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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Dentistry, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC60-30
<b>Regulation title(s)</b>	Regulations Governing the Practice of Dental Assistants
<b>Action title</b>	Requirements for educational programs and registration of DAII
<b>Date this document prepared</b>	9/15/17

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

### Subject matter and intent

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

At its meeting on September 15, 2017, the Board voted to initiate rulemaking to modify the educational qualifications for registration of a dental assistant II by moving to a competency-based program in which basic didactic course work is followed by clinical training under the direction and supervision of a dentist who has successfully completed a calibration exercise on evaluating the clinical skills of a student. The intent is to make entry into the profession more accessible to students and ensure greater consistency in their training and assurance of competency.

### Legal basis

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

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

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

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

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- ...*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

Specific authority for regulation of the profession of dental assisting is found in Chapter 27 of Title 54.1:

**§ 54.1-2729.01. Practice of dental assistants.**

- A. A person who is employed to assist a licensed dentist or dental hygienist by performing duties not otherwise restricted to the practice of a dentist, dental hygienist, or dental assistant II, as prescribed in regulations promulgated by the Board may practice as a dental assistant I.*
- B. A person who (i) has met the educational and training requirements prescribed by the Board; (ii) holds a certification from a credentialing organization recognized by the American Dental Association; and (iii) has met any other qualifications for registration as prescribed in regulations promulgated by the Board may practice as a dental assistant II. A dental assistant II may perform duties not otherwise restricted to the practice of a dentist or dental hygienist under the direction of a licensed dentist that are reversible, intraoral procedures specified in regulations promulgated by the Board.*

## Purpose

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

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The proposed regulatory action is to amend the educational requirements to become a dental assistant II from a program based on completion of required hours to a competency-based program based on satisfactory completion of didactic course work and clinical experiences. The expanded duties permitted for practice by a DAII in Virginia are outside the scope of practice for dental assistants in most other states. However, the current qualifications for a DAII appear to be more burdensome and costly that most dental assistants can afford. Therefore, the Board is proposing to modify the qualifications to a competency-based model that would allow a well-trained assistant to complete the coursework and clinical training in fewer hours. To ensure some standardization in the determination of competency by supervising dentists, they will be required to undergo a calibration of the procedures in which they are training. The combination of didactic hours, competency determination in specific procedures, and both written and clinical examination should provide evidence of competency to protect the public health and safety.

## Substance

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

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Following recommendations from the Regulatory Advisory Panel, the Board intends to amend the educational requirements to become a dental assistant II from a program based on completion of required hours to a competency-based program based on satisfactory completion of didactic course work and clinical experiences.

There will be a new section (18VAC60-30-116) to specify the requirements for educational programs training persons for registration as dental assistants II, which will likely include the following:

1. The program shall be provided by an educational institution which maintains a program accredited by the Commission on Dental Accreditation of the American Dental Association.
2. The program shall have a program coordinator who is registered in Virginia as a dental assistant II or licensed in Virginia as a dental hygienist or dentist. The program coordinator shall have administrative responsibility and accountability for operation of the program.
3. The program shall have a clinical practice advisor who must be a licensed dentist in Virginia. The clinical practice advisor shall assist in the laboratory training component of the program and conduct the calibration exercise for dentists who supervise the student clinical experience.

4. A dental hygienist who assists in teaching the laboratory training component of the program must have a minimum of two years' experience in performing clinical dental assisting.
5. The program shall enter into a participation agreement with any dentist who agrees to supervise clinical experience. The dentist shall successfully complete a calibration exercise on evaluating the clinical skills of a student. The dentist supervisor may be the employer of the student.
6. Each program shall enroll practice sites for clinical experience which may be a dental office, non-profit dental clinic or at an educational institution clinic.
7. All treatment of patients shall be under the direct and immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist shall attest to successful completion of the clinical competencies and restorative experiences.

The Board intends to amend Section 120 by making the following changes from completion of a certain number of hours to a competency-based program:

A. A prerequisite for entry into an educational program preparing a person for registration as a dental assistant II shall be current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board.

B. To be registered as a dental assistant II, a person shall complete ~~the following requirements a~~ competency-based program from an educational institution that ~~maintains a program in dental assisting, dental hygiene or dentistry accredited by CODA~~ meets the requirements of 18VAC60-30-116 and includes all of the following:

1. ~~At least 50 hours of didactic~~ Didactic course work in dental anatomy ~~and operative dentistry that may be completed online~~ 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.

2. Didactic course work 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.

~~2.3. Laboratory training that may to be completed in the following modules with no more than 20% of the specified instruction to be completed as homework in a dental office:~~

a. ~~At least 40~~ No less than 15 hours of placing, packing, carving, and polishing of amalgam restorations and pulp capping procedures and no less than 6 class I and 6 class II restorations completed on a manikin simulator to competency;

b. ~~At least 60~~ No less than 40 hours of placing and shaping composite resin restorations and pulp capping procedures and no less than 12 class I, 12 class II, 5 class III, 5 class IV, and 5 class V restorations completed on a manikin simulator to competency;

c. ~~At least 20~~ 10 hours of ~~taking~~ making final impressions ~~and use~~ placement of a non-epinephrine retraction cord; ~~and, and final cementation of crowns and bridges after preparation, adjustment and fitting by the dentist and no less than 4 crown impressions, 2 placements of retraction cord, 5 crown cementations, and 2 bridge cementations on a manikin simulator to competency.~~

~~d. At least 30 hours of final cementation of crowns and bridges after adjustment and fitting by the dentist.~~

3.4. Clinical experience applying the techniques learned in the preclinical coursework and laboratory training ~~that may be completed in a dental office,~~ in the following modules:

a. ~~At least 80~~ 30 hours of placing, packing, carving, and polishing of amalgam restorations and no less than 6 class I and 6 class II restorations completed on a live patient to competency;

b. ~~At least 120~~ 60 hours of placing and shaping composite resin restorations and no less than 6 class I, 6 class II, 5 class III, 3 class IV and 5 class V restorations completed on a live patient to competency;

c. ~~At least 40 hours of taking final impressions and use of a non-epinephrine retraction cord; and~~ At least 30 hours of making final impressions, placement of non-epinephrine retraction cord, and final cementation of crowns and bridges after preparation, adjustment and fitting by the dentist and no less than 4 crown impressions, 2 placements of retraction cord, 5 crown cementations, and 2 bridge cementations on a live patient to competency.

~~d. At least 60 hours of final cementation of crowns and bridges after adjustment and fitting by the dentist.~~

4.5. Successful completion of the following competency examinations given by the accredited educational programs:

a. ~~A written examination at the conclusion of the 50 hours of didactic coursework;~~ and

b. ~~A practical examination at the conclusion of each module of laboratory training;~~ and

e. ~~A comprehensive written examination at the conclusion of all required coursework, training, and experience for each of the corresponding modules. A clinical competency exam.~~

~~C. All treatment of patients shall be under the direct and immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist shall attest to successful completion of the clinical competencies and restorative experiences.~~

In adoption of proposed regulations, the Board will determine whether the didactic course work required as a prerequisite for the clinical experiences may be completed on-line or in a classroom setting.

The Board also intends Section 140 on Registration by endorsement as a dental assistant II to specify that an applicant must hold a registration or credential in another U. S. jurisdiction with qualification substantially equivalent to those set out in Section 120.

Finally, the Board will consider any editorial changes necessary for clarity.

### Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

The Board has been concerned that only 18 persons are currently registered as dental assistants II and has discussed the need to re-examine the requirements to determine whether they could be made less burdensome and costly. Public comment was received at the October, 2016 meeting of the Regulatory-Legislative Committee recommending that the DAII eligibility requirements be changed to a competency-based program which addresses the classification levels of procedures. It was further recommended that dentists should be calibrated in teaching the procedures to ensure a better understanding of competency.

Accordingly, a Regulatory Advisory Panel (RAP) was convened in January of 2017. It consisted of dentists and a dental hygienist who are board members; instructors from VCU School of Dentistry, Fortis College, J. Sargeant Reynolds Community College, Germanna Community College, and ECPI University; a Past-President of the Virginia Dental Association; President of the Virginia Dental Hygiene Association; and a representative of the Virginia Department of Education. The RAP agreed upon recommendations for a competency-based program that could reduce the time and cost associated with qualifying as a DAII but would include better standardization of the clinical training by calibration of supervising dentists in teaching of procedures and making the determination of competency.

### Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

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

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

Anyone wishing to submit comments may do so via the Regulatory Townhall website , [www.townhall.virginia.gov](http://www.townhall.virginia.gov), or by mail, email or fax to Elaine Yeatts, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov) or by fax to (804) 527-4434. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website

(<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

A regulatory advisory panel (RAP) was used to develop the substance of the NOIRA. Unless there are substantial comments on the NOIRA, the proposed regulations will follow the substance in the NOIRA document.