



## Fast Track Regulation Agency Background Document

<b>Agency name</b>	Board of Dentistry, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 60 -20
<b>Regulation title</b>	Regulations Governing the Practice of Dentistry and Dental Hygiene
<b>Action title</b>	Limitation on number of home study hours of continuing education
<b>Document preparation date</b>	

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

Of the 15 hours of continuing education required for annual renewal of licensure as a dentist or dental hygienist, the amended regulation would specify that only 5 hours may be obtained through home study or on-line. The remaining must be live hours obtained in a clinical or classroom setting.

### Statement of agency final action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On September 12, 2003, the Board of Dentistry took action to amend 18 VAC 60-20-10 et seq., Regulations Governing the Practice of Dentistry and Dental Hygiene, through the fast-track

regulatory process to limit the number of continuing education hours that could be obtained on-line or through home study.

### Legal basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.*

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board the authority to promulgate regulations to administer the regulatory system:

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

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

...

*6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

The Board is authorized to require additional training for renewal of licensure in:

***§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement.***

*A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.*

*B. The regulatory boards may enter into agreements with other jurisdictions for the recognition of certificates and licenses issued by other jurisdictions.*

*C. The regulatory boards are authorized to promulgate regulations recognizing licenses or certificates issued by other states, the District of Columbia, or any territory or possession of the United States as full or partial fulfillment of qualifications for licensure or certification in the Commonwealth.*

Continuing education for dental hygienists is specifically mandated by:

***§ 54.1-2729. Continuing education.***

*A. The Board shall promulgate regulations governing continuing requirements for dental hygienists licensed pursuant to this article. Such regulations shall require the completion of fifteen hours annually in continuing education courses for any license renewal or reinstatement after April 1, 1995. The Board may grant exemptions from these continuing education requirements.*

*B. The Board shall approve continuing education courses that are directly related to the practice of dental hygiene and the treatment and care of patients. Any licensed hospital, institution of higher education, or national, state, or local health, medical, dental or dental hygiene organization, or individuals thereof may submit applications to the Board for approval as a provider of continuing education courses satisfying the requirements of the Board's regulations. Approved course providers must register continuing education courses with the Board pursuant to Board regulations. Only courses approved by the Board or offered by an approved provider may be designated as qualifying for continuing education course credit.*

*C. All course providers shall furnish written certification to dental hygienists indicating the satisfactory completion of an approved continuing education course. Each course provider shall retain records of all persons attending and those persons satisfactorily completing such continuing education courses for a period of four years following each course. Applicants for renewal or reinstatement of licenses issued pursuant to this article shall retain for a period of four years the written certification issued by a course provider. The Board may require course providers and licensees to submit copies of such records or certification as it deems necessary to ensure compliance with continuing education requirements.*

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

It is the Board’s policy to require continuing education hours to be live or interactive to allow for exchange of information in a clinical or classroom setting. Recently, questions have arisen about the acceptability of on-line or home study hours. While the Board is willing to permit a portion of the hourly requirement to be obtained by such means, it does not intend to allow all of the required 15 hours in home study. The Board agrees with other professions, such as medicine, that there is merit in having practitioners engaged in a live or interactive learning environment with their peers. For dentists, who are often solo practitioners, such interaction enhances their acquisition of new information and clinical skills, which translates into better dental care and protection of the consuming public’s health and safety.

**Rationale for using fast track process**

*Please explain why the fast track process is being used to promulgate this regulation.*

*Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from (1) 10 or more persons, (2) any member of the applicable standing committee of either house of the General Assembly or (3) any member of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

While it is the Board's intent to require most continuing education hours to be live or interactive, it is necessary to respond to requests from practitioners who want to receive credit for some hours in home study. Adoption of a guidance document was considered as an option, but it is not enforceable as a law or regulation and could not be cited in a disciplinary case. Therefore, the only option was adoption of an amendment to regulation to specify the number of home study hours that could be credited toward the annual requirement.

In order to have clear guidance through a regulation on the issue of live versus home study continuing education, the Board acted to propose an amendment through the fast-track process. It does not anticipate any opposition to the amended rule and views it as clarifying to its licensees.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

The amendment to section 50 would provide that no more than 5 of the 15 hours could be obtained through home study or on-line course work with the remaining hours to be live classroom or clinical hours.

### Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

There are no disadvantages to the public of this amendment. Consumers of dental services may be better served by a limitation on the number of hours that may be obtained through home study since it is believed that live, interactive hours are more valuable in conveying new knowledge and clinical skills.

There are no disadvantages to the agency or the Commonwealth; a clearly stated regulation should enable staff of the Board to give licensees a definitive response to inquiries about home study hours.

There are no other pertinent matters of interest.

### Economic impact

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>The agency will incur some one-time costs (less than \$2,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings. There are no ongoing expenditures related to this amendment. As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>None</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b></p>	<p>Licensees of the Board of Dentistry are affected by the regulation – dentists and dental hygienists.</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected</b></p>	<p>There are 5360 dentists and 3770 dental hygienists licensed in Virginia who are subject to continuing education requirements.</p>
<p><b>Projected cost of the regulation for affected individuals, businesses, or other entities</b></p>	<p>There is no projected cost; the total number of hours of continuing education is not changed. Home study hours are not necessarily more or less expensive than live hours. For example, the VCU School of Dentistry offers a 6.5 hour course to dental hygienists for \$128, but a 1.5 hour video to use at home or in the office costs \$75.</p>

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

In order for the Board to be able to communicate and enforce its decision on the number of continuing education hours that may be home-study or on-line, it must put policy into regulation. Adoption of a guidance document was considered as an option, but it is not enforceable as a law or regulation and could not be cited in a disciplinary case. Therefore, the only option was adoption of an amendment to regulation to specify the number of home study hours that could be credited toward the annual requirement.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

There is no impact on the institution of the family and family stability.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
50	A dentist or dental hygienist is required to obtain 15 hours of continuing education for annual renewal of licensure.	<p>The amendment would provide that no more than 5 of the 15 hours could be obtained through home study or on-line course work with the remaining hours to be live classroom or clinical hours.</p> <p>The Board agrees with other professions, such as medicine, that there is merit in having practitioners engaged in a live or interactive learning environment with their peers. For dentists, who are often solo practitioners, such interaction enhances their acquisition of new information and clinical skills, which translates into better dental care and protection of the consuming public’s health and safety. Part of the purpose of continuing education for licensees of this Board was to require practitioners to get away from their individual offices and interact with other professionals who may have acquired new knowledge and techniques. If all hours of continuing education could be obtained on-line or through home study, it would weaken the intent of the requiring continuing education.</p>