



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**18 VAC 60-20 – Regulations Governing Dental Practice  
Department of Health Professions  
May 21, 2012**

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to periodic review requirements, the Board of Dentistry (Board) proposes to repeal its regulatory chapter governing all dental practices (18 VAC 60-20) and replace it with four regulatory chapters: Regulations Governing the Disciplinary Process (18 VAC 60-15), Regulations Governing the Practice of Dentistry (18 VAC 60-21), Regulations Governing the Practice of Dental Hygiene (18 VAC 60-25) and Regulations Governing the Practice of Dental Assistants II (18 VAC 60-30). All changes in these replacement regulations are clarifying in nature except for the requirements in the regulations for disciplinary practices (18 VAC 60-15), which are identical to requirements already proposed in an earlier regulatory action that is in its final stage, and for the requirements for administration of moderate and deep sedation in dental practices and for permitting of dentists that administer moderate or deep sedation. Requirements for moderate and deep sedation in proposed 18 VAC 60-21 are identical to those in an earlier regulatory action that is in an Emergency/NOIRA stage in the Governor's office.

### **Result of Analysis**

Benefits likely outweigh costs for implementing most of these proposed changes. For some changes in these regulations, there is insufficient information at this time to accurately measure benefits against costs.

### **Estimated Economic Impact**

The current regulatory chapter governs all aspects of dental services; including licensure of dentists, licensure of dental hygienists, licensure of dental assistants II and all disciplinary criteria. The length of this chapter has, however, gotten unwieldy over the years. Because of this,

the Board now proposes to repeal 18 VAC 60-20 and replace it with regulatory chapters for each profession (18 VAC 60-21, 18 VAC 60-25 and 18 VAC 60-30) as well as a separate chapter that lays out the disciplinary process (18 VAC 60-15). In addition to partitioning the requirements in current dental regulations, the Board proposes to make many amendments to regulatory text. With the exception of 18 VAC 60-15, which contains new language allowing the Board to recover certain disciplinary costs, and new requirements that dentists that administer moderate or deep sedation get and maintain a sedation permit from the Board, all proposed changes to these regulations are clarifying in nature. No affected entity is likely to incur any additional costs on account of either this regulatory reorganization or the included clarifying changes. Affected entities will, however, benefit from changes that make particular requirements easier to find and from language changes that make regulatory text easier to understand.

Pursuant to Chapter 89 of the 2009 Acts of the Assembly, the Board proposes 18 VAC 60-15. This regulatory chapter, and the legislation that preceded it, allow the Board to recover up to \$5,000 for investigation and monitoring costs in disciplinary cases in which there is a finding of a violation. Licensees who are investigated and who are found to have violated Board regulations may incur costs up to \$5,000. Other Board licensees will likely benefit from these regulatory changes because cost recovery by the Board will help mitigate the need for increased fees in the future. The public is also likely to benefit from dentists (and other professionals) who violate the rules having to more directly bear the costs of those violations as this will be more likely to cause these professionals to refrain from violations in the future.

Finally, pursuant to Chapter 526 of the 2011 Acts of the Assembly, the Board proposes new requirements that dentists who administer moderate or deep sedation get and keep a sedation permit. Proposed regulations also require that sedation permits be posted, along with all relevant licenses, in a prominent location in a dentist's office. Board staff reports that training for sedation administration is already required and is not changed in these proposed regulations. Therefore, the only new costs that dentists are likely to incur are the required permits fees. Dentists will incur a fee of \$100 for their initial sedation permits. These permits will have to be renewed by the 31<sup>st</sup> of March each year and the renewal fee will also be \$100. Dentists fail to renew their permits on time will also incur a \$35 late fee. The legislature and the Board both anticipate that requiring sedation permits will decrease the chance that patients will experience health issues on account of improperly administered or monitored sedation. Since these

regulations are not yet in effect, there is no information available on the magnitude of possible benefits that might accrue on account of fewer adverse outcomes for patients. Therefore, there is insufficient information to ascertain whether any benefits will outweigh the costs of obtaining permits that dentists will incur.

### **Businesses and Entities Affected**

The Department of Health Professions (DHP) reports that the Board currently regulates 6,471 dentists, 3 dental teachers, 9 full time faculty, 231 maxillofacial surgeons, 5,136 dental hygienists and 1 dental assistant II. All of these individuals, as well as their patients, will be affected by these proposed regulations.

### **Localities Particularly Affected**

No locality will be particularly affected by this proposed regulatory action.

### **Projected Impact on Employment**

This proposed regulatory action is unlikely to have any effect on employment in the Commonwealth.

### **Effects on the Use and Value of Private Property**

These proposed regulatory changes are unlikely to have any significant affect on the use or value of private property in the Commonwealth.

### **Small Businesses: Costs and Other Effects**

Small business dentists will likely incur costs for gaining sedation permits. The fee for initial permitting is \$100. The annual renewal fee for permits is also \$100 and the fee for late renewal is \$35.

### **Small Businesses: Alternative Method that Minimizes Adverse Impact**

There is likely no alternate method of regulation that would both further lower costs and achieve the Board's aims.

### **Real Estate Development Costs**

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

## Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the Board the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.