

**VIRGINIA BOARD OF DENTISTRY**  
**BOARD BUSINESS MEETING AGENDA**  
**DECEMBER 2, 2022**

<u>TIME</u>		<u>PAGE</u>
<b>9:00 a.m.</b>	<b>Call to Order – Dr. Nathaniel C. Bryant, President</b>	
	<b>Public Comment – Dr. Bryant</b>	--
	<b>Approval of Minutes</b>	
	• September 8, 2022 Formal Hearing	1-2
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	<b>Liaison &amp; Committee Reports</b>	
	• AADA/AADB Committee Report – Ms. Sacksteder	--
	• CODA Accreditation Site Visit – Dr. Bryant	12
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	<b>Board Discussion/Action</b>	
	• Consideration of Public Comments	--
	• Update on CE Broker – Ms. Sacksteder	--
	<b>Board Counsel Report – Mr. Rutkowski</b>	--
	<b>Executive Director’s Report – Ms. Sacksteder</b>	
	• CITA Meeting	--
	• CDCA/WREB/CITA Meeting	--
	• Disciplinary Report	108-109

**VIRGINIA BOARD OF DENTISTRY  
FORMAL HEARING  
September 8, 2022**

**TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 9:03 AM., on September 8, 2022 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

**PRESIDING:** Nathaniel C. Bryant, D.D.S

**MEMBERS PRESENT:** William C. Bigelow, D.D.S.  
Sidra Butt, D.D.S.  
Sultan E. Chaudhry, 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.

**STAFF PRESENT:** Jamie C. Sacksteder, Executive Director  
Sally Ragsdale, Executive Assistant

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

**OTHERS PRESENT:** Anne Joseph, Adjudication Consultant  
Andrea Pegram, Court Reporter  
Michael L. Goodman, Esquire, Respondent's Counsel  
Nora T. Ciancio, Esquire, Respondent's Counsel

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

**Matthew Mower, D.D.S  
Case No.: 215793** Dr. Mower was present with legal counsel, in accordance with the Notice of the Board dated April 25, 2022.

Dr. Bryant swore in the witnesses.

Following Ms. Joseph's opening statement, Dr. Bryant admitted into evidence Commonwealth's Exhibits 1-4.

Following Mr. Goodman's opening statement; Dr. Bryant admitted into evidence Respondent's Exhibits A-L.

Testifying on behalf of the Commonwealth:

- Alan Burton, Senior Investigator, DHP
- Amy Ressler, Program Administrator, HPMP

Dr. Mower testified on his own behalf.

Ms. Joseph and Mr. Goodman provided closing statements.

**Closed Meeting:** Dr. Chaudhry moved that the Board enter into a closed meeting pursuant to §2.2-3711(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 of Matthew Mower, D.D.S. Additionally, he moved that Board staff, Ms. Sacksteder, Ms. Ragsdale, and 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. Chaudhry 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.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

**Decision:** Mr. Rutkowski reported that Dr. Mower's license to practice dentistry in the Commonwealth of Virginia is indefinitely suspended which will be stayed upon continued compliance with his HPMP contract, Dr. Mower cannot practice dentistry until proof of completion of a refresher course from a CODA accredited school of 26 total hours with 20 of the 26 hours being hands-on clinical training, Board approved continuing education of 10 hours in endodontics, Board approved continuing education of 10 hours in restorative dentistry and 5 hours of safe and ethical prescribing. Dr. Mower received a monetary penalty of \$2,500.00 and a reprimand.

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

**ADJOURNMENT:** The Board adjourned at 12:08 p.m.

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Nathaniel C. Bryant, D.D.S., President

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Jamie C. Sacksteder, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**VIRGINIA BOARD OF DENTISTRY  
FORMAL HEARING  
September 8, 2022**

**TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 1:06 PM., on September 8, 2022 in Board Room 4, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

**PRESIDING:** Nathaniel C. Bryant, D.D.S

**MEMBERS PRESENT:** William C. Bigelow, D.D.S.  
Sidra Butt, D.D.S.  
Sultan E. Chaudhry, 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.

**STAFF PRESENT:** Deborah Southall, Discipline Case Manager  
Sally Ragsdale, Executive Assistant

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

**OTHERS PRESENT:** Erin T. Weaver, Assistant Attorney General  
Rebecca Smith, Adjudication Specialist  
Andrea Pegram, Court Reporter

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

**George Varkey, D.D.S  
Case No.: 197775** Dr. Varkey was present without legal counsel, in accordance with the Notice of the Board dated April 25, 2022.

Dr. Bryant swore in the witnesses.

Following Ms. Weaver's opening statement, Dr. Bryant admitted into evidence Commonwealth's Exhibits 1-2.

Dr. Varkey delivered an opening statement.

Testifying on behalf of the Commonwealth:

- David L. Robinson, Senior Investigator, DHP
- Patient A

Testifying on behalf of the Respondent:

- Dr. George Varkey
- Ms. Angel Coleman
- Ms. Keislha Rivera

Ms. Weaver and Dr. Varkey provided closing statements.

**Closed Meeting:**

Dr. Chaudhry moved that the Board enter into a closed meeting pursuant to §2.2-3711(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 of George Varkey, D.D.S. Additionally, he moved that Board staff, Ms. Southall, Ms. Ragsdale, and 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. Chaudhry 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.

The Board reconvened in open session pursuant to § 2.2-3712(D) of the Code.

**Decision:**

Mr. Rutkowski reported that Dr. Varkey has been issued a reprimand and ordered to pay a monetary penalty of \$5,000.00, 7 hours in the continuing education subject of Recordkeeping and Risk Management, 7 hours in the subject of Diagnosis and Treatment Planning, 4 hours in the subject of Proper Billing Practices.

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

**ADJOURNMENT:**

The Board adjourned at 4:08 p.m.

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Nathaniel C. Bryant, D.D.S., President

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Jamie C. Sacksteder, Executive Director

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Date

\_\_\_\_\_  
Date

**VIRGINIA BOARD OF DENTISTRY  
BUSINESS MEETING MINUTES  
September 9, 2022**

- TIME AND PLACE:** The meeting of the Virginia Board of Dentistry was called to order at 9:02 a.m., on September 9, 2022 at the Perimeter Center, 9960 Mayland Drive, in Board Room 4, Henrico, Virginia 23233.
- PRESIDING:** Nathaniel C. Bryant, D.D.S., President
- MEMBERS PRESENT:** Jamiah Dawson, D.D.S., Secretary  
Sidra Butt, D.D.S.\*  
Sultan E. Chaudhry, 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.  
Dagoberto Zapatero, D.D.S.
- MEMBERS ABSENT:** William C. Bigelow, D.D.S.
- STAFF PRESENT:** Jamie C. Sacksteder, Executive Director  
Donna Lee, Discipline Case Manager  
Sally Ragsdale, Executive Assistant  
David C. Brown, D.C., Agency Director, Department of Health Professions  
Erin Barrett, Senior Policy Analyst, Department of Health Professions
- COUNSEL PRESENT:** Jim E. Rutkowski, Assistant Attorney General
- ESTABLISHMENT OF A QUORUM:** With eight members of the Board present, a quorum was established. Dr. Bryant welcomed the two new members of the Board: Dr. William Bigelow and Ms. Emelia McLennan, however, Dr. Bigelow was not present at the meeting. Ms. Sacksteder read the emergency evacuation procedures.
- PUBLIC COMMENT:** Dr. Bryant explained the parameters for public comment and opened the public comment period. Dr. Bryant also noted that the letter from Michael Cobler, Executive Director for Central Regional Dental Testing Service ("CRDTS"), and the Psychometric Analysis they provided are contained on pages 1-5 of the agenda packet. Dr. Bryant stated that included in the agenda packet on pages 6-7 were two Petitions for Rulemaking submitted by Southern Regional Testing Service ("SRTA"). He explained that requests to amend guidance documents are not petitions for rulemaking under Virginia Code 2.2-4007; therefore, they were received as public comment. This included letters from John L. Harris, D.D.S., James Watkins, D.D.S. and an email from Catherine Como representing CE. Broker that was distributed to Board members.
- John L. Harris III, D.D.S. -** Dr. Harris, a former Board member (1991-1995), expressed his concerns regarding the changes to acceptance of examinations for licensure. He informed the Board of the many changes in dental exams over 31 years. Dr. Harris requested that the Board amend

Guidance Document 60-25 to include exams and delivery by agencies that satisfy the criteria requirements of the Board.

**Suzanne Porter, Financial Administrator for SRTA** –Ms. Porter asked the Board to amend guidance documents 60-25 and 60-26. She stated that SRTA added a diagnostic skills section to the exam. Ms. Porter concluded that SRTA now offers all the required components and asked that the Board continue to accept results from SRTA.

**Edward Mullins, D.D.S-Dr. Mullins**, a former Board member (1997-1999) and examiner with multiple testing agencies, stated that it was in the best interest of the Board to allow applicants the choice of testing agency. He also indicated that there perhaps could be anti-trust issues. He asked the Board to reconsider their decision to only accept the ADEX exam stating that multiple agencies allows for competition and more pathways to licensure.

**Richael “Shell” Cobler, Executive Director for CRDTS-** requested the Board amend guidance document 60-25, 60-26 to accepting CRDTS for dental and dental hygiene applicants. She stated CRDTS' method of scoring meets the conjunctive scoring requirements and numerous candidates have contacted CRDTS to state that they have been denied licensure because of compensatory scoring. She requested a better understanding of denials from the Board.

**APPROVAL OF MINUTES:** Dr. Bryant asked if there were any edits or corrections to the May 27, 2022 Formal Hearing or June 10, 2022 Business Meeting minutes. Hearing none, Dr. Dawson made a motion to approve the minutes as presented. The motion was seconded and passed.

**DIRECTOR'S REPORT:** Dr. Brown welcomed the new members and stated that serving as a Board member is one of the most rewarding things a person can do for their profession. He reminded the Board that their role as Board members is to protect the public, not the profession and these do not always overlap. He informed the Board the Governor has an initiative to reduce unnecessary regulations by 25% which was reiterated in Executive Order 19. The Governor has established the Office of Regulatory Management to carry out this initiative. He asked the Board be prepared at the next meeting to begin reviewing regulations that can be reduced or eliminated for dentistry.

**LIAISON & COMMITTEE REPORTS:** **ADEX Report** – Dr. Bryant gave a report from the ADEX annual meeting held on August 5-6, 2022 in Chicago, Illinois. He reported the final merger of the three testing agencies is complete as of August 1, 2022. The new name is CDCA/WREB/CITA. He recommended that the Board update their documents to reflect this change. The next meeting is scheduled for August 4-5, 2023.

**CITA Report** – Ms. Lemaster reported CITA will have their final meeting in December 2022. She and Ms. Sacksteder will be attending.

**Nominating Committee-** Dr. Hendricksen reported from the Nominating Committee. He made a motion to nominate Dr. Bryant for President, Dr. Dawson for Vice-President and Mr. Martinez for Secretary-Treasurer. There were no nominations from the floor. Hearing none, the Board elected the slate of officers as presented. The motion was seconded and passed. The new officers will assume their positions at the end of the meeting.

**LEGISLATION,  
REGULATION, AND  
GUIDANCE:**

**Status Report on Regulatory Actions Chart-**Ms. Barrett reviewed the updated Regulatory Actions chart included in the agenda packet. As of August 25, 2022, she stated there are seven ongoing regulatory actions. The first two: proposed regulation on the elimination of restriction on advertising dental specialties and a fast-track technical corrections are at the Governor's office.

The following items are at the Secretary's office. Pages 20-21 in agenda packet.

- NOIRA for expansion and clarification of refresher courses required for reinstatement;
- Training in infection control;
- NOIRA for continuing education requirements for jurisprudence;
- Digital scan technicians; and
- Elimination of direct pulp-capping as a delegable task for a DAII.

**Guidance Document 60-1: Confidential Consent Agreements ("CCA")-** Ms. Barrett explained she worked with Ms. Sacksteder to amend this document regarding Confidential Consent Agreements. The following additional amendments were also made:

- Change the words in the first sentence that reads "CCAs may be only" to read "CCAs may only be"; and
- In the 5<sup>th</sup> paragraph, delete the words "A proposal from a respondent for".

Dr. Zapatero made a motion to adopt the amendments as proposed. The motion was seconded and passed.

\*Dr. Butt arrived at 9:40 AM. Nine Board members were in attendance.

**Guidance Document 60-14: Bylaws-** Ms. Barrett reviewed the proposed amendments with the Board. She stated that in the first paragraph, last sentence of number "3. Terms of Office" the word "vacancies" should be deleted. Ms. Lemaster made a motion to accept the amendments as proposed. The motion was seconded and passed.

**Discussion of Public Comment-** Dr. Bryant asked if the Board wanted to consider CRDTS's public comments. Ms. Sacksteder explained any applicant applying by credentials, the Board will accept a passing score of the Clinical Competency Exam required in the state in which the dentist was originally licensed, as long as they are in good standing in that state(s) regardless of the test and they meet the experience requirements.



Ms. Barrett explained that the Petition for Rulemaking submitted by SRTA would not be considered because a Petition for Rulemaking applies only to changes in regulations of the Board and does not apply to guidance documents. Dr. Brown asked if the Board was interested in following-up or revisiting the issue of the testing agencies.

The Board assured Dr. Brown that the decision to approve ADEX as the only test in 2023 came after much discussion, several meetings, expert review, and in depth research and deliberation by the Board. It was also acknowledged that the ADEX exam is accepted in 48 states, Jamaica and Virgin Islands. Therefore, the Board does not consider only accepting the ADEX to be a portability issue or an access issue. The Board also discussed the importance of ensuring clinical equivalency and this will be done by only accepting the ADEX exam. At this time, the Board supports their decision to only approve the ADEX exam as of January 1, 2023 and its current position to not accept exams that conduct compensatory scoring, which includes CRDTS.

After discussion, Dr. Chaudhry moved that the Board take this matter to the Exam Committee for further discussion. The motion was seconded, the vote was unanimous, and the motion failed.

**BOARD DISCUSSION  
TOPICS:**

**CE Audit Procurement Process-** Ms. Sacksteder stated Procurement has reviewed the Memorandum of Understanding (MOU). An addendum will be completed and signed once the Board has made a decision of which CE Audit company to utilize.

Ms. Barrett stated that if the Board made a regulatory change, a cost benefit analysis would have to be submitted to Planning and Budget with each proposal. Dr. Brown repeated that using a CE Audit agency would be voluntary and not required; therefore, no regulations.

Dr. Chaudhry stated that there would be no cost to the Board. He also recommended C.E. Broker as a better fit for the Board because of its experience, process and metrics setup.

Dr. Dawson moved that the Board accept C.E. Broker as its CE Audit agency and that licensees participate on a voluntary basis. The motion was seconded and passed.

**BOARD COUNSEL  
REPORT:**

Mr. Rutowski stated that one formal hearing decision: Amr Sheta, D.D.S. has been appealed to Virginia Circuit Court.

**DEPUTY EXECUTIVE  
DIRECTOR'S REPORT:**

Ms. Sacksteder reviewed the disciplinary Board report on case activity from January 1, 2022 through August 25, 2022, giving an overview of the actions taken and a breakdown of the cases closed with violations.

Virginia Board of Dentistry  
Board Business Meeting  
September 9, 2022

**ADJOURNMENT:** With all business concluded, the Board adjourned at 10:25 a.m.

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Nathaniel C. Bryant, D.D.S., President

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Jamie C. Sacksteder, Executive Director

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Date

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Date

**UNAPPROVED**

**VIRGINIA BOARD OF DENTISTRY**

**MINUTES  
SPECIAL SESSION**

**CALL TO ORDER:** The meeting of the Board of Dentistry was called to order at 11:30 a.m., on September 9, 2022, at the Department of Health Professions, Perimeter Center, 2<sup>nd</sup> Floor Conference Center, Board Room 4, 9960 Mayland Drive, Henrico, Virginia 23233.

**PRESIDING:** Nathaniel C. Bryant, D.D.S., President

**MEMBERS PRESENT:** Sidra Butt, D.D.S.  
Sultan E. Chaudhry, D.D.S.  
Jamiah Dawson, D.D.S.  
Alf Hendricksen, D.D.S.  
Margaret F. Lemaster, R.D.H.  
J. Michael Martinez de Andino  
Emelia H. McLennan, R.D.H.  
Dagoberto Zapatero, D.D.S.

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

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

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

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

**John Asby Morgan,  
D.D.S., O.M.S., M.D.  
Case No.: 216824** The Board received information from Mr. Schliessmann in order to determine if Dr. Morgan's practice of dentistry and oral/maxillofacial surgery constitutes a substantial danger to public health and safety. Mr. Schliessmann reviewed the case and responded to questions.

**Closed Meeting:** Dr. Dawson moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(27) and § 2.2-3712(F) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of John Morgan. Additionally, Dr. Dawson moved that Ms. Sacksteder, Ms. Ragsdale, Ms. Lee, and Mr. Rutkowski attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and passed.

**Reconvene:** Dr. Dawson 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. Zapatero moved that the Board summarily suspend Dr. Morgan's license to practice dentistry and his registration to practice oral/maxillofacial surgery in the Commonwealth of Virginia in that he is unable to practice dentistry and oral/maxillofacial surgery safely; and to offer a consent order for the permanent surrender of his license to practice dentistry and his registration to practice oral/maxillofacial surgery in lieu of a formal hearing. The motion was seconded and passed.

**ADJOURNMENT:**

With all business concluded, the Board adjourned at 11:53 a.m.

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Nathaniel C. Bryant, D.D.S., Chair

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Jamie C. Sacksteder, Deputy Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **Report from CODA site visit at Wytheville Community College**

The Wytheville Community College CODA site visit was held from November 10-11, 2022. The Town of Wytheville has a population of approximately 8,000 people and is located in the western part of Virginia. The closest major city is Blacksburg, Virginia. The school has a student enrollment of approximately 2200, with numerous Career and Technical programs.

Due to the confidential nature of the CODA site visit, specific details that pertain to the visit are not allowed to be disclosed. The following is a generalized overview of the visit:

1. The program director has been in the position for 8 months.
2. The program has the full support of the administration, though state funding could be improved to increase the staffing and instructor shortages.
3. The class size has been doubled to share in the efforts to increase the supply of dental hygienist in the state.
4. The program is an integral part of the community, and provides preventive dental care to the immediate and surrounding areas. This service is invaluable due to small numbers of dental providers in that region of Virginia.

The state board member was an active participant during the visit, and provided interpretations of state regulations when needed. This is also valuable to the process, since the site visit committee members are from different states where the rules governing dentistry could be slightly different.

**Board of Dentistry – UPDATE FOR SEPTEMBER**  
**Current Regulatory Actions**

<b>VAC</b>	<b>Stage</b>	<b>Subject Matter</b>	<b>Date submitted*</b>	<b>Office; time in office**</b>	<b>Notes</b>
18VAC60-21	Proposed	Elimination of restriction on advertising dental specialties	9/15/2019	Governor 1075 days (2.9 years)	Adopted on advice of Board counsel
18VAC60-21	Fast-Track	Technical corrections	11/18/2019	Governor 1012 days (2.7 years)	Correcting oversights in regulation and reducing cost of reactivation of an inactive license
18VAC60-21 18VAC60-25	NOIRA	Expansion and clarification of refresher courses required for reinstatement	6/24/2022	Secretary 62 days	In response to a petition for rulemaking, the Board will consider amendments to expand the types of refresher courses reinstatement applicants may take and clarify the number of course hours and type of training required for courses.
18VAC60-21 18VAC60-30	Final	Training in infection control	7/5/2022	Secretary 51 days	Amendments require specific training in infection control for dental assistants. Promulgated in response to a petition for rulemaking.
18VAC60-21 18VAC60-25	NOIRA	Continuing education requirements for jurisprudence	7/12/2022	Secretary 44 days	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	Secretary 7 days	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	DPB 34 days	Eliminates direct pulp-capping as a delegable task for a DAIL.

\* Date submitted to current location

\*\* As of August 25, 2022

*Commonwealth of Virginia*



**REGULATIONS  
GOVERNING THE DISCIPLINARY  
PROCESS**

**VIRGINIA BOARD OF DENTISTRY**

**Title of Regulations: 18 VAC 60-15-10 et seq.**

**Statutory Authority: § 54.1-2400 and Chapter 27  
of Title 54.1 of the *Code of Virginia***

**Effective Date: December 2, 2015**

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## REGULATIONS GOVERNING THE DISCIPLINARY PROCESS

### **18VAC60-15-10. Recovery of disciplinary costs.**

#### **A. Assessment of cost for investigation of a disciplinary case.**

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant, the board may assess the hourly costs relating to investigation of the case by the Enforcement Division of the Department of Health Professions and, if applicable, the costs for hiring an expert witness and reports generated by such witness.
2. The imposition of recovery costs relating to an investigation shall be included in the order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of investigative costs imposed shall be set forth in the order.
3. At the end of each fiscal year, the board shall calculate the average hourly cost for enforcement that is chargeable to investigation of complaints filed against its regulants and shall state those costs in a guidance document to be used in imposition of recovery costs. The average hourly cost multiplied times the number of hours spent in investigating the specific case of a respondent shall be used in the imposition of recovery costs.

#### **B. Assessment of cost for monitoring a licensee or registrant.**

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant and in which terms and conditions have been imposed, the costs for monitoring of a licensee or registrant may be charged and shall be calculated based on the specific terms and conditions and the length of time the licensee or registrant is to be monitored.
2. The imposition of recovery costs relating to monitoring for compliance shall be included in the board order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of monitoring costs imposed shall be set forth in the order.
3. At the end of each fiscal year, the board shall calculate the average costs for monitoring of certain terms and conditions, such as acquisition of continuing education, and shall set forth those costs in a guidance document to be used in the imposition of recovery costs.

**C. Total of assessment.** In accordance with § 54.1-2708.2 of the Code of Virginia, the total of recovery costs for investigating and monitoring a licensee or registrant shall not exceed \$5,000, but shall not include the fee for inspection of dental offices and returned checks as set forth in 18VAC60-21-40 or collection costs incurred for delinquent fines and fees.

### **18VAC60-15-20. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.**

**A. Decision to delegate.** In accordance with subdivision 10 of § 54.1-2400 of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate at the time a determination is made that probable cause exists that a practitioner may be subject to a disciplinary action. If delegation to a subordinate is not recommended at the time of the probable cause determination, delegation may be approved by the president of the board or his designee.

#### **B. Criteria for an agency subordinate.**

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed

knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

**Agenda Item: Acceptance of recommended actions from the Regulatory Committee**

**Included in your agenda package:**

- Changes the Regulatory Committee recommends as a fast-track regulatory action to Chapter 21;
- Changes the Regulatory Committee recommends as a fast-track regulatory action to Chapter 25; and
- Changes the Regulatory Committee recommends as a fast-track regulatory action to Chapter 30.

**Staff Note:** Regulatory Committee wanted Board input on one issue in 18VAC60-21-120 and two issues in 18VAC60-25-100. Will address during review of Committee recommendation.

**Action needed:**

- Motion to accept Regulatory Committee recommendation to adopt fast-track changes to Chapter 21 to implement periodic review;
- Motion to accept Regulatory Committee recommendation to adopt fast-track changes to Chapter 25 to implement periodic review; and
- Motion to accept Regulatory Committee recommendation to adopt fast-track changes to Chapter 30 to implement periodic review.

***Commonwealth of Virginia***



**REGULATIONS  
GOVERNING THE PRACTICE OF DENTISTRY**

**VIRGINIA BOARD OF DENTISTRY**

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**CHAPTER 21  
REGULATIONS GOVERNING THE PRACTICE OF DENTISTRY**

**Part I General Provisions**

**18VAC60-21-10. Definitions.**

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

"Maxillofacial"

"Oral and maxillofacial surgeon"

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"AAOMS" means the American Association of Oral and Maxillofacial Surgeons.

"ADA" means the American Dental Association.

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale, or use of dental methods, services, treatments, operations, procedures, or products, or to promote continued or increased use of such dental methods, treatments, operations, procedures, or products.

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

~~"Code" means the Code of Virginia.~~

"Dental assistant I" means any unlicensed person under the direction of a dentist or a dental hygienist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures as specified in 18VAC60-21-150 and 18VAC60-21-160.



"Mobile dental facility" means a self-contained unit in which dentistry is practiced that is not confined to a single building and can be transported from one location to another.

"Nonsurgical laser" means a laser that is not capable of cutting or removing hard tissue, soft tissue, or tooth structure.

"Portable dental operation" means a nonfacility in which dental equipment used in the practice of dentistry is transported to and utilized on a temporary basis at an out-of-office location, including patients' homes, schools, nursing homes, or other institutions.

"Radiographs" means intraoral and extraoral radiographic images of hard and soft tissues used for purposes of diagnosis.

C. The following words and terms relating to supervision as used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the tooth or teeth to be restored and remains immediately available in the office to the dental assistant II for guidance or assistance during the delivery of treatment and related services. The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

"Direction" means the level of supervision (i.e., immediate, direct, indirect, or general) that a dentist is required to exercise with a dental hygienist, a dental assistant I, a dental assistant II, or a certified registered nurse anesthetist or the level of supervision that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Immediate supervision" means the dentist is in the operatory to supervise the administration of sedation or provision of treatment.

"Indirect supervision" means the dentist examines the patient at some point during the appointment and is continuously present in the office to advise and assist a dental hygienist, a dental assistant, or a certified registered nurse anesthetist who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist, (iii) preparing the patient for dismissal following treatment, or (iv) administering topical local anesthetic, sedation, or anesthesia as authorized by law or regulation.

"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.

D. The following words and terms relating to sedation or anesthesia as used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Analgesia" means the diminution or elimination of pain.

"Continual" or "continually" means repeated regularly and frequently in a steady succession.

"Continuous" or "continuously" means prolonged without any interruption at any time.

"Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

"General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"Inhalation" means a technique of administration in which a gaseous or volatile agent, including nitrous oxide, is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

"Inhalation analgesia" means the inhalation of nitrous oxide and oxygen to produce a state of reduced sensation of pain with minimal alteration of consciousness.

"Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.

"Minimal sedation" means a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, and ventilator and cardiovascular functions are unaffected. Minimal sedation includes the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness and includes "inhalation analgesia" when used in combination with any such sedating agent administered prior to or during a procedure.

"Moderate sedation" means a drug-induced depression of consciousness, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part VII (18VAC60-21-260 et seq.) of this chapter.

"Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract (i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular).

"Provide" means, in the context of regulations for moderate sedation or deep sedation/general anesthesia, to supply, give, or issue sedating medications. A dentist who does not hold the applicable permit cannot be the provider of moderate sedation or deep sedation/general anesthesia.

"Titration" means the incremental increase in drug dosage to a level that provides the optimal therapeutic effect of sedation.

"Topical oral anesthetic" means any drug, available in creams, ointments, aerosols, sprays, lotions, or jellies, that can be used orally for the purpose of rendering the oral cavity insensitive to pain without affecting consciousness.

"Vital signs" means clinical measurements, specifically pulse rate, temperature, respiration rate, and blood pressure, that indicate the state of a patient's essential body functions.

#### **18VAC60-21-20. Address of record.**

Each licensed dentist shall provide the board with a current address of record. All required notices and correspondence mailed by the board to any such licensee shall be validly given when mailed to the address of record on file with the board. Each licensee may also provide a different address to be used as the public address, but if a second address is not provided, the address of record shall be the public address. All changes of address shall be furnished to the board in writing within 30 days of such changes.

#### **18VAC60-21-30. Posting requirements.**

~~A. A dentist who is practicing under a firm name or who is practicing as an employee of another dentist is required by § 54.1-2720 of the Code to conspicuously display his name at the entrance of the office. The~~ Any employing dentist, firm, or company must enable compliance with § 54.1-2720 of the Code by designating a space at the entrance of the office for the name of the practicing dentist to be displayed.

~~B. In accordance with § 54.1-2721 of the Code a dentist shall display his dental license where it is conspicuous and readable by patients in each dental practice setting. If a licensee practices in more than one office, a duplicate license obtained from the board may be displayed.~~

C. A dentist who administers, prescribes, or dispenses Schedules II through V controlled substances shall maintain a copy of his current registration with the federal Drug Enforcement Administration in a readily retrievable manner at each practice location.

D. A dentist who administers moderate sedation, deep sedation, or general anesthesia in a dental office shall display his sedation or anesthesia permit issued by the board or certificate issued by AAOMS.

**18VAC60-21-40. Required fees.**

**A. Application/registration fees.**

1. Dental license by examination	\$400
2. Dental license by credentials	\$500
3. Dental restricted teaching license	\$285
4. Dental faculty license	\$400
5. Dental temporary resident's license	\$60
6. Restricted volunteer license	\$25
7. Volunteer exemption registration	\$10
8. Oral maxillofacial surgeon registration	\$175
9. Cosmetic procedures certification	\$225
10. Mobile clinic/portable operation	\$250
11. Moderate sedation permit	\$100
12. Deep sedation/general anesthesia permit	\$100

**B. Renewal fees.**

1. Dental license - active	\$285
2. Dental license - inactive	\$145
3. Dental temporary resident's license	\$35
4. Restricted volunteer license	\$15
5. Oral maxillofacial surgeon registration	\$175
6. Cosmetic procedures certification	\$100

- 7. Moderate sedation permit \$100
- 8. Deep sedation/general anesthesia permit \$100

C. Late fees.

- 1. Dental license - active \$100
- 2. Dental license - inactive \$50
- 3. Dental temporary resident's license \$15
- 4. Oral maxillofacial surgeon registration \$55
- 5. Cosmetic procedures certification \$35
- 6. Moderate sedation permit \$35
- 7. Deep sedation/general anesthesia permit \$35

D. Reinstatement fees.

- 1. Dental license - expired \$500
- 2. Dental license - suspended \$750
- 3. Dental license - revoked \$1000
- 4. Oral maxillofacial surgeon registration \$350
- 5. Cosmetic procedures certification \$225

E. Document fees.

- 1. Duplicate wall certificate \$60
- 2. Duplicate license \$20
- 3. License certification \$35

F. Other fees.

- 1. Handling fee for returned check or dishonored credit or debit card \$50
- 2. Practice inspection fee \$350

G. No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

~~H. For the renewal of an active dental license in 2021, fees shall be prorated according to a licensee's birth month as follows:~~

~~January birth month \$150~~

<del>February birth month</del>	<del>\$165</del>
<del>March birth month</del>	<del>\$180</del>
<del>April birth month</del>	<del>\$195</del>
<del>May birth month</del>	<del>\$210</del>
<del>June birth month</del>	<del>\$225</del>
<del>July birth month</del>	<del>\$240</del>
<del>August birth month</del>	<del>\$255</del>
<del>September birth month</del>	<del>\$270</del>
<del>October birth month</del>	<del>\$285</del>
<del>November birth month</del>	<del>\$300</del>
<del>December birth month</del>	<del>\$315</del>

## Part II Standards of Practice

### 18VAC60-21-50. Scope of practice.

A. A dentist shall only treat based on a bona fide dentist-patient relationship for medicinal or therapeutic purposes within the course of his professional practice consistent with the definition of dentistry in § 54.1-2700 of the Code, the provisions for controlled substances in the Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code), and the general provisions for health practitioners in the Code. A bona fide dentist-patient relationship is established when examination and diagnosis of a patient is initiated.

B. For the purpose of prescribing controlled substances, the bona fide dentist-patient relationship shall be established in accordance with § 54.1-3303 of the Code.

C. When treating or prescribing for family, the practitioner shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.

### 18VAC60-21-60. General responsibilities to patients.

A. A dentist is responsible for conducting his practice in a manner that safeguards the safety, health, and welfare of his patients and the public by:

1. Maintaining a safe and sanitary practice, ~~including containing or isolating pets away from the treatment areas of the dental practice. An exception shall be made for a service dog trained to~~

~~accompany its owner or handler for the purpose of carrying items, retrieving objects, pulling a wheelchair, alerting the owner or handler to medical conditions, or other such activities of service or support necessary to mitigate a disability.~~

2. Consulting with or referring patients to other practitioners with specialized knowledge, skills, and experience when needed to safeguard and advance the health of the patient.
3. Treating according to the patient's desires only to the extent that such treatment is within the bounds of accepted treatment and only after the patient has been given a treatment recommendation and an explanation of the acceptable alternatives.
4. Only delegating patient care and exposure of dental x-rays to qualified, properly trained and supervised personnel as authorized in Part IV (18VAC60-21-110 et seq.) of this chapter.
5. Giving patients at least 30 days written notice of a decision to terminate the dentist-patient relationship.
6. Knowing the signs of abuse and neglect and reporting suspected cases to the proper authorities consistent with state law.
7. Accurately representing to a patient and the public the materials or methods and techniques to be used in treatment.

B. A dentist is responsible for conducting his financial responsibilities to patients and third party payers in an ethical and honest manner by:

1. ~~Maintaining a listing of~~ Providing customary fees and representing all fees being charged clearly and accurately.
2. ~~Making a full and fair disclosure to his patient of all terms and considerations before entering into a payment agreement for services.~~
3. ~~Not obtaining, attempting to obtain, or cooperating with others in obtaining payment for services by misrepresenting procedures performed, dates of service, or status of treatment.~~
4. ~~Making a full and fair disclosure to his patient of any financial incentives he received for promoting or selling products.~~
5. ~~Not exploiting the dentist-patient relationship for personal gain related in nondental transactions.~~

#### **18VAC60-21-70. Unprofessional practice.**

A. A dentist shall not commit any act that violates provisions of the Code that reasonably relate to the practice of dentistry including but not limited to:

1. Delegating any dental service or operation that requires the professional competence or judgment of a dentist to any person who is not a licensed dentist or dental hygienist or a registered dental assistant II.

2. ~~Knowingly or negligently~~ **Violating any applicable statute or regulation governing ionizing radiation in the Commonwealth of Virginia, including but not limited to current regulations promulgated by the Virginia Department of Health.**

~~3. Unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program.~~

~~4. Failing to maintain and dispense scheduled drugs as authorized by the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code) and the regulations of the Board of Pharmacy.~~

~~5.~~ **4. Failing to cooperate with an employee of the Department of Health Professions in the conduct of an investigation or inspection.**

**B. Sexual contact with a patient, employee, or student.**

**1. Sexual conduct with a patient, employee, or student shall constitute unprofessional conduct if:**

**a. The sexual conduct is unwanted or nonconsensual or**

**b. The sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.**

**2. The determination of when a person is a patient for purposes of this section is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that the person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the practitioner-patient relationship is terminated.**

**3. Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship.**

**4. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is the result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have had an adverse effect on patient care. For purposes of this section, key third party of a patient shall mean spouse, partner, parent, child, guardian, or legal representative of the patient.**

~~**B. Sexual conduct with a patient, employee, or student shall constitute unprofessional conduct if:**~~

~~**1. The sexual conduct is unwanted or nonconsensual or**~~

~~**2. The sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.**~~

**18VAC60-21-80. Advertising.**



A. Practice limitation. A general dentist who limits his practice to a dental specialty or describes his practice by types of treatment shall state in conjunction with his name that he is a general dentist providing certain services (e.g., orthodontic services).

B. Fee disclosures. Any statement specifying a fee for a dental service that does not include the cost of all related procedures, services, and products that, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts and free offers. Discount and free offers for a dental service are permissible for advertising only when the nondiscounted or full fee, if any, and the final discounted fee are also disclosed in the advertisement. In addition, the time period for obtaining the discount or free offer must be stated in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee or free offer.

D. Retention of advertising. A prerecorded or archived copy of all advertisements shall be retained for a two-year period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded or archived copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services. Advertising of fees pursuant to this section is limited to procedures that are set forth in the American Dental Association's "Dental Procedures Codes," published in Current Dental Terminology in effect at the time the advertisement is issued.

~~F. Advertisements. Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code are met.~~

~~G. False, deceptive, or misleading advertisement. The following practices shall constitute false, deceptive, or misleading advertising within the meaning of subdivision 7 of § 54.1-2706 of the Code:~~

~~1. Publishing an advertisement that contains a material misrepresentation or omission of facts that causes an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation not deceptive;~~

~~2. Publishing an advertisement that fails to include the information and disclaimers required by this section;~~

~~3. Publishing an advertisement that contains a false claim of professional superiority, contains a claim to be a specialist, or uses any terms to designate a dental specialty unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, November 2013), or such guidelines or requirements as subsequently amended; or~~

~~4. Representation by a dentist who does not currently hold specialty certification that his practice is limited to providing services in such specialty area without clearly disclosing that he is a general dentist.~~

**18VAC60-21-90. Patient information and records.**

A. A dentist shall maintain complete, legible, and accurate patient records for not less than six years from the last date of service for purposes of review by the board with the following exceptions:

1. 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;
2. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative pursuant to § 54.1-2405 of the Code; or
3. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

B. Every patient record shall include documentary evidence of the following:

1. Patient's name on each page in the patient record;
2. A health history taken at the initial appointment that is updated (i) when analgesia, sedation, or anesthesia is to be administered; (ii) when medically indicated; and (iii) at least annually;
3. Diagnosis and options discussed, including the risks and benefits of each treatment or nontreatment and the estimated cost of each treatment options;
4. Consent for treatment obtained and treatment rendered;
5. List of drugs prescribed, administered, or dispensed and the route of administration, quantity, dose, and strength;
6. Radiographs, digital images, and photographs clearly labeled with patient name, date taken, and teeth identified;
7. Notation of each treatment rendered, the date of treatment and of the dentist, dental hygienist, and dental assistant II providing service;
8. Duplicate laboratory work orders that meet the requirements of § 54.1-2719 of the Code including the address and signature of the dentist;
9. Itemized patient financial records as required by § 54.1-2404 of the Code;
10. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-21-140 B; and
11. The information required for the administration of moderate sedation, deep sedation, and general anesthesia required in 18VAC60-21-260 D.

~~C. A licensee shall comply with the patient record confidentiality, release, and disclosure provisions of § 32.1-127.1:02 of the Code and shall only release patient information as authorized by law.~~

D. Records shall not be withheld because the patient has an outstanding financial obligation.

E. A reasonable cost-based fee may be charged for copying patient records to include the cost of supplies and labor for copying documents, duplication of radiographs and images, and postage if mailing is requested as authorized by § 32.1-127.1:03 of the Code. The charges specified in § 8.01-413 of the Code are permitted when records are subpoenaed as evidence for purposes of civil litigation.

~~F. When closing, selling, or relocating a practice, the licensee shall meet the requirements of § 54.1-2405 of the Code for giving notice and providing records.~~

G. 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.

H. Patient confidentiality must be preserved when records are destroyed.

**18VAC60-21-100. Reportable events during or following treatment or the administration of sedation or anesthesia.**

The treating dentist shall submit a written report to the board within 15 calendar days following an unexpected patient event that occurred intra-operatively or during the first 24 hours immediately following the patient's departure from his facility, resulting in either a physical injury or a respiratory, cardiovascular, or neurological complication that was related to the dental treatment or service provided and that necessitated admission of the patient to a hospital or in a patient death. Any emergency treatment of a patient by a hospital that is related to sedation anesthesia shall also be reported.

### **Part III Prescribing for Pain Management**

**18VAC60-21-101. Definitions.**

The following words and terms when used in this part shall have the following meanings unless the context clearly indicates otherwise:

"Acute pain" means pain that occurs within the normal course of a disease or condition or as the result of surgery for which controlled substances may be prescribed for no more than three months.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances may be prescribed for a period greater than three months.

"Controlled substance" means drugs listed in The Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) in Schedules II through IV.

"MME" means morphine milligram equivalent.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

**18VAC60-21-102. Evaluation of the patient in prescribing for acute pain.**

A. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. If an opioid is considered necessary for the treatment of acute pain, the dentist shall follow the regulations for prescribing and treating with opioids in 18VAC60-21-103 and 18VAC60-21-104.

B. Prior to initiating treatment with a controlled substance containing an opioid for a complaint of acute pain, the dentist shall perform a health history and physical examination appropriate to the complaint, query the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia, and conduct an assessment of the patient's history and risk of substance abuse.

**18VAC60-21-103. Treatment of acute pain with opioids.**

A. Initiation of opioid treatment for all patients with acute pain shall include the following:

1. A prescription for an opioid shall be a short-acting opioid in the lowest effective dose for the fewest number of days, not to exceed seven days as determined by the manufacturer's directions for use, unless extenuating circumstances are clearly documented in the patient record.
2. The dentist shall carefully consider and document in the patient record the reasons to exceed 50 MME per day.
3. Prior to exceeding 120 MME per day, the dentist shall refer the patient to or consult with a pain management specialist and document in the patient record the reasonable justification for such dosage.
4. Naloxone shall be prescribed for any patient when there is any risk factor of prior overdose, substance abuse, or doses in excess of 120 MME per day and shall be considered when concomitant use of benzodiazepine is present.

B. If another prescription for an opioid is to be written beyond seven days, the dentist shall:

1. Reevaluate the patient and document in the patient record the continued need for an opioid prescription; and
2. Check the patient's prescription history in the Prescription Monitoring Program.

C. Due to a higher risk of fatal overdose when opioids are prescribed with benzodiazepines, sedative hypnotics, carisoprodol, and tramadol, the dentist shall only co-prescribe these substances when there

are extenuating circumstances and shall document in the patient record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

**18VAC60-21-104. Patient recordkeeping requirement in prescribing for acute pain.**

The patient record shall include a description of the pain, a presumptive diagnosis for the origin of the pain, an examination appropriate to the complaint, a treatment plan, and the medication prescribed, including date, type, dosage, strength, and quantity prescribed.

**18VAC60-21-105. Prescribing of opioids for chronic pain.**

If a dentist treats a patient for whom an opioid prescription is necessary for chronic pain, the dentist shall either:

1. Refer the patient to a medical doctor who is a pain management specialist; or
2. Comply with regulations of the Board of Medicine, 18VAC85-21-60 through 18VAC85-21-120, if the dentist chooses to manage the chronic pain with an opioid prescription.

**18VAC60-21-106. Continuing education required for prescribers.**

~~Any dentist who prescribes Schedules II, III, and IV controlled substances after April 24, 2017, shall obtain two hours of continuing education on pain management, which must be taken by March 31, 2019. Thereafter, a~~ Any dentist who prescribes Schedules II, III, and IV controlled substances shall obtain two hours of continuing education on pain management every two years. Continuing education hours required for prescribing of controlled substances may be included in the 15 hours required for renewal of licensure.

**18VAC60-21-107. Waiver for electronic prescribing.**

~~A. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection C of § 54.1-3408.02.~~

~~B.~~ Upon written request, the board may grant a one-time waiver of the requirement of § 54.1-3408.02 of the Code of Virginia ~~subsection A of this section~~ for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

## **Part IV Direction and Delegation of Duties**

**18VAC60-21-110. Utilization of dental hygienists and dental assistants II.**

~~A. A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction at one and the same time. In addition, a dentist may permit through issuance of written orders for services, additional dental hygienists to practice under general supervision in a free clinic or a public health program, or on a voluntary basis.~~

~~B. In accordance with § 54.1-2724 of the Code of Virginia, no dentist shall employ more than two dental hygienists who practice under remote supervision at one time.~~

#### **18VAC60-21-120. Requirements for direction and general supervision.**

A. In all instances and on the basis of his diagnosis, a licensed dentist assumes ultimate responsibility for determining with the patient or his representative the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter and the Code.

~~B. Dental hygienists shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency or when volunteering services as provided in 18VAC60-21-110.~~

C. Dental hygienists acting within the scope of a license issued to them by the board under § 54.1-2722 or 54.1-2725 of the Code who teach dental hygiene in a CODA accredited program are exempt from this section.

D. Duties delegated to a dental hygienist under indirect supervision shall only be performed when the dentist is present in the facility and examines the patient during the time services are being provided.

E. Duties that are delegated to a dental hygienist under general supervision shall only be performed if the following requirements are met:

1. The treatment to be provided shall be ordered by a dentist licensed in Virginia and shall be entered in writing in the record. The services noted on the original order shall be rendered within a specific time period, not to exceed 10 months from the date the dentist last performed a periodic examination of the patient. Upon expiration of the order, the dentist shall have examined the patient before writing a new order for treatment under general supervision.
2. The dental hygienist shall consent in writing to providing services under general supervision.
3. The patient or a responsible adult shall be informed prior to the appointment that a dentist may not be present, that only topical oral anesthetics can be administered to manage pain, and that only those services prescribed by the dentist will be provided.
4. Written basic emergency procedures shall be established and in place, and the hygienist shall be capable of implementing those procedures.

F. An order for treatment under general supervision shall not preclude the use of another level of supervision when, in the professional judgment of the dentist, such level of supervision is necessary to meet the individual needs of the patient.

**18VAC60-21-130. Nondelegable duties; dentists.**

Only licensed dentists shall perform the following duties:

1. Final diagnosis and treatment planning;
2. Performing surgical or cutting procedures on hard or soft tissue except a dental hygienist performing gingival curettage as provided in 18VAC60-21-140;
3. Prescribing or parenterally administering drugs or medicaments, except a dental hygienist, who meets the requirements of 18VAC60-25-100, may parenterally administer Schedule VI local anesthesia to patients 18 years of age or older;
4. Authorization of work orders for any appliance or prosthetic device or restoration that is to be inserted into a patient's mouth;
5. Operation of high speed rotary instruments in the mouth;
6. Administering and monitoring moderate sedation, deep sedation, or general anesthetics except as provided for in § 54.1-2701 of the Code and Part VII (18VAC60-21-260 et seq.) of this chapter;
7. Condensing, contouring, or adjusting any final, fixed, or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam and placing and shaping composite resins by dental assistants II with advanced training as specified in 18VAC60-30-120;
8. Final positioning and attachment of orthodontic bonds and bands; and
9. Final adjustment and fitting of crowns and bridges in preparation for final cementation.

**18VAC60-21-140. Delegation to dental hygienists.**

A. The following duties shall only be delegated to dental hygienists under direction and may only be performed under indirect supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers, with any sedation or anesthesia administered.
2. Performing an initial examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets, or other abnormal conditions for assisting the dentist in the diagnosis.
3. Administering nitrous oxide or local anesthesia by dental hygienists qualified in accordance with the requirements of 18VAC60-25-100.

B. The following duties shall only be delegated to dental hygienists and may be performed under indirect supervision or may be delegated by written order included in the patient's chart in accordance with §§ 54.1-2722 D and 54.1-3408 J of the Code to be performed under general supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers with or without topical oral anesthetics.
2. Polishing of natural and restored teeth using air polishers.
3. Performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets, or other abnormal conditions for further evaluation and diagnosis by the dentist.
4. Subgingival irrigation or subgingival application of topical Schedule VI medicinal agents pursuant to § 54.1-3408 J of the Code.
5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in 18VAC60-21-130, those restricted to indirect supervision in subsection A of this section, and those restricted to delegation to dental assistants II in 18VAC60-21-150.

~~C. Delegation of duties to a dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 F of the Code. However, delegation of duties to a public health dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 E.~~

#### **18VAC60-21-150. Delegation to dental assistants II.**

The following 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:

1. Performing pulp capping procedures;
2. Packing and carving of amalgam restorations;
3. Placing and shaping composite resin restorations with a slow speed handpiece;
4. Taking final impressions;
5. Use of a non-epinephrine retraction cord; and
6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.

#### **18VAC60-21-160. Delegation to dental assistants I and II.**

~~A.~~ Duties appropriate to the training and experience of the dental assistant and the practice of the supervising dentist may be delegated to a dental assistant I or II under indirect supervision, with the



exception of those listed as nondelegable in 18VAC60-21-130, those which may only be delegated to dental hygienists as listed in 18VAC60-21-140, and those which may only be delegated to a dental assistant II as listed in 18VAC60-21-150.

~~B. Duties delegated to a dental assistant under general supervision shall be performed under the direction and indirect supervision of the dental hygienist who supervises the implementation of the dentist's orders by examining the patient, observing the services rendered by an assistant, and being available for consultation on patient care.~~

#### **18VAC60-21-170. Radiation certification.**

No dentist ~~or dental hygienist~~ shall permit a person not otherwise licensed by this board to 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.

#### ~~18VAC60-21-180. What does not constitute practice.~~

~~The following are not considered the practice of dental hygiene and dentistry:~~

- ~~1. General oral health education.~~
- ~~2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.~~
- ~~3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.~~

### **Part V Entry, Licensure, and Registration Requirements**

#### **18VAC60-21-190. General application provisions.**

A. Applications for any dental license, registration, or permit issued by the board, other than for a volunteer exemption or for a restricted volunteer license, shall include:

1. A final certified transcript ~~of the grades~~ from the college from which the applicant received the dental degree or post-doctoral degree or certificate as specified in 18VAC60-21-200;
2. ~~An original grade card~~ Evidence documenting passage of all parts of the Joint Commission on National Dental Examinations; and
3. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

~~B. All applicants for licensure, other than for a volunteer exemption or for a restricted volunteer license, shall be required to attest that they have read and understand and will remain current with the laws and regulations governing the practice of dentistry, dental hygiene, and dental assisting in Virginia.~~

C. If a transcript or other documentation required for licensure cannot be produced by the entity from which it is required, the board, in its discretion, may accept other evidence of qualification for licensure.

~~D. Any application for a dental license, registration, or permit may be denied for any cause specified in § 54.1-111 or 54.1-2796 of the Code.~~

~~E. An application must include payment of the appropriate fee as specified in 18VAC60-21-40.~~

#### **18VAC60-21-200. Education.**

An applicant for unrestricted dental licensure shall be a graduate of and a holder of a diploma or a certificate from a dental program accredited by the Commission on Dental Accreditation of the American Dental Association or the Commission on Dental Accreditation of Canada, which consists of either a pre-doctoral dental education program or at least a 12-month post-doctoral advanced general dentistry program or a post-doctoral dental program of at least 24 months in any other specialty that includes a clinical component.

#### **18VAC60-21-210. Qualifications for an unrestricted license.**

##### **A. Dental licensure by examination.**

1. All applicants for licensure by examination shall have:

- a. Successfully completed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations; and
- b. Passed a dental clinical competency examination that is accepted by the board.

2. If a candidate has failed any section of a clinical competency examination three times, the candidate 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.

3. 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 18VAC60-21-250~~ complete clinical training as required by the board unless they demonstrate that they have 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.

**B. Dental licensure by credentials. All applicants for licensure by credentials shall:**

1. Have passed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations;
2. Have successfully completed a clinical competency examination acceptable to the board;
3. Hold a current, unrestricted license to practice dentistry in another jurisdiction of the United States and be certified to be in good standing by each jurisdiction in which a license is currently held or has been held; and
4. Have been in continuous clinical practice in another jurisdiction of the United States or in federal civil or military service for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in another jurisdiction of the United States (i) as a volunteer in a public health clinic, (ii) as an intern, or (iii) in a residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant.

**18VAC60-21-220. Inactive license.**

A. Any dentist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. With the exception of practice with a current restricted volunteer license as provided in § 54.1-2712.1 of the Code, the holder of an inactive license shall not be entitled to perform any act requiring a license to practice dentistry in Virginia.

B. Any dentist who holds an inactive license or whose license has been suspended or revoked may be reactivated or reinstated upon submission of the required application, which includes evidence of continuing clinical competence and payment of the current renewal fee. To evaluate continuing clinical competence the board shall consider (i) hours of continuing education that meet the requirements of 18VAC60-21-250; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a clinical competency examination that is accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.

1. Continuing education hours equal to the requirement for the number of years in which the license has been inactive, 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.
2. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2706 of the Code or who is unable to demonstrate continuing competence.

**18VAC60-21-230. Qualifications for a restricted license; temporary permit or license.**

A. Temporary permit for public health settings. A temporary permit shall be issued only for the purpose of allowing dental practice in a dental clinic operated by a state agency or a Virginia charitable organization as limited by § 54.1-2715 of the Code.

1. Passage of a clinical competency examination is not required, but the applicant cannot have failed a clinical competency examination accepted by the board.
2. A temporary permit will not be renewed unless the holder shows that extraordinary circumstances prevented the holder from taking the licensure examination during the term of the temporary permit.

B. Faculty license. A faculty license shall be issued for the purpose of allowing dental practice as a faculty member of an accredited dental program when the applicant meets the entry requirements of § 54.1-2713 of the Code.

1. A faculty license shall remain valid only while the holder is serving on the faculty of an accredited dental program in the Commonwealth. When any such license holder ceases to continue serving on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of employment.
2. The dean of the dental school shall notify the board within five working days of such termination of employment.

C. Restricted license to teach for foreign dentists. The board may issue a restricted license to a foreign dentist to teach in an accredited dental program in the Commonwealth in accordance with provisions of § 54.1-2714 of the Code.

D. Temporary licenses to persons enrolled in advanced dental education programs. A dental intern, resident, or post-doctoral certificate or degree candidate shall obtain a temporary license to practice in Virginia in accordance with provisions of § 54.1-2711.1 of the Code.

1. The applicant shall submit a recommendation from the dean of the dental school or the director of the accredited advanced dental education program specifying the applicant's acceptance as an intern, resident, or post-doctoral certificate or degree candidate. The beginning and ending dates of the internship, residency, or post-doctoral program shall be specified.
2. The temporary license permits the holder to practice only in the hospital or outpatient clinics that are recognized parts of an advanced dental education program.
3. The temporary license may be renewed annually by June 30, for up to five times, upon the recommendation of the dean of the dental school or director of the accredited advanced dental education program.
4. The temporary license holder shall be responsible and accountable at all times to a licensed dentist, who is a member of the staff where the internship, residency, or post-doctoral program is taken. The holder is prohibited from practicing outside of the advanced dental education program.

5. The temporary license holder shall abide by the accrediting requirements for an advanced dental education program as approved by the Commission on Dental Accreditation of the American Dental Association.

**E. Restricted volunteer license.**

~~1. In accordance with § 54.1-2712.1 of the Code, the board may issue a restricted volunteer license to a dentist who:~~

- ~~a. Held an unrestricted license in Virginia or another United States jurisdiction as a licensee in good standing at the time the license expired or became inactive;~~
- ~~b. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;~~
- ~~c. Has fulfilled the board's requirement related to knowledge of the laws and regulations governing the practice of dentistry in Virginia; and~~
- ~~d. Has not failed a clinical examination within the past five years; and~~
- ~~e. Has had at least five years of clinical practice.~~

~~2. A person holding a restricted volunteer license under this section shall:~~

- ~~a. Only practice in public health or community free clinics that provide dental services to underserved populations;~~
- ~~b. Only treat patients who have been screened by the approved clinic and are eligible for treatment;~~
- ~~c. Attest on a form provided by the board that he will not receive remuneration directly or indirectly for providing dental services; and~~
- ~~d. Not be required to complete continuing education in order to renew such a license.~~

~~3. The Any restricted volunteer license issued pursuant to § 54.1-2712.1 of the Code shall specify whether supervision is required, and if not, the date by which it will be required. If a dentist with a restricted volunteer license issued under this section has not held an active, unrestricted license and been engaged in active practice within the past five years, he shall only practice dentistry and perform dental procedures if a dentist with an unrestricted Virginia license, volunteering at the clinic, reviews the quality of care rendered by the dentist with the restricted volunteer license at least every 30 days. If supervision is required, the supervising dentist shall directly observe patient care being provided by the restricted volunteer dentist and review all patient charts at least quarterly. Such supervision shall be noted in patient charts and maintained in accordance with 18VAC60-21-90.~~

~~4. A restricted volunteer license granted pursuant to this section shall expire on June 30 of the second year after its issuance or shall terminate when the supervising dentist withdraws his sponsorship.~~

~~5.2.~~ A dentist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations that apply to all licensees practicing in Virginia.

F. Registration for voluntary practice by out-of-state licensees. Any dentist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least five days prior to engaging in such practice;
2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license; and
3. Provide the name of the nonprofit organization, and the dates and location of the voluntary provision of services.

## **Part VI Licensure Renewal**

**18VAC60-21-240. License renewal and reinstatement.**

~~A. The license or permit of any person who does not return the completed renewal form and fees by the deadline shall automatically expire and become invalid, and his practice of dentistry shall be illegal. With the exception of practice with a current, restricted volunteer license as provided in § 54.1-2712.1 of the Code practicing in Virginia with an expired license or permit may subject the licensee to disciplinary action by the board.~~

~~B. Prior to 2022, Every person holding an active or inactive license and those holding a permit to administer moderate sedation, deep sedation, or general anesthesia shall annually, on or before March 31, renew his license or permit. Beginning in January 2022, e~~ Every person holding an active or inactive license and those holding a permit to administer moderate sedation, deep sedation, or general anesthesia shall annually renew his license or permit in his birth month in accordance with fees set forth 18VAC60-21-40.

C. Every person holding a faculty license, temporary resident's license, a restricted volunteer license, or a temporary permit shall, on or before June 30, request renewal of his license.

D. Any person who does not return the completed form and fee by the deadline required in subsection B of this section shall be required to pay an additional late fee.

E. The board shall renew a license or permit if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection B of this section provided that no grounds exist to deny said renewal pursuant to § 54.1-2706 of the Code and Part II (18VAC60-21-50 et seq.) of this chapter.

F. Reinstatement procedures.

1. Any person whose license or permit has expired for more than one year or whose license or permit has been revoked or suspended and who wishes to reinstate such license or permit shall submit a reinstatement application and the reinstatement fee. The application must include evidence of continuing clinical competence.
2. To evaluate continuing clinical competence, the board shall consider (i) ~~hours of continuing education that meet the requirements of subsection H of 18VAC60-21-250;~~ (ii) evidence of active practice in another state or in federal service; ~~(iii) current specialty board certification;~~ (iv-ii) recent passage of a clinical competency examination accepted by the board; or (iii) ~~✓~~ a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.
3. The executive director may reinstate such expired license or permit provided that the applicant can demonstrate continuing clinical competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code and Part II (18VAC60-21-50 et seq.) of this chapter.

**18VAC60-21-250. Requirements for continuing education.**

A. A dentist shall complete a minimum of 15 hours of continuing education, which meets the requirements for content, sponsorship, and documentation set out in this section, for each annual renewal of licensure except for the first renewal following initial licensure and for any renewal of a restricted volunteer license.

~~1. All renewal applicants shall attest that they have read and understand and will remain current with the laws and regulations governing the practice of dentistry and dental hygiene in Virginia.~~

~~2.~~ A dentist shall maintain current training certification in basic cardiopulmonary resuscitation with hands-on airway training for health care providers or basic life support unless he 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 health care providers.

~~3.~~ 2. A dentist who administers or monitors patients under general anesthesia, deep sedation, or moderate sedation shall complete four hours every two years of approved continuing education directly related to administration and monitoring of such anesthesia or sedation as part of the hours required for licensure renewal.

~~4.~~ 3. Continuing education hours in excess of the number required for renewal may be transferred or credited to the next renewal year for a total of not more than 15 hours.

~~5.~~ 4. Up to ~~two~~ three hours of the 15 hours required for annual renewal may be satisfied through delivery of dental services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the

delivery of those services. ~~One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.~~

B. To be accepted for license renewal, continuing education programs shall be directly relevant to the treatment and care of patients and shall be:

1. Clinical courses in dentistry and dental hygiene; or
2. Nonclinical subjects that relate to the skills necessary to provide dental or dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, and stress management). Courses not acceptable for the purpose of this subsection include estate planning, financial planning, investments, business management, marketing, and personal health.

C. Continuing education credit may be earned for verifiable attendance at or participation in any course, to include audio and video presentations, that meets the requirements in subsection B of this section and is given by a sponsor approved by the board. ~~one of the following sponsors:~~

- ~~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. The American Heart Association, the American Red Cross, the American Safety and Health Institute, and the American Cancer Society;~~
- ~~9. A medical school accredited by the American Medical Association's Liaison Committee for Medical Education;~~
- ~~10. 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;~~
- ~~11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);~~
- ~~12. The Commonwealth Dental Hygienists' Society;~~



~~13. The MCV Orthodontic Education and Research Foundation;~~

~~14. The Dental Assisting National Board and its affiliate, the Dental Auxiliary Learning and Education Foundation; or~~

~~15. A regional testing agency (i.e., Central Regional Dental Testing Service, Northeast Regional Board of Dental Examiners, Southern Regional Testing Agency, Council of Interstate Testing Agencies, or Western Regional Examining Board) when serving as an examiner.~~

D. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters. A written request with supporting documents must be submitted prior to renewal of the license.

E. The board may grant an extension for up to one year for completion of continuing education upon written request with an explanation to the board prior to the renewal date.

F. A licensee is required to verify compliance with the continuing education requirements in his annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. Licensees selected for audit must provide original documents certifying that they have fulfilled their continuing education requirements by the deadline date as specified by the board.

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity, the sponsor, and the amount of time earned. Documentation shall be maintained for a period of four years following renewal.

~~H. A licensee who has allowed his license to lapse, or who has had his license suspended or revoked, shall submit evidence of completion of continuing education equal to the requirements for the number of years in which his license has not been active, 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.~~

~~I.~~ Continuing education hours required by board order shall not be used to satisfy the continuing education requirement for license renewal or reinstatement.

~~J.~~ I. Failure to comply with continuing education requirements may subject the licensee to disciplinary action by the board.

## Part VII

### Controlled Substances, Sedation, and Anesthesia

#### 18VAC60-21-260. General provisions.

A. Part VII of this chapter:

1. Applies to prescribing, dispensing, and administering controlled substances in dental offices, mobile dental facilities, and portable dental operations and shall not apply to administration by a

dentist practicing in (i) a licensed hospital as defined in § 32.1-123 of the Code, (ii) a state-operated hospital, or (iii) a facility directly maintained or operated by the federal government.

2. Addresses the minimum requirements for administration to patients of any age. Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures, issued by the American Academy of Pediatrics and American Academy of Pediatric Dentistry, should be consulted when practicing pediatric dentistry.

B. Registration required. Any dentist who prescribes, administers, or dispenses Schedules II through V controlled substances must hold a current registration with the federal Drug Enforcement Administration.

C. Patient evaluation required.

1. An appropriate medical history and patient evaluation, including medication use and a focused physical exam, shall be performed before the decision to administer controlled substances for dental treatment is made. The decision to administer controlled substances for dental treatment must be based on a documented evaluation of the health history and current medical condition of the patient in accordance with the Class I through V risk category classifications of the American Society of Anesthesiologists (ASA) in effect at the time of treatment. The findings of the evaluation, the ASA risk assessment class assigned, and any special considerations must be recorded in the patient's record.

2. Any level of sedation and general anesthesia may be provided for a patient who is ASA Class I and Class II.

3. A patient in ASA Class III shall only be provided minimal sedation, moderate sedation, deep sedation, or general anesthesia by:

a. A dentist after he has documented a consultation with the patient's primary care physician or other medical specialist regarding potential risks and special monitoring requirements that may be necessary;

b. An oral and maxillofacial surgeon who has performed a physical evaluation and documented the findings and the ASA risk assessment category of the patient and any special monitoring requirements that may be necessary; or

c. A person licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code who has a specialty in anesthesia.

4. Minimal sedation may only be provided for a patient who is in ASA Class IV by:

a. A dentist after he has documented a consultation with the patient's primary care physician or other medical specialist regarding potential risks and special monitoring requirements that may be necessary; or

b. An oral and maxillofacial surgeon who has performed a physical evaluation and documented the findings and the ASA risk assessment category of the patient and any special monitoring requirements that may be necessary.

5. Moderate sedation, deep sedation, or general anesthesia shall not be provided in a dental office for patients in ASA Class IV and Class V.

D. Additional requirements for patient information and records. In addition to the record requirements in 18VAC60-21-90, when moderate sedation, deep sedation, or general anesthesia is administered, the patient record shall also include:

1. Notation of the patient's American Society of Anesthesiologists classification;
2. Review of medical history and current conditions, including the patient's weight and height or, if appropriate, the body mass index;
3. Written informed consent for administration of sedation and anesthesia and for the dental procedure to be performed;
4. Preoperative vital signs;
5. A record of the name, dose, and strength of drugs and route of administration including the administration of local anesthetics with notations of the time sedation and anesthesia were administered;
6. Monitoring records of all required vital signs and physiological measures recorded continually; and
7. A list of staff participating in the administration, treatment, and monitoring including name, position, and assigned duties.

E. Pediatric patients. No sedating medication shall be prescribed for administration to a patient 12 years of age or younger prior to his arrival at the dentist office or treatment facility.

~~F. Informed written consent. Prior to administration of any level of sedation or general anesthesia, the dentist shall discuss the nature and objectives of the planned level of sedation or general anesthesia along with the risks, benefits, and alternatives and shall obtain informed, written consent from the patient or other responsible party for the administration and for the treatment to be provided. The written consent must be maintained in the patient record.~~

~~G. Level of sedation. The determinant for the application of the rules for any level of sedation or for general anesthesia shall be the degree of sedation or consciousness level of a patient that should reasonably be expected to result from the type, strength, and dosage of medication, the method of administration, and the individual characteristics of the patient as documented in the patient's record. The drugs and techniques used must carry a margin of safety wide enough to render the unintended reduction of or loss of consciousness unlikely, factoring in titration and the patient's age, weight, and ability to metabolize drugs. The level of sedation should be documented in the patient record. The decision regarding level of sedation used should be based on the degree of sedation or consciousness~~

level of a patient that should reasonably be expected to result from the type, strength, and dosage of medication, the method of administration, and the individual characteristics of the patient as documented in the patient's record.

**H. Emergency management.**

1. If a patient enters a deeper level of sedation than the dentist is qualified and prepared to provide, the dentist shall stop the dental procedure until the patient returns to and is stable at the intended level of sedation.

2. A dentist in whose office sedation or anesthesia is administered shall have documented written or electronic basic emergency procedures established and staff trained to carry out such procedures.

**I. Ancillary personnel.** Dentists who employ unlicensed, ancillary personnel to assist in the administration and monitoring of any form of minimal sedation, moderate sedation, deep sedation, or general anesthesia shall maintain documentation that such personnel have:

1. Training and hold current certification in basic resuscitation techniques with hands-on airway training for health care providers, such as Basic Cardiac Life Support for Health Professionals or a clinically oriented course devoted primarily to responding to clinical emergencies offered by an approved provider of continuing education as set forth in 18VAC60-21-250 C; or

2. Current certification as a certified anesthesia assistant (CAA) by the American Association of Oral and Maxillofacial Surgeons or the American Dental Society of Anesthesiology (ADSA).

**J. Assisting in administration.** A dentist, consistent with the planned level of administration (i.e., local anesthesia, minimal sedation, moderate sedation, deep sedation, or general anesthesia) and appropriate to his education, training, and experience, may utilize the services of a dentist, anesthesiologist, certified registered nurse anesthetist, dental hygienist, dental assistant, or nurse to perform functions appropriate to such practitioner's education, training, and experience and consistent with that practitioner's respective scope of practice.

**K. Patient monitoring.**

1. A dentist may delegate monitoring of a patient to a dental hygienist, dental assistant, or nurse who is under his direction or to another dentist, anesthesiologist, or certified registered nurse anesthetist. The person assigned to monitor the patient shall be continuously in the presence of the patient in the office, operatory, and recovery area (i) before administration is initiated or immediately upon arrival if the patient self-administered a sedative agent, (ii) throughout the administration of drugs, (iii) throughout the treatment of the patient, and (iv) throughout recovery until the patient is discharged by the dentist.

2. The person monitoring the patient shall:

a. Have the patient's entire body in sight;

b. Be in close proximity so as to speak with the patient;

- c. Converse with the patient to assess the patient's ability to respond in order to determine the patient's level of sedation;
- d. Closely observe the patient for coloring, breathing, level of physical activity, facial expressions, eye movement, and bodily gestures in order to immediately recognize and bring any changes in the patient's condition to the attention of the treating dentist; and
- e. Read, report, and record the patient's vital signs and physiological measures.

L. A dentist who allows the administration of general anesthesia, deep sedation, or moderate sedation in his dental office is responsible for assuring and documenting that:

1. The equipment for administration and monitoring, as required in subsection B of 18VAC60-21-291 or subsection C of 18VAC60-21-301, is readily available and in good working order prior to performing dental treatment with anesthesia or sedation. The equipment shall either be maintained by the dentist in his office or provided by the anesthesia or sedation provider; and
2. The person administering the anesthesia or sedation is appropriately licensed and the staff monitoring the patient is qualified.

M. Special needs patients. If a patient is mentally or physically challenged, and it is not possible to have a comprehensive physical examination or appropriate laboratory tests prior to administering care, the dentist is responsible for documenting in the patient record the reasons preventing the recommended preoperative management. In selected circumstances, sedation or general anesthesia may be utilized without establishing an intravenous line. These selected circumstances include very brief procedures or periods of time, which may occur in some patients; or the establishment of intravenous access after deep sedation or general anesthesia has been induced because of poor patient cooperation.

**18VAC60-21-270. Administration of local anesthesia.**

A dentist may administer or use the services of the following personnel to administer local anesthesia:

1. A dentist;
2. An anesthesiologist;
3. A certified registered nurse anesthetist under the dentist's direction and indirect supervision;
4. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older under his indirect supervision;
5. A dental hygienist to administer Schedule VI topical oral anesthetics under indirect supervision or under his order for such treatment under general supervision; or
6. A dental assistant or a registered or licensed practical nurse to administer Schedule VI topical oral anesthetics under indirect supervision.

**18VAC60-21-279. Administration of inhalation analgesia (nitrous oxide only).**

A. Education and training requirements. A dentist who utilizes nitrous oxide shall have documented training in and knowledge of:

1. The appropriate use and physiological effects of nitrous oxide, the potential complications of administration, the indicators for complications, and the interventions to address the complications.
2. The use and maintenance of the equipment required in subsection D of this section.

B. No sedating medication shall be prescribed for administration to a patient 12 years of age or younger prior to the patient's arrival at the dental office or treatment facility.

C. Delegation of administration.

1. A qualified dentist may administer or use the services of the following personnel to administer nitrous oxide:

- a. A dentist;
- b. An anesthesiologist;
- c. A certified registered nurse anesthetist under medical the dentist's direction and indirect supervision;
- d. A dental hygienist with the training required by 18VAC60-25-100 B and under indirect supervision; or
- e. A registered nurse upon his direct instruction and under immediate supervision.

2. Preceding the administration of nitrous oxide, a dentist may use the services of the following personnel working under indirect supervision to administer local anesthesia to numb an injection or treatment site:

- a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or
- b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

D. Equipment requirements. A dentist who utilizes nitrous oxide only or who directs the administration by another licensed health professional as permitted in subsection C of this section shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Blood pressure monitoring equipment;
2. Source of delivery of oxygen under controlled positive pressure;
3. Mechanical (hand) respiratory bag;
4. Suction apparatus; and
5. Oxygen saturation with pulse oximeter, unless extenuating circumstances exist and are documented in the patient's record.

E. Required staffing. When only nitrous oxide/oxygen is administered, a second person in the operatory is not required. Either the dentist or qualified dental hygienist under the indirect supervision of a dentist may administer the nitrous oxide/oxygen and treat and monitor the patient.

F. Monitoring requirements.

1. Baseline vital signs, ~~to include blood pressure and heart rate~~, shall be taken and recorded prior to administration of nitrous oxide analgesia, intraoperatively as necessary, and prior to discharge, unless extenuating circumstances exist and are documented in the patient's record.
2. Continual clinical observation of the patient's responsiveness, color, respiratory rate, and depth of ventilation shall be performed.
3. Once the administration of nitrous oxide has begun, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I monitors the patient at all times until discharged as required in subsection G of this section.
4. Monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or by another qualified licensed health professional identified in subsection C of this section. Only the dentist or another qualified licensed health professional identified in subsection C of this section may turn the nitrous oxide/oxygen machines on or off.
5. Upon completion of nitrous oxide administration, the patient shall be administered 100% oxygen for a minimum of five minutes to minimize the risk of diffusion hypoxia. Such administration shall be documented in the patient's record.

G. Discharge requirements.

1. The dentist shall not discharge a patient until he exhibits baseline responses in a post-operative evaluation of the level of consciousness. Vital signs, ~~to include blood pressure and heart rate~~, shall be taken and recorded prior to discharge, unless extenuating circumstances exist and are documented in the patient's record.
2. Post-operative instructions shall be given verbally and in writing and documented in the patient's chart. The written instructions shall include a 24-hour emergency telephone number.
3. Pediatric patients shall be discharged with a responsible ~~individual~~ adult who has been instructed with regard to the patient's care.

**18VAC60-21-280. Administration of minimal sedation.**

A. Education and training requirements. A dentist who utilizes minimal sedation shall have training in and knowledge of:

1. The medications used, the appropriate dosages, the potential complications of administration, the indicators for complications, and the interventions to address the complications.
2. The physiological effects of minimal sedation, the potential complications of administration, the indicators for complications, and the interventions to address the complications.

3. The use and maintenance of the equipment required in subsection D of this section.

B. No sedating medication shall be prescribed for administration to a patient 12 years of age or younger prior to the patient's arrival at the dental office or treatment facility.

C. Delegation of administration.

1. A qualified dentist may administer or use the services of the following personnel to administer minimal sedation:

a. A dentist;

b. An anesthesiologist;

c. A certified registered nurse anesthetist under medical the dentist's direction and indirect supervision;

d. A dental hygienist with the training required by 18VAC60-25-100 B only for administration of nitrous oxide/oxygen under indirect supervision; or

e. A registered nurse upon his direct instruction and under immediate supervision.

2. Preceding the administration of minimal sedation, a dentist may use the services of the following personnel working under indirect supervision to administer local anesthesia to numb an injection or treatment site:

a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or

b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

D. Equipment requirements. A dentist who utilizes minimal sedation or who directs the administration by another licensed health professional as permitted in subsection C of this section shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Blood pressure monitoring equipment;

2. Source of delivery of oxygen under controlled positive pressure;

3. Mechanical (hand) respiratory bag;

4. Suction apparatus; and

5. Pulse oximeter.

E. Required staffing. The treatment team for minimal sedation shall consist of the dentist and a second person in the operatory with the patient to assist the dentist and monitor the patient. The second person shall be a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I.

F. Monitoring requirements.



1. Baseline vital signs ~~to include blood pressure, respiratory rate, heart rate,~~ and oxygen saturation shall be taken and recorded prior to administration of sedation and prior to discharge.
2. Blood pressure, oxygen saturation, respiratory rate, and pulse shall be monitored continually during the procedure unless extenuating circumstances exist and are documented in the patient's record.
3. Once the administration of minimal sedation has begun by any route of administration, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I monitors the patient at all times until discharged as required in subsection G of this section.
4. Nitrous oxide/oxygen may be used with one other pharmacological agent in the recommended dosage for minimal sedation. If deeper levels of sedation are produced, the regulations for the induced level shall be followed. The administration of one drug in excess of the maximum recommended dose or of two or more drugs, with or without nitrous oxide, exceeds minimal sedation and requires compliance with the regulations for the level of sedation induced.
5. Monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or by another qualified licensed health professional identified in subsection C of this section. Only the dentist or another qualified licensed health professional identified in subsection C of this section may turn the nitrous oxide/oxygen machines on or off.
6. If any other pharmacological agent is used in addition to nitrous oxide/oxygen and a local anesthetic, requirements for the induced level of sedation must be met.

**G. Discharge requirements.**

1. The dentist shall not discharge a patient until he exhibits baseline responses in a post-operative evaluation of the level of consciousness. Vital signs, to include blood pressure, respiratory rate, heart rate, and oxygen saturation shall be taken and recorded prior to discharge unless extenuating circumstances exist and are documented in the patient's record.
2. Post-operative instructions shall be given verbally and in writing and documented in the patient's chart. The written instructions shall include a 24-hour emergency telephone number.
3. Pediatric patients shall be discharged with a responsible ~~individual~~ adult who has been instructed with regard to the patient's care.

**18VAC60-21-290. Requirements for a moderate sedation permit for general dentistry.**

A. No dentist may provide or administer moderate sedation in a dental office unless the office has been inspected and he has been issued a permit by the board. An inspection and permit is required for each location at which sedation will be administered. ~~The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in the AAOMS American Association of Oral and Maxillofacial Surgeons (AAOMS) and who provides the board with reports that result~~

~~from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.~~

B. Automatic qualification. Dentists who hold a current permit to administer deep sedation and general anesthesia may administer moderate sedation.

C. To determine eligibility for a moderate sedation permit, a dentist shall submit the following:

1. A completed application form;
2. The application fee as specified in 18VAC60-21-40;
3. A copy of a transcript, certification, or other documentation of training content that meets the educational and training qualifications as specified in subsection D of this section; and
4. A copy of current certification in advanced cardiac life support (ACLS) or pediatric advanced life support (PALS) as required in subsection E of this section.

D. Education requirements for a permit to administer moderate sedation. A dentist may be issued a moderate sedation permit to administer by any method by meeting one of the following criteria:

1. Completion of training for this treatment modality according to the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students in effect at the time the training occurred, while enrolled in an accredited dental program or while enrolled in a post-doctoral university or teaching hospital program; or
2. Completion of a continuing education course that meets the requirements of 18VAC60-21-250 and consists of (i) 60 hours of didactic instruction plus the management of at least 20 patients per participant, (ii) demonstration of competency and clinical experience in moderate sedation, and (iii) management of a compromised airway. The course content shall be consistent with the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students in effect at the time the training occurred.

E. Additional training required. Dentists who administer moderate sedation shall:

1. Hold current certification in advanced resuscitation techniques with hands-on simulated airway and megacode training for health care providers, such as ACLS or PALS as evidenced by a certificate of completion posted with the dental license; and
2. Have current training in the use and maintenance of the equipment required in 18VAC60-21-291.

#### **18VAC60-21-291. Requirements for administration of moderate sedation.**

A. Delegation of administration.

1. A dentist who does not hold a permit to provide or administer moderate sedation shall only utilize the services of a qualified dentist, an anesthesiologist, or a certified registered nurse anesthetist to administer such sedation in a dental office.

2. A dentist who holds a permit may administer or use the services of the following personnel to administer moderate sedation:

- a. A dentist with the training required by 18VAC60-21-290 D to administer by any method and who holds a moderate sedation permit at that location;
- b. An anesthesiologist;
- c. A certified registered nurse anesthetist under the direction and indirect supervision of a dentist who meets the training requirements of 18VAC60-21-290 D and holds a moderate sedation permit or under the supervision of a doctor of medicine or osteopathic medicine; or
- d. A registered nurse upon the dentist's direct instruction and under the immediate supervision of a dentist who meets the training requirements of 18VAC60-21-290 D and holds a moderate sedation permit.

3. No sedating medication shall be prescribed for administered administration to a patient 12 years of age or younger prior to the patient's arrival at the dentist office or treatment facility.

4. Preceding the administration of moderate sedation, a permitted dentist may use the services of the following personnel under indirect supervision to administer local anesthesia to anesthetize the injection or treatment site:

- a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or
- b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

5. A dentist who delegates administration of moderate sedation shall ensure that:

- a. All equipment required in subsection B of this section is present, in good working order, and immediately available to the areas where patients will be sedated and treated and will recover; and
- b. Qualified staff is on site to monitor patients in accordance with requirements of subsection D of this section.

B. Equipment requirements. A dentist who provides or administers or who utilizes a qualified anesthesia provider to administer moderate sedation shall have available the following equipment in sizes for adults or children as appropriate for the patient being treated and shall maintain it in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face mask or masks;
2. Oral and nasopharyngeal airway management adjuncts;
3. Endotracheal tubes with appropriate connectors or other appropriate airway management adjunct such as a laryngeal mask airway;
4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades;

5. Pulse oximetry;
6. Blood pressure monitoring equipment;
7. Pharmacologic antagonist agents;
8. Source of delivery of oxygen under controlled positive pressure;
9. Mechanical (hand) respiratory bag;
10. Appropriate emergency drugs for patient resuscitation;
11. Electrocardiographic monitor if a patient is receiving parenteral administration of sedation or if the dentist is using titration;
12. Defibrillator;
13. Suction apparatus;
14. Temperature measuring device;
15. Airway protective device;
16. Precordial or pretracheal stethoscope;
17. An end-tidal carbon dioxide monitor (capnograph); and
18. Equipment necessary to establish intravenous or intraosseous access.

C. Required staffing. At a minimum, there shall be a two-person treatment team for moderate sedation. The team shall include the operating dentist and a second person to monitor the patient as provided in 18VAC60-21-260 K, and assist the operating dentist as provided in 18VAC60-21-260 J, both of whom shall be in the operatory with the patient throughout the dental procedure. If the second person is a dentist, an anesthesiologist, or a certified registered nurse anesthetist who administers the drugs as permitted in subsection A of this section, such person may monitor the patient.

D. Monitoring requirements.

1. Baseline vital signs, to include ~~blood pressure~~, oxygen saturation, ~~respiratory rate, and heart rate~~ shall be taken and recorded prior to administration of any controlled drug at the facility and prior to discharge.
2. Vital signs, to include ~~Blood pressure~~, oxygen saturation, ~~respiratory rate~~, and end-tidal carbon dioxide, shall be monitored continually during the administration and recorded unless precluded or invalidated by the nature of the patient, procedure, or equipment.
3. Monitoring of the patient under moderate sedation is to begin prior to administration of sedation or, if pre-medication is self-administered by the patient, immediately upon the patient's arrival at the dental facility and shall take place continuously during the dental procedure and recovery from sedation. The person who administers the sedation or another licensed practitioner qualified to administer the same level of sedation must remain on the premises of the dental facility until the patient is evaluated and is discharged.

E. Discharge requirements.

1. The patient shall not be discharged until the responsible licensed practitioner determines that the patient's level of consciousness, oxygenation, ventilation, and blood pressure and heart rate are satisfactory for discharge and vital signs have been taken and recorded.

2. Post-operative instructions shall be given verbally and in writing and documented in the patient's chart. The written instructions shall include a 24-hour emergency telephone number.

3. The patient shall be discharged with a responsible individual adult who has been instructed with regard to the patient's care.

4. If a separate recovery area is utilized, oxygen and suction equipment shall be immediately available in that area.

5. Since re-sedation may occur once the effects of the reversal agent have waned, the patient shall be monitored for a longer period than usual when a pharmacological reversal agent has been administered before discharge criteria have been met.

F. Emergency management. The dentist shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.

**18VAC60-21-300. Requirements for a deep sedation/general anesthesia permit for general dentistry.**

A. No dentist may provide or administer deep sedation or general anesthesia in a dental office unless he has been issued a permit by the board. ~~The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in AAOMS and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.~~

B. To determine eligibility for a deep sedation/general anesthesia permit, a dentist shall submit the following:

1. A completed application form;

2. The application fee as specified in 18VAC60-21-40;

3. A copy of the certificate of completion of a CODA accredited program or other documentation of training content which meets the educational and training qualifications specified in subsection C of this section; and

4. A copy of current certification in Advanced Cardiac Life Support for Health Professionals (ACLS) or Pediatric Advanced Life Support for Health Professionals (PALS) as required in subsection C of this section.

C. Educational and training qualifications for a deep sedation/general anesthesia permit.

1. Completion of a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in

conformity with the ADA's Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry in effect at the time the training occurred; or

2. Completion of an CODA accredited residency in any dental specialty that incorporates into its curriculum a minimum of one calendar year of full-time training in clinical anesthesia and related clinical medical subjects (i.e., medical evaluation and management of patients) comparable to those set forth in the ADA's Guidelines for Graduate and Postgraduate Training in Anesthesia in effect at the time the training occurred; and

3. Current certification in advanced resuscitative techniques with hands-on simulated airway and megacode training for health care providers, including basic electrocardiographic interpretations, such as courses in ACLS or PALS; and

4. Current training in the use and maintenance of the equipment required in 18VAC60-21-301.

**18VAC60-21-301. Requirements for administration of deep sedation or general anesthesia.**

A. Preoperative requirements. Prior to the appointment for treatment under deep sedation or general anesthesia the patient shall:

1. Be informed about the personnel and procedures used to deliver the sedative or anesthetic drugs to assure informed consent as required by 18VAC60-21-260 F.

2. Have a physical evaluation as required by 18VAC60-21-260 C.

3. Be given preoperative verbal and written instructions including any dietary or medication restrictions.

B. Delegation of administration.

1. A dentist who does not meet the requirements of 18VAC60-21-300 shall only utilize the services of a dentist who does meet those requirements or an anesthesiologist to administer deep sedation or general anesthesia in a dental office. In a licensed outpatient surgery center, a dentist shall utilize either a dentist who meets the requirements of 18VAC60-21-300, an anesthesiologist, or a certified registered nurse anesthetist to administer deep sedation or general anesthesia.

2. A dentist who meets the requirements of 18VAC60-21-300 may administer or utilize the services of the following personnel to administer deep sedation or general anesthesia:

a. A dentist with the training required by 18VAC60-21-300 C;

b. An anesthesiologist; or

c. A certified registered nurse anesthetist under the direction and indirect supervision of a dentist who meets the training requirements of 18VAC60-21-300 C or under the supervision of a doctor of medicine or osteopathic medicine.

3. Preceding the administration of deep sedation or general anesthesia, a dentist who meets the requirements of 18VAC60-21-300 may utilize the services of the following personnel under indirect supervision to administer local anesthesia to anesthetize the injection or treatment site:

a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or

b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

C. Equipment requirements. A dentist who administers or utilizes the services of a qualified anesthesia provider to administer deep sedation or general anesthesia shall have available the following equipment in sizes appropriate for the patient being treated and shall maintain it in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face mask or masks;
2. Oral and nasopharyngeal airway management adjuncts;
3. Endotracheal tubes with appropriate connectors or other appropriate airway management adjunct such as a laryngeal mask airway;
4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades;
5. Source of delivery of oxygen under controlled positive pressure;
6. Mechanical (hand) respiratory bag;
7. Pulse oximetry ;
8. Blood pressure monitoring equipment;
9. Appropriate emergency drugs for patient resuscitation;
10. EKG monitoring equipment;
11. Temperature measuring devices;
12. Pharmacologic antagonist agents;
13. External defibrillator (manual or automatic);
14. An end-tidal carbon dioxide monitor (capnograph);
15. Suction apparatus;
16. Airway protective device;
17. Precordial or pretracheal stethoscope; and
18. Equipment necessary to establish intravenous or intraosseous access.

D. Required staffing. At a minimum, there shall be a three-person treatment team for deep sedation or general anesthesia. The team shall include the operating dentist, a second person to monitor the patient as provided in 18VAC60-21-260 K, and a third person to assist the operating dentist as provided in 18VAC60-21-260 J, all of whom shall be in the operatory with the patient during the dental procedure. If a second dentist, an anesthesiologist, or a certified registered nurse anesthetist administers the drugs as permitted in subsection B of this section, such person may serve as the second person to monitor the patient.

**E. Monitoring requirements.**

1. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug at the facility to include temperature, blood pressure, pulse, oxygen saturation, EKG, and respiration.
2. The patient's vital signs, end-tidal carbon dioxide (unless precluded or invalidated by the nature of the patient, procedure, or equipment), EKG readings, blood pressure, pulse, oxygen saturation, temperature, and respiratory rate shall be monitored continually; recorded every five minutes; and reported to the treating dentist throughout the administration of controlled drugs and recovery. When a depolarizing medication or inhalation agent other than nitrous oxide is administered, temperature shall be monitored continuously.
3. Monitoring of the patient undergoing deep sedation or general anesthesia is to begin prior to the administration of any drugs and shall take place continually during administration, the dental procedure, and recovery from anesthesia. The person who administers the anesthesia or another licensed practitioner qualified to administer the same level of anesthesia must remain on the premises of the dental facility until the patient has regained consciousness and is discharged.

**F. Emergency management.**

1. A secured intravenous line must be established and maintained throughout the procedure.
2. The dentist shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.

**G. Discharge requirements.**

1. If a separate recovery area is utilized, oxygen and suction equipment shall be immediately available in that area.
2. The patient shall not be discharged until the responsible licensed practitioner determines that the patient's level of consciousness, oxygenation, ventilation, circulation blood pressure, and heart rate are satisfactory and vital signs have been assessed and recorded, unless extenuating circumstances exist and are documented in the patient's record.
3. Since re-sedation may occur once the effects of the reversal agent have waned, the patient shall be monitored for a longer period than usual before discharge if a pharmacological reversal agent has been administered before discharge criteria have been met.
4. Post-operative instructions shall be given verbally, ~~and~~ in writing, and documented in the patient's record. The written instructions shall include a 24-hour emergency telephone number for the dental practice.
5. The patient shall be discharged with a responsible ~~individual~~ adult who has been instructed with regard to the patient's care.

**18VAC60-21-3— Change of address or provision of sedation at location.**



A holder of a sedation permit must notify the board within 30 days of the following:

1. Any change of address of the location at which sedation is provided;
2. Cessation of the provision of sedation at a permitted location.

**18VAC60-21-3--. Permit exception for certain oral and maxillofacial surgeons.**

The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in AAOMS and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.

**Part VIII  
Oral and Maxillofacial Surgeons**

**18VAC60-21-310. Registration of oral and maxillofacial surgeons.**

Every licensed dentist who practices as an oral and maxillofacial surgeon, as defined in § 54.1-2700 of the Code, shall register his practice with the board.

1. After initial registration, an oral and maxillofacial surgeon shall renew his registration annually on or before December 31.
2. An oral and maxillofacial surgeon who fails to register or to renew his registration and continues to practice oral and maxillofacial surgery may be subject to disciplinary action by the board.
3. Within one year of the expiration of a registration, an oral and maxillofacial surgeon may renew by payment of the renewal fee and a late fee.
4. After one year from the expiration date, an oral and maxillofacial surgeon who wishes to reinstate his registration shall update his profile and pay the reinstatement fee.

**18VAC60-21-320. Profile of information for oral and maxillofacial surgeons.**

A. In compliance with requirements of § 54.1-2709.2 of the Code, an oral and maxillofacial surgeon registered with the board shall create a profile on the board's Oral and Maxillofacial Surgery Profiles website with ~~provide, upon initial request,~~ the following information within 30 days of registration, which information shall be updated annually:

1. The address of the primary practice setting and all secondary practice settings with the percentage of time spent at each location;
2. Names of dental or medical schools with dates of graduation;
3. Names of graduate medical or dental education programs attended at an institution approved by the Accreditation Council for Graduate Medical Education, the Commission on Dental Accreditation, and the American Dental Association with dates of completion of training;

4. Names and dates of specialty board certification or board eligibility, if any, as recognized by the Council on Dental Education and Licensure of the American Dental Association;
5. Number of years in active, clinical practice in the United States or Canada, following completion of medical or dental training and the number of years, if any, in active, clinical practice outside the United States or Canada;
6. Names of insurance plans accepted or managed care plans in which the oral and maxillofacial surgeon participates and whether he is accepting new patients under such plans;
7. Names of hospitals with which the oral and maxillofacial surgeon is affiliated;
8. Appointments within the past 10 years to dental school faculties with the years of service and academic rank;
9. Publications, not to exceed 10 in number, in peer-reviewed literature within the most recent five-year period;
10. Whether there is access to translating services for non-English speaking patients at the primary practice setting and which, if any, foreign languages are spoken in the practice; and
11. Whether the oral and maxillofacial surgeon participates in the Virginia Medicaid Program and whether he is accepting new Medicaid patients.

B. The oral and maxillofacial surgeon may provide additional information on hours of continuing education earned, subspecialties obtained, and honors or awards received.

C. Whenever there is a change in the information on record with the profile system, the oral and maxillofacial surgeon shall provide current information in any of the categories in subsection A of this section within 30 days.

D. The failure to provide the information required in 18VAC60-21-320 A may constitute unprofessional conduct and may subject the licensee to disciplinary action by the board. Intentionally providing false information to the board for the profile system shall constitute unprofessional conduct and shall subject the licensee to disciplinary action by the board.

#### ~~18VAC60-21-330. Reporting of malpractice paid claims and disciplinary notices and orders.~~

~~A. In compliance with requirements of § 54.1-2709.4 of the Code, a dentist registered with the board as an oral and maxillofacial surgeon shall report in writing to the executive director of the board all malpractice paid claims in the most recent 10-year period. Each report of a settlement or judgment shall indicate:~~

- ~~1. The year the claim was paid;~~
- ~~2. The total amount of the paid claim in United States dollars; and~~
- ~~3. The city, state, and country in which the paid claim occurred.~~

~~B. The board shall use the information provided to determine the relative frequency of paid claims described in terms of the percentage who have made malpractice payments within the most recent 10-~~

~~year period. The statistical methodology used will be calculated on more than 10 paid claims for all dentists reporting, with the top 16% of the paid claims to be displayed as above average payments, the next 68% of the paid claims to be displayed as average payments, and the last 16% of the paid claims to be displayed as below average payments.~~

~~C. Adjudicated notices and final orders or decision documents, subject to § 54.1-2400.2 II of the Code, shall be made available on the profile. Information shall also be posted indicating the availability of unadjudicated notices and orders that have been vacated.~~

~~**18VAC60-21-340. Noncompliance or falsification of profile.**~~

~~A. The failure to provide the information required in 18VAC60-21-320 A may constitute unprofessional conduct and may subject the licensee to disciplinary action by the board.~~

~~B. Intentionally providing false information to the board for the profile system shall constitute unprofessional conduct and shall subject the licensee to disciplinary action by the board.~~

**18VAC60-21-350. Certification to perform cosmetic procedures; applicability.**

A. In order for an oral and maxillofacial surgeon to perform aesthetic or cosmetic procedures, he shall be certified by the board pursuant to § 54.1-2709.1 of the Code. Such certification shall only entitle the licensee to perform procedures above the clavicle or within the head and neck region of the body.

B. Based on the applicant's education, training, and experience, certification may be granted to perform the following procedures for cosmetic treatment:

1. Rhinoplasty and other treatment of the nose;
2. Blepharoplasty and other treatment of the eyelid;
3. Rhytidectomy and other treatment of facial skin wrinkles and sagging;
4. Submental liposuction and other procedures to remove fat;
5. Laser resurfacing or dermabrasion and other procedures to remove facial skin irregularities;
6. Browlift (either open or endoscopic technique) and other procedures to remove furrows and sagging skin on the upper eyelid or forehead;
7. Platysmal muscle plication and other procedures to correct the angle between the chin and neck;
8. Otoplasty and other procedures to change the appearance of the ear; and
9. Application of injectable medication or material for the purpose of treating extra-oral cosmetic conditions.

~~**18VAC60-21-360. Certification not required.**~~

~~Certification shall not be required for performance of the following:~~

- ~~1. Treatment of facial diseases and injuries, including maxillofacial structures;~~
- ~~2. Facial fractures, deformity, and wound treatment;~~
- ~~3. Repair of cleft lip and palate deformity;~~
- ~~4. Facial augmentation procedures; and~~
- ~~5. Genioplasty.~~

**18VAC60-21-370. Credentials required for certification.**

An applicant for certification shall:

1. Hold an active, unrestricted license from the board;
2. Submit a completed application and fee;
3. Complete an oral and maxillofacial residency program accredited by the Commission on Dental Accreditation;
4. Hold board certification by the American Board of Oral and Maxillofacial Surgery (ABOMS) or board eligibility as defined by ABOMS;
5. Have current privileges on a hospital staff to perform oral and maxillofacial surgery; and
6. If his oral and maxillofacial residency or cosmetic clinical fellowship was completed after July 1, 1996, and training in cosmetic surgery was a part of such residency or fellowship, submit:
  - a. A letter from the director of the residency or fellowship program documenting the training received in the residency or in the clinical fellowship to substantiate adequate training in the specific procedures for which the applicant is seeking certification; and
  - b. Documentation of having performed as primary or assistant surgeon at least 10 proctored cases in each of the procedures for which he seeks to be certified.
7. If his oral and maxillofacial residency was completed prior to July 1, 1996, or if his oral and maxillofacial residency was completed after July 1, 1996, and training in cosmetic surgery was not a part of the applicant's residency, submit:
  - a. Documentation of having completed didactic and clinically approved courses to include the dates attended, the location of the course, and a copy of the certificate of attendance. Courses shall provide sufficient training in the specific procedures requested for certification and shall be offered by:
    - (1) An advanced specialty education program in oral and maxillofacial surgery accredited by the Commission on Dental Accreditation;
    - (2) A medical school accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association;

(3) The American Dental Association or one of its constituent and component societies or other ADA Continuing Education Recognized Programs (CERP) approved for continuing dental education; or

(4) The American Medical Association approved for category 1, continuing medical education; and

b. Documentation of either:

(1) Holding current privileges to perform cosmetic surgical procedures within a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or

(2) Having completed at least 10 cases as primary or secondary surgeon in the specific procedures for which the applicant is seeking certification, of which at least five shall be proctored cases as defined in this chapter.

**18VAC60-21-380. Renewal of certification.**

In order to renew his certification to perform cosmetic procedures, an oral and maxillofacial surgeon shall possess a current, active, unrestricted license to practice dentistry from the Virginia Board of Dentistry and shall submit the renewal application and fee on or before December 31 of each year. If an oral and maxillofacial surgeon fails to renew his certificate, the certificate is lapsed and performance of cosmetic procedures is not permitted. To renew a lapsed certificate within one year of expiration, the oral and maxillofacial surgeon shall pay the renewal fees and a late fee. Reinstatement of a certification that has been lapsed for more than one year shall require completion of a reinstatement form documenting continued competency in the procedures for which the surgeon is certified and payment of a reinstatement fee.

**18VAC60-21-390. Quality assurance review for procedures performed by certificate holders.**

A. On a schedule of no less than once every three years, the board shall conduct a random audit of charts for patients receiving cosmetic procedures that are performed by a certificate holder in a facility not accredited by Joint Commission on Accreditation of Healthcare Organizations or other nationally recognized certifying organization as determined by the board.

B. Oral and maxillofacial surgeons certified to perform cosmetic procedures shall maintain separate files, an index, coding, or other system by which such charts can be identified by cosmetic procedure.

C. Cases selected in a random audit shall be reviewed for quality assurance by a person qualified to perform cosmetic procedures according to a methodology determined by the board.

**18VAC60-21-400. Complaints against certificate holders for cosmetic procedures.**

Complaints arising out of performance of cosmetic procedures by a certified oral and maxillofacial surgeon shall be adjudicated solely by the Board of Dentistry. Upon receipt of the investigation report

on such complaints, the Board of Dentistry shall promptly notify the Board of Medicine, and the investigation report shall be reviewed and an opinion rendered by both a physician licensed by the Board of Medicine who actively practices in a related specialty and by an oral and maxillofacial surgeon licensed by the Board of Dentistry. The Board of Medicine shall maintain the confidentiality of the complaint consistent with § 54.1-2400.2 of the Code.

## **Part IX Mobile Dental Clinics**

### **18VAC60-21-410. Registration of a mobile dental clinic or portable dental operation.**

A. An applicant for registration of a mobile dental facility or portable dental operation shall provide:

1. The name and address of the owner of the facility or operation and an official address of record for the facility or operation, which shall not be a post office address. Notice shall be given to the board within 30 days if there is a change in the ownership or the address of record for a mobile dental facility or portable dental operation;

2. The name, address, and license number of each dentist and dental hygienist or the name, address, and registration number of each dental assistant II who will provide dental services in the facility or operation. The identity and license or registration number of any additional dentists, dental hygienists, or dental assistants II providing dental services in a mobile dental facility or portable dental operation shall be provided to the board in writing prior to the provision of such services; and

3. The address or location of each place where the mobile dental facility or portable dental operation will provide dental services and the dates on which such services will be provided. Any additional locations or dates for the provision of dental services in a mobile dental facility or portable dental operation shall be provided to the board in writing prior to the provision of such services.

B. The information provided by an applicant to comply with subsection A of this section shall be made available to the public.

C. An application for registration of a mobile dental facility or portable dental operation shall include:

1. Certification that there is a written agreement for follow-up care for patients to include identification of and arrangements for treatment in a dental office that is permanently established within a reasonable geographic area;

2. Certification that the facility or operation has access to communication facilities that enable the dental personnel to contact assistance in the event of a medical or dental emergency;

3. Certification that the facility has a water supply and all equipment necessary to provide the dental services to be rendered in the facility;

4. Certification that the facility or operation conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, sanitation, zoning, flammability, and construction standards; and

5. Certification that the applicant possesses all applicable city or county licenses or permits to operate the facility or operation.

D. Registration may be denied or revoked for a violation of provisions of § 54.1-2706 of the Code.

**18VAC60-21-420. Requirements for a mobile dental clinic or portable dental operation.**

A. The registration of the facility or operation and copies of the licenses of the dentists and dental hygienists or registrations of the dental assistants II shall be displayed in plain view of patients.

B. Prior to treatment, the facility or operation shall obtain written consent from the patient or, if the patient is a minor or incapable of consent, his parent, guardian, or authorized representative.

C. Each patient shall be provided with an information sheet, or if the patient, his parent, guardian, or authorized agent has given written consent to an institution or school to have access to the patient's dental health record, the institution or school may be provided a copy of the information. At a minimum, the information sheet shall include:

1. Patient name, date of service, and location where treatment was provided;
2. Name of dentist or dental hygienist who provided services;
3. Description of the treatment rendered and tooth numbers, when appropriate;
4. Billed service codes and fees associated with treatment;
5. Description of any additional dental needs observed or diagnosed;
6. Referral or recommendation to another dentist if the facility or operation is unable to provide follow-up treatment; and
7. Emergency contact information.

D. Patient records shall be maintained, as required by 18VAC60-21-90, in a secure manner within the facility or at the address of record listed on the registration application. Records shall be made available upon request by the patient, his parent, guardian, or authorized representative and shall be available to the board for inspection and copying.

E. The practice of dentistry and dental hygiene in a mobile dental clinic or portable dental operation shall be in accordance with the laws and regulations governing such practice.

**18VAC60-21-430. Exemptions from requirement for registration.**

The following shall be exempt from requirements for registration as a mobile dental clinic or portable dental operation:

1. All federal, state, or local governmental agencies;

2. Dental treatment that is provided without charge to patients or to any third party payer;
3. Clinics operated by federally qualified health centers with a dental component that provide dental services via mobile model to adults and children within 30 miles of the federally qualified health center;
4. Clinics operated by free health clinics or health safety net clinics that have been granted tax-exempt status pursuant to § 501(c)(3) of the Internal Revenue Code that provide dental services via mobile model to adults and children within 30 miles of the free health clinic or health safety net clinic; and
5. Clinics that provide dental services via mobile model to individuals who are not ambulatory and who reside in long-term care facilities, assisted living facilities, adult care homes, or private homes.



*Commonwealth of Virginia*



**REGULATIONS  
GOVERNING THE PRACTICE OF DENTAL  
HYGIENE**

**VIRGINIA BOARD OF DENTISTRY**

**Title of Regulations: 18 VAC 60-25-10 et seq.**

**Statutory Authority: § 54.1-2400 and Chapter 27  
of Title 54.1 of the *Code of Virginia***

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## Part I. General Provisions.

### 18VAC60-25-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Active practice" means clinical practice as a dental hygienist for at least 600 hours per year.

~~"ADA" means the American Dental Association.~~

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"CDAC" means the Commission on Dental Accreditation of Canada.

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

~~"Code" means the Code of Virginia.~~

"Dental assistant I" means any unlicensed person under the direction of a dentist or a dental hygienist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered to perform reversible, intraoral procedures as specified in 18VAC60-21-150 and 18VAC60-21-160.

"Direction" means the level of supervision (i.e., direct, indirect, or general) that a dentist is required to exercise with a dental hygienist or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Indirect supervision" means the dentist examines the patient at some point during the appointment and is continuously present in the office to advise and assist a dental hygienist or a dental assistant

who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist, or (iii) preparing the patient for dismissal following treatment.

"Inhalation" means a technique of administration in which a gaseous or volatile agent, including nitrous oxide, is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

"Inhalation analgesia" means the inhalation of nitrous oxide and oxygen to produce a state of reduced sensibility to pain without the loss of consciousness.

"Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.

~~"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part VII (18VAC60-21-260 et seq.) of Regulations Governing the Practice of Dentistry.~~

"Nonsurgical laser" means a laser that is not capable of cutting or removing hard tissue, soft tissue, or tooth structure.

"Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract (i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular).

"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.

"Topical oral anesthetic" means any drug, available in creams, ointments, aerosols, sprays, lotions, or jellies, that can be used orally for the purpose of rendering the oral cavity insensitive to pain without affecting consciousness.

#### **18VAC60-25-20. Address of record; posting of license.**

A. Address of record. Each licensed dental hygienist shall provide the board with a current address of record. All required notices and correspondence mailed by the board to any such licensee shall be validly given when mailed to the address of record on file with the board. Each licensee may also provide a different address to be used as the public address, but if a second address is not provided, the address of record shall be the public address. All changes of address shall be furnished to the board in writing within 30 days of such changes.

~~B. Posting of license. In accordance with § 54.1-2727 of the Code, a dental hygienist shall display a dental hygiene license where it is conspicuous and readable by patients. If a licensee is employed in more than one office, a duplicate license obtained from the board may be displayed.~~

**18VAC60-25-30. Required fees.**

**A. Application fees.**

1. License by examination	\$175
2. License by credentials	\$275
3. License to teach dental hygiene pursuant to § <u>54.1-2725</u> of the Code	\$175
4. Temporary permit pursuant to § <u>54.1-2726</u> of the Code	\$175
5. Restricted volunteer license	\$25
6. Volunteer exemption registration	\$10

**B. Renewal fees.**

1. Active license	\$75
2. Inactive license	\$40
3. License to teach dental hygiene pursuant to § <u>54.1-2725</u>	\$75
4. Temporary permit pursuant to § <u>54.1-2726</u>	\$75

**C. Late fees.**

1. Active license	\$25
2. Inactive license	\$15
3. License to teach dental hygiene pursuant to § <u>54.1-2725</u>	\$25
4. Temporary permit pursuant to § <u>54.1-2726</u>	\$25

**D. Reinstatement fees.**

1. Expired license	\$200
2. Suspended license	\$400
3. Revoked license	\$500

**E. Administrative fees.**

1. Duplicate wall certificate	\$60
2. Duplicate license	\$20
3. Certification of licensure	\$35
4. Handling fee for returned check or dishonored credit or debit card	\$50

F. No fee shall be refunded or applied for any purpose other than the purpose for which the fee was submitted.

~~G. For the renewal of an active dental hygienist license in 2021, fees shall be prorated according to a licenser's birth month as follows:~~

<del>January birth month</del>	<del>\$40</del>
<del>February birth month</del>	<del>\$44</del>
<del>March birth month</del>	<del>\$48</del>
<del>April birth month</del>	<del>\$52</del>
<del>May birth month</del>	<del>\$56</del>
<del>June birth month</del>	<del>\$60</del>
<del>July birth month</del>	<del>\$64</del>
<del>August birth month</del>	<del>\$68</del>
<del>September birth month</del>	<del>\$72</del>
<del>October birth month</del>	<del>\$76</del>
<del>November birth month</del>	<del>\$80</del>
<del>December birth month</del>	<del>\$84</del>

## **Part II. Practice of Dental Hygiene.**

### **18VAC60-25-40. Scope of practice.**

~~A. Pursuant to § 54.1-2722 of the Code, a licensed dental hygienist may perform services that are educational, diagnostic, therapeutic, or preventive under the direction and indirect, general, or remote supervision of a licensed dentist.~~

B. The following duties of a dentist shall not be delegated to a dental hygienist:

1. Final diagnosis and treatment planning;
2. Performing surgical or cutting procedures on hard or soft tissue, except as may be permitted by subdivisions C 1 and D 1 of this section;

3. Prescribing or parenterally administering drugs or medicaments, except a dental hygienist who meets the requirements of 18VAC60-25-100 C may parenterally administer Schedule VI local anesthesia to patients 18 years of age or older;

4. Authorization of work orders for any appliance or prosthetic device or restoration that is to be inserted into a patient's mouth;

5. Operation of high speed rotary instruments in the mouth;

6. Administration of deep sedation or general anesthesia and moderate sedation;

7. Condensing, contouring, or adjusting any final, fixed, or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam and placing and shaping composite resins by dental assistants II with advanced training as specified in 18VAC60-30-120;

8. Final positioning and attachment of orthodontic bonds and bands; and

9. Final adjustment and fitting of crowns and bridges in preparation for final cementation.

C. The following duties shall only be delegated to dental hygienists under direction and may only be performed under indirect supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers with any sedation or anesthesia administered.

2. Performing an initial examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets, or other abnormal conditions for assisting the dentist in the diagnosis.

3. Administering nitrous oxide or local anesthesia by dental hygienists qualified in accordance with the requirements of 18VAC60-25-100.

D. The following duties shall only be delegated to dental hygienists and may be performed under indirect supervision or may be delegated by written order in accordance with § 54.1-2722 D of the Code to be performed under general supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers with or without topical oral anesthetics.

2. Polishing of natural and restored teeth using air polishers.

3. Performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets, or other abnormal conditions for further evaluation and diagnosis by the dentist.

4. Subgingival irrigation or subgingival and gingival application of topical Schedule VI medicinal agents pursuant to § 54.1-3408 J of the Code.

5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in subsection B of this section and those restricted to indirect supervision in subsection C of this section.

E. The following duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II:

1. Performing pulp capping procedures;
2. Packing and carving of amalgam restorations;
3. Placing and shaping composite resin restorations with a slow speed handpiece;
4. Taking final impressions;
5. Use of a non-epinephrine retraction cord; and
6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.

F. A dental hygienist employed by the Virginia Department of Health may provide educational and preventative dental care under remote supervision, as defined in § 54.1-2722 E of the Code, of a dentist employed by the Virginia Department of Health and in accordance with the Protocol adopted by Virginia Department of Health (VDH) for Dental Hygienists to Practice in an Expanded Capacity under Remote Supervision by Public Health Dentists, May 2019, which is hereby incorporated by reference.

G. A dental hygienist employed by the Virginia Department of Behavioral Health and Developmental Services (DBHDS) may provide educational and preventative dental care under remote supervision, as defined in § 54.1-2722 E of the Code of Virginia, of a dentist employed by DBHDS and in accordance with the Protocol for Virginia Department of Behavioral Health and Developmental Services (DBHDS) Dental Hygienists to Practice in an Expanded Capacity under Remote Supervision by DBHDS Dentists, May 2019, which is hereby incorporated by reference.

~~**18VAC60-25-50. Utilization of dental hygienists and dental assistants.**~~

~~A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction at one and the same time. In addition, a dentist may permit through issuance of written orders for services additional dental hygienists to practice under general supervision in a free clinic, a public health program, or a voluntary practice.~~

**18VAC60-25-60. Delegation of services to a dental hygienist.**

~~A. In all instances and on the basis of his diagnosis, a licensed dentist assumes ultimate responsibility for determining with the patient or his representative the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter, Part IV (18VAC60-21-110 et seq.) of the Regulations Governing the Practice of Dentistry, and the Code.~~



B. Dental hygienists shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency or when volunteering services as provided in 18VAC60-25-50.

~~C. Duties that are delegated to a dental hygienist under general supervision shall only be performed if the following requirements are met:~~

~~1. The treatment to be provided shall be ordered by a dentist licensed in Virginia and shall be entered in writing in the record. The services noted on the original order shall be rendered within a specified time period, not to exceed 10 months from the date the dentist last performed a periodic examination of the patient. Upon expiration of the order, the dentist shall have examined the patient before writing a new order for treatment under general supervision.~~

~~2. The dental hygienist shall consent in writing to providing services under general supervision.~~

~~3. The patient or a responsible adult shall be informed prior to the appointment that a dentist may not be present, that only topical oral anesthetics can be administered to manage pain, and that only those services prescribed by the dentist will be provided.~~

~~4. Written basic emergency procedures shall be established and in place, and the hygienist shall be capable of implementing these procedures.~~

~~D. An order for treatment under general supervision shall not preclude the use of another level of supervision when, in the professional judgment of the dentist, such level of supervision is necessary to meet the individual needs of the patient.~~

E. Delegation of duties to a dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 F of the Code. However, delegation of duties to a public health dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 E.

#### **18VAC60-25-70. Delegation of services to a dental assistant.**

~~A. Duties appropriate to the training and experience of the dental assistant and the practice of the supervising dentist may be delegated to any dental assistant under the direction of a dental hygienist practicing under general supervision as permitted in subsection B of this section, with the exception of those listed as nondelegable and those that may only be delegated to dental hygienists as listed in 18VAC60-25-40 and those that may only be delegated to a dental assistant II as listed in 18VAC60-21-150.~~

B. Duties delegated to a dental assistant under general supervision shall be under the direction of the dental hygienist who supervises the implementation of the dentist's orders by examining the patient, observing the services rendered by an assistant, and being available for consultation on patient care.

#### **18VAC60-25-80. Radiation certification.**

No ~~dentist or~~ dental hygienist shall permit a person not otherwise licensed by this board to 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.

~~18VAC60-25-90. What does not constitute practice.~~

~~The following are not considered the practice of dental hygiene and dentistry:~~

- ~~1. General oral health education.~~
- ~~2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.~~
- ~~3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.~~

**18VAC60-25-100. Administration of controlled substances.**

A. A licensed dental hygienist may:

1. Administer topical oral fluoride varnish 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 of the Code of Virginia;
2. Administer topical Schedule VI drugs, including topical oral fluorides, topical oral anesthetics, and topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions pursuant to subsection J of § 54.1-3408 of the Code of Virginia; and
3. If qualified in accordance with subsection B or C of this section, administer Schedule VI nitrous oxide/inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia parenterally under the indirect supervision of a dentist.

B. To administer only nitrous oxide/inhalation analgesia, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of nitrous oxide offered by a CODA accredited dental or dental hygiene program, which includes a minimum of eight hours in didactic and clinical instruction in the following topics:
  - a. Patient physical and psychological assessment;
  - b. Medical history evaluation;
  - c. Equipment and techniques used for administration of nitrous oxide;
  - d. Neurophysiology of nitrous oxide administration;

- e. Pharmacology of nitrous oxide;
  - f. Recordkeeping, medical, and legal aspects of nitrous oxide;
  - g. Adjunctive uses of nitrous oxide for dental patients; and
  - h. Clinical experiences in administering nitrous oxide, including training with live patients.
2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia given by the accredited program.

C. To administer local anesthesia parenterally to patients 18 years of age or older, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of local anesthesia that is offered by a CODA accredited dental or dental hygiene program, which includes a minimum of 28 didactic and clinical hours in the following topics:

- a. Patient physical and psychological assessment;
- b. Medical history evaluation and recordkeeping;
- c. Neurophysiology of local anesthesia;
- d. Pharmacology of local anesthetics and vasoconstrictors;
- e. Anatomical considerations for local anesthesia;
- f. Techniques for maxillary infiltration and block anesthesia;
- g. Techniques for mandibular infiltration and block anesthesia;
- h. Local and systemic anesthetic complications;
- i. Management of medical emergencies; and
- j. Clinical experiences in administering local anesthesia injections on patients.

2. Successfully complete an examination with a minimum score of 75% in the parenteral administration of local anesthesia given by the accredited program.

D. A dental hygienist who holds a certificate or credential issued by the licensing board of another jurisdiction of the United States that authorizes the administration of nitrous oxide/inhalation analgesia or local anesthesia may be authorized for such administration in Virginia if:

- 1. The qualifications on which the credential or certificate was issued were substantially equivalent in hours of instruction and course content to those set forth in subsections B and C of this section; or
- 2. If the certificate or credential issued by another jurisdiction was not substantially equivalent, the hygienist can document experience in such administration for at least 24 of the past 48 months preceding application for licensure in Virginia.

E. A dentist who provides direction for the administration of nitrous oxide/inhalation analgesia or local anesthesia shall ensure that the dental hygienist has met the qualifications for such administration as set forth in this section.

### **Part III. Standards of Conduct.**

#### **18VAC60-25-110. Patient records; confidentiality.**

A. A dental hygienist shall be responsible for accurate and complete information in patient records for those services provided by a hygienist or a dental assistant under direction to include the following:

1. Patient's name on each page in the patient record;
2. A health history taken and documented at the initial appointment, which is updated when local anesthesia or nitrous oxide/inhalation analgesia is to be administered and when medically indicated and at least annually;
3. Options discussed and documented ~~and oral or~~ written consent in the patient record for any treatment rendered with the exception of prophylaxis;
4. List of drugs administered and the route of administration, quantity, dose, and strength;
5. Radiographs, digital images, and photographs clearly labeled with the patient's name, date taken, and teeth identified;
6. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-25-60 C; and
7. Notation of each treatment rendered, date of treatment, and the identity of the dentist and the dental hygienist providing service.

~~B. A dental hygienist shall comply with the provisions of § 22.1-127.1-03 of the Code related to the confidentiality and disclosure of patient records.~~ A dental hygienist shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the hygienist shall not be considered negligent or willful.

C. A dental hygienist practicing under remote supervision shall document in the patient record that he has obtained (i) 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 (ii) verbal confirmation from the patient that the patient does not have a dentist of record whom he is seeing regularly.

#### **18VAC60-25-120. Acts constituting unprofessional conduct.**

The following practices shall constitute unprofessional conduct within the meaning of § 54.1-2706 of the Code:

1. ~~Fraudulently obtaining, attempting to obtain, or cooperating with others in obtaining payment for services.~~

~~2. Performing services for a patient under terms or conditions that are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress.~~

3. Misrepresenting to a patient and the public the materials or methods and techniques the licensee uses or intends to use.

~~4. Committing any act in violation of the Code reasonably related to the practice of dentistry and dental hygiene.~~

5. Delegating any service or operation that requires the professional competence of a dentist or dental hygienist to any person who is not a licensee or registrant as authorized by this chapter.

~~6. Certifying completion of a dental procedure that has not actually been completed.~~

7. Violating or cooperating with others in violating provisions of Chapter 1 (§ 54.1-100 et seq.) or 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code or the Drug Control Act (§ 54.1-3400 et seq. of the Code).

#### **Part IV. Requirements for Licensure.**

##### **18VAC60-25-130. General application requirements.**

A. All applications for licensure by examination or credentials, temporary permits, or faculty licenses shall include:

1. Verification of completion of a dental hygiene degree or certificate from a CODA or CDAC accredited program;

2. ~~An original grade card~~ Evidence of passing score from the National Board Dental Hygiene Examination issued by the Joint Commission on National Dental Examinations;

3. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

~~4. Attestation of having read and understood the laws and the regulations governing the practice of dentistry and dental hygiene in Virginia and of the applicant's intent to remain current with such laws and regulations.~~

B. If documentation required for licensure cannot be produced by the entity from which it is required, the board, in its discretion, may accept other evidence of qualification for licensure.

##### **18VAC60-25-140. Licensure by examination.**

A. An applicant for licensure by examination shall have:

1. Graduated from or have been issued a certificate by a CODA or CDAC accredited program of dental hygiene;

2. Successfully completed the National Board Dental Hygiene Examination given by the Joint Commission on National Dental Examinations; and

3. Successfully completed a board-approved clinical competency examination in dental hygiene.

B. If the candidate has failed any section of a board-approved examination three times, the candidate shall complete a minimum of seven 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.

C. Applicants who successfully completed a board-approved examination five or more years prior to the date of receipt of their applications for licensure by the board may be required to retake a board-approved examination or take board-approved continuing education that meets the requirements of 18VAC60-25-190, unless they demonstrate that they have maintained clinical, unrestricted, and active practice in a jurisdiction of the United States for 48 of the past 60 months immediately prior to submission of an application for licensure.

#### **18VAC60-25-150. Licensure by credentials.**

An applicant for dental hygiene licensure by credentials shall:

1. Have graduated from or have been issued a certificate by a CODA or CDAC accredited program of dental hygiene;

2. Be currently licensed to practice dental hygiene in another jurisdiction of the United States and have ~~clinical, ethical, and~~ active clinical practice for 24 of the past 48 months immediately preceding application for licensure;

3. Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;

4. Have successfully completed a clinical competency examination substantially equivalent to that required for licensure by examination; and

~~5. Not have committed any act that would constitute a violation of § 54.1-2706 of the Code; and~~

~~6.~~ Have successfully completed the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to the board.

#### **18VAC60-25-160. Temporary permit; faculty license.**

A. Issuance of a temporary permit.

1. A temporary permit shall be issued only for the purpose of allowing dental hygiene practice as limited by § 54.1-2726 of the Code. An applicant for a temporary permit shall submit a completed application and verification of graduation from the program from which the applicant received the dental hygiene degree or certificate.

2. A temporary permit will not be renewed unless the permittee shows that extraordinary circumstances prevented the permittee from taking a board-approved clinical competency examination during the term of the temporary permit.

B. The board may issue a faculty license pursuant to the provisions of § 54.1-2725 of the Code.

C. A dental hygienist holding a temporary permit or a faculty license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations that apply to all licensees practicing in Virginia.

#### **18VAC60-25-170. Voluntary practice.**

##### ~~A. Restricted volunteer license.~~

~~1. In accordance with § 54.1-2726.1 of the Code, the board may issue a restricted volunteer license to a dental hygienist who:~~

~~a. Held an unrestricted license in Virginia or another jurisdiction of the United States as a licensee in good standing at the time the license expired or became inactive;~~

~~b. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;~~

~~c. Has fulfilled the board's requirement related to knowledge of the laws and regulations governing the practice of dentistry and dental hygiene in Virginia;~~

~~d. Has not failed a clinical examination within the past five years;~~

~~e. Has had at least five years of active practice in Virginia, another jurisdiction of the United States or federal civil or military service; and~~

~~f. Is sponsored by a dentist who holds an unrestricted license in Virginia.~~

~~2. A person holding a restricted volunteer license under this section shall:~~

~~a. Practice only under the direction of a dentist who holds an unrestricted license in Virginia;~~

~~b. Only practice in public health or community free clinics that provide dental services to underserved populations;~~

~~c. Only treat patients who have been screened by the approved clinic and are eligible for treatment;~~

~~d. Attest on a form provided by the board that he will not receive remuneration directly or indirectly for providing dental services; and~~

~~e. Not be required to complete continuing education in order to renew such a license.~~

~~3. A restricted volunteer license granted pursuant to this section shall expire on June 30 of the second year after its issuance or shall terminate when the supervising dentist withdraws his sponsorship.~~

~~4. A dental hygienist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations that apply to all licensees practicing in Virginia.~~

B. Registration for voluntary practice by out-of-state licensees. Any dental hygienist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;
2. Provide a copy of a current license or certificate to practice dental hygiene;
3. Provide a complete record of professional licensure in each jurisdiction in the United States in which he has held a license or certificate;
4. Provide the name of the nonprofit organization and the dates and location of the voluntary provision of services; and
- ~~5. Pay a registration fee as required in 18VAC60-25-30; and~~
- ~~6.~~ Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 5 of § 54.1-2701 of the Code.

## **Part V. Licensure Renewal and Reinstatement.**

### **18VAC60-25-180. Requirements for licensure renewal.**

~~A. Prior to 2022, an active or inactive dental hygiene license shall be renewed on or before March 31 each year. Beginning in January 2022, an An active or inactive dental hygiene license shall be renewed in the licensee's birth month each year.~~

B. A faculty license, a restricted volunteer license, or a temporary permit shall be renewed on or before June 30 each year.

C. The license of any person who does not return the completed renewal form and fees by the deadline required in subsection A of this section shall automatically expire and become invalid. ~~and his practice of dental hygiene shall be illegal. With the exception of practice with a current, restricted volunteer license as provided in § 54.1-2726.1 of the Code, practicing in Virginia with an expired license may subject the licensee to disciplinary action by the board.~~

D. Any person who does not return the completed form and fee by the deadline required in subsection A of this section shall be required to pay an additional late fee. The board may renew a license if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection A of this section.



**18VAC60-25-190. Requirements for continuing education.**

A. In order to renew an active license, a dental hygienist shall complete a minimum of 15 hours of approved continuing education. Continuing education hours in excess of the number required for renewal may be transferred or credited to the next renewal year for a total of not more than 15 hours.

1. A dental hygienist shall be required to maintain evidence of successful completion of a current hands-on course in basic cardiopulmonary resuscitation for health care providers.

2. A dental hygienist who monitors patients under general anesthesia, deep sedation, or moderate sedation shall complete four hours every two years of approved continuing education directly related to monitoring of such anesthesia or sedation as part of the hours required for licensure renewal.

3. Up to ~~two~~ three hours of the 15 hours required for annual renewal may be satisfied through delivery of dental hygiene services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. ~~One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.~~

B. An approved continuing education program shall be relevant to the treatment and care of patients and shall be:

1. Clinical courses in dental or dental hygiene practice; or

2. Nonclinical subjects that relate to the skills necessary to provide dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, risk management, and recordkeeping). Courses not acceptable for the purpose of this subsection include estate planning, financial planning, investments, and personal health.

C. Continuing education credit may be earned for verifiable attendance at or participation in any course, to include audio and video presentations, that meets the requirements in subdivision B 1 of this section and is given by one of the sponsors approved by the board. ~~following sponsors:~~

~~1. The American Dental Association and the National Dental Association and their constituent and component/branch associations;~~

~~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 and its constituent and component/branch associations;~~

- ~~7. Community colleges with an accredited dental hygiene program if offered under the auspices of the dental hygienist program;~~
- ~~8. 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;~~
- ~~9. The American Heart Association, the American Red Cross, the American Safety and Health Institute, and the American Cancer Society;~~
- ~~10. A medical school accredited by the American Medical Association's Liaison Committee for Medical Education or a dental school or dental specialty residency program accredited by the Commission on Dental Accreditation of the American Dental Association;~~
- ~~11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);~~
- ~~12. The Commonwealth Dental Hygienists' Society;~~
- ~~13. The MGU Orthodontic Education and Research Foundation;~~
- ~~14. The Dental Assisting National Board and its affiliate, the Dental Auxiliary Learning and Education Foundation;~~
- ~~15. The American Academy of Dental Hygiene, its constituent and component/branch associations;~~  
or
- ~~16. A regional testing agency (i.e., Central Regional Dental Testing Service, Northeast Regional Board of Dental Examiners, Southern Regional Testing Agency, Council of Interstate Testing Agencies, or Western Regional Examining Board) when serving as an examiner.~~

#### D. Verification of compliance.

1. All licensees are required to verify compliance with continuing education requirements at the time of annual license renewal.
2. Following the renewal period, the board may conduct an audit of licensees to verify compliance.
3. Licensees selected for audit shall provide original documents certifying that they have fulfilled their continuing education requirements by the deadline date as specified by the board.
4. Licensees are required to maintain original documents verifying the date and the subject of the program or activity, the sponsor, and the amount of time earned. Documentation shall be maintained for a period of four years following renewal.
5. Failure to comply with continuing education requirements may subject the licensee to disciplinary action by the board.

#### E. Exemptions.

1. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following the licensee's initial licensure.

2. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters. A written request with supporting documents must be submitted at least 30 days prior to the deadline for renewal.

F. The board may grant an extension for up to one year for completion of continuing education upon written request with an explanation to the board prior to the renewal date.

G. Continuing education hours required by board order shall not be used to satisfy the continuing education requirement for license renewal or reinstatement.

H. In order to practice under remote supervision in accordance with subsection F of § 54.1-2722 of the Code of Virginia, a dental hygienist shall complete a continuing education course of no less than two hours in duration that is offered by an accredited dental education program or a sponsor listed in subsection C of this section and that includes the following course content:

1. Intent and definitions of remote supervision;
2. Review of dental hygiene scope of practice and delegation of services;
3. Administration of controlled substances;
4. Patient records, documentation, and risk management;
5. Remote supervision laws for dental hygienists and dentists;
6. Written practice protocols; and
7. Settings allowed for remote supervision.

**18VAC60-25-200. Inactive license.**

A. Any dental hygienist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license.

B. With the exception of practice with a restricted volunteer license as provided in § 54.1-2726.1 of the Code, the holder of an inactive license shall not be entitled to perform any act requiring a license to practice dental hygiene in Virginia.

C. An inactive dental hygiene license may be renewed on or before ~~March 31~~ of the licensee's birth month of each year.

**18VAC60-25-210. Reinstatement or reactivation of a license.**

**A. Reinstatement of an expired license.**

1. Any person whose license has expired for more than one year and who wishes to reinstate such license shall submit to the board a reinstatement application and the reinstatement fee.
2. 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 his 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.

3. An applicant for reinstatement shall also provide evidence of continuing clinical competence that may also include (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.

4. The executive director may reinstate a license provided that the applicant can demonstrate continuing clinical competence, that no grounds exist pursuant to § 54.1-2706 of the Code and 18VAC60-25-120 to deny said reinstatement, and that the applicant has paid the reinstatement fee and any fines or assessments.

#### B. Reactivation of an inactive license.

1. An inactive license may be reactivated upon submission of the required application, payment of the current renewal fee, and documentation of having completed continuing education that meets the requirements of 18VAC60-25-190 and is equal to the requirement for the number of years in which the license has been inactive, 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 activation.

2. An applicant for reactivation shall also provide evidence of continuing clinical competence that may also include (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 refresher program offered by a CODA accredited program.

3. The executive director may reactivate a license provided that the applicant can demonstrate continuing clinical competence and that no grounds exist pursuant to § 54.1-2706 of the Code and 18VAC60-25-120 to deny said reactivation.

*Commonwealth of Virginia*



**REGULATIONS  
GOVERNING THE PRACTICE OF DENTAL  
ASSISTANTS**

**VIRGINIA BOARD OF DENTISTRY**

**Title of Regulations: 18 VAC 60-30-10 et seq.**

**Statutory Authority: § 54.1-2400 and Chapter 27  
of Title 54.1 of the *Code of Virginia***

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## Part I. General Provisions.

### 18VAC60-30-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

~~"License"~~

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

~~"Code" means the Code of Virginia.~~

"Dental assistant I" means any unlicensed person under the direction of a dentist or a dental hygienist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures as specified in 18VAC60-30-60 and 18VAC60-30-70.

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the tooth or teeth to be restored and remains immediately available in the office to the dental assistant II for guidance or assistance during the delivery of treatment and related services. The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

"Direction" means the level of supervision (i.e., immediate, direct, indirect or general) that a dentist is required to exercise with a dental hygienist, a dental assistant I, or a dental assistant II or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Immediate supervision" means the dentist is in the operatory to supervise the administration of sedation or provision of treatment.

~~"Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.~~

~~"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part VII (18VAC60-21-260 et seq.) of Regulations Governing the Practice of Dentistry.~~

~~"Radiographs" means intraoral and extraoral radiographic images of hard and soft tissues used for purposes of diagnosis.~~

**18VAC60-30-20. Address of record; posting of registration.**

A. Address of record. Each registered dental assistant II shall provide the board with a current address of record. All required notices and correspondence mailed by the board to any such registrant shall be validly given when mailed to the address of record on file with the board. Each registrant may also provide a different address to be used as the public address, but if a second address is not provided, the address of record shall be the public address. All changes of address shall be furnished to the board in writing within 30 days of such changes.

B. Posting of registration. A copy of the registration of a dental assistant II shall either be posted in an operatory in which the person is providing services to the public or in the patient reception area where it is clearly visible to patients and accessible for reading. ~~If a dental assistant II is employed in more than one office, a duplicate registration obtained from the board may be displayed.~~

**18VAC60-30-30. Required fees.**

A. Initial registration fee.	\$100
B. Renewal fees.	
1. Dental assistant II registration - active	\$50
2. Dental assistant II registration - inactive	\$25
C. Late fees.	
1. Dental assistant II registration - active	\$20
2. Dental assistant II registration - inactive	\$10
D. Reinstatement fees.	
1. Expired registration	\$125
2. Suspended registration	\$250
3. Revoked registration	\$300
E. Administrative fees.	
1. Duplicate wall certificate	\$60
2. Duplicate registration	\$20
3. Registration verification	\$35
4. Handling fee for returned check or dishonored credit or debit card	\$50

F. No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

~~G. For the renewal of an active dental assistant II registration in 2021, the fees for renewal of an active dental assistant II registration shall be prorated according to the registrant's birth month as follows:~~

<del>January birth month</del>	<del>\$30</del>
<del>February birth month</del>	<del>\$33</del>
<del>March birth month</del>	<del>\$36</del>
<del>April birth month</del>	<del>\$39</del>
<del>May birth month</del>	<del>\$42</del>
<del>June birth month</del>	<del>\$45</del>
<del>July birth month</del>	<del>\$48</del>
<del>August birth month</del>	<del>\$51</del>



September birth month	\$54
October birth month	\$57
November birth month	\$60
December birth month	\$63

## Part II. Practice of Dental Assistants II.

### ~~18VAC60-30-40. Practice of dental hygienists and dental assistants II under direction.~~

~~A. A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction at one and the same time. In addition, a dentist may permit through issuance of written orders for services additional dental hygienists to practice under general supervision in a free clinic, a public health program, or a voluntary practice.~~

~~B. In all instances and on the basis of his diagnosis, a licensed dentist assumes ultimate responsibility for determining with the patient or his representative the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter, Part IV (18VAC60-21-110 et seq.) of the Regulations Governing the Practice of Dentistry, and the Code.~~

### ~~18VAC60-30-50. Nondelegable duties, dentists.~~

~~Only licensed dentists shall perform the following duties:~~

- ~~1. Final diagnosis and treatment planning;~~
- ~~2. Performing surgical or cutting procedures on hard or soft tissue except a dental hygienist performing gingival curettage as provided in 18VAC60-21-140;~~
- ~~3. Prescribing or parenterally administering drugs or medicaments, except a dental hygienist who meets the requirements of 18VAC60-25-100 may parenterally administer Schedule VI local anesthesia to patients 18 years of age or older;~~
- ~~4. Authorization of work orders for any appliance or prosthetic device or restoration that is to be inserted into a patient's mouth;~~
- ~~5. Operation of high speed rotary instruments in the mouth;~~
- ~~6. Administering and monitoring conscious/moderate sedation, deep sedation, or general anesthetics except as provided for in § 54.1-270) of the Code and subsections J and K of 18VAC60-21-260;~~
- ~~7. Condensing, contouring, or adjusting any final, fixed, or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam and placing and shaping composite resins by dental assistants II with advanced training as specified in 18VAC60-30-120;~~
- ~~8. Final positioning and attachment of orthodontic bands and bands; and~~
- ~~9. Final adjustment and fitting of crowns and bridges in preparation for final cementation.~~

### ~~18VAC60-30-60. 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,~~

**~~18VAC60-30-70. Delegation to dental assistants I and II.~~**

~~A. Duties appropriate to the training and experience of any dental assistant and the practice of the supervising dentist may be delegated to a dental assistant I or II under indirect supervision, with the exception of those listed as nondelegable in 18VAC60-30-50, those which may only be delegated to dental hygienists as listed in 18VAC60-21-140, and those which may only be delegated to a dental assistant II as listed in 18VAC60-30-60.~~

~~B. Duties delegated to any dental assistant under general supervision shall be under the direction of the dental hygienist who supervises the implementation of the dentist's orders by examining the patient, observing the services rendered by an assistant, and being available for consultation on patient care.~~

**18VAC60-30-80. 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.

**~~18VAC60-30-90. What does not constitute practice.~~**

~~The following are not considered the practice of dental hygiene and dentistry:~~

- ~~1. General oral health education.~~
- ~~2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.~~
- ~~3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.~~

**Part III. Standards of Conduct.**

**18VAC60-30-100. Patient records; confidentiality.**

~~A. A dental assistant II shall be responsible for accurate and complete information in patient records for those services provided by the assistant under direction to include the following:~~

- ~~1. Patient's name on each page in the patient record;~~
- ~~2. Radiographs, digital images, and photographs clearly labeled with the patient name, date taken, and teeth identified; and~~
- ~~3. Notation of each treatment rendered, date of treatment and the identity of the dentist, the dental hygienist, or the dental assistant providing service.~~

~~B. A dental assistant shall comply with the provisions of § 32.1-127.1-03 of the Code related to the confidentiality and disclosure of patient records. A dental assistant shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is~~

required or permitted by applicable law or beyond the control of the assistant shall not be considered negligent or willful.

#### **18VAC60-30-110. Acts constituting unprofessional conduct.**

The following practices shall constitute unprofessional conduct ~~within the meaning of § 54.1-2706 of the Code:~~

- ~~1. Fraudulently obtaining, attempting to obtain, or cooperating with others in obtaining payment for services.~~
- ~~2. Performing services for a patient under terms or conditions that are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress.~~
3. Misrepresenting to a patient and the public the materials or methods and techniques used or intended to be used.
- ~~4. Committing any act in violation of the Code reasonably related to dental practice.~~
- ~~5. Delegating any service or operation that requires the professional competence of a dentist, dental hygienist, or dental assistant II to any person who is not authorized by this chapter.~~
- ~~6. Certifying completion of a dental procedure that has not actually been completed.~~
7. Violating or cooperating with others in violating provisions of Chapter 1 (§ 54.1-100 et seq.) or 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code or the Drug Control Act (§ 54.1-3400 et seq. of the Code).

### **Part IV. Entry Requirements for Dental Assistants II.**

#### **18VAC60-30-115. General application requirements.**

A. All applications for registration as a dental assistant II shall include:

1. Evidence of a current credential as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another certification from a credentialing organization recognized by the American Dental Association and acceptable to the board, which was granted following passage of an examination on general chairside assisting, radiation health and safety, and infection control;
2. Verification of completion of educational requirements set forth in 18VAC60-30-120; and
- ~~3. Attestation of having read and understood the laws and regulations governing the practice of dentistry and dental assisting in Virginia and of the applicant's intent to remain current with such laws and regulations.~~

#### **18VAC60-30-116. Requirements for educational programs.**

In order to train persons for registration as a dental assistant II, an educational program shall meet the following requirements:

1. The program shall be provided by an educational institution that 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 is 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 is a licensed dentist in Virginia and who may also serve as the program coordinator. The clinical practice advisor shall assist in the laboratory training component of the program and conduct the program's calibration exercise for dentists who supervise the student's clinical experience.
4. A dental assistant II, registered in Virginia, who assists in teaching the laboratory training component of the program shall have a minimum of two years of clinical experience in performing duties delegable to a dental assistant II.
5. The program shall enter into a participation agreement with any dentist who agrees to supervise clinical experience. The dentist shall successfully complete the program's 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, a nonprofit dental clinic, or an educational institution clinic.
7. All treatment of patients shall be under the immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist shall attest to the successful completion of the clinical competencies and restorative experiences.

#### **18VAC60-30-120. Educational requirements for dental assistants II.**

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 or active licensure as a dental hygienist.

B. To be registered as a dental assistant II, a person shall complete a competency-based program from an educational institution that meets the requirements of 18VAC60-30-116 an applicant may be registered as a dental assistant II with specified competencies completed in education as described below and includes all of the following:

1. 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.
2. 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.
3. Laboratory training to be completed in the following modules:
  - a. 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;
  - b. No less than 40 hours of placing and shaping composite resin restorations, placement of a non-epinephrine 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
  - c. 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.
4. Clinical experience applying the techniques learned in the preclinical coursework and laboratory training in the following modules:

- a. 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;
  - b. At least 60 hours of placing and shaping composite resin restorations, placement of a non-epinephrine 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
  - c. 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.
5. Successful completion of the following competency examinations given by the accredited educational programs:
- a. A written examination at the conclusion of didactic coursework; and
  - b. A clinical competency exam.

~~C. An applicant may be registered as a dental assistant II with specified competencies set forth in subdivision a, b, or c of subdivisions B 3 and B 4 of this section.~~

**18VAC60-30-130. Reserved.**

**18VAC60-30-140. Registration by endorsement as a dental assistant II.**

A. An applicant for registration by endorsement as a dental assistant II shall provide evidence of the following:

- 1. Hold current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association;
- 2. Be currently authorized to perform expanded duties as a dental assistant in ~~each~~ a jurisdiction of the United States;
- 3. Hold a credential, registration, or certificate from another state 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.

B. An applicant shall also:

- 1. Be certified to be in good standing from each jurisdiction of the United States in which he is currently registered, certified, or credentialed or in which he has ever held a registration, certificate, or credential;
- ~~2. Not have committed any act that would constitute a violation of § 54.1-2706 of the Code; and~~
- ~~3. Attest to having read and understand and to remain current with the laws and the regulations governing dental practice in Virginia.~~

## **Part V. Requirements for Renewal and Reinstatement.**

**18VAC60-30-150. Registration renewal requirements.**

- ~~A. Prior to 2022, every person holding an active or inactive registration shall annually, on or before March 31, renew his registration. Beginning in January of 2022, e~~ Every person holding an active or inactive registration shall annually renew his registration in his birth month. Any person who does not return the completed form and fee by the deadline shall be required to pay an additional late fee.
- B. The registration of any person who does not return the completed renewal form and fees by the deadline shall automatically expire and become invalid ~~and his practice as a dental assistant II shall be illegal~~. Practicing in Virginia with an expired registration may subject the registrant to disciplinary action by the board.
- C. In order to renew registration, a dental assistant II shall be required to maintain and attest to current certification from the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association.
- D. A dental assistant II shall also be required to maintain evidence of successful completion of a current hands-on course training in basic cardiopulmonary resuscitation.
- E. Following the renewal period, the board may conduct an audit of registrants to verify compliance. Registrants selected for audit shall provide original documents certifying current certification.

#### **18VAC60-30-160. Inactive registration.**

A. Any dental assistant II who holds a current, unrestricted registration in Virginia may upon a request on the renewal application and submission of the required fee be issued an inactive registration. The holder of an inactive registration shall not be entitled to perform any act requiring registration to practice as a dental assistant II in Virginia.

B. An inactive registration may be reactivated upon submission of evidence of current certification from Dental Assisting National Board or a national credentialing organization recognized by the American Dental Association. An applicant for reactivation shall also provide evidence of continuing clinical competence, which may include: 1) documentation of active practice in another state or in federal service; or 2) a refresher course offered by a CODA accredited educational program.

~~C. The board reserves the right to deny a request for reactivation to any registrant who has been determined to have committed an act in violation of § 54.1-2706 of the Code.~~

#### **18VAC60-30-170. Registration reinstatement requirements.**

A. The board shall reinstate an expired registration if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection A of 18VAC60-30-150, provided that no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code and 18VAC60-30-110.

B. A dental assistant II who has allowed his registration to lapse or who has had his 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 his registration.

C. The executive director may reinstate such expired registration provided that the applicant can demonstrate continuing clinical competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code and 18VAC60-30-110.

**D. An applicant for reinstatement shall provide evidence of continuing clinical competence which may include: 1) documentation of active practice in another state or in federal service; or 2) a refresher course offered by a CODA accredited educational program.**

**Agenda Item: Adoption of guidance document regarding clinical competency requirements for licensure, reactivation, or reinstatement**

**Included in your agenda package:**

- Proposed Guidance Document 60-12

**Staff Note:** Regulatory Committee recommends adoption of Guidance Document 60-12 to the full Board

**Action needed:**

- Motion to accept recommendation of Regulatory Committee to adopt Guidance Document 60-12



## BOARD OF DENTISTRY

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

#### I. Dentists

##### A. Unrestricted License 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 take continuing education that meets the requirements of 18VAC60-21-250.

- The Board will only consider courses that 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 for unrestricted licensed applicants:

- Must be a minimum of 8 hours for every year the license has been inactive, 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.

##### 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 and dependent on the amount of time the practitioner has been inactive.
- The Board will 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 license has been inactive, 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.
- The Board will 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 license has been inactive, 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 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 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 for unrestricted licensed applicants:

- Must be a minimum of 4 hours for every year the license 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.

**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 18VAC60-25-210(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 been inactive.

Refresher courses for reactivation of an inactive license:

- Must be a minimum of 4 hours for every year the license 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.
- 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 license 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.

### 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 program accredited by the Commission on Dental Accreditation of the American Dental Association (“CODA”).

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.

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.



Virginia Department of  
**Health Professions**  
Board of Dentistry

Disciplinary Board Report

Today's report reviews the January –November 15, 2022 case activity

**January –November 15, 2022**

The table below includes all cases that have received Board action since January 1, 2022 through November 15, 2022

Year 2022	Cases Received	Cases Closed No Violation	Cases Closed W/Violation	Total Cases Closed
Jan	27	34	8	40
Feb	27	14	13	27
March	51	28	6	34
April	42	20	15	35
May	30	38	4	42
June	42	57	8	65
July	34	28	8	36
August	45	31	8	39
Sept	41	25	6	31
Oct	30	28	0	28
Nov	8	11	1	12
<b>TOTALS</b>	<b>449</b>	<b>314</b>	<b>75</b>	<b>389</b>

**Closed Case with Violations consisted of the following:**

**Patient Care Related:**

- **45 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.
- **16 Business Practice Issues:** Advertising, default on guaranteed student loan, solicitation, records, inspections, audits, self-referral of patients, required to report not filed, prescription blanks, or disclosure.
- **4 Unlicensed Activity:** Practicing a profession or occupation without holding a valid license as required by statute or regulations.
- **3 Standard of Care-Surgery:** Improper/unnecessary performance of surgery, improper patient management, and other surgery-related issues
- **5 Inability to Safely Practice:** Impairment due to the use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions.
- **1 Compliance:** Violation of a board order term or probation violation

**Non-Patient Care Related:**

- **1 Drug Related-Non-Patient Care :** Theft or diversion of drugs when a patient is not involved



Virginia Department of  
**Health Professions**  
Board of Dentistry

Disciplinary Board Report

CCA's

There were 22 CCA's issued from January 1, 2022 to November 15, 2022. The CCA's issued consisted of the following violations:

- **18 Business Practice Issues:** Recordkeeping
- **1 Unlicensed Activity:** Practicing a profession or occupation without holding a valid license as required by statute or regulations. (didn't renew license)
- **1 Drug Related- Security:** Failure to maintain security of controlled substances.
- **1 Fraud- Non-Patient Care:** Improper patient billing, mishandling of pre-need funds, fee splitting, and falsification of licensing/renewal documents.
- **1 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.

Suspensions/Revocations

There have been 3 Summary Suspensions issued from January 1, 2021 to November 15, 2022.

- 2 summary suspension for **Standard of Care-Medication/Prescription:** Prescribing, labeling, dispensing, and administration errors. Also, includes improper management of patient regimen and failure to provide counseling as well as other medication/prescription related issues.
- 1 summary suspension for **Standard of Care- Diagnosis and Treatment:** Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also, include failure to diagnose/treat& other diagnosis/treatment issues.