applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or take continuing education that meets the requirements of 18VAC60-25-190.

- The Board will only consider courses that are 75% hands-on clinical courses to satisfy 18VAC60-25-140(C). The amount of hours needed will be decided on a case by case basis and dependent on the amount of time the practitioner has ~~been inactive~~not been clinically practicing.
- In the alternative, an applicant may take a refresher course offered by a CODA-accredited program ~~accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA")~~.

Refresher courses for unrestricted license by examination~~d~~ applicants:

- Must be a minimum of 4 hours for every year the licensee has not been clinically practicing~~inactive~~, not to exceed 12 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

### B. Reactivation of an Inactive License

For reactivation of an inactive license pursuant to 18VAC60-25~~1~~-220(B):

- The Board will only consider the following to determine clinical competency:
  - (i) documentation of active practice in another state or in federal service,
  - (ii) recent passage of a clinical competency examination accepted by the board, or
  - (iii) completion of a clinical, hands-on refresher program offered by a CODA accredited program.

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- The Board will only consider courses that are 75% hands-on refresher program offered by a CODA accredited program ~~hands-on clinical courses~~ to satisfy the requirements of 18VAC60-25-210(B)(2)(iii). The amount of hours needed will be decided on a case by case basis and dependent on the amount of time the practitioner has not been clinically practicing.~~been inactive.~~

Refresher courses for reactivation of an inactive license:

- Must be a minimum of 4 hours for every year the licensee has not clinically practice ~~has been inactive,~~ not to exceed 12 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

C. Reinstatement of a License

For reinstatement of a license pursuant to 18VAC60-25-210:

- 18VAC60-25-210(A)(3) requires an applicant for reinstatement to provide evidence of continuing competence.
    - ~~An~~ An applicant for reinstatement shall submit evidence of completion of continuing education that meets the requirements of 18VAC60-25-190 and is equal to the requirement for the number of years in which the applicant's license has not been active in Virginia, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months preceding an application for reinstatement.
    - The Board will on consider the following to determine clinical competence:
        - ~~(i)~~ documentation of active practice in another state or in federal service;
        - ~~(ii)~~ recent passage of a clinical competency examination accepted by the board; or
        - ~~(iii)~~ completion of a clinical, hands-on refresher program offered by a CODA accredited program.

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- The Board will consider refresher courses offered by a CODA-accredited program to demonstrate clinical competence pursuant to 18VAC60-25-210(A)(3)(iii).

Refresher courses for reinstatement of a license:

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- Must be a minimum of 4 hours for every year the ~~license has been inactive~~applicant has not clinically practiced, not to exceed 12 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

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## III. Dental Assistants

### A. Reactivation of an Inactive Registration

For reactivation of an inactive registration pursuant to 18VAC60-30-160(B)(ii), an applicant may take a refresher course offered by a CODA-accredited program ~~accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA")~~.

- An inactive registration may be reactivated upon submission of evidence of current certification from the Dental Assisting National Board or a national credentialing organization recognized by the American Dental Association.
- The Board will only consider the following for clinical competency:
  - ~~(i)~~ documentation of active practice in another state or in federal service; or
  - ~~(ii)~~ a refresher course offered by a CODA accredited educational program.

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Refresher courses for reactivation of inactive registrations:

- Must be a minimum of 2 hours for every year the license has been inactive, not to exceed 6 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

### B. Reinstatement of a Registration

For reinstatement of a registration pursuant to 18VAC60-30-170(D)(2), an applicant may take a refresher course offered by a CODA-accredited program.

- A dental assistant II who has allowed dental assistant II registration to lapse or who has had such registration suspended or revoked must submit evidence of current certification from the Dental Assisting National Board or a credentialing

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organization recognized by the American Dental Association to reinstate registration.

- The Board will only consider the following for clinical competency:
  - ~~(i)~~ documentation of active practice in another state or in federal service; or
  - ~~(ii)~~ a refresher course offered by a CODA-accredited educational program.

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Refresher courses for reinstatement of registrations:

- Must be a minimum of 2 hours for every year the license has been inactive, not to exceed 6 hours;
- Must be a CODA-accredited program; and
- Must have a certificate of completion that states 75% of the refresher course was clinical hands-on.

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**Agenda Item: Revision of Guidance Document 60-13**

**Included in your agenda package:**

- Proposed changes to Guidance Document 60-13;
- Proposed changes to Guidance Document 60-13 with edits shown in redline.

**Action needed:**

- Motion to revise Guidance Document 60-13 as presented or amended.

# Practice of a Dental Hygienist under Remote Supervision

Remote supervision is defined in 18VAC60-21-10.

## Where can remote supervision be practiced?

Virginia Code § 54.1-2722 addresses where remote supervision may be practiced:

- **Subsection E** permits a dental hygienist employed by VDH to practice under the remote supervision of a public health dentist in providing hygiene treatment in VDH public health facilities.
- **Subsection E** also permits a dental hygienist employed by DBHDS to practice under the remote supervision of a DBHDS dentist in providing hygiene treatment in DBHDS's mobile/remote supervision program.
- **Subsection F** permits a qualified dental hygienist to practice under the remote supervision of a qualified dentist at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; mobile dentistry program for adults with developmental disabilities operated by the Department of Behavioral Health and Developmental Services' Office of Integrated Health; or women, infants, and children ("WIC") program.

## Who can supervise a dental hygienist's practice of dental hygiene under remote supervision?

Virginia Code § 54.1-2722 addresses supervision:

- **Subsection E** requires that the supervising dentist be an employee of VDH or an employee of DBHDS.
- **Subsection F** requires that the supervising dentist have an active license issued by the Virginia Board of Dentistry and have a dental practice physically located in the Commonwealth. In addition to a physically-located dental practice, the Board has determined that such a dentist, who practices in Virginia as either an employee or a volunteer in a federally qualified health center, charitable safety net facility, free clinic, long-term care facility, elementary or secondary school, Head Start program, or women, infants, and children (WIC) program, including a mobile dental clinic or portable dental operation that is operated by one of these settings, would qualify as having a dental practice physically located in the Commonwealth.

## What qualifications are necessary for a dental hygienist to practice under remote supervision?

The hygienist must have (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours. *See* Va. Code § 54.1-2722(F).

**What is required for a continuing education course in remote supervision?**

Virginia Code § 54.1-2722(F) and 18VAC60-25-190(H) require a remote supervision course to be no less than two hours in duration and to be offered by an accredited dental education program or an approved sponsor listed in the regulation. The required course content includes: a) intent and definitions of remote supervision; b) review of dental hygiene scope of practice and delegation of services; c) administration of controlled substances; d) patient records/documentation/risk management; e) remote supervision laws for dental hygienists and dentists; f) written practice protocols; and g) settings allowed for remote supervision.

**Are there other requirements for practice under remote supervision?**

Virginia Code § 54.1-2722(F) requires a dental hygienist practicing under remote supervision to have professional liability insurance with policy limits acceptable to the supervising dentist.

**In what settings can a dental hygienist practice under remote supervision?**

A hygienist can only practice dental hygiene under remote supervision at a federally qualified health center, charitable safety net facility, free clinic, long-term care facility, elementary or secondary school, Head Start program, or women, infants, and children (WIC) program, including a mobile facility or portable dental operation that is operated by one of these settings. *See* Va. Code § 54.1-2722(F).

**What tasks can a dental hygienist practicing under remote supervision perform?**

A hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer Schedule VI topical drugs including topical oral fluorides, topical oral anesthetics and topical and directly applied antimicrobial agents pursuant to Virginia Code § 54.1-3408(J), and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. *See* Va. Code § 54.1-2722(F).

Under the provisions of Virginia Code § 54.1-3408(V), a dental hygienist is authorized to possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

**Is the dental hygienist allowed to administer local anesthetic or nitrous oxide?**

A dental hygienist practicing under remote supervision is not allowed to administer local anesthetic parenterally or to administer nitrous oxide under Virginia Code § 54.1-2722(F).

**What disclosures and permissions are required under law?**

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that he does not have a dentist of record whom he is seeing regularly. *See* Va. Code § 54.1-2722(F).

**How is the dental hygienist required to involve the dentist when practicing under remote supervision?**

Virginia Code § 54.1-2722 addresses involvement of the dentist when practicing under remote supervision. That statute allows that, after conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision may provide further dental hygiene services following a written practice protocol developed and provided by the supervising dentist. Under the statute, the written practice protocol must consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.

The statute requires that a dental hygienist practicing under remote supervision inform the supervising dentist of all findings for a patient and allows a dental hygienist practicing under remote supervision to continue to treat a patient for 180 days. The statute requires that, after the 180-day period, the supervising dentist, absent emergent circumstances, must either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist is required to develop a diagnosis and treatment plan for the patient and either the supervising dentist or the dental hygienist provide the treatment plan to the patient. The statute additionally requires the supervising dentist to review a patient's records at least once every 10 months.

**Can a dental hygienist see a patient beyond 180 days if the patient has not seen a dentist?**

This may only occur if the supervising dentist authorizes treatment to address an emergent circumstance requiring dental hygiene treatment. The written practice protocol developed by the supervising dentist provides the initial authorization for a hygienist to provide hygiene treatment under remote supervision for 180 days of treatment. After that 180 day period (absent emergent circumstances), the supervising dentist (or another dentist) must examine the patient, develop a diagnosis and establish the treatment plan for the patient which might address both future dental treatment and dental hygiene treatment and the time spans for such treatment. The dentist decides how often he or she will see a patient in accord with his professional judgment of the patient's dental needs and the resulting treatment plan. In addition, by statute the dentist must review the patient's records at a minimum of every 10 months. Treatment planning and record review are two distinct requirements.

**Is a dental hygienist who is practicing under remote supervision allowed to also practice dental hygiene under general supervision whether as an employee or as a volunteer?**

Yes. Virginia Code § 54.1-2722(F) specifically states that "nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer."

**Are the requirements for remote supervision different for a public health dental hygienist employed by the Virginia Department of Health and the Department of Behavioral Health and Developmental Services?**

Yes, remote supervision in a public health setting is defined in Virginia Code § 54.1-2722(E).

**References**

Va. Code § 54.1-2722
Va. Code § 54.1-3408
18VAC60-21-10
18VAC60-25-190

Guidance document: 60-13

Revised: December 13, ~~2019~~2024
~~Effective: February 6, 2020~~

## Practice of a Dental Hygienist under Remote Supervision

~~**References from § 54.1-2722.E and F. and § 54.1-3408 of the Code of Virginia**~~

- ~~**What is meant by "remote supervision"?**~~

Remote supervision is defined in ~~There are two definitions of "Remote Supervision" in §54.1-2722 of the Code of Virginia (see text below).~~

~~The definition in subsection E addresses practice under remote supervision in the Virginia Department of Health (VDH) and in the Department of Behavioral Health and Developmental Services (DBHDS). In these two state agencies "remote supervision" means a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment.~~

~~The definition in subsection F means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services.~~ 18VAC60-21-10.

~~"Remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided. For the purpose of practice by a public health dental hygienist, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.~~

**Where can remote supervision be practiced?** ~~**54.1-2722 of the Code of Virginia**~~

- Virginia Code § 54.1-2722 addresses where remote supervision may be practiced:
  - **Subsection E** permits a dental hygienist employed by VDH to practice under the remote supervision of a public health dentist in providing hygiene treatment in VDH public health facilities.
  - **Subsection E** also permits a dental hygienist employed by DBHDS to practice under the remote supervision of a DBHDS dentist in providing hygiene treatment in DBHDS's mobile/remote supervision program.
  - **Subsection F** permits a qualified dental hygienist to practice under the remote supervision of a qualified dentist at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; mobile dentistry program for adults with developmental disabilities operated by the Department of Behavioral Health and Developmental Services' Office of Integrated Health; or women, infants, and children (WIC) program.

**Who can supervise a dental hygienist's practice of dental hygiene under remote supervision?**

- Virginia Code § 54.1-2722 addresses supervision:
  - **Subsection E** requires that the supervising dentist be an employee of VDH or an employee of DBHDS.

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- **Subsection F** requires that the supervising dentist have an active license issued by the Virginia Board of Dentistry and have a dental practice physically located in the Commonwealth. In addition to a physically-located dental practice, the Board has determined that such a dentist, who practices in Virginia as either an employee or a volunteer in a federally qualified health center, charitable safety net facility, free clinic, long-term care facility, elementary or secondary school, Head Start program, or women, infants, and children (WIC) program, including a mobile dental clinic or portable dental operation that is operated by one of these settings, would qualify as having a dental practice physically located in the Commonwealth.

**What qualifications are necessary for a dental hygienist to practice under remote supervision?**

The hygienist must have (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours. *See* Va. Code § 54.1-2722(F).

**What is required for a continuing education course in remote supervision?**

Virginia Code § 54.1-2722(F) and 18VAC60-25-190(H) ~~The Board requires~~require a remote supervision course to be no less than two hours in duration and to be offered by an accredited dental education program or an approved sponsor listed in the regulation. The required course content ~~is~~includes: a) ~~I~~intent and definitions of remote supervision; b) r~~R~~eview of dental hygiene scope of practice and delegation of services; c) a~~A~~dministration of controlled substances; d) p~~P~~atient records/documentation/risk management; e) r~~R~~emote supervision laws for dental hygienists and dentists; f) w~~W~~ritten practice protocols; and g) s~~S~~ettings allowed for remote supervision.

**Are there other requirements for practice under remote supervision?**

Virginia Code § 54.1-2722(F) requires ~~A~~a dental hygienist practicing under remote supervision ~~shall~~ to have professional liability insurance with policy limits acceptable to the supervising dentist.

**In what settings can a dental hygienist practice under remote supervision?**

A hygienist can only practice dental hygiene under remote supervision at a federally qualified health center, charitable safety net facility, free clinic, long-term care facility, elementary or secondary school, Head Start program, or women, infants, and children (WIC) program, including a mobile facility or portable dental operation that is operated by one of these settings. *See* Va. Code § 54.1-2722(F).

**What tasks can a dental hygienist practicing under remote supervision perform?**

A hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational

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and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer Schedule VI topical drugs including topical oral fluorides, topical oral anesthetics and topical and directly applied antimicrobial agents pursuant to Virginia Codesubsections J of § 54.1-3408(J) of the Code of Virginia, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. *See* Va. Code § 54.1-2722(F).

Under the provisions of Virginia Code § 54.1-3408(V), a dental hygienist is authorized to possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

**Is the dental hygienist allowed to administer local anesthetic or nitrous oxide?**

A dental hygienist practicing under remote supervision is not allowed to administer local anesthetic parenterally or to administer nitrous oxide under Virginia Code § 54.1-2722(F).

**What disclosures and permissions are required under law?**

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that he does not have a dentist of record whom he is seeing regularly. *See* Va. Code § 54.1-2722(F).

**How is the dental hygienist required to involve the dentist when practicing under remote supervision?**

- Virginia Code § 54.1-2722 addresses involvement of the dentist when practicing under remote supervision. That statute allows that, after

After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision may provide further dental hygiene services following a written practice protocol developed and provided by the supervising dentist. Under the statute, Such the written practice protocol shall must consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.

~~a)~~ The statute requires that

~~b)~~ Aa dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient and allows a ~~A~~ dental hygienist practicing under remote supervision may to continue to treat a patient for 18090 days. The statute requires that, Aafter such the 18090-day period, the supervising dentist, absent emergent circumstances, shall must either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist shall is

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required to develop a diagnosis and treatment plan for the patient and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The statute additionally requires the The supervising dentist shall to review a patient's records at least once every 10 months.

c)

**Can a dental hygienist see a patient beyond 18090 days if the patient has not seen a dentist?**

This may only occurOnly if the supervising dentist authorizes such treatment to address an emergent circumstance requiring dental hygiene treatment. The written practice protocol developed by the supervising dentist is provides the initial authorization for a hygienist to provide hygiene treatment under remote supervision for 18090 days of treatment. After that 18090 day period (absent emergent circumstances), the supervising dentist (or another dentist) must examine the patient, develop a diagnosis and establish the treatment plan for the patient which might address both future dental treatment and dental hygiene treatment and the time spans for such treatment. The dentist decides how often he or she will see a patient in accord with his professional judgment of the patient's dental needs and the resulting treatment plan. In addition, by statute the dentist must review the patient's records at a minimum of every 10 months. Treatment planning and record review are two distinct requirements.

**Is a dental hygienist who is practicing under remote supervision allowed to also practice dental hygiene under general supervision whether as an employee or as a volunteer?**

Yes. Virginia Code § 54.1-2722(F) specifically states that "nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer."

**Are the requirements for remote supervision different for a public health dental hygienist employed by the Virginia Department of Health and the Department of Behavioral Health and Developmental Services?**

Yes, remote supervision in a public health setting is defined in Virginia Code § 54.1-2722(E).

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health or the Department of Behavioral Health and Developmental Services who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health or the Department of Behavioral Health and Developmental Services. A dental hygienist providing such services shall

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~~practice pursuant to protocols developed jointly by the Department of Health and the Department of Behavioral Health and Developmental Services for each agency, in consultation with the Virginia Dental Association and the Virginia Dental Hygienists' Association. Such protocols shall be adopted by the Board as regulations.~~

**References**
Va. Code § 54.1-2722
Va. Code § 54.1-3408
**18VAC60-21-10**
18VAC60-25-190

~~The protocols are available in the "Laws & Regulations" tab on the Virginia Board of Dentistry web page.~~

~~**Law on remote supervision - Code of Virginia:**~~

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

~~*E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.*~~

~~*Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health or the Department of Behavioral Health and Developmental Services who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health or the Department of Behavioral Health and Developmental Services. A dental hygienist providing such services shall practice pursuant to protocols developed jointly by the Department of Health and the Department of Behavioral Health and Developmental Services for each agency, in consultation with the Virginia Dental Association and the Virginia Dental Hygienists' Association. Such protocols shall be adopted by the Board as regulations.*~~

~~*A report of services provided by dental hygienists employed by the Virginia Department of Health pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted annually to the Secretary of Health and Human Resources by the Department of Health, and a report of services provided by dental hygienists employed by the Department of Behavioral Health and Developmental Services shall be prepared and submitted annually to the Secretary of Health and Human Resources by the Department of Behavioral Health and Developmental Services. Nothing in this section shall be construed to authorize or establish the independent practice of dental hygiene.*~~

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~~*F. For the purposes of this subsection, "remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.*~~

~~*Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active license by the Board and who has a dental practice physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; mobile dentistry program for adults with developmental disabilities operated by the Department of Behavioral Health and Developmental Services' Office of Integrated Health; or women, infants, and children (WIC) program.*~~

~~*A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. No dental hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.*~~

~~*Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that he does not have a dentist of record whom he is seeing regularly.*~~

~~*After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision may provide further dental hygiene services following a written practice protocol developed and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.*~~

~~*A dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances, shall either conduct an examination*~~

~~*of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist shall develop a diagnosis and treatment plan for the patient, and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The supervising dentist shall review a patient's records at least once every 10 months.*~~

~~*Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer.*~~

**Agenda Item: Revision of Guidance Document 60-27**

**Included in your agenda package:**

- Proposed changes to Guidance Document 60-27;
- Proposed changes to Guidance Document 60-27 with edits shown in redline.

**Action needed:**

- Motion to revise Guidance Document 60-27 as presented or amended.

# Virginia Board of Dentistry

## Guidance on Sedation Permits

### Applicants for Sedation Permits

- Applicants must complete an application for a permit in either moderate sedation or deep sedation/general anesthesia. Permit applicants must identify every location at which the applicant will be administering sedation and anesthesia.
- The permit holder will notify the Board within 30 days of any changes in address of facilities, any additional facilities to be added to the permit (please note that a pre-permit inspection will occur if there are any additional facilities that were not pre-inspected), or a permit holder ceasing sedation services at a specific location. *See* 18VAC60-21-302.
- Once the application is deemed complete, an employee of the Department of Health Professions (inspector) will conduct an announced inspection(s) at all applicable locations.
- Incomplete applications for a sedation permit will expire 12 months from the date of submission.
- Every dentist who administers moderate sedation, deep sedation, or general anesthesia is required to hold a permit. Please note this does NOT apply to oral and maxillofacial surgeons ("OMS") who maintain membership in the American Association of Oral and Maxillofacial Surgeons ("AAOMS") and who provide the Board with the reports which result from the periodic office examinations required by AAOMS. Those OMSs do not require a permit from the Board and are not subject to periodic inspections. Each OMS office location must have undergone an AAOMS periodic office examination within the five preceding years and must provide the reports of the examinations to the Board.

### Pre-permit Inspection

- An employee of the Department of Health Professions (inspector) will conduct an announced inspection at all applicable locations to review compliance with: required sedation equipment pursuant to 18VAC60-21-291(B) and 18VAC60-21-301(C); appropriate training of staff pursuant to 18VAC60-21-260(H)(1-2), 18VAC60-21-260(I), 18VAC60-21-260(J), 18VAC60-21-290(D) and (E), 18VAC60-25-100, and 18VAC60-21-300(C); physical plant requirements pursuant to 18VAC60-21-60(A)(1); and Drug Control Act requirements pursuant to Virginia Code § 54.1-3404.
- If an applicant is compliant with all applicable regulations, the applicant will receive a permit from the Board once a report of complete compliance is received from the inspector. If the applicant is found to be in non-compliance with applicable regulations, the applicant will receive a report listing the non-compliance. Depending upon the type of

non-compliance, the applicant will be required to submit evidence of the correction or another announced inspection will be scheduled. When the applicant is in compliance, the applicant will receive a permit.

## Periodic Office Inspection for Administration of Sedation and Anesthesia

- Periodic office inspections will be announced for permit holders with no previous disciplinary action taken by the Board. The announcement of the inspection will occur approximately five business days or less prior to the inspection.
- Unannounced periodic office inspections will occur for permit holders with previous disciplinary action taken by the Board.
- The permit holder will receive a copy of their preliminary onsite inspection report with listed deficiencies at the time of inspection. If the deficiency can be corrected, the permit holder may correct the deficiencies and provide proof of correction to denbd@dhp.virginia.gov within 14 business days.
- Practitioners who practice in multiple offices shall identify each location at which sedation will be used on the permit application. Each such location will be inspected at least once in an inspection cycle. If a permit holder is the sole practitioner in each of the locations, inspections of each office will be coordinated to address findings in a comprehensive inspection report.
- Practices with multiple permit holders will be inspected for general compliance at least once in an inspection cycle. These inspections will address the compliance of each permit holder at the practice.
- Permit holders practicing on an itinerant basis shall identify a primary practice location for a periodic inspection and shall report and provide information about the arrangements in place with employing dentists to facilitate inspection of those practice settings.
- The practice locations of permit holders who use the services of another qualified health professional to administer moderate sedation, deep sedation, or general anesthesia as permitted in sections 18VAC60-21-291(A) and 18VAC60-21-301(B) will be inspected.

## Recordkeeping

- The permit holder must comply with all applicable regulations regarding sedation recordkeeping. *See* 18VAC-21-260(C), (D), (F) and (K), 18VAC60-21-291(D) and (E), and 18VAC60-21-301(E) and (G).
- The permit holder must document within the patient record the intended level of sedation for each patient and each procedure. *See* 18VAC-21-260(F).

## OMS Requirements

- The requirement for a sedation permit does not apply to an OMS who maintains membership in AAOMS and who provides the Board with reports that result from the periodic office examinations required by AAOMS. *See* 18VAC60-21-303.
- An OMS who is not a member of AAOMS must hold a sedation permit. If the OMS holds a sedation permit and later becomes a member of AAOMS, the OMS must notify the Board within 30 days of becoming a member of AAOMS.
- An OMS who is a member of AAOMS must submit AAOMS office examination reports to the Board within 30 days of receipt.

## Inspection Reports and AAOMS Office Examination Results

Inspection reports and AAOMS results will be submitted to the Board for review. Board staff will review the information received to determine if a probable cause review is warranted to determine compliance with the regulatory requirements addressed in the inspection form. The inspection reports and AAOMS results are confidential documents pursuant to Virginia Code § 54.1-2400.2.

## Costs Related to Inspections

Permit holders will not be charged an inspection fee for a periodic or initial inspection. A $350 fee will be charged for any additional inspections that result from a disciplinary order issued to address findings of non-compliance in periodic inspections. *See* 18VAC60-21-40.

**Guidance Document: ~~60-27~~**
**~~2023~~December 13, 2024**

**Revised: ~~March 3,~~**

**~~Effective: May 11, 2023~~**

# Virginia Board of Dentistry

## Guidance on Sedation Permits

### Applicants for Sedation Permits

- Applicants must complete an application for a permit in either moderate sedation or deep sedation/general anesthesia. Permit applicants must identify every location at which the applicant will be administering sedation and anesthesia.
- The permit holder will notify the Board within 30 days of any changes in address of facilities, ~~or~~ any additional facilities to be added to the permit (please note that a pre-permit inspection will occur if there are any additional facilities that were not pre-inspected), or a permit holder ceasing sedation services at a specific location. *See* 18VAC60-21-302.
- Once the application is deemed complete, an employee of the Department of Health Professions (inspector) will conduct an announced inspection(s) at all applicable locations.
- Incomplete applications for a sedation permit will expire 12 months from the date of submission.
- Every dentist who administers moderate sedation, deep sedation, or general anesthesia is required to hold a permit. Please note this does NOT apply to oral and maxillofacial surgeons ("OMS") who maintain membership in the American Association of Oral and Maxillofacial Surgeons ("AAOMS") and who provide the Board with the reports which result from the periodic office examinations required by AAOMS. Those OMSs do not require a permit from the Board and are not subject to periodic inspections. Each OMS office location must have undergone an AAOMS periodic office examination within the five preceding years and must provide the reports of the examinations to the Board.

### Pre-permit Inspection

- An employee of the Department of Health Professions (inspector) will conduct an announced inspection at all applicable locations to review compliance with: required sedation equipment pursuant to 18VAC60-21-291(B) and 18VAC60-21-301(C); appropriate training of staff pursuant to 18VAC60-21-260(H)(1-~~22~~), 18VAC60-21-260(I), 18VAC60-21-260(J), 18VAC60-21-290(D) and (E), 18VAC60-25-100, and 18VAC60-21-300(C); physical plant requirements pursuant to 18VAC60-21-60(A)(1); and Drug Control Act requirements pursuant to Virginia Code § 54.1-3404.
- If an applicant is compliant with all applicable regulations, the applicant will receive a permit from the Board once a report of complete compliance is received from the

inspector. If the applicant is found to be in non-compliance with applicable regulations, the applicant will receive a report listing the non-compliance. Depending upon the type of non-compliance, the applicant will be required to submit evidence of the correction or another announced inspection will be scheduled. When the applicant is in compliance, the applicant will receive a permit.

## Periodic Office Inspection for Administration of Sedation and Anesthesia

- Periodic office inspections will be announced for permit holders with no previous disciplinary action taken by the Board. The announcement of the inspection will occur approximately five business days or less prior to the inspection.
- Unannounced periodic office inspections will occur for permit holders with previous disciplinary action taken by the Board.
- The permit holder will receive a copy of their preliminary onsite inspection report with listed deficiencies at the time of inspection. If the deficiency can be corrected, the permit holder may correct the deficiencies and provide proof of correction to denbd@dhp.virginia.gov within 14 business days.
- Practitioners who practice in multiple offices shall identify each location at which sedation will be used on the permit application. Each such location will be inspected at least once in an inspection cycle. If a permit holder is the sole practitioner in each of the locations, inspections of each office will be coordinated to address findings in a comprehensive inspection report.
- Practices with multiple permit holders will be inspected for general compliance at least once in an inspection cycle. These inspections will address the compliance of each permit holder at the practice.
- Permit holders practicing on an itinerant basis shall identify a primary practice location for a periodic inspection and shall report and provide information about the arrangements in place with employing dentists to facilitate inspection of those practice settings.
- The practice locations of permit holders who use the services of another qualified health professional to administer moderate sedation, deep sedation, or general anesthesia as permitted in sections 18VAC60-21-291(A) and 18VAC60-21-301(B) ~~shall~~ will be inspected.

## Recordkeeping

- The permit holder must comply with all applicable regulations regarding sedation recordkeeping. *See* 18VAC-21-260(C), (D), (F) and (K), 18VAC60-21-291(D) and (E), and 18VAC60-21-301(E) and (G).

- The permit holder must document within the patient record the intended level of sedation for each patient and each procedure. *See* 18VAC-21-260(F).

## OMS Requirements

- The requirement for a sedation permit does not apply to an OMS who maintains membership in AAOMS and who provides the Board with reports that result from the periodic office examinations required by AAOMS. *See* 18VAC60-21-3030~~(A)~~.
- An OMS who is not a member of AAOMS must hold a sedation permit. If the OMS holds a sedation permit and later becomes a member of AAOMS, the OMS must notify the Board within 30 days of becoming a member of AAOMS.
- An OMS who is a member of AAOMS must submit AAOMS office examination reports to the Board within 30 days of receipt.

## Inspection Reports and AAOMS Office Examination Results

Inspection reports and AAOMS results will be submitted to the Board for review. Board staff will review the information received to determine if a probable cause review is warranted to determine compliance with the regulatory requirements addressed in the inspection form. The inspection reports and AAOMS results are confidential documents pursuant to Virginia Code § 54.1-2400.2.

## Costs Related to Inspections

Permit holders will not be charged an inspection fee for a periodic or initial inspection. A $350 fee will be charged for any additional inspections that result from a disciplinary order issued to address findings of non-compliance in periodic inspections. *See* 18VAC60-21-40.

**Agenda Item: Consideration of petition for rulemaking**

**Included in your agenda package:**

- Petition for rulemaking received by the Board from American Medical Technologists;
- Town Hall summary page showing no comments received on the petition; and
- 18VAC60-30-80.

**Action needed:**

- Motion to either:
  - Deny the petition, providing specific reasons for the decision; or
  - Accept the petition and initiate rulemaking (NOIRA).

# COMMONWEALTH OF VIRGINIA
# Board of Dentistry

9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

(804) 367-4538 (Tel)
(804) 527-4428 (Fax)
denbd@dhp.virginia.gov

## Petition for Rule-making

*The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition. If the board has not met within that 90-day period, the decision will be issued no later than 14 days after it next meets.*

**Please provide the information requested below. (Print or Type)**

| **Petitioner's full name (Last, First, Middle initial, Suffix,)** | | |
|---|---|---|
| American Medical Technologists (a New Jersey Nonprofit Corporation) | | |
| **Street Address** | **Area Code and Telephone Number** | |
| 10700 W. Higgins Rd., Suite 150 | (847) 823-5169 | |
| **City** | **State** | **Zip Code** |
| Rosemont | Illinois | 60018 |
| **Email Address (optional)** | **Fax (optional)** | |
| michael@mccarty-legal.com | | |

**Respond to the following questions:**

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

   Section 60-30-80 of the Board's Regulations Governing the Practice of Dental Assistants (18 VAC § 60-30-80).

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

   The petitioner seeks the addition of a new sub-paragraph (iv) to 18 VAC § 60-30-80 to recognize "**passage of the Dental Assisting Radiography Exam given by American Medical Technologists**" (AMT) as an alternative qualifying route to perform dental assisting radiography in Virginia. Recognition of AMT's exam would provide a high-quality, affordable alternative through which aspiring dental auxiliaries can demonstrate proficiency in dental radiography. Further rationale is provided in the attached Appendix to this petition.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

   Petitioner is relying primarily on the General Assembly's general delegation of authority to the Board under § 54.1-2400 of the Code of Virginia. The Commonwealth's Dental Practice Act provides only general guidelines for the Board's adoption of rules governing dental assistants (Va. Code § 54.1-2729.01).

**Signature:**  Michael N. McCarty, Legal Counsel to AMT **Date:** 9/17/2024


**Appendix**

# AMERICAN MEDICAL TECHNOLOGISTS
# STATEMENT OF RATIONALE IN SUPPORT OF
# PETITION FOR RULEMAKING

American Medical Technologists (AMT) presents the following statement of rationale supporting its Petition for Rulemaking submitted September 13, 2024, to the Virginia Board of Dentistry ("Board"). The Petition requests that the Board amend section 60-30-80 of its Regulations Governing the Practice of Dental Assistants (18 VAC § 60-30-80) to recognize the Dental Assisting Radiography (DAR) certification examination administered by AMT as a qualifying route for dental assistants to perform radiographic procedures.

Incorporated in 1939, AMT is a national, nonprofit certifying organization and professional society for allied health personnel including medical and dental assistants, clinical laboratory professionals, and phlebotomists. AMT currently has over 85,000 active member-certificants in the U.S. and overseas. AMT certification programs are independently accredited by the National Commission for Certifying Agencies (NCCA), the accrediting division of the Institute for Credentialing Excellence.

AMT has 35 years' experience in credentialing dental assistants through its Registered Dental Assistant (RDA(AMT)) certification program, which was launched in 1989. The RDA(AMT) is an entry-level, generalist chairside dental assisting certification that includes a radiography component.

AMT more recently instituted a radiography-specific **DAR examination,** which consists of 100 multiple choice questions addressing the various aspects of dental radiography and radiation safety. Qualifications to earn the DAR(AMT) credential include, in addition to passing the DAR exam, one of the following education or training routes:

1. Graduate from, or be scheduled to graduate from, a dental assisting program that includes instruction in dental radiography in the curriculum. The program or institution must be accredited by a regional or national accreditation agency approved by the U.S. Department of Education (DOE), the Council for Higher Education Accreditation (CHEA), or otherwise approved by the AMT Board of Directors;

2. Graduate from, or be scheduled to graduate from, a formal dental assisting training program of the United States Armed Forces that includes instruction in dental radiography in the curriculum, within the last 4 years; *or*
3. Have been employed as a dental assistant or as a dental assisting instructor for a minimum of one year (1,560 hours), during which dental radiography would have been performed or taught as an aspect of the dental assistant work role. The work requirement total is assumed to be the equivalent of a minimum of 30 hours per week (1,560 total hours) and may be a combination of part time settings.

Although the DAR(AMT) certification was just launched in February of this year, AMT has three and a half decades of experience in writing, administering, validating, and managing test content and test items addressing dental radiography as a component of the generalist RDA(AMT) exam.

The committee responsible for developing both the RDA and DAR certification exams is composed of a panel of highly experienced subject matter experts (SMEs), including program instructors and three licensed dentists. Content for dental radiography has been validated through job-task analyses in both the RDA context and through a separate, confirmatory study that was conducted specifically for DAR content. Data from the task analyses were employed to inform SMEs who systematically rendered final decisions regarding test content specification and weighting.

The DAR examination was subject to pilot testing on a representative sample of individuals, to research test-level and item-level psychometrics. The pilot test results were employed to refine test items appearing on the examination and to inform the criterion-referenced passing score study that was conducted in the process of examination development. DAR examination development had the advantage of drawing from the data and outcomes generated by the long-standing RDA examination, and item-level performance was employed for comparison across both assessments in the overall test development and standard setting processes.

As is the case with all AMT certification exams, the DAR examination is administered to candidates by Pearson VUE, a respected global test delivery vendor, in a manner that offers the highest level of reliability and test security available in the industry. Pearson VUE test centers are conveniently located around the Commonwealth of Virginia, as well as nationally and internationally.

Virginia's Dental Practice Act does not specify qualifications for dental assistants to perform radiography; however, in conjunction with the legislature's conferral of general powers and duties to health regulatory boards (Va. Code. § 54.1-2400), the Board has broad discretion to establish standards for the various categories of dental professionals over which it has jurisdiction.

Section 60-30-80 of the Board's Regulations Governing the Practice of Dental Assistants (18 VAC § 60-30-80) currently provides with respect to radiation certification:

> A dental assistant I or II shall not place or expose dental x-ray film unless he has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or

dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

AMT respectfully requests that the Board of Dentistry amend the above quoted section to add a new sub-paragraph (iv), recognizing **"passage of the Dental Assisting Radiography Exam given by American Medical Technologists"** as an alternative qualifying route to perform dental assisting radiography. A copy of the DAR exam content outline is attached to this Appendix. The comprehensive subject matter content covered by the DAR exam, together with AMT's eligibility criteria to challenge the exam, provide compelling assurance that individuals who pass the exam possess the requisite competence to perform radiological procedures in a dental setting.

In closing, the DAR(AMT) certification offers a high-quality, affordable option to demonstrate competence in dental imaging and radiation safety. Affordability is especially important to students graduating from secondary and post-secondary career-technical education (CTE) programs in dental assisting, who often find the cost of credentialing through the Dental Assisting National Board (DANB) to be prohibitive. (For example, the cost to take AMT's DAR exam is $125; the fee for DANB's RHS exam is $270.) Accordingly, AMT urges the Board to take formal action to recognize the DAR exam as an additional alternative route to perform dental assisting radiography through an amendment to 18 VAC § 60-30-80.

Please contact AMT's legal counsel (michael@mccarty-legal.com) or AMT's Director of Testing and Competency Assurance, James Fidler, Ph.D (jfidler@americanmedtech.org), if the Board desires further information about AMT's dental assisting certifications.

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# Dental Assisting Radiography (DAR) Examination Content Outline

| | Work Area | Number of Items | Percentage of Exam |
|---|---|---|---|
| I. | Principles of Dental Radiography | 33 | 33% |
| II. | Imaging Techniques and Evaluation | 26 | 26% |
| III. | Radiograph Processing | 9 | 9% |
| IV. | Radiation Safety and Legal Considerations | 23 | 23% |
| V. | Infection Control | 9 | 9% |
| **Total** | | **100** | **100%** |

## I. Principles and Theory of Dental Radiography (33%)

A. Terminology
- Define basic terms, nomenclature, and anatomy

B. Fundamental concepts
- Know basic radiographic principles (X-ray production)
- Know the characteristics of different radiation types
- Know the process by which radiographic images are produced
- Know characteristics and parts of dental radiographic equipment
- Employ proper collimation and filtration
- Employ procedures to minimize radiation exposure
- Know quality assurance procedures required in dental radiography

C. Analogue (film) radiography
- Know characteristics and uses of dental radiographic films
- Know fundamental concepts of analogue (film) radiograph handling

D. Digital radiography
- Know fundamental concepts associated with digital radiograph handling
- Understand advantages of digital dental radiography compared to film
- Understand differences between digital sensors and phosphor plates, and the benefits and disadvantages of each

E. Cone beam computed tomography
- Know principles applied in cone beam computed tomography

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**II. Imaging Techniques and Evaluation (26%)**

A. Imaging Techniques
- Select appropriate dental radiographic film, film holder, and cassette
- Position film for bisecting and paralleling techniques (for periapical and bitewing projections)
- Employ correct projection angle and exposure settings for bisecting and paralleling techniques
- Perform radiographic procedures and operate equipment using paralleling and bisecting angle techniques
- Produce acceptable radiographic images (analogue and digital) including periapical, bitewing, occlusal, panoramic, and cephalograms
    - Intraoral imaging
    - Extraoral imaging
- Employ quality assurance procedures in production of radiographs
- Instruct and manage patients (observe patient reaction and modify procedure to ensure comfort; answer patient safety questions)

B. Image Evaluation
- Know fundamental radiograph attributes (contrast, density, definition, and distortion) and recognize characteristics of an acceptable image
- Recognize fundamental radiograph anomalies (image distortion, fogging, cone cutting, foreshortening, overlapping, and elongation)
- Evaluate errors in placement, exposure, and processing for digital and analogue images
- Know radiographic error causes and perform error correction procedures

C. Landmarks
- Identify and use anatomical landmarks in dental radiography

**III. Radiograph Processing (9%)**

A. Manual and Automatic Film Processing
- Possess basic understanding of manual and automated film processing methods
- Employ quality assurance procedures in processing radiographs

B. Digital Image Processing
- Understand digital radiographic image processing
- Understand sensor/plate placement

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**IV. Radiation Safety and Legal Considerations (23%)**

A. Safety requirements and equipment
- Know importance and effects of radiation, including scatter, high- and low-dose radiation effects
- Define ALARA (as *low as reasonably achievable*) as applied to dental radiography
- Employ recommended procedures to ensure patient safety with respect to radiation hazards
- Employ recommended procedures to ensure operator safety with respect to radiation hazards
- Employ appropriate radiation monitoring devices

B. State and federal radiation safety laws and regulations
- Comply with state and federal laws concerning dental radiation
- Comply with state and federal laws regarding storage and disposal of chemical agents
- Know legal aspects pertaining to transfer and retention of radiographs

**V. Infection Control (9%)**

A. Film Exposure
- Practice infection control and prevention during film exposure

B. Digital Exposure
- Practice infection control and prevention when employing sensors and phosphor plates

**Task Inventory Note**

The tasks included in this inventory are considered by American Medical Technologists to be representative of the dental assisting radiographer's job role. This document should be considered dynamic, to reflect the dental assisting radiographer's current role with respect to contemporary health care.


Secretariat **Health and Human Resources**

Agency **Department of Health Professions**

Board **Board of Dentistry**

Edit Petition

Petition 417

| Petition Information | |
|---|---|
| **Petition Title** | Recognition of Dental Assisting Radiography Exam for dental assistant certification to place or expose dental x-ray film |
| **Date Filed** | 9/17/2024 **[Transmittal Sheet]** |
| **Petitioner** | American Medical Technologists |
| **Petitioner's Request** | The petitioner requests that the Board amend 18VAC60-30-80 to recognize the Dental Assisting Radiography Exam given by American Medical Technologists as a qualifying pathway for certification to place or expose dental x-ray film. |
| **Agency's Plan** | The petition for rulemaking will be published in the Virginia Register of Regulations on October 21, 2024. The petition will also be published on the Virginia Regulatory Town Hall to receive public comment, which will open on October 21, 2024 and will close on November 20, 2024. The Board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, currently scheduled for December 13, 2024. The petitioner will be notified of the Board's decision after that meeting. |
| **Comment Period** | Began 10/21/2024 Ended 11/20/2024<br>0 comments |
| **Virginia Register Announcement** | Submitted on 9/17/2024<br>**The Virginia Register of Regulations**<br>Published on: 10/21/2024 Volume: 41 Issue: 5 |
| **Agency Decision** | Pending |

| Contact Information | |
|---|---|
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*This petition was created by Erin Barrett on 09/17/2024 at 1:08pm*

Virginia Administrative Code
Title 18. Professional And Occupational Licensing
Agency 60. Board of Dentistry
Chapter 30. Regulations Governing the Practice of Dental Assistants

## Part II. Practice of Dental Assistants II

### 18VAC60-30-80. Radiation certification.

No dental assistant I or II shall place or expose dental radiographs unless the dental assistant has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

**Statutory Authority**
§54.1-2400 of the Code of Virginia.

**Historical Notes**
Derived from Virginia Register Volume 32, Issue 5, eff. December 2, 2015; amended, Virginia Register Volume 41, Issue 2, eff. October 24, 2024.

**DEPARTMENT OF VETERANS AFFAIRS**
**Under Secretary for Health**
**Washington DC 20420**
November 4, 2024

Ms. Jamie C. Sacksteder
Executive Director
Virginia Board of Dentistry
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, VA 23233

Dear Ms. Sacksteder:

The Department of Veterans Affairs (VA) is developing national standards of practice to uphold safe, high-quality care for the Nation's Veterans in VA's integrated health care system and to ensure that VA health care professionals can meet the needs of Veterans when practicing within the scope of their VA employment. We would like to provide you, as a state licensing board for Dental Hygienist the opportunity to comment directly to us on the proposed national standard of practice for Dental Hygienist (enclosed). We would appreciate your comments on the VA standard within 60 days of the receipt of this letter.

VA's proposed national standard of practice for Dental Hygienist does not vary from your state's licensure requirements However, there may be variances with other states' requirements.

Please note, this standard is not final. The proposed national standard of practice for Dental Hygienist has been posted in the Federal Register for broader public comment.

This standard would apply exclusively to VA employees, and most VA Dental Hygienists would not experience any change in the way they practice health care. Similarly, this would not change how your state board interacts with VA Dental Hygienist or prevent you from taking disciplinary actions for negligence or misconduct.

If your state changes its requirements and places new limitations on the tasks or duties which are inconsistent with what the national standard of practice authorizes, the national standard of practice preempts such limitations and authorizes the VA health care professional to continue to practice consistent with the tasks and duties outlined in the national standard. We encourage you to contact VA.NSP@va.gov if at any time you enact such a restriction.

We welcome the opportunity to further discuss the standard through a follow-up meeting if desired. Please send your comments and meeting request to VA.NSP@va.gov.

Ms. Jamie C. Sacksteder

Thank you for your support in enabling VA health care professionals to provide the best health care to the Nation's Veterans. For more information on the VA national standards of practice, please visit www.va.gov/standardsofpractice.

Sincerely,

Shereef Elnahal, M.D., MBA

Enclosure

**DEPARTMENT OF VETERANS AFFAIRS**

**Notice of Request for Information on the Department of Veterans Affairs Dental Hygienist Standard of Practice**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Request for Information.

**SUMMARY:** The Department of Veterans Affairs (VA) is requesting information to assist in developing a national standard of practice for VA Dental Hygienists. VA seeks comments on various topics to help inform VA's development of this national standard of practice.

**DATES:** Comments must be received on or before [insert date 60 days after publication in the Federal Register].

**ADDRESSES:** Comments must be submitted through https://w ww.regulations.gov/. Except as provided below, comments received before the close of the comment period will be available at https://www.regulations.gov/ for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: https://www.regulations.gov/. VA will not post on https://www.regulations.gov/ public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique

commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date will not be considered.

**FOR FURTHER INFORMATION CONTACT:** Ethan Kalett, Office of Regulations, Appeals and Policy (10BRAP), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, 202-461-0500. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:**

*Authority*

Chapters 73 and 74 of 38 U.S.C. and 38 U.S.C. §303 authorize the Secretary to regulate VA health care professions to make certain that VA's health care system provides safe and effective health care by qualified health care professionals to ensure the well-being of those Veterans who have borne the battle.

On November 12, 2020, VA published an interim final rule confirming that VA health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any state license, registration, certification, or other requirements that unduly interfere with their practice. 38 C.F.R. § 17.419; 85 FR 71838. Specifically, this rulemaking confirmed VA's current practice of permitting VA health care professionals to deliver health care services in a state other than the health care professional's state of licensure, registration, certification, or other requirement, and thereby, enhancing beneficiaries' access to critical VA health care services. The rulemaking also confirmed VA's authority to

establish national standards of practice for its health care professionals, which would standardize a health care professional's practice in all VA medical facilities, regardless of conflicting state laws, rules, regulations, or other requirements.

The rulemaking explained that a national standard of practice describes the tasks and duties that a VA health care professional practicing in the health care profession may perform and may be permitted to undertake. Having a national standard of practice means that individuals from the same VA health care profession may perform the same type of tasks and duties regardless of the state where they are located or the state license, registration, certification, or other requirement they hold. We emphasized in the rulemaking and reiterate here that VA will determine, on an individual basis, that a health care professional has the proper education, training, and skills to perform the tasks and duties detailed in the national standard of practice, and that they will only be able to perform such tasks and duties after they have been incorporated into the individual's privileges, scope of practice, or functional statement. The rulemaking explicitly did not create any such national standards and directed that all national standards of practice would be subsequently created through policy.

*Preemption of State Requirements*

The national standard of practice will preempt any state laws, rules, regulations, or other requirements that are both listed and unlisted in the national standard as conflicting, but that do conflict with the tasks and duties as authorized in VA's national standard of practice. The term state, as applied here, means each of the several states, territories, and possessions of the United States and is consistent with the definition in

38 U.S.C § 101(20). If a state changes their requirements and places new limitations on the tasks and duties it permits in a manner that would be inconsistent with what is authorized under the national standard of practice, the national standard of practice will preempt such limitations and authorize the VA health care professional to continue to practice consistent with the tasks and duties outlined in the national standard of practice.

In cases where a VA health care professional's license, registration, certification, or other requirement permits a practice that is not included in a national standard of practice, the individual may continue that practice so long as it is permissible under Federal law and VA policy; is not explicitly restricted by the national standard of practice; and is approved by the VA medical facility.

*Need for National Standards of Practice*

It is critical that VA, the Nation's largest integrated health care system, develop national standards of practice to ensure, first, that beneficiaries receive the same high-quality care regardless of where they enter the system and, second, that VA health care professionals can efficiently meet the needs of beneficiaries when practicing within the scope of their VA employment. National standards are designed to increase beneficiaries' access to safe and effective health care; thereby, improving health outcomes. The importance of this initiative has been underscored by the Coronavirus Disease 2019 (COVID-19) pandemic. The increased need for mobility in VA's workforce, including through VA's Disaster Emergency Medical Personnel System, highlighted the importance of creating uniform national standards of practice to better

support VA health care professionals who practice across state lines. Creating national standards of practice also promotes interoperability of medical data between VA and the Department of Defense (DoD), providing a complete picture of a Veteran's health information and improving VA's delivery of health care to the Nation's Veterans. DoD has historically standardized practice for certain health care professionals, and VA has closely partnered with DoD to learn from their experience.

*Process to Develop National Standards of Practice*

As authorized by 38 C.F.R. § 17.419, VA is developing national standards of practice through policy. The overarching directive to describe Veterans Health Administration (VHA) policy on national standards of practice is VHA Directive 1900(3), VA National Standards of Practice, August 30, 2023. The directive is accessible on VHA's publications website at https://www.va.gov/vhapublications. As each individual national standard of practice is finalized, it is published as an appendix to the directive and is accessible at the same website.

To develop these national standards, VA is using a robust, interactive process that adheres to the requirements of Executive Order (EO) 13132, Federalism, to preempt conflicting state laws, rules, regulations, or other requirements. For each health care occupation, a workgroup comprised of VA health care professionals in the identified occupation conducts research to identify internal best practices that may not be authorized under every state license, certification, or registration, but would enhance the practice and efficiency of the profession throughout VA. If a best practice is identified that is not currently authorized by every state, the workgroup determines what

education, training, and skills are required to perform such tasks and duties. The workgroup then drafts a proposed VA national standard of practice using the data gathered and any internal stakeholder feedback received. The workgroup may consult with internal or external stakeholders at any point throughout the process.

The process to develop VA national standards of practice includes listening sessions for members of the public, professional associations, and VA employees to provide comments on the variance between state practice acts for specific occupations and what should be included in the national standard of practice for that occupation. The listening session for dental hygienists was held on September 7, 2023. No comments were provided on the dental hygienists standard of practice.

After the proposed standard is developed, it is first internally reviewed. This includes a review from an interdisciplinary VA workgroup consisting of representatives from the following offices: Quality Management, VA medical facility Chief of Staff, Academic Affiliates, Veterans Integrated Services Network (VISN) Chief Nursing Officer, Ethics, Workforce Management and Consulting, Surgery, Credentialing and Privileging, VISN Chief Medical Officer, and Electronic Health Record Modernization.

After the internal review, VA provides the proposed national standard of practice to our DoD partners as an opportunity to flag inconsistencies with DoD standards. VA also engages with labor partners informally as part of a pre-decisional collaboration. Consistent with EO 13132, VA sends a letter to each state board and certifying organization or registration organization, as appropriate, which includes the proposed national standard and offers the recipient an opportunity to discuss the national standard with VA. After the state boards, certifying organizations, or registration

organizations have received notification, the proposed national standard of practice is posted in the Federal Register for 60 days to obtain feedback from the public, professional associations, and any other interested parties. At the same time, the proposed national standard is posted to an internal VA site to obtain feedback from VA employees. Responses received through all vehicles – from state boards, professional associations, unions, VA employees, and any other individual or organization that provides comments through the Federal Register – will be reviewed. VA will make appropriate revisions in light of the comments, including those that present evidence-based practices and alternatives that help VA meet our mission and goals. VA will publish a collective response to all comments at https://www.va.gov/standardsofpractice/.

The national standard of practice is then finalized, approved, and published in VHA policy. Any tasks or duties included in the national standard will be properly incorporated into individual VA health care professionals' privileges, scope of practice, or functional statement once it has been determined by their VA medical facility that the individual has the proper education, training, and skills to perform the task or duty. The implementation of the national standard of practice may be phased in across all VA medical facilities, with limited exemptions for health care professionals as needed.

*Format for the Proposed National Standard for Dental Hygienist*

The format for the proposed national standards of practice when there are state licenses is as follows. The first paragraph provides general information about the profession and what the VA health care professionals can do. For this national

standard, Dental Hygienists perform oral prophylaxis and other therapeutic or preventive procedures for periodontal disease, caries control, or other dental problems. We reiterate that the proposed standard of practice does not contain an exhaustive list of every task and duty that each VA health care professional can perform. Rather, it is designed to highlight generally what tasks and duties the health care professionals perform and how they practice within VA.

The second paragraph references the education and license, or other requirement, needed to practice this profession at VA. Qualification Standards for employment of health care professionals by VA are available at: https://www.va.gov/OHRM/QualificationStandards/. VA follows the requirements outlined in its qualification standards even if the requirements conflict with or differ from a state requirement. The national standards of practice do not affect those requirements. For dental hygienists, VA requires an active, current, full, and unrestricted state license, and that the dental hygienists meet credentialing standards in 42 C.F.R. Part 75, Standards for the Accreditation of Educational Programs for the Credentialing of Radiologic Personnel. The dental hygienists VA qualification standards are available at: https://www.va.gov/OHRM/QualificationStandards/HT38/0682-DentalHygienist.pdf.

The second paragraph also notes whether the national standard of practice explicitly excludes individuals who practice under "grandfathering" provisions. Qualification standards may include provisions to permit employees who met all the requirements prior to revisions of the qualification standards to maintain employment at VA even if they no longer meet the new qualification standards. This practice is referred to as grandfathering. VA dental hygienists have grandfathering provisions included

within their qualification standards, and VA proposes to have those individuals authorized to follow the dental hygienists national standard of practice. Therefore, there would be no notation regarding grandfathered employees in the national standard of practice as they would be required to adhere to the same standard as would any other VA dental hygienist who meets the current qualification standards.

The third paragraph establishes what the national standard of practice will be for the occupation in VA. It includes whether the professional can practice all duties covered by their license. For dental hygienists, VA proposes that VA dental hygienists can practice all duties covered by their license and the credentialing standards. VA reviewed state laws and practice acts for dental hygienists in March 2024 and did not identify any conflicts that impact practice of this profession in VA.

This national standard of practice does not address training because it will not authorize VA dental hygienists to perform any tasks or duties not already authorized under their state license or certification.

Following public and VA employee comments and revisions, each national standard of practice that is published in policy will also include the date for recertification of the standard of practice and a point of contact for questions or concerns.

*Proposed National Standard of Practice for Dental Hygienists*

NOTE: All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

1. Dental hygienists perform oral prophylaxis and other therapeutic or preventive procedures for periodontal disease, caries control, or other dental problems.

**2.** Dental Hygienists in the Department of Veterans Affairs (VA) possess the education, license, and certification required by VA qualification standards, available at: https://www.va.gov/OHRM/QualificationStandards/HT38/0682-dentalhygienist.pdf.

**3.** VA Dental Hygienists can practice all duties covered by their license, and practice in accordance with the credentialing standards in 42 C.F.R. Part 75, Standards for the Accreditation of Educational Programs for the Credentialing of Radiologic Personnel, available at: https://www.ecfr.gov/. VA reviewed state laws and practice acts for Dental Hygienists in March 2024 and did not identify any conflicts that impact practice of this profession in VA.

*Request for Information*:

1. Is VA's assessment of what your state permits and prohibits accurate?

2. Are there any areas of variance between state licenses, certification, registration, or other requirement that VA should preempt that are not listed?

3. Is there anything else you would like to share with us about this VA national standard of practice?

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on [insert date signed here], and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Approved

Denis McDonough
Secretary
Department of Veterans Affairs

10/22/24
Date

ADANews.

# New ADA policies empower states to alleviate dental workforce shortage

## ADA cites urgency, flexibility, commitment to high standards in response to American Dental Hygienists' Association

by **Olivia Anderson**

November 15, 2024

The ADA House of Delegates passed a series of resolutions that aim to address the dental workforce shortage, an issue ADA leaders say is among their top priorities. With an insufficient workforce, the ADA said, care cannot be delivered to patients.

Included are three resolutions that cover allowing internationally trained dentists a path to U.S. licensure; letting active dental students and residents practice hygiene if they've met certain competency requirements; and increasing the number of faculty and students in allied dental education programs.

In a Nov. 1 letter to ADA President Brett Kessler, D.D.S., Erin Haley-Hitz, American Dental Hygienists' Association President and registered dental hygienist, expressed concern about the three resolutions' potential effect on patient safety, educational standards and professional integrity.

"Such changes fail to address oral-systemic health and the underlying issues that are driving many dental hygienists to

leave the profession. The measures proposed in these resolutions — whether intended or not — threaten professional integrity and patient outcomes and fundamentally undermine the dental hygiene profession," Ms. Haley-Hitz wrote in the letter.

In a Nov. 14 response to Ms. Haley-Hitz, Dr. Kessler reassured her that the ADA remains committed to the highest standards of education and patient safety in dentistry.

"These resolutions were developed with a careful eye toward addressing the workforce shortages that are impacting patient access to care, while also maintaining licensure and practice standards," reads the letter. "In short, our goal is to find practical and responsible solutions to fill critical staffing gaps with qualified, well-trained individuals — without compromising on the standards that our patients deserve."

The letter goes on to state that the resolutions help address the workforce shortage by allowing dental professionals a voice in working towards better access to oral health care. Although the ADHA expressed concern specifically regarding resolutions 401H-2024, 513H-2024 and 514H-2024, the ADA said each one upholds stringent licensure standards and ensures only qualified professionals practice in roles that match their training.

"The ADA also shares ADHA's commitment to enhancing workplace culture, professional development, and support for all members of the dental workforce. These resolutions are intended not only to help address the staffing shortage, but also to reduce the strain on current dental teams," wrote Dr. Kessler.

ADA Health Policy Institute survey data tracks dental team recruitment challenges. In the third quarter of 2024, for instance, 33.9% of dentists indicated they were currently

recruiting or had recruited a dental hygienist in the prior three months. Among those dentists, 91.7% indicated recruitment was very challenging or extremely challenging.

"We value and respect the essential role of dental hygienists in providing quality care, and we see these new policies as ways to complement — not replace — the vital role of hygienists on the dental team," the ADA letter reads.

Under 514H-2024, the ADA would encourage states to adopt policies allowing dentists who have completed a dental education program outside the U.S., subject to state licensing board requirements, to obtain a license to practice dental hygiene. Dr. Kessler reiterated in his letter that the ADA would not encourage states to adopt any policy allowing internationally trained dentists to work as dental hygienists unless that policy required applicants to pass board examinations demonstrating their competency. The ADA said this new policy would allow it to give dentists a seat at the table on dental workforce issues, as some states already license internationally trained dentists as dental hygienists and other states are considering similar legislative proposals.

Under 513H-2024, the ADA would encourage states to adopt policies allowing active dental students and residents who have completed all their required hygiene competencies to practice dental hygiene, or to practice as other dentist-supervised allied dental team members, subject to state licensure requirements. Dr. Kessler noted in his response that any policy under consideration would have to require dental students to meet state licensure requirements for hygiene before the ADA would encourage states to allow them to be licensed to practice hygiene.

Under 401H-2024, the ADA urges the Commission on Dental Accreditation to revise the accreditation standards for each of the allied dental education programs regarding faculty-student ratios to align with the accreditation standards for predoctoral dental education programs. Dr. Kessler said updating the standard would allow allied dental training programs more flexibility to increase class sizes, which are currently restricted due to the need to hire additional faculty.

Shane Ricci, D.D.S., chair of the ADA Council on Dental Practice, said he looks forward to addressing workforce challenges in the coming months.

"The Council on Dental Practice is eager to collaborate with other stakeholders to expedite priorities outlined in the ADA's Strategic Forecast which include multifaceted opportunities to address workforce challenges."

Announcement

# ADHA Strongly Opposes ADA Resolutions on Staffing Dental Hygiene Positions With Non-Hygienists

October 11, 2024

Dear Colleagues and Members of the Healthcare Community,

Recently proposed resolutions by the American Dental Association (ADA) aim to remove faculty-to-student ratios in dental hygiene programs and allow dental students and foreign trained dentists to practice dental hygiene in the United States, without passing a state licensing exam.

As the leading voice for dental hygienists in the U.S., the American Dental Hygienists' Association (ADHA®) is submitting written testimony in strong opposition of these resolutions. We believe they pose significant risks to educational standards and patient safety, and we urge the ADA House of Delegates to reject these proposals.

The resolutions are outlined below, followed by the points the ADHA has prepared for consideration by the ADA House of Delegates reference committees.

**Resolution 401, "Increasing Allied Personnel in the Workforce"**, aims to align faculty-student ratios in dental hygiene programs with those of predoctoral dental education programs and raises the following concerns:

- **Compromised Education Quality:** Altering faculty-student ratios risks diluting and compromising the quality of education or the financial viability of allied dental programs. Smaller ratios ensure students receive the necessary hands-on guidance and oversight for mastering dental hygiene's clinical and theoretical components.
- **Not an Enrollment Mechanism:** Eliminating faculty-student ratios is not a mechanism for increasing student enrollment and may even decrease the appeal of attending a program.
- **Educator Burnout:** With the existing shortage of dental hygiene educators, eliminating faculty-student ratios may exacerbate educator burnout, further weakening academic programs and reducing educator retention.
- **Established Standards:** The Commission on Dental Accreditation (CODA) has already determined that existing faculty-to-student ratios in dental hygiene programs are essential for maintaining education standards and should remain unchanged.

Dental hygiene education, including clinical instruction, is distinct from dental student education. Requiring different structures, oversight and expertise. Dental hygiene educators are best positioned to determine the appropriate instruction and supervision levels necessary for effective clinical training of dental hygiene students and to uphold the educational standards of our profession.

**Resolution 513, "Resolution Dental Students and Residents as Dental Hygienists",** proposes to allow dental students and residents to practice as dental hygienists after completing their dental competencies. This resolution raises the following concerns:

- **Inadequate Training:** Dental students and residents do not receive the same comprehensive education and specialized training required for providing preventive and therapeutic dental hygiene services. Their training and resulting qualifications in this area are extremely limited in comparison.
- **Risks to Patient Safety:** Employing individuals in roles they are not licensed for is irresponsible and can have serious legal and ethical consequences. For the safety and trust of the public, it is essential to maintain a clear line of licensure and qualifications in healthcare.

- **Erosion of Professional Standards:** The ADHA believes that maintaining the integrity of professional standards is paramount to ensuring quality patient care. Lowering the bar for licensure threatens to dilute the high standards of the dental hygiene profession and compromises patient care quality and safety.
- **Fostering Meaningful Work and Professional Development:** Rather than lowering professional standards, the ADHA believes efforts should be directed to improving workplace culture, enhancing professional development opportunities, and offering competitive benefits. These measures can attract new talent and retain qualified dental hygienists without sacrificing the integrity of the dental hygiene profession.

**Resolution 514/514B, "Internationally Trained Dentists as Dental Hygienists"** seeks to integrate internationally trained dentists into the dental hygiene workforce. This resolution raises the following concerns:

- **Inconsistent Education Standards:** Dental education standards vary widely across countries, and internationally trained dentists are unlikely to have the specific knowledge and clinical expertise necessary for practicing dental hygiene in the U.S.
- **Patient Safety Concerns:** Allowing individuals to practice as dental hygienists without proper U.S.-based training could jeopardize patient safety and care quality.
- **Appropriate Pathways:** Foreign-trained dentists who wish to practice as dental hygienists in the United States should follow the established pathway by enrolling in programs that are accredited by CODA to gain the specific expertise and ensure they are qualified for the roles they intend to fulfill. Creating alternative routes without proper accreditation undermines both the dental and dental hygiene professions.

We urge the ADA House of Delegates to reject these resolutions and focus on solutions that respect the distinct professional roles within dentistry and dental hygiene. The integrity of dental hygiene as a profession, and the quality of care provided to patients, depends on maintaining stringent educational and licensure standards.

Sincerely,

*Erin Haley-Hitz, RDH, BSDH, MS, FADHA, MAADH*
ADHA President 2024-2025

*Lancette VanGuilder, BS, RDH, PHEDH, CEAS, FADHA*
ADHA President-Elect 2024-2025

*Jessica August, MSDH, CDA, RDH, FADHA*
ADHA Vice President 2024-2025

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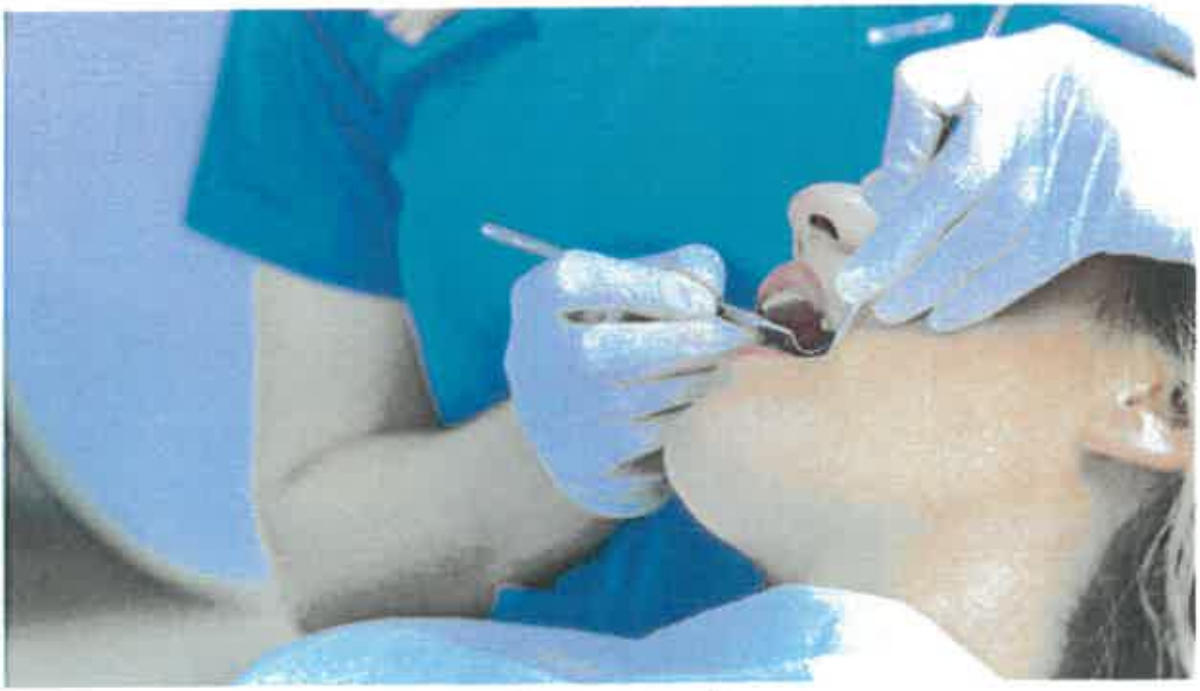

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News Alert

# ADHA Takes Stand on Scaling, Airway Health, and Pushes Back Against ADA Resolutions

The American Dental Hygienists' Association (ADHA) has introduced interim policies on scaling procedures and airway health screenings, pushing for advanced education and expanded roles for dental hygienists. These policies, set for official adoption in 2025, are sparking conversations about scope of practice and training requirements in the profession.

By Kristen Pratt Machado On: Oct 24, 2024 0

In response to requests from its members, the American Dental Hygienists' Association (ADHA) recently approved two interim policies aimed at enhancing the role of dental hygienists in patient care. These policies, effective immediately, will be up for formal adoption in June 2025.

The first policy calls for scaling procedures to be recognized as advanced practices, requiring clinicians to have obtained high-level instrumentation, assessment, and critical thinking skills prior to performing scaling on patients. This policy goes against the American Dental Association's (ADA) position that supports expanding the ability to scale to dental assistants who do not attain the same level of education as dental hygienists.

The second policy focuses on airway health screening, positioning dental hygienists as key players in identifying conditions such as obstructive sleep apnea and mouth breathing. While many applaud the expanded scope of patient care, others worry it may place additional training burdens on hygienists and raise concerns over whether this falls within their core competencies.

Proponents argue these measures will improve patient outcomes and elevate the profession, while critics are questioning the necessity and potential overlap with existing dental roles.

ADHA has also voiced strong opposition to several resolutions proposed by the ADA that may compromise educational standards and patient safety. The first resolution (401) seeks to remove the faculty-to-student ratio requirement in dental hygiene programs, which the ADHA argues could weaken the quality of education and lead to educator burnout. The second resolution (513) would allow dental students and residents to practice as dental hygienists without obtaining a separate licensure, a move the ADHA claims could result in underqualified practitioners and risks to patient safety. A third resolution (514/514B) proposes allowing internationally trained dentists to practice as dental hygienists, which raises concerns about inconsistent education standards and the need for U.S.-specific training. The ADHA urges the ADA House of Delegates to reject these proposals to maintain the integrity of dental hygiene education and licensure standards.

**OPA EFDA Pilot Project**

The MDA is the original provider of Expanded Function Dental Assistant (EFDA) education in the state. As long-time stewards of this program, we are using our knowledge and expertise to develop a pilot project (along with the State Office of Dental Health and the Missouri Dental Board) to show the effectiveness and safety of creating an **Oral Preventive Assistant** (OPA) — a new type of EFDA — who could provide supragingival scaling patients diagnosed as periodontally healthy or with gingivitis. The Fall 2023 edition of the Focus magazine gives specifics on this project and outlines many other efforts to address oral healthcare workforce shortages and the Spring 2024 edition provides a brief update on where we are with the OPA EFDA. The Fall 2024 edition provides another updated related to the rule promulgation.

**recent activity on the pilot includes:**

- **July 2023** – Waiver of Rules approved by Missouri Dental Board for OPA EFDA Pilot
- **October 2023** – Approval of OPA Curriculum by Missouri Dental Board for OPA EFDA Training
- **October 2023** – OPA RFA Site Application & Selection Process Began
- **November 2023** – OPA Clinical Site Training for Dentists and Dental Teams
- **January through March 2024** – OPA Didactic & Hands-On Trainings Held
- **May 1, 2024** – Rule changes officially published in the Missouri Register for comment period, after which it went to the Joint Committee on Administrative Rules (JCAR) see excerpted Dental Board Rule Changes from Volume 49, Number 9
- **September 1, 2024** – Register with rule changes filed by JCAR
- **October 1, 2024** – Final order of rulemaking published (code publication date will be October 31, with code effective date November 30) Volume 49, Number 19
- **December 1, 2024** – OPA EFDA Pilot Project to officially commence in pilot clinical sites, with expanded functions being performed and data gathered, limited to the design and scope of the pilot project

If you want an overview of the project, please see here: opa-how-does-the-pilot-program-statute-affect-the-design-of-an-opa-pilot-project.pdf (modental.org)

**What would the OPA EFDA do?**

- Dental assistants who complete the OPA curriculum and pass the written OPA qualifying exam, will then be eligible in the pilot program assist dentists and hygienists with:

- Scaling supragingival calculus
- Polishing teeth; and
- Giving oral hygiene instructions.

- OPAs would work under direct supervision of a dentist or hygienist.
- OPAs would treat patients who are healthy or who have reversible gum inflammation, not patients with advanced gum infections.

**Will this be safe for patients?**

Safety and patient care are our top priorities. That is why we are proposing that dental assistants complete an OPA didactic curriculum, pass a qualifying examination, and work under the supervision of a dentist or hygienist.

The OPA will be supervised, and the patient checked before dismissal.

Allowing a trained assistant to scale will still be at the doctor's discretion. As with other expanded functions, if the doctor is not comfortable delegating this, they do not have to allow it in their practice.

Like any care provider, OPAs will require appropriate training for their scope of practice. We believe assistants can be trained to scale above the gum line safely, and this is what the pilot program will assess.

We are proposing that dental assistants be trained to remove hard build up above the gum line on healthy teeth. The potential risks are far fewer than other tasks that assistants already perform.

Under current law, assistants with proper training can trim fillings below the gum line with a high-speed handpiece or scalpel blade.

Assistants currently can utilize other sharp tools including scalpel blades, metal reduction discs and high-speed handpieces with burs.

**Is there precedent for this type of Expanded Function?**

While OPAs would be new in Missouri, this is not a reinvention of the wheel. Other states and the U.S. military already allow assistants to practice scaling.

Two neighboring states, Illinois and Kansas, have already implemented this change effectively.

There have been no reported incidents with assistants practicing scaling in these

states.

The project is so successful, Kansas does not even track these very safe procedures.

As of last year, assistants in Illinois can work on children who are on Medicaid or are uninsured.

The U.S. military has also allowed assistants to practice scaling for years.

OPA Pilot (modental.org) : https://www.modental.org/member-resources/advocacy-pac/opa-pilot

## Dental Hygienists Restorative Duties – State Chart

| State | Apply Cavity-Liners and Bases | Place/Remove Temporary Restorations | Place/Remove Temporary Crowns | Place/Carve/Finish Amalgam Restoration | Place & Finish Composite Resin Silicate Restoration | Requirements |
|---|---|---|---|---|---|---|
| **AL** | Allowed* | Allowed* | Place Only* | Prohibited | Prohibited | |
| **AK** | | | | Allowed* | Allowed* | Board Approved Course WREB or Equivalent Exam |
| **AZ** | | Place* | | | | |
| **AR** | | | | Prohibited | Prohibited | Program |
| **CA** | Allowed** | Allowed** | Allowed** | Allowed* Requires RDAEF License | Allowed* Requires RDAEF License | |
| **CO** | | Allowed | | | | |
| **CT** | | Prohibited | | Prohibited | Prohibited | |
| **DE** | | Prohibited | Prohibited | Prohibited | Prohibited | |
| **DC** | Prohibited | Allowed | | Prohibited | Prohibited | |
| **FL** | Allowed | Allowed | Allowed | Allowed | Allowed | Board Approved Course |
| **GA** | Allowed* | | Allowed* | | | |
| **HI** | | | | Prohibited | Prohibited | |



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**www.adha.org**

| State | Apply Cavity-Liners and Bases | Place/Remove Temporary Restorations | Place/Remove Temporary Crowns | Place/Carve/Finish Amalgam Restoration | Place & Finish Composite Resin Silicate Restoration | Requirements |
|---|---|---|---|---|---|---|
| **ID** | Allowed* | Place Only | Place Only* | Allowed | Allowed | Restorative Endorsement. WREB or Equivalent Restorative Exam. |
| **IL** | | Place Only | | Allowed | Allowed | |
| **IN** | | | | | | |
| **IA** | Allowed | Allowed | | Allowed | Allowed | Expanded Function Training |
| **KS** | | Place Only | | | | Extended Care Permit III |
| **KY** | Allowed* | | Allowed* | Allowed* | Allowed* | Proof of competency. |
| **LA** | | | | Prohibited | Prohibited | |
| **ME** | | Allowed | Allowed* | Allowed* | Allowed* | Board approved EFDA program |
| **MD** | | Allowed | Allowed | Prohibited | Prohibited | |
| **MA** | Prohibited | Remove Only* | Allowed* | Prohibited | Prohibited | |
| **MI** | Allowed* | Allowed* | Allowed | Allowed* | | Registered Dental Assistant took approved course |
| **MN** | | Allowed* | Allowed* | Allowed | Allowed* | Board approved course to place/adjust permanent restorations |
| **MN also permits RDH to place, contour, and adjust glass ionomer** | | | | | | |



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# Dental Hygienists Restorative Duties by State

| State | Apply Cavity-Liners and Bases | Place/Remove Temporary Restorations | Place/Remove Temporary Crowns | Place/Carve/Finish Amalgam Restoration | Place & Finish Composite Resin Silicate Restoration | Requirements |
|---|---|---|---|---|---|---|
| **MS** | | | | | | |
| **MO** | | Allowed* | Place Only | Allowed | Allowed | Expanded Functions Permit |
| **MT** | | Allowed* | | Prohibited | Prohibited | |
| **NE** | | | | Prohibited | Prohibited | |
| **NV** | | Place Only | Allowed | | | |
| **NH** | Allowed | Allowed | Allowed* | Place | | Expanded Duty Course |
| **NJ** | | Allowed | | Place Only | Place Only | |
| **NM** | | Allowed | Allowed | Allowed | Allowed | EFDA Certification |
| **NY** | | Allowed* | | Allowed* | Allowed* | Approved Course |
| **NC** | Allowed* | Place Only* | | | | |
| **ND** | Prohibited | Allowed* | Allowed | Allowed | Allowed | Board approved course, WREB or Equivalent Exam, Restorative function component of the DANB-certified restorative functions dental assistant examination |



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## Dental Hygienists Restorative Duties by State

| State | Apply Cavity-Liners and Bases | Place/Remove Temporary Restorations | Place/Remove Temporary Crowns | Place/Carve/Finish Amalgam Restoration | Place & Finish Composite Resin Silicate Restoration | Requirements |
|---|---|---|---|---|---|---|
| **OH** | | Allowed* | Place Only | Place Only | Place Only | |
| **OK** | | Place Only | | | | |
| **OR** | Allowed | Place Only | Allowed | Allowed | Allowed* | Board approved course, WREB or Equivalent Exam, Restorative Function Endorsement. |
| **PA** | Allowed* | | | Allowed* | Allowed* | |
| **RI** | | Allowed | | Prohibited | Prohibited | |
| **SC** | | Place Only* | | Prohibited | Prohibited | |
| **SD** | | Place Only | | Prohibited | Prohibited | |
| **TN** | Allowed | Allowed | | Place Only | | Restorative Function Permit |
| **TX** | Prohibited | Prohibited | Prohibited | Prohibited | Prohibited | |
| **UT** | | | | | | |
| **VT** | | | | | | Trainings expanded function |
| **VA** | | | Place Only | Place/Carve | Place/Carve | Dental Assistant II Program |



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# Dental Hygienists Restorative Duties by State

| State | Apply Cavity-Liners and Bases | Place/Remove Temporary Restorations | Place/Remove Temporary Crowns | Place/Carve/Finish Amalgam Restoration | Place & Finish Composite Resin Silicate Restoration | Requirements |
|---|---|---|---|---|---|---|
| **WA** | | Allowed* | Allowed* | Allowed* | Allowed* | Restorative services in curriculum of WA DH programs. WREB restorative required for dental hygiene license. |
| **WV** | Allowed* | Allowed* | Allowed | | | |
| **WI** | | Place Only | | | | Replacement of temporary restorations in emergency situations only. |
| **WY** | | Place Only | | Allowed (with EP Certificate) | Allowed (with EP certificate) | Expanded function certificate no longer offered, but existing certificates honored. |

*Can do services by virtue of inclusion in dental assistants' scope of practice
**Allowed for an RDH, RDHEF, or RDHAP licensed prior to 2006





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Virginia Department of
# Health Professions
Board of Dentistry

Disciplinary Board Report

## August 16, 2024 – November 21, 2024

The table below includes all cases that have received Board action since August 16, 2024 through November 21, 2024.

| Year 2024 | Cases Received | Cases Closed No Violation | Cases Closed W/Violation | Total Cases Closed |
|---|---|---|---|---|
| August | 20 | 35 | 2 | 37 |
| September | 67 | 23 | 2 | 25 |
| October | 44 | 33 | 6 | 39 |
| November | 32 | 35 | 3 | 38 |
| TOTALS | 163 | 126 | 13 | 139 |

## Closed Case with Violations consisted of the following:

### Patient Care Related:

- **8 Standard of Care: Diagnosis/Treatment:** Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also, include failure to diagnose/treat & other diagnosis/treatment issues.
- **1 Inappropriate Relationship:** Dual relationship, sexual relationship, or other boundary issue.
- **1 Fraud: Patient Care:** Performing unwarranted/unjust services or the falsification/alteration of patient records
- **1 Standard of Care: Surgery:** Improper patient management, and other surgery-related issues

### Non-Patient Care Related:

- **1 Business Practice Issues:** Recordkeeping or continuing education.

**CCA's**

There was 1 CCAs issued from August 16, 2024 through November 21, 2024. The CCAs issued consisted of the following violations:

- **Business Practice Issues:** Recordkeeping

Virginia Department of
Health Professions
Board of Dentistry

Disciplinary Board Report

**Suspensions/Revocations**

There have been 3 Summary Suspensions issued from August 16, 2024 through November 21, 2024.
There has been 1 Mandatory Suspension issued from August 16, 2024 through November 21, 2024.
There has been 1 Revocation from August 16, 2024 through November 21, 2024.

**Board of Dentistry**
**Policy on Recovery of Disciplinary Costs**

Virgina Code § 54.1-2708.2 allows the Board to recover reasonable administrative costs from any licensee against whom disciplinary action has been imposed. The Board will recover such costs in accordance with this policy.

1. Disciplinary costs will be assessed for licensees receiving Board orders which include compliance.

2. The maximum cost for assessment, pursuant to Virginia Code § 54.1-2708.2, is $5,000.

3. The Board will specify the administrative costs to be recovered from a licensee in any pre-hearing consent order offered prior to a disciplinary proceeding or each order issued by the Board following a disciplinary hearing. These administrative costs will be in addition to the sanctions imposed by the pre-hearing consent order or Board order, which orders may include a monetary penalty.

4. The amount of administrative costs to be recovered will be calculated using the factors identified below and will be recorded on a Disciplinary Cost Recovery Worksheet. All Disciplinary Cost Recovery Worksheets will be provided to the respondent and maintained in the Board case file.

5. Assessed costs will be due within 45 days of the effective date of the order unless a payment plan has been requested and approved.

**Factors for Assessment of Cost**

The Board will calculate expenditures of the following costs for the state's fiscal year, which will be used each year to calculate the amount of funds to be specified in an Order for recovery from a licensee disciplined by the Board:

- Hourly costs for investigation, including production of an investigative report to the Board;
- Hourly costs for inspections, including production of any investigative reports or materials to the Board;
- Staff and administrative costs related to general compliance of cases, to include:
  - Cost to open, review, and close a compliance case;
  - Cost for compliance related to continuing education;
  - Cost for compliance related to monetary penalties and cost-assessment payments;
  - Costs associated with practice inspections;
  - Costs associated with ordered audits;

- Costs associated with compliance verification for clinical examinations;
- Costs associated with ordered practice restrictions;
- Costs associated with reports required in Orders.

The Board will additionally consider the amount billed to the Board by an expert for the licensee's disciplinary case for inclusion into administrative costs.

**Inspection Fee**

In addition to the assessment of administrative costs, Board-ordered inspections will generate a $350 charge as required in 18VAC60-21-40(F)(2).

## Virginia Board of Dentistry
### Disciplinary Cost Recovery Worksheet beginning in 2025

11/15/24 10:02 AM

**Case #** _____ **Order Entered:** _____

**Licensee:** _____

| Costs | Tasks | Completed By: | Hours | Total |
|---|---|---|---|---|
| **Investigation/Inspection** | | | | |
| | Production of Investigative Reports by Investigators | Investigators | | - |
| | Production of Investigative Reports by Inspectors | Inspectors | | - |
| | Board-Ordered Practice Inspection Fee | Inspectors | | 350.00 |
| | Other | | | |
| | Other | | | |
| | | | | |
| **Staff/Administrative** | | | | |
| | Open Compliance Case | Dentistry Exec. Assistant | 1 | 41.08 |
| | Review Compliance Case | Dentistry Exec. Assistant | 2 | 82.15 |
| | Close Compliance Case | Dentistry Exec. Assistant | 1 | 41.08 |
| | Continuing Education Compliance | Dentistry Exec. Assistant | 2 | 82.15 |
| | Monetary Penalty & Cost-Assessment Payment Compliance | Dentistry Exec. Assistant | 1 | 41.08 |
| | Practice Inspections | Inspectors | 4 | 253.55 |
| | Ordered Audits | Dental Review Coordinator | 4 | 276.93 |
| | Clinical Examinations Compliance Verification | Dentistry Exec. Assistant | 1 | 41.08 |
| | Ordered Practice Restrictions | Dentistry Exec. Assistant | 2 | 82.15 |
| | Reports Required in Orders | Dental Review Coordinator | 4 | 276.93 |
| | Other, including Expert Costs | | | |
| | Other | | | |
| | | | | |
| Total | | | | 1,568.17 |

***Maximum recovery is $5,000***