



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 60-20 – Regulations Governing the Practice of Dentistry and Dental Hygiene Department of Health Professions July 3, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Board of Dentistry (board) proposes to: 1) allow applicants who successfully complete the board-approved examinations five or more years prior to the date of receipt of their applications to avoid retaking the exam if they complete board-approved continuing education, 2) allow applicants who successfully complete the board-approved examinations five or more years prior to the date of receipt of their applications to avoid retaking the exam if they have maintained continuous practice in 48 out of the past 60 months, 3) allow dental hygienists to provide a mailing address with a post office box numbers rather than a street address, 4) add two sponsors to the list from which the board will approve continuing education credit, 5) require that dental hygienists applying for licensure by endorsement submit a current report from the Healthcare Integrity and Protection Data Bank, 6) require candidates for dentistry licensure who have failed any section of the board-approved examination three times to complete a minimum of 14 hours of additional clinical training in each section of the examination to be retested, in order to be approved by the board to sit for the examination a fourth time, 7) require candidates

for dental hygienist licensure who have failed any section of the board-approved examination three times to complete a minimum of 7 hours of additional clinical training in each section of the examination to be retested, in order to be approved by the board to sit for the examination a fourth time, 8) eliminate the examination on knowledge of Virginia's laws and regulations, 9) require dentists who administer general anesthesia or conscious sedation to hold current certification in Advanced Cardiac Life Support or Pediatric Advanced Life Support, 10) require that ancillary personnel who assist in the administration and monitoring of conscious or deep sedation have Basic Cardiac Life Support (CPR) certification or hold certification as a certified anesthesia assistant, 11) add one method and rescind another method for receiving radiation certification, and 12) make several clarifications.

Estimated Economic Impact

Exemptions from Retaking the Licensure Examination

Unlike dental hygienists, dentists cannot obtain licensure by endorsement under these regulations. On the other hand, the dental examinations required by the board are those administered by the Southern Regional Testing Agency (SRTA).¹ In addition to Virginia, Arkansas, Georgia, Kentucky, South Carolina, and Tennessee are members of SRTA.² Dentists from these states will likely have passed the SRTA exams in order to have become licensed in their home state. If they passed the SRTA exams within the last five years, they will not need to retake the exams to obtain licensure in Virginia. The current regulations also permit applicants who successfully complete the board-approved examinations five or more years prior to the date of the board's receipt of their applications for licensure to waive retaking the board-approved examinations (SRTA) if they demonstrate that they have maintained continuous clinical, ethical, and legal practice since passing the approved exam. Thus, licensed dentists from Arkansas, Georgia, Kentucky, South Carolina, and Tennessee who obtained licensure by passing the SRTA exams and have maintained continuous clinical, ethical, and legal practice since can obtain a license in Virginia without having to take more examinations.

The board proposes to allow applicants who passed the board-approved (SRTA) examinations five or more years ago to waive retaking the exams if they have maintained

¹ Ibid

² Source: the Southern Regional Testing Agency Website, www.srta.org

clinical, ethical, and legal practice for 48 of the past 60 months, instead of the current continuous practice requirement. The board also proposes to permit applicants who passed the board-approved (SRTA) examinations five or more years ago and have not been in practice for at least 48 of the past 60 months to take board-approved continuing education in lieu of retaking the exams. The proposed regulations do not specify how much continuing education is required. According to the Department of Health Professions (department), the board will decide the amount of continuing education that it will require on a case-by-case basis. By relaxing the continuous practice requirement and by allowing continuing education credits to serve in lieu of retaking the SRTA examinations, more dentists currently licensed in Arkansas, Georgia, Kentucky, South Carolina, and Tennessee may seek to become licensed in Virginia and provide dental services in the Commonwealth. To the extent that the proposed changes effectively increase the number of dentists from these states that obtain Virginia licensure and begin practicing in the Commonwealth, the supply of dental services in Virginia will increase. Increasing the supply of a good or service will tend to reduce its market price. If the cost of dental services is reduced, more people will be able to afford dental care, consequently receiving the benefit of improved health.

Typically, no demonstration of knowledge is required to obtain continuing education credits. Only attendance is mandated. Thus, accepting continuing education credits in lieu of retaking exams is effectively eliminating a requirement to demonstrate knowledge. On the other hand, accepting continuing education credits in lieu of retaking exams for dentists who are applying for licensure in Virginia and are licensed in Arkansas, Georgia, Kentucky, South Carolina, and Tennessee, but have practiced actively for less than four of the previous five years, treats these dentists more in line with Virginia dentists with inactive licensure status. Dentists with an inactive Virginia license must complete up to 45 hours of continuing education in order to reactivate their licenses and resume practice.

Dentists from all other states (non-SRTA states), including the neighboring states of Maryland and North Carolina, must take and pass examinations in order to obtain licensure in Virginia, regardless of their accomplishments and the content of the licensure-qualifying examinations they have passed in their home states. This discourages the potential entry of highly skilled dentists into Virginia. For example, excellent dentists based in the Maryland suburbs of Washington, D.C. may consider opening offices in Northern Virginia, but are

discouraged from doing so due to the time and costs associated with taking additional licensure examinations in order to obtain Virginia licensure. Or for another example, say an outstanding dentist who has passed very rigorous licensure examinations in her home non-SRTA state is contemplating a move to the Commonwealth and practicing here because her spouse has received an interesting employment offer in Virginia. The time and costs required for preparation, as well as perhaps annoyance at being required to take unnecessary examinations, may discourage this highly qualified dentist from seeking licensure and providing dental services in Virginia.

Besides SRTA, there are three other regional examining boards: 1) the North East Regional Board (NERB), with member states Connecticut, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia, 2) the Central Regional Dental Testing Service (CRDTS), with member states Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming, and 3) the Western Regional Examining Board (WREB), with member states Alaska, Arizona, Idaho, Montana, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington. The remaining ten states, Alabama, California, Delaware, Hawaii, Florida, Indiana, Louisiana, Mississippi, Nevada, and North Carolina do not belong to a regional board. Unless the NERB, CRDTS, and WREB exams, and the licensing exams for the unaligned states, are significantly less stringent than the SRTA exams, there is no justification for mandating that licensed dentists from these states who have passed their state's licensing exams take and pass the SRTA exams for Virginia licensure. By discouraging non-SRTA state dentists from seeking licensure in Virginia, the quantity and perhaps quality of dental services in Virginia are lower than they otherwise would be, while the costs of dental services are higher.

Discouraging highly skilled dentists from practicing in Virginia clearly reduces the supply of dental services in Virginia. If there are fewer suppliers of a good or service and the demand for the good or service has not changed, then it can be expected that the market price will increase. Thus, by discouraging highly skilled dentists who have passed licensure examinations in other states that are at least as rigorous as Virginia's from providing dental services in the Commonwealth, the prices paid for dental services in Virginia are likely higher

than they would otherwise be. If the cost of dental services is increased, fewer people are able to afford dental care; consequently fewer people will receive the health benefits of dental care.

The overall average quality of dental services may be reduced as well. This is the case for two reasons. First, discouraging dentists who have passed licensure examinations that are more rigorous than Virginia's from seeking licensure in the Commonwealth results in fewer dentists providing services in Virginia who have met and passed a higher standard indicating knowledge and skills than is required here. Second, when there is greater competition in the supply of a good or service, suppliers are under greater pressure to produce high quality in order to keep and obtain customers.

Dental Hygienists' Mailing Address

Currently, dental hygienists are required to provide the board with their current resident address. The regulations specifically state, "No post office box numbers are accepted." Licensee information is posted on the department's website. Since no post office box numbers are accepted, the current requirement effectively requires dental hygienists to have their home address, including the street name and number, published on the Internet. Some dental hygienists have expressed serious privacy and safety concerns about having their home address readily available on the Internet. Such available information may increase the likelihood of harassment at home, for example. The board proposes to instead require that dental hygienists provide the board with their current mailing address. The "No post office box numbers are accepted" language is deleted. This proposal creates a net benefit since the hygienists' privacy and safety concerns are alleviated by the removal of the home street address requirement, and the board and department find the proposed required information to be adequate.

Continuing Education Sponsors

Licensed dentists and dental hygienists are required to complete 15 hours of approved continuing education. These regulations contain a list of approved sponsors of continuing education. The board proposes to add "The MCV Orthodontic and Research Foundation" and "The Dental Assisting National Board" to the list of sponsors from which the board will approve continuing education credit. Though the regulations have and will continue to have "Any other board approved programs" on the list of approved sponsors of continuing education, adding these sponsors by name will have some impact. Specific programs have to be approved by the board,

and listing these two organizations as approved enable licensees to know that courses that they offer are acceptable. This saves on the time and resources necessary for licensees to inquire about whether the board will accept continuing education credit from these organizations, as well as the time and resources necessary for the department to respond. Since these costs will not have to be expended to determine if courses from these organizations are acceptable under the proposed regulations, these two organizations will likely obtain more participants in their continuing education programs.

Licensure by Endorsement for Dental Hygienists

A dental hygienist can obtain a Virginia licensure by endorsement if he is licensed in good standing in another state which has a clinical licensing examination substantially equivalent to that required by Virginia, and has had “clinical, ethical and legal practice for 24 out of the past 48 months immediately preceding application for licensure” in Virginia. The board proposes to require that applicants for licensure by endorsement submit a current report from the Healthcare Integrity and Protection Data Bank (HIDB). The HIDP report lists disciplinary actions in other states. The cost for the applicant is \$8.50.³ By obtaining the report the board will be better able to be kept aware of possible past poor practice by applicants for licensure by endorsement. The improved information on the applicant’s work history will allow the board to better evaluate whether applicants are likely to put the public at risk due to unethical or grossly incompetent service. Since the cost for the applicant is relatively small, and the benefit to the Commonwealth is potentially large, this proposed amendment will likely produce a net benefit.

Remedial Training

Under the current regulations, a candidate who repeatedly fails sections of the dental or dental hygienist licensure exams may continue to retake those sections until he passes. In regard to the dental licensure exam, the board proposes that “If the candidate has failed any section of the board-approved examination three times, he shall complete a minimum of 14 hours of additional clinical training in each section of the examination to be retested, in order to be approved by the board to sit for the examination a fourth time.” The proposed minimum amount of remedial clinical training for candidates who have failed a section of the dental hygienist exam three times is 7 hours. In dental and dental hygienist exams, candidates perform

³ Source: Department of Health Professions

procedures on actual patients. The patients are typically individuals that have volunteered to receive dental work by students in exchange for reduced fees or no payment.⁴

Allowing examinees to repeatedly perform failing-quality dental work on live patients clearly has a negative impact on those patients. Requiring additional clinical training for candidates who repeatedly fail will likely reduce the amount of poor dental work performed on the patients receiving reduced fee dental services during examinations. This is the case for two reasons: 1) additional hours of training may result in improved performance, and 2) the additional time and cost may discourage some repeated exam-failing candidates from retaking the exam. The likely reduction in failing-quality dental and dental hygienist work is particularly beneficial for Virginians of lesser means, since people with fewer resources are more likely to choose dental services from dental students in exchange for reduced fees or no payment.

Additional clinical training costs about \$100 per hour for both dentists and dental hygienists.⁵ Thus candidates who choose to pursue a fourth try at a previously failed section will pay about \$1,400 in fees for the proposed required additional 14 hours of clinical training. The \$1,400 figure does not include the value of the candidates' time and travel costs associated with obtaining and taking the additional clinical training. According to the department, it is very unusual for candidates to fail the same section three times. Thus, this proposal will be applicable on only rare occasions.

Jurisprudence Examination

All applicants for licensure must currently pass an examination on the content of the applicable Virginia dental or dental hygiene laws and regulations in order to obtain licensure. The board proposes to no longer require that applicants take such an exam. Instead, applicants must "attest that they have read and understand" the applicable Virginia dental or dental hygiene laws and regulations. Eliminating the jurisprudence exam requirement saves applicants the exam fee as well as the time of taking the exam and traveling to and from the test center. The test fee is \$55 and it takes approximately one hour to complete the exam.⁶ According to the department testing centers exist throughout the Commonwealth. In addition, applicants will likely spend less

⁴ Ibid

⁵ Ibid

⁶ Ibid

time reading the rules and regulations prior to attesting to their understanding, than they currently spend studying for the jurisprudence exam.

Eliminating the jurisprudence exam requirement will also likely result in some dentists and dental hygienists not understanding Virginia's laws and regulations as well as they would with the requirement. Attesting to understanding documents does not provide the same assurance of knowledge as passing a test on its contents. The impact of some dentists and dental hygienists not understanding Virginia's laws and regulations as well as they would otherwise is unknown. The impact depends on how many dentists and dental hygienists are less well informed once the change takes effect, what topics they are less well informed about, whether being less well-informed affects their actions, and how their actions change if they change. None of these are factors are known.

Advanced Cardiac Life Support and Basic Cardiac Life Support

The board proposes to require that dentists who administer either deep sedation/general anesthesia or conscious sedation hold current certification in Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) from the American Heart Association. This proposal is based upon the recommendation of a panel assembled by the board that consisted of dental school faculty and practicing oral and maxillofacial surgeons. It was the judgment of the panel that dentists who have not demonstrated the knowledge necessary to obtain certification potentially put their patients health at risk. This certification is already required for physicians who administer sedation. All or nearly all oral and maxillofacial surgeons in Virginia hold certification in ACLS or PALS.⁷ This is due to the surgeons' belief in its necessity, as well as its requirement by malpractice insurance companies.⁸ Thus, this proposal will most likely not affect oral and maxillofacial surgeons. The panel believes that some general dentistry practitioners who administer conscious sedation may not be certified in ACLS or PALS. The panel does not have a research estimate of the safety risk posed by dentists administering conscious sedation without ACLS or PALS certification, but believes that it is significant.

ACLS certification typically requires 16 hours of class with fees from \$250 to \$300.⁹ PALS certification requires additional time and fees.¹⁰ In addition to fees, dentists' time also has

⁷ Source: Board of Dentistry's anesthesia panel

⁸ Ibid

⁹ Source: Department of Health Professions

value. The mean hourly wage for dentists in Virginia is \$57.73.¹¹ Assuming that the value of a dentist's time is equal to his mean hourly wage, and not accounting for travel expenses, it would cost a dentist \$923.68¹² on average to comply with the proposed certification requirement. Since estimates of dentists' improved ability to handle adverse reactions to conscious sedation due to ACLS or PALS certification are unavailable, an accurate comparison of the benefit of requiring ACLS or PALS certification to its cost cannot be made.

The board also proposes to require that ancillary personnel who assist in the administration and monitoring of conscious or deep sedation have Basic Cardiac Life Support (CPR) certification or hold certification as a certified anesthesia assistant (CAA). Having more than one person present who can perform CPR may help improve survival chances for someone in cardiac arrest. Additionally, if the dentist administering anesthesia becomes incapacitated, it can be beneficial to have another individual present who can help in resuscitation. The panel believes that it is common, but not universal, for ancillary personnel to have at least CPR training.

CPR certification typically requires 8 hours of class at a cost of \$150 to \$200.¹³ CAA requires more time and higher fees.¹⁴ The mean hourly wage for dental assistants in Virginia is \$12.95¹⁵ Assuming that the value of a dental assistant's time is equal to his mean hourly wage, and not accounting for travel expenses, it would cost a dental assistant \$207.20¹⁶ on average to comply with the proposed certification requirement. Since estimates of improved health outcomes due to the ancillary personnel who assist in the administration and monitoring of conscious or deep sedation having had training in CPR are not available, an accurate comparison of the benefit of requiring this certification to its cost cannot be made.

Radiation Certification

Under the current regulations there are four methods by which an individual may become certified to place or expose dental X-ray film: 1) satisfactorily complete a course or examination

¹⁰ Ibid

¹¹ Source: U.S. Department of Labor, Bureau of Labor Statistics, 2001 State Occupational Employment and Wage Estimates

¹² $16 \times \$57.73 = \923.68

¹³ Source: Department of Health Professions

¹⁴ Ibid

¹⁵ Source: U.S. Department of Labor, Bureau of Labor Statistics, 2001 State Occupational Employment and Wage Estimates

recognized by the Commission on Dental Accreditation of the American Dental Association, 2) be certified by the American Registry of Radiologic Technologists, 3) satisfactorily complete a course and pass an examination in compliance with guidelines provided by the board, or 4) pass the board's examination in radiation safety and hygiene followed by on the job training.

According to the department, the board's exam is very rarely requested. In order to save on the costs of maintaining the rarely used exam, the board proposes to discontinue it and eliminate the current fourth option for obtaining radiation certification. The board proposes to introduce a new fourth option, satisfactory completion of a radiation course and passage of an exam given by the Dental Assisting National Board. Since the board exam is very rarely used and it is costly to maintain, discontinuing the option to gain radiation certification via a board exam will likely produce a net benefit. Adding the Dental Assisting National Board as an approved source from which to obtain radiation certification can be beneficial to the extent that individuals will find it an attractive option.

Businesses and Entities Affected

The proposed amendments affect the 5,390 licensed dentists, 3,709 licensed dental hygienists, their patients and practices, dental schools, dental hygienist schools, and their students and faculty.

Localities Particularly Affected

The proposed regulations affect all Virginia localities.

Projected Impact on Employment

By relaxing the continuous practice requirement and by allowing continuing education credits to serve in lieu of retaking the SRTA examinations, more dentists currently licensed in Arkansas, Georgia, Kentucky, South Carolina, and Tennessee may seek to become licensed and open practices or join current practices in Virginia. The total number of new individuals who open or join dental practices in the Commonwealth due to this change is likely to be small. The addition of a small number of new dentists practicing in Virginia would likely prompt the hiring of a small number of new support personnel, such as dental hygienists and dental assistants.

¹⁶ 16 x \$12.95 = \$207.20

Effects on the Use and Value of Private Property

A small number of new dental practices may be established or expanded due to the proposed relaxation of the continuous practice requirement and the permitting of continuing education credits to serve in lieu of retaking the SRTA examinations.

The value of the MCV Orthodontic and Research Foundation and the Dental Assisting National Board may increase somewhat due to increased demand for their continuing education courses stemming from the proposal to list those organizations as approved continuing education sponsors. The value of the Dental Assisting National Board may also increase if their listing as an approved source from which to obtain radiation certification produces new demand for their services.

The proposals to require dentists who administer either deep sedation/general anesthesia or conscious sedation hold current certification in Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) from the American Heart Association and to require that ancillary personnel who assist in the administration and monitoring of conscious or deep sedation have Basic Cardiac Life Support (CPR) certification or hold certification as a certified anesthesia assistant (CAA) will provide additional demand for these services from the organizations that provide them. The value of these organizations will consequently increase.