

VIRGINIA BOARD OF DENTISTRY

**Regulatory-Legislative Committee**

February 10, 2011 Agenda

Department of Health Professions  
Perimeter Center - 9960 Mayland Drive, 2<sup>nd</sup> Floor Conference Center  
Henrico, Virginia 23233

**TIME**

**PAGE**

**9:00 a.m. Call to Order – Herbert R. Boyd, III, DDS, Chair**

**Public Comment**

**Approval of Minutes - December 2-3, 2010**

**Report on Legislation Related to Dentistry**

**Status Report on Regulatory Actions**

**Periodic Review of Regulations**

- **First Review Draft of Dental Practice Chapter**

**1-30**

**Next Meeting – February 25, 2011 at 9:30 am**

**Adjourn**

**BOARD OF DENTISTRY**  
**Dentistry regulations**

CHAPTER 21  
REGULATIONS GOVERNING THE PRACTICE OF DENTISTRY

**Part I. General Provisions.**

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

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

"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.

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

"Code" means the Code of Virginia.

"Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. 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.

"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 a 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 18VAC60-21-140 and ...(add reference to DA regs).

"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 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.

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"Direction" means the level of supervision 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.

"Enteral" is any technique of administration in which the agent is absorbed through the gastrointestinal tract or oral mucosa (i.e., oral, rectal, sublingual).

"General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory 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.

"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" is 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.

"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 minimally depressed level of consciousness, produced by a pharmacological method, which retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected.

"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. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

"Monitoring" means to observe, evaluate and record appropriate physiologic functions of the body during sedative procedures and general anesthesia.

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

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"Radiographs" means intraoral and extraoral x-rays and digital images of hard and soft tissues used for purposes of diagnosis.

"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.

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

Each licensed dentist shall provide the board with a current address of record. All required notices 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 employing dentist, firm or company must enable compliance by designating a space at the entrance of the office for the name to be displayed.
- B. In accordance with §54.1-2721 of the Code, a dentist shall display a current, active license where it is conspicuous and readable by patients. 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 Schedule II through V controlled substances shall display his current registration with the federal Drug Enforcement Administration with his current active license.
- D. A dentist who administers moderate sedation, deep sedation or general anesthesia shall display a diploma from a CODA accredited dental program or a certificate of education from a continuing education sponsor which meets the requirements of 18VAC60-21-230 with his current active license.

**18VAC60-21-40. 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 Teacher's License \$285
  - 5. Dental Full-time Faculty License \$285
  - 6. Dental Temporary Resident's License \$60
  - 7. Restricted Volunteer License \$25
  - 8. Volunteer Exemption Registration \$10
  - 9. Oral Maxillofacial Surgeon Registration \$175
  - 10. Cosmetic Procedures Certification \$225
  - 11. Mobile Clinic/Portable Operation \$250
- B. Renewal Fees
  - 1. Dental License - Active \$285

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- 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. Mobile Clinic/Portable Operation \$150

**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

**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. Returned Check Fee \$35
- 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.

**Part II Standards of Professional Conduct**

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

Dentists shall only treat or prescribe based on a bona fide dentist-patient relationship for medicinal or therapeutic purposes consistent with the definition of dentistry in §54.1-2710 of the Code, the provisions for controlled substances in Chapter 34 of the Drug Control Act in 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.

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

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

- A. Maintaining a safe and sanitary practice.

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- B. Consulting with or refer patients to other practitioners with specialized knowledge, skills and experience when needed to safeguard and advance the health of the patient.
- C. 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.
- D. Only delegating patient care and exposure of dental x-rays to qualified, properly trained and supervised personnel as authorized in Part III, Direction and Delegation of Duties, of these regulations.
- E. Containing or isolating pets away from the treatment areas of the dental practice.
- F. Not engaging at any time during the course of the dentist-patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive.
- G. Giving patients 30 days notice of a decision to terminate the dentist-patient relationship.
- H. Knowing the signs of abuse and neglect and reporting suspected cases to the proper authorities consistent with state law.
- I. Not exploiting the dentist-patient relationship for personal gain.

### 18VAC60-21-70 Patient information and records

- A. A dentist shall maintain complete, legible patient records for not less than five years from the last date of service for purposes of review by the board.
- B. Every patient record shall include the following:
  - 1. Patient's name on each document in the patient record;
  - 2. A health history taken at the initial appointment which is updated when analgesia, sedation or anesthesia is to be administered and when medically indicated and at least annually;
  - 3. Diagnosis, options discussed, consent obtained and treatment rendered;
  - 4. List of drugs prescribed, administered, dispensed and the route of administration, quantity, dose and strength;
  - 5. Radiographs, digital images and photographs clearly labeled with patient name and date taken;
  - 6. Notation of each date of treatment and of the dentist, dental hygienist and dental assistant II providing service;
  - 7. Duplicate laboratory work orders which meet the requirements of §54.1-2719 of the Code including the signature of the dentist; and
  - 8. Itemized patient financial records as required by §54.1-2404 of the Code.
- C. When moderate sedation, deep sedation or general anesthesia is administered the patient record shall also include:
  - 1. Notation of the patient's ASA classification;
  - 2. Review of medical history, current conditions and NPO status;
  - 3. Informed consent for administration of drugs and for the dental procedure to be performed;
  - 4. Time oriented administration record including the name, dose, strength of drugs and route of administration including the administration of local anesthetics;
  - 5. Physiological monitoring records; and
  - 6. List of staff participating in the administration, treatment and monitoring including name, position and assigned duties.
- D. A licensee shall comply with the patient record confidentiality, release and disclosure provisions of §32.1-127.1:03 of the Code and shall only release patient information as permitted by law.
- E. Records may not be withheld because the patient has an outstanding financial obligation.
- F. A reasonable cost-based fee may be charged to include the cost of supplies and labor for copying documents, duplication of radiographs and images and postage if mailing is requested.

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- G. 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.
- H. Records shall not be abandoned or otherwise left in the care of someone who is not licensed 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 licensee, are sent to the patients of record or are destroyed.
- I. Patient confidentiality must be preserved when records are destroyed.

### **18VAC60-21-80. Report of adverse reactions.**

A written report shall be submitted to the board by the treating dentist within 10 business days following any mortality, morbidity, or sentinel event which occurs in his facility or during the first 24 hours immediately following the patient's departure from the facility and which results in transport of the patient to a hospital.

### **18VAC60-21-90. 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 which does not include the cost of all related procedures, services, and products which, 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. Discount offers for a dental service are permissible for advertising only when the non-discounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.
- D. Retention of broadcast advertising. A prerecorded copy of all advertisements on radio or television shall be retained for a six-month period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded 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 subdivision F 3 of this section is limited to procedures which are determined by the board to be routine dental services as set forth in the American Dental Association's "Code on Dental Procedures and Nomenclature," as published in Current Dental Terminology (CDT-2007/2008), which is hereby adopted and incorporated by reference.
- F. The following practices shall constitute false, deceptive, or misleading advertising within the meaning of §54.1-2706 (7) of the Code:
  - 1. Publishing an advertisement which contains a material misrepresentation or omission of facts;
  - 2. Publishing an advertisement which contains a representation or implication that is likely to cause an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive;
  - 3. Publishing an advertisement which fails to include the information and disclaimers required by this section;
  - 4. Publishing an advertisement which contains a claim of professional superiority, claims to be a specialist, or uses any of the 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

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Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 1995), or such guidelines or requirements as subsequently amended and approved by the dental disciplinary board, or other such organization recognized by the board; and

5. A dentist not currently entitled to such specialty designation shall not represent that his practice is limited to providing services in a specialty area without clearly disclosing in the representation that he is a general dentist. A specialist who represents services in areas other than his specialty is considered to be practicing general dentistry.
- G. Signage. 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.

### Part III. Direction and Delegation Of Duties.

#### 18VAC60-21-100. Nondelegable duties; dentists.

Only licensed dentists shall perform the following duties:

- A. Final diagnosis and treatment planning;
- B. Performing surgical or cutting procedures on hard or soft tissue;
- C. Prescribing or parenterally administering drugs or medicaments;
- D. Authorization of work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;
- E. Operation of high speed rotary instruments in the mouth;
- F. Administering and monitoring moderate sedation, deep sedation or general anesthetics except as provided for in § 54.1-2701 of the Code and 18VAC60-21-260, 18VAC60-21-270, and 18VAC60-20-280;
- G. 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-??-?? add reference to DA regs;
- H. Final positioning and attachment of orthodontic bonds and bands; and
- I. Final adjustment and fitting of crowns and bridges in preparation for final cementation.

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

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 on a voluntary basis.

#### 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 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.

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Persons acting within the scope of a license issued to them by the board under §54.1-7722 or §54.1-2725 of the Code to teach dental hygiene and those persons licensed pursuant to §54.1-2722 of the Code providing oral health education and preliminary dental screenings in any setting are exempt from this section.

- C. Duties delegated to a dental hygienist under direction shall only be performed when the dentist is present in the facility and examines the patient during the time services are being provided.
- D. 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 examined the patient. Upon expiration of the order, the dentist shall have examined the patient before writing a new order for treatment.
  - 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 no anesthesia can be administered, 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.
- E. General supervision shall not preclude the use of direction when, in the professional judgment of the dentist, such direction is necessary to meet the individual needs of the patient.

### **18VAC60-21-130. 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 and/or root planing of natural and restored teeth using hand instruments, rotary instruments, ultrasonic devices and non-surgical lasers with any sedation or anesthesia administered by the dentist.
- 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 18VAC60-25-90.

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 in accordance with §54.1-3408 of the Code to be performed under general supervision:

- 1. Scaling and/or root planing of natural and restored teeth using hand instruments, rotary instruments, ultrasonic devices and non-surgical 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.
- 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 non-delegable in 18VAC60-21-100, those restricted to indirect supervision in subsection A of this section, and those restricted to delegation to dental assistants II in 18VAC60-21-140.

**18VAC60-21-140. 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 ~~18VAC60-22-222~~ ... (add reference to DA regs):

1. Performing pulp capping procedures;
2. Packing and carving of amalgam restorations;
3. Placing and shaping composite resin restorations;
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.

**18VAC60-21-150. 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 the direction or under general supervision required in 18VAC60-21-120, with the exception of those listed as non-delegable in 18VAC60-21-100, those which may only be delegated to dental hygienists as listed in 18VAC60-21-130 and those which may only be delegated to a dental assistant II as listed in 18VAC60-21-140.

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.

**18VAC60-21-160. 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 (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, (ii) been certified by the American Registry of Radiologic Technologists, (iii) satisfactorily completed a course and passed an examination in compliance with guidelines provided by the board, or (iv) satisfactorily completed a radiation course and passed an examination 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.

**18VAC60-21-170. What does not constitute practice.**

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

1. Oral health education and preliminary dental screenings in any setting.
2. Recording a patient's pulse, blood pressure, temperature, and medical history.

**Part IV. Entry, Licensure and Registration Requirements.****18VAC60-21-180. 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:

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1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral degree or certificate;
  2. An original grade card issued by the Joint Commission on National Dental Examinations;
  3. A current report from the Healthcare Integrity and Protection Data Bank (HIPDB) and a current report from the National Practitioner Data Bank (NPDB); and
  4. Be of good moral character and not have committed any act which would constitute a violation of § 54.1-2706 of the Code;
- 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.
- E. Any application for a dental license, registration or permit may be denied for any cause specified in §54.1-2706 of the Code.
- F. An application must include payment of the appropriate fee as specified in 18VAC60-21-40.

### 18VAC60-21-190. Education.

An applicant for any type of dental licensure shall be a graduate 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, 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 advanced specialty which addresses clinical treatment skills.

### 18VAC60-21-200. Licensure.

#### A. Dental licensure by examination.

1. All applicants shall have successfully completed Part I and Part II of the examinations of the Joint Commission on National Dental Examinations.
2. All applicants shall have passed a regional dental clinical competency examination which included a live patient component and which is accepted by the Board.
3. 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.
4. 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 which meets the requirements of 18VAC60-20-50 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.

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1. Have passed Part I and Part II of the examination given by the Joint Commission on National Dental Examinations;
2. Have successfully completed a state or regional clinical competency examination which included a live patient;
3. Hold a current, unrestricted license to practice dentistry in another jurisdiction in the United States and is certified to be in good standing by each jurisdiction in which he currently holds or has held a license; and
4. Have been in continuous clinical practice in another jurisdiction of the United States or in United States 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 the dental corps of the United States Armed Forces, volunteer practice in a public health clinic, or practice in an intern or 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.

### C. Temporary permit for public health settings.

A temporary permit shall be issued only for the purpose of allowing dental practice in 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 can not have failed a regional 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.

### D. Teacher's license.

A teacher's license shall be issued to any dentist certified to be on the faculty of an accredited dental program who meets the entry requirements of § 54.1-2713 of the Code of Virginia.

1. Passage of a clinical competency examination is not required but the applicant can not have failed a regional clinical competency examination accepted by the Board.
2. The holder of a teacher's license shall not practice intramurally or privately and shall not receive fees for service.
3. A teacher's 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 full-time employment.
4. The dean of the dental school shall notify the board within five working days of such termination of employment.

### E. Full-time faculty license.

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

1. Passage of a clinical competency examination is not required but the applicant can not have failed a regional clinical competency examination accepted by the Board.

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2. The holder of a faculty license may practice intramurally and may receive fees for service but can not practice privately.
3. A faculty license shall remain valid only while the holder is serving full time on the faculty of an accredited dental program in the Commonwealth. When any such license holder ceases to continue serving full time 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 full-time employment.
4. The dean of the dental school shall notify the board within five working days of such termination of full-time employment.

### F. 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. The applicant shall:

1. Have successfully completed a D.D.S. or D.M.D. degree program required for admission to a regional clinical competency examination accepted by the Board. Submission of a letter of confirmation from the registrar of the school or college conferring the professional degree, or official transcripts confirming the professional degree and date the degree was received is required.
2. 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.
3. The temporary license permits the holder to practice only in the hospital or outpatient clinics which are recognized parts of an advanced dental education program.
4. The temporary license may be renewed annually, for up to five times, upon the recommendation of the dean of the dental school or director of the accredited advanced dental education program.
5. 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 practice outside of the advanced dental education program.
6. 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.

### G. Restricted volunteer license.

1. In accordance with §§ 54.1-2712.1 or 54.1-2726.1, the board may issue a restricted volunteer license to a dentist or a dental hygienist who:
  - a. Held an unrestricted license in Virginia or another state 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;
  - 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;

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- 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 restricted volunteer license 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 18VAC60-21-70.

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

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

### H. 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, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

- a. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;
- b. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;
- c. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services; and
- d. 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.

### **18VAC60-21-210. 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. An inactive license may be reactivated upon submission of the required application which includes evidence of continuing competence, and payment of the current renewal fee. To evaluate continuing competence the board shall consider (i) hours of continuing education which meets the requirements of 18 VAC 60-21-230; (ii) evidence of active practice in another state or in federal service; (iii) current

specialty board certification; (iv) recent passage of a regional clinical competency examination which 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.

### **Part V. Licensure Renewal**

#### **18VAC60-21-220. License renewal and reinstatement.**

A. The license 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 may subject the licensee to disciplinary action by the board.

A. Renewal. Every person holding an active or inactive license or a full-time faculty license shall annually, on or before March 31, renew his license. Every person holding a teacher's license, temporary resident's license, a restricted volunteer license or a temporary permit shall, on or before June 30, request renewal of his license.

B. Late renewals. 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.

C. The board shall 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 provided that no grounds exist to deny said renewal pursuant to § 54.1-2706 of the Code and Part II of these regulations, 18 VAC 60-21-50 et seq.

C. Reinstatement procedures.

1. Any person whose license has expired for more than one year or whose license has been revoked or suspended and who wishes to reinstate such license shall submit a reinstatement application and the reinstatement fee. The application must include evidence of continuing competence.

2. To evaluate continuing competence the board shall consider (i) hours of continuing education which meets the requirements of subsection G of 18 VAC 60-21-230; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a regional clinical competency examination 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.

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3. The executive director may reinstate such expired license provided that the applicant can demonstrate continuing competence, has paid the reinstatement fee and any fines or assessments and that no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code and Part II of these regulations, 18 VAC 60-21-50 et seq.

### **18VAC60-21-230. 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.

2. 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. Continuing education credit may be earned for passage of the online Virginia Dental Law Exam.

1. A dentist shall maintain current training certification in basic cardiopulmonary resuscitation or basic life support with laboratory simulated airway training.

2. A dentist who administers or monitors patients under general anesthesia, deep sedation or conscious 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.

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.

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 which are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, stress management). Courses not acceptable for the purpose of this subsection include, but are not limited to, 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 courses, to include audio and video presentations, which meet the requirements in subsection B of this section and which are given by one of the following sponsors:

1. American Dental Association and National Dental Association, their constituent and component/branch associations, and approved providers;

2. American Dental Hygienists' Association and National Dental Hygienists Association, their constituent and component/branch associations;

3. American Dental Assisting Association, its constituent and component/branch associations;

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4. American Dental Association specialty organizations, their constituent and component/branch associations;
5. American Medical Association and National Medical Association, their specialty organizations, constituent, and component/branch associations;
6. Academy of General Dentistry, its constituent and component/branch associations and approved 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 Health Care 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 which is 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 and Research Foundation;
14. The Dental Assisting National Board; or
15. A regional testing agency (i.e., Central Regional Dental Testing Service, Northeast Regional Board of Dental Examiners, Southern Regional Testing Agency, 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. 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.

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

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G. A licensee who has allowed his license to lapse, or who has had his license suspended or revoked, must 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.

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

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

### **Part VI. Controlled Drugs, Sedation and Anesthesia**

#### **18 VAC 60-21-240. General provisions.**

##### **A. Application of Part VI.**

This part (18 VAC 60-21-240 et seq.) applies to the administration of controlled drugs in dental offices and shall not apply to such administration by a dentist practicing in (i) a licensed hospital as defined in § 32.1-123 of the Code of Virginia or (ii) a state-operated hospital or (iii) a facility directly maintained or operated by the federal government.

##### **B. Registration required.**

Any dentist who prescribes, administers or dispenses Schedule II through V controlled drugs must hold a current registration with the federal Drug Enforcement Administration.

##### **C. Patient Evaluation Required.**

1. The decision to administer controlled drugs 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). The findings of the evaluation, the ASA risk assessment class assigned and any special considerations must be recorded in the patient's record.

a. Any level of sedation and general anesthesia may be provided for patients who are ASA Class I and Class II.

b. Patients in ASA Class III shall only be provided minimal sedation, moderate sedation, deep sedation or general anesthesia by:

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

2. 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.

c. Minimal sedation may only be provided for patients who are in ASA Class IV by:

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1. a dentist after he has documented a consultation with the primary care physician or other medical specialist regarding potential risks and special monitoring requirements that may be necessary; or
  2. 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.
- d. Moderate sedation, deep sedation or general anesthesia shall not be provided in a dental office for patients in ASA Classes IV and V.

### **D. Pediatric patients.**

Pre-medication of a child aged 12 and under before his arrival at the dental office is prohibited.

### **E. 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.

### **F. 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 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.

### **G. Emergency management.**

A dentist shall stop the dental procedure when a patient enters a deeper level of sedation than intended and not resume treatment until the patient returns to and is stable at the intended level.

### **H. 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, such as Basic Cardiac Life Support or an approved, clinically oriented course devoted primarily to responding to clinical emergencies offered by an approved provider of continuing education as set forth in 18 VAC 60-21-230(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).

**I. Assisting in administration.** A dentist, consistent with the planned level of administration (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 and/or nurse to perform functions appropriate to such practitioner's education, training and experience and consistent with that practitioner's respective scope of practice.

**J. 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 (a) before administration is initiated or immediately upon arrival if the patient self-administered a sedative agent; (b) throughout the administration of drugs; (c) throughout the treatment of the patient; and (d) 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.

**18VAC60-21-260. Administration of local anesthesia.**

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

- A. A dentist;
- B. An anesthesiologist;
- C. A certified registered nurse anesthetist under his direction;
- D. A dental hygienist with the training required by 18VAC60-25-90(C) to parenterally administer Schedule VI local anesthesia to persons age 18 or older under his direction;
- E. A dental hygienist to administer Schedule VI topical oral anesthetics under his direction or under his order for such treatment under general supervision;
- F. A dental assistant to administer Schedule VI topical oral anesthetics under his direction; and
- G. A registered or licensed practical nurse to administer Schedule VI topical oral anesthetics under his direction.

**18 VAC60-21-260. Administration of minimal sedation.**

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

1. Medications used, the appropriate dosages, the potential complications of administration, the indicators for complications and the interventions to address the complications.
2. Physiological effects of nitrous oxide, 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 C of this section.

**B. 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;
  - e. A certified registered nurse anesthetist under his direction; and

- d. A dental hygienist with the training required by 18VAC60-25-90 (B) or (C) may only administer nitrous oxide/oxygen under his direction.
2. Preceding the administration of minimal sedation, a dentist may use the services of the following personnel to administer local anesthesia to numb an injection or treatment site:
  - A dental hygienist with the training required by 18VAC60-25-90(C) to administer Schedule VI local anesthesia to persons age 18 or older under his direction;
  - A dental hygienist to administer Schedule VI topical oral anesthetics under his direction;
  - A dental assistant to administer Schedule VI topical oral anesthetics under his direction; and
  - A registered or licensed practical nurse to administer Schedule VI topical oral anesthetics under his direction.
3. If minimal sedation is self-administered by a patient before arrival at the dental office/facility, the dentist may only use the personnel listed in 4.a. to administer local anesthesia.

**C. Equipment requirements.**

A dentist who utilizes minimal sedation or who directs the administration by another licensed health professional as permitted in 18VAC60-21-260(B)(4) shall maintain the following equipment in working order in the areas where patients will be sedated and treated and will recover:

1. Blood pressure monitoring equipment.
2. Positive pressure oxygen delivery system with fail-safe system and a scavenging system.
3. Mechanical (hand) respiratory bag.
4. Suction apparatus.
5. Electrocardiographic monitor.
6. Defibrillator.

**D. Required Staffing.**

1. The treatment team for minimal sedation administered by a route other than just inhalation of nitrous oxide/oxygen 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 18VAC60-21-240(H); or
2. When only nitrous oxide/oxygen is administered for minimal sedation a second person 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.

**E. Monitoring requirements.**

1. Baseline vital signs shall be taken and recorded prior to administration of sedation and prior to discharge.
2. Blood pressure and heart rate shall be monitored during the administration.
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 18VAC60-21-240(H) monitors the patient at all times until discharged as required in subsection F of this section.

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4. If nitrous oxide/oxygen is used, monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or by a qualified dental hygienist. Only the dentist or qualified dental hygienist may turn the nitrous oxide/oxygen machines on or off.

### **F. Discharge requirements.**

1. The dentist shall not discharge a patient to his own care until he exhibits normal responses in a post-operative evaluation of the level of consciousness, oxygenation, ventilation and circulation. Vital signs will be taken and recorded prior to discharge.
2. Postoperative instructions shall be given verbally and in writing. The written instructions shall include a 24 hour emergency telephone number.

### **18VAC60-21-270. Requirements to administer moderate sedation.**

**A. Automatic qualification.** Dentists qualified to administer deep sedation and general anesthesia may administer moderate sedation.

### **B. Education and training requirements.**

1. A dentist may use any method of administration by meeting one of the following criteria:

- a. Completion of training for this treatment modality according to the ADA's Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry 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
- b. Completion of a continuing education course which meets the requirements of 18VAC60-21-230 and consists of 60 hours of didactic instruction plus the management of at least 20 patients per participant, demonstration of competency and clinical experience in moderate sedation; and management of a compromised airway. The course content shall be consistent 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
- c. A dentist who self-certified his qualifications in anesthesia and moderate sedation prior to January 1989 may continue to administer only moderate sedation.

2. Enteral administration only. A dentist may administer moderate sedation by only an enteral method if he has completed a continuing education program which meets the requirements of 18VAC60-21-230 and consists of not less than 18 hours of didactic instruction plus 20 clinically-oriented experiences in enteral and/or a combination of enteral and nitrous oxide/oxygen moderate sedation techniques. The course content shall be consistent with the ADA's Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry in effect at the time the training occurred.

### **C. Additional training required.**

1. Dentists who administer moderate sedation shall hold current certification in advanced resuscitation techniques with laboratory simulated airway training, such as Advanced Cardiac Life Support for Health Professionals or Pediatric Advanced Life Support for Health Professionals as evidenced by a certificate of completion posted with the dental license.

2. Has current training in the use and maintenance of the equipment required in subsection E of this section.

**D. Delegation of Administration.**

1. A dentist not qualified to administer moderate sedation shall only use the services of an anesthesiologist to administer such sedation in a dental office. In an outpatient surgery center, a dentist not qualified to administer moderate sedation shall use an anesthesiologist or a certified registered nurse anesthetist to administer such sedation.
2. A qualified dentist may administer or use the services of the following personnel to administer moderate sedation:
  - A dentist with the training required by 18VAC60-21-270(B)(2) to administer by an enteral method;
  - A dentist with the training required by 18VAC60-21-270(B)(1) to administer by any method;
  - An anesthesiologist; and
  - A certified registered nurse anesthetist under the direction of a dentist who meets the training requirements of 18VAC60-21-270(B)(1).
3. If minimal sedation is self-administered by a patient before arrival at the dental office, the dentist may only use the personnel listed in 2 above to administer local anesthesia.
4. Preceding the administration of moderate sedation, a qualified dentist may use the services of the following personnel to administer local anesthesia to numb the injection or treatment site:
  - F. A dental hygienist with the training required by 18VAC60-25-90(C) to parenterally administer Schedule VI local anesthesia to persons age 18 or older under his direction;
  - G. A dental hygienist to administer Schedule VI topical oral anesthetics under his direction;
  - H. A dental assistant to administer Schedule VI topical oral anesthetics under his direction; and
  - I. A registered or licensed practical nurse to administer Schedule VI topical oral anesthetics under his direction.

**E. Equipment requirements.**

A dentist who administers moderate sedation shall maintain the following equipment in working order in the areas where patients will be sedated and treated and will recover:

1. Full face mask for children or adults, as appropriate for the patient being treated;
2. Oral and nasopharyngeal airways;
3. Endotracheal tubes for children or adults, or both, with appropriate connectors a laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both or laryngeal mask airway or King Airway. In lieu of a laryngoscope and endotracheal tubes, a dentist may maintain airway adjuncts designed for the maintenance of a patent airway and the direct delivery of positive pressure oxygen;
4. Pulse oximetry;
5. Blood pressure monitoring equipment;
6. Pharmacologic antagonist agents;
7. Source of delivery of oxygen under controlled positive pressure;
8. Mechanical (hand) respiratory bag; and
9. Appropriate emergency drugs for patient resuscitation.
13. Suction apparatus; and
14. Throat pack.

**F. Required Staffing.**

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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 18VAC60-21-240(J) and assist the operating dentist as provided in 18VAC60-21-240(I), 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 18VAC60-21-270(D), such person may monitor the patient.

### **G. Monitoring requirements.**

1. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug and prior to discharge.
2. Blood pressure and heart rate shall be monitored during the administration.
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 office 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.

### **H. 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 circulation are satisfactory for discharge and vital signs have been taken and recorded.
2. Postoperative instructions shall be given verbally and in writing. The written instructions shall include a 24 hour emergency telephone number.

### **I. 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.

## **18VAC60-21-280. Requirements to administer deep sedation or general anesthesia.**

### **A. Educational requirements.**

A dentist may employ or use deep sedation or general anesthesia by meeting the following educational criteria:

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 ADA CODA accredited residency in any dental specialty which 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

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ADA's Guidelines for Graduate and Postgraduate Training in Anesthesia in effect at the time the training occurred; and

3. Holds current certification in advanced resuscitative techniques with laboratory simulated airway training, such as courses in Advanced Cardiac Life Support or Pediatric Advanced Life Support.
4. Has current training in the use and maintenance of the equipment required in subsection D of this section.

### **B. 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 18VAC60-21-240(E).
2. have a physical evaluation as required by 18VAC60-21-240(C).
3. be given preoperative verbal and written instructions including any dietary or medication restrictions.

### **C. Delegation of administration.**

1. A dentist not qualified to administer deep sedation and general anesthesia shall only use the services of an anesthesiologist to administer deep sedation or general anesthesia in a dental office. In an outpatient surgery center, a dentist not qualified to administer deep sedation or general anesthesia shall use an anesthesiologist or a certified registered nurse anesthetist to administer deep sedation or general anesthesia.
2. A qualified dentist may administer or use the services of the following personnel to administer deep sedation or general anesthesia:
  - a) A dentist with the training required by 18VAC60-21-280(A);
  - b) An anesthesiologist; and
  - c) A certified registered nurse anesthetist under the direction of a dentist who meets the training requirements of 18VAC60-21-280(A).
3. Preceding the administration of deep sedation or general anesthesia, a qualified dentist may use the services of the following personnel to administer local anesthesia to numb the injection or treatment site:
  - a) A dental hygienist with the training required by 18VAC60-25-90(C) to parenterally administer Schedule VI local anesthesia to persons age 18 or older under his direction;
  - b) A dental hygienist to administer Schedule VI topical oral anesthetics under his direction;
  - c) A dental assistant to administer Schedule VI topical oral anesthetics under his direction; and
  - d) A registered or licensed practical nurse to administer Schedule VI topical oral anesthetics under his direction.

### **D. Equipment requirements.**

A dentist who administers deep sedation or general anesthesia shall maintain the following equipment in working order in the areas where patients will be sedated and treated and will recover:

1. Full face mask for children or adults, as appropriate for the patient being treated;
2. Oral and nasopharyngeal airways;
3. Endotracheal tubes for children or adults, or both, with appropriate connectors or laryngeal mask airway or King Airway;

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4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both;
5. Source of delivery of oxygen under controlled positive pressure;
6. Mechanical (hand) respiratory bag;
7. Pulse oximetry and blood pressure monitoring equipment available and used in the treatment room;
8. Appropriate emergency drugs for patient resuscitation;
9. EKG monitoring equipment
10. temperature measuring devices;
11. Pharmacologic antagonist agents;
12. External defibrillator (manual or automatic);
13. For intubated patients, an End-Tidal CO<sup>2</sup> monitor;
14. Suction apparatus; and
15. Throat pack.

### **E. 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 18VAC60-21-240(J) and a third person to assist the operating dentist as provided in 18VAC60-21-240(I), 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 18VAC60-21-280(C), such person may serve as the second person to monitor the patient.

### **F. Monitoring requirements.**

1. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug to include: temperature, blood pressure, pulse, pulse Ox, O<sub>2</sub> saturation, respiration and heart rate.
2. The patient's vital signs shall be monitored and reported to the treating dentist throughout the administration of controlled drugs and recovery. When depolarizing medications are administered temperature shall be monitored constantly.
3. Monitoring of the patient under deep sedation or general anesthesia is to begin prior to the administration of any drugs and shall take place continuously 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.

### **G. 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.

### **H. 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 circulation are satisfactory for discharge and vital signs have been taken and recorded.
2. Postoperative instructions shall be given verbally and in writing. The written instructions shall include a 24 hour emergency telephone number.

**Part VII. Oral and Maxillofacial Surgeons.**

**18VAC60-20-250. 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.

**18VAC60-20-260. 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 provide, upon initial request, the following information within 30 days:

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;

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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, 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.

### **18VAC60-20-270. 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 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 D of the Code, shall be made available on the profile. Information shall also be posted indicating the availability of unadjudicated notices and of orders that are subject to being vacated at determination of the practitioner.

### **18VAC60-20-280. Noncompliance or falsification of profile.**

A. The failure to provide the information required in subsection A of 18VAC60-20-260 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.

### **18VAC60-20-290. Certification to perform cosmetic procedures; applicability.**

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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: ~~one or more of these or similar procedures:~~

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 placcation and other procedures to correct the angle between the chin and neck; and
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.

### **18VAC60-20-300. 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.

### **18VAC60-20-310. Credentials required for certification.**

A. An applicant for certification shall:

1. Hold an active, unrestricted license from the board;
2. Submit a completed application and fee;

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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, the applicant shall 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, the applicant shall 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 (ADA) 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.
  - 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.

### **18VAC60-20-320. Renewal of certification.**

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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 along with 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. To reinstate 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.

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### **18VAC60-20-330. Quality assurance review for procedures performed by certificate holders.**

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

### **18VAC60-20-331. 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 pursuant to §54.1-2502 of the Code of Virginia. The Board of Medicine shall maintain the confidentiality of the complaint consistent with §54.1-2400.2 of the Code of Virginia.

### **DOCUMENTS INCORPORATED BY REFERENCE**

Current Dental Terminology 2007-2008, Code on Dental Procedures and Nomenclature, American Dental Association.

Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 2001, American Dental Association.