VIRGINIA BOARD OF DENTISTRY

PUBLIC HEARING
&
EXECUTIVE COMMITTEE MEETING

Agendas

January 10, 2014

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

PAGE

PUBLIC HEARING

9:00 a.m. **Call to Order – Dr. Levin, President**

Evacuation Announcement – Ms. Reen

Public Hearing on Reorganizing Chapter 20 into Four New Chapters: 15, 21, 25 and 30 **P1-P53**

EXECUTIVE COMMITTEE MEETING

10:00 a.m.* **Call to Order – Dr. Levin, President**

Evacuation Announcement – Ms. Reen

Public Comment

Approval of Minutes
December 6, 2012 Minutes **P54**
March 7, 2013 Minutes **P55**

Status Report of Regulatory Actions **P56**

Review and Adopt Proposed Final Regulations for Sedation/Anesthesia Permits **P57-P89**

*** Or immediately following the Public Hearing**

Virginia Board of Dentistry

Public Hearing

Materials For January 10, 2014

P1-P53

Project 2778 - Proposed

BOARD OF DENTISTRY

Disciplinary process in dentistry

CHAPTER 15

REGULATIONS GOVERNING THE DISCIPLINARY PROCESS

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

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

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant, the board may assess the hourly costs relating to investigation of the case by the Enforcement Division of the Department of Health Professions and, if applicable, the costs for hiring an expert witness and reports generated by such witness.

2. The imposition of recovery costs relating to an investigation shall be included in the order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of investigative costs imposed shall be set forth in the order.

3. At the end of each fiscal year, the board shall calculate the average hourly cost for enforcement that is chargeable to investigation of complaints filed against its regulants and shall state those costs in a guidance document to be used in imposition of recovery costs. The average hourly cost multiplied times the number of hours spent in investigating the specific case of a respondent shall be used in the imposition of recovery costs.

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

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant and in which terms and conditions have been imposed, the costs for monitoring of a licensee or registrant may be charged and shall be calculated based on the specific terms and conditions and the length of time the licensee or registrant is to be monitored.

2. The imposition of recovery costs relating to monitoring for compliance shall be included in the board order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of monitoring costs imposed shall be set forth in the order.

3. At the end of each fiscal year, the board shall calculate the average costs for monitoring of certain terms and conditions, such as acquisition of continuing education, and shall set forth those costs in a guidance document to be used in the imposition of recovery costs.

C. Total of assessment.

In accordance with § 54.1-2708.2of the Code of Virginia, the total of recovery costs for investigating and monitoring a licensee or registrant shall not exceed $5,000, but shall not include the fee for inspection of dental offices and returned checks as set forth in 18VAC60-20-30or collection costs incurred for delinquent fines and fees.

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

A. Decision to delegate.

In accordance with §54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate at the time a determination is made that probable cause exists that a practitioner may be subject to a disciplinary action. If

delegation to a subordinate is not recommended at the time of the probable cause determination, delegation may be approved by the president of the board or his designee.

B. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

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

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

REGULATIONS

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING
BOARD OF DENTISTRY
Chapter 30
Proposed Regulation

Titles of Regulations: 18VAC60-15. Regulations Governing the Disciplinary Process (adding 18VAC60-15-10, 18VAC60-15-20).

18VAC60-20. Regulations Governing Dental Practice (repealing 18VAC60-20-10 through 18VAC60-20-352).

18VAC60-21. Regulations Governing the Practice of Dentistry (adding 18VAC60-21-10 through 18VAC60-21-430).

18VAC60-25. Regulations Governing the Practice of Dental Hygiene (adding 18VAC60-25-10 through 18VAC60-25-210).

18VAC60-30. Regulations Governing the Practice of Dental Assistants II (adding 18VAC60-30-10 through 18VAC60-30-170).

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Hearing Information:

January 10, 2014 - 9 a.m. - Perimeter Building Conference Center, 2nd Floor, 9960 Mayland Drive, Henrico VA

Public Comment Deadline: January 11, 2014.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4538, FAX (804) 527-4428, or email sandra.reen@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system. Specific regulatory authority for the Board of Dentistry is found in Chapter 27 (§ 54.1-2700et seq.) of the Code of Virginia.

Purpose: All regulations for dentists, dental hygienists, and dental assistants are currently found in one chapter, 18VAC60-20. The purpose of this action is to reorganize the regulation to create a new chapter with common provisions regarding the disciplinary process and three new chapters, one for each of the professions regulated: dentists, dental hygienists, and dental assistants II. More specifically:

1. The two proposed sections of 18VAC60-15 set out provisions for recovery of disciplinary costs in a case in which there is a finding of a violation and for establishment of criteria for delegation of informal fact-finding proceedings to an agency subordinate. The proposed regulations are intended to facilitate the disciplinary process so cases can be adjudicated in a more timely and cost-effective manner. Assessment of costs for violations may deter unprofessional conduct that is detrimental to the health and safety of dental patients.

2. 18VAC60-21 is a reorganization and restatement of current requirements for licensure and practice for dentists. Such requirements are necessary to ensure the health and safety of dental patients, while assuring appropriate access to care by dentists.

3. 18VAC60-25 is a reorganization and restatement of current requirements for licensure and practice for dental hygienists. Such requirements are necessary to ensure the health and safety of dental patients, while assuring appropriate access to care by dental hygienists.

4. 18VAC60-30 contains the provisions for registration and practice regarding dental assistants II (DAII). To ensure the services can be safely provided by a DAII, the regulation specifies the minimal competency that a dental assistant must demonstrate to be registered and authorized to perform expanded duties. Qualifications include specified hours of didactic education, clinical training, and experience and examination in modules for the performance of specific duties delegated under direct supervision. While the applicant will have to demonstrate clinical knowledge and skills to be registered as a DAII, the dentist will have to be present in the facility, will have to examine the patient both before and after treatment by a DAII, and will remain responsible for the care of the patient. Such requirements are necessary to ensure the health and safety of dental patients, while increasing the number of qualified dental personnel and access to care.

Substance: 18VAC60-15 provides for the recovery of disciplinary costs in a case in which there is a finding of a violation and for establishment of criteria for delegation of informal fact-finding to an agency subordinate. The provisions in current 18VAC60-20 that are applicable to the licensure and practice of dentists and oral and maxillofacial surgeons are included in new 18VAC60-21. There are no substantive changes to these regulations, as amended by emergency action pursuant to Chapter 526 of the 2011 Acts of the Assembly requiring the Board of Dentistry to revise its regulations for issuance of permits for dentists who provide or administer conscious/moderate sedation, deep sedation or general anesthesia in

a dental office. The provisions in current 18VAC60-20 that are applicable to the registration and practice of dental hygienists and dental assistants II are included in new 18VAC60-25 for dental hygienists and in 18VAC60-30 for dental assistants II. There are no substantive changes to the current regulations governing dental hygienists or dental assistants II.

Issues:

1. 18VAC60-15: The primary advantage of the amendments to the public is the potential to reduce expenditures of the board and its licensees for the investigation and monitoring by assessing a licensee or registrant who has violated law or regulation a portion of the costs the board incurred. Offsetting expenditures relating to discipline will have a positive effect on the board's budget and may result in stability in fees charged to licensees and registrants, which in turn benefits patients of those licensees and registrants. The ability to delegate non-patient care cases to an agency subordinate allows the board to expedite some disciplinary proceedings and meet agency goals for case resolution. There are no disadvantages to the public, the agency, or the Commonwealth.

2. 18VAC60-21: Regulations for the practice of dentistry are necessary to assure minimal competency in the provision of dental services that protect public health and safety. There are no substantive new regulations, but reorganization and clarification should make current requirements more understandable and encourage compliance. There should be no disadvantages to the public. Specificity about practice and qualifications should allow board staff to direct persons with questions about those issues to the regulations. There are no disadvantages of these provisions to the agency or the Commonwealth; registration is required by law.

3. 18VAC60-25: Regulations for the practice of dental hygiene establish the qualifications for licensure and standards of practice. There are advantages to the public if those standards and requirements are reasonable and clearly stated, so practitioners and consumers understand the scope of practice of a hygienist. There should be no disadvantages. Specificity about direction and the levels of supervision should allow board staff to direct persons with questions about those issues to the regulations. There are no disadvantages of these provisions to the agency or the Commonwealth; licensure is required by law.

4. 18VAC60-30: Regulations for dental assistants II became effective March 2, 2011. In promulgating those regulations, the agency stated that the primary advantage to the public is more accessibility for dental care by persons who are qualified by education, training, and examination to perform certain restorative and prosthetic dental functions. The ability of dental practices to provide services to populations of patients is enhanced with dental assistants II and with an increase in the ratio of dentists to dental hygienists and/or dental assistants II from two per dentist to four per dentist. To the extent dental assistants acquire the additional qualifications and credentials for expanded functions as a dental assistant II, the regulation has the potential to improve accessibility and reduce costs. If dental assistants II are appropriately trained and clinically competent, and if the dentist provides direct supervision as specified in regulation, there should be no disadvantages. Specificity about direction and the levels of supervision should allow board staff to direct persons with questions about those issues to the regulations. There are no disadvantages of these provisions to the agency or the Commonwealth; registration is required by law.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to periodic review requirements, the Board of Dentistry (Board) proposes to repeal its regulatory chapter governing all dental practices (18VAC60-20) and replace it with four regulatory chapters: Regulations Governing the Disciplinary Process (18VAC60-15), Regulations Governing the Practice of Dentistry (18VAC60-21), Regulations Governing the Practice of Dental Hygiene (18VAC60-25) and Regulations Governing the Practice of Dental Assistants II (18VAC60-30). All changes in these replacement regulations are clarifying in nature except for the requirements in the regulations for disciplinary practices (18VAC60-15), which are identical to requirements already proposed in an earlier regulatory action that is in its final stage, and for the requirements for administration of moderate and deep sedation in dental practices and for permitting of dentists that administer moderate or deep sedation. Requirements for moderate and deep sedation in proposed 18VAC60-21 are identical to those in an earlier regulatory action that is in an Emergency/NOIRA stage in the Governor's office.

Result of Analysis. Benefits likely outweigh costs for implementing most of these proposed changes. For some changes in these regulations, there is insufficient information at this time to accurately measure benefits against costs.

Estimated Economic Impact. The current regulatory chapter governs all aspects of dental services; including licensure of dentists, licensure of dental hygienists, licensure of dental assistants II and all disciplinary criteria. The length of this chapter has, however, gotten unwieldy over the years. Because of this, the Board now proposes to repeal 18VAC60-20 and replace it with regulatory chapters for each profession (18VAC60-21, 18VAC60-25 and 18VAC60-30) as well as a separate chapter that lays out the disciplinary process (18VAC60-15). In addition to partitioning the requirements in current dental regulations, the Board proposes to make many amendments to regulatory text. With the exception of 18VAC60-15, which contains new language allowing the Board to recover certain disciplinary costs, and new requirements that dentists who administer moderate or deep sedation get and maintain a sedation permit from the Board, all proposed changes to these regulations are clarifying in nature. No affected entity is likely to incur any additional costs on account of either this regulatory reorganization or the included clarifying changes. Affected entities will, however, benefit from changes that make particular requirements easier to find and from language changes that make regulatory text easier to understand.

Pursuant to Chapter 89 of the 2009 Acts of the Assembly, the Board proposes 18VAC60-15. This regulatory chapter, and the legislation that preceded it, allow the Board to recover up to $5,000 for investigation and monitoring costs in disciplinary cases in which there is a finding of a violation. Licensees who are investigated and who are found to have violated Board regulations may incur costs up to $5,000. Other Board licensees will likely benefit from these regulatory changes because cost recovery by the Board will help mitigate the need for increased fees in the future. The public is also likely to benefit from dentists (and other professionals) who violate the rules having to more directly bear the costs of those violations as this will be more likely to cause these professionals to refrain from violations in the future.

Finally, pursuant to Chapter 526 of the 2011 Acts of the Assembly, the Board proposes new requirements that dentists who administer moderate or deep sedation get and keep a sedation permit. Proposed regulations also require that sedation permits be posted, along with all relevant licenses, in a prominent location in a dentist's office. Board staff reports that training for sedation administration is already required and is not changed in these proposed regulations. Therefore, the only new costs that dentists are likely to incur are the required permits fees. Dentists will incur a fee of $100 for their initial sedation permits. These permits will have to be renewed by the 31st of March each year and the renewal fee will also be $100. Dentists fail to renew their permits on time will also incur a $35 late fee. The legislature and the Board both anticipate that requiring sedation permits will decrease the chance that patients will experience health issues on account of improperly administered or monitored sedation. Since these regulations are not yet in effect, there is no information available on the magnitude of possible benefits that might accrue on account of fewer adverse outcomes for patients. Therefore, there is insufficient information to ascertain whether any benefits will outweigh the costs of obtaining permits that dentists will incur.

Businesses and Entities Affected. The Department of Health Professions (DHP) reports that the Board currently regulates 6,471 dentists, 3 dental teachers, 9 full time faculty, 231 maxillofacial surgeons, 5,136 dental hygienists and 1 dental assistant II. All of these individuals, as well as their patients, will be affected by these proposed regulations.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. This proposed regulatory action is unlikely to have any effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property. These proposed regulatory changes are unlikely to have any significant effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small business dentists will likely incur costs for gaining sedation permits. The fee for initial permitting is $100. The annual renewal fee for permits is also $100 and the fee for late renewal is $35.

Small Businesses: Alternative Method that Minimizes Adverse Impact. There is likely no alternate method of regulation that would both further lower costs and achieve the Board's aims.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to Economic Impact Analysis: The Board of Dentistry concurs with the analysis of the Department of Planning and Budget.

Summary:

Pursuant to a periodic review, the Board of Dentistry proposes to repeal its regulatory chapter governing all dental practices (18VAC60-20) and replace it with four regulatory chapters: Regulations Governing the Disciplinary Process (18VAC60-15), Regulations Governing the Practice of Dentistry (18VAC60-21), Regulations Governing the Practice of Dental Hygiene (18VAC60-25), and Regulations Governing the Practice of Dental Assistants II (18VAC60-30). All changes in these replacement regulations are clarifying in nature except for the requirements for the administration of conscious/moderate sedation, deep sedation, and general anesthesia in dental practices and for the permitting of dentists who administer conscious/moderate sedation, deep sedation, and general anesthesia, which are currently effective as an emergency regulation.

CHAPTER 15
REGULATIONS GOVERNING THE DISCIPLINARY PROCESS

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

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

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant, the board may assess the hourly costs relating to investigation of the case by the Enforcement Division of the Department of Health Professions and, if applicable, the costs for hiring an expert witness and reports generated by such witness.

2. The imposition of recovery costs relating to an investigation shall be included in the order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of investigative costs imposed shall be set forth in the order.

3. At the end of each fiscal year, the board shall calculate the average hourly cost for enforcement that is chargeable to investigation of complaints filed against its regulants and shall state those costs in a guidance document to be used in imposition of recovery costs. The average hourly cost multiplied times the number of hours spent in investigating the specific case of a respondent shall be used in the imposition of recovery costs.

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

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant and in which terms and conditions have been imposed, the costs for monitoring of a licensee or registrant may be charged and shall be calculated based on the specific terms and conditions and the length of time the licensee or registrant is to be monitored.

2. The imposition of recovery costs relating to monitoring for compliance shall be included in the board order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of monitoring costs imposed shall be set forth in the order.

3. At the end of each fiscal year, the board shall calculate the average costs for monitoring of certain terms and conditions, such as acquisition of continuing education, and shall set forth those costs in a guidance document to be used in the imposition of recovery costs.

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

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

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

B. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

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

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

CHAPTER 21
REGULATIONS GOVERNING THE PRACTICE OF DENTISTRY

Part I
General Provisions

18VAC60-21-10. Definitions.

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

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

"Maxillofacial"

"Oral and maxillofacial surgeon"

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

"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.

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

"Code" means the Code of Virginia.

"Conscious/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.

"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 an administrative, secretarial, or clerical capacity.

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

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

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

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

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

"Indirect supervision" means the dentist examines the patient at some point during the appointment and is continuously present in the office to advise and assist a dental hygienist or a dental assistant who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist, or (iii) preparing the patient for dismissal following treatment.

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

"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.

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

"Moderate sedation" (see the definition of conscious/moderate sedation).

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

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

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

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

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

18VAC60-21-30. Posting requirements.

A. A dentist who is practicing under a firm name or who is practicing as an employee of another dentist is required by § 54.1-2720 of the Code to conspicuously display his name at the entrance of the office. The 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 license where it is conspicuous and readable by patients in each dental practice setting. If a licensee practices in more than one office, a duplicate license obtained from the board may be displayed.

C. A dentist who administers, prescribes, or dispenses Schedules II through V controlled substances shall display his current registration with the

federal Drug Enforcement Administration with his current active license.

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

18VAC60-21-40. Required fees.

A. Application/registration fees.

1. Dental license by examination	$400
2. Dental license by credentials	$500
3. Dental restricted teaching license	$285
4. Dental 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
12. Conscious/moderate sedation permit	$100
13. Deep sedation/general anesthesia permit	$100

B. Renewal fees.

1. Dental license - active	$285
2. Dental license - inactive	$145
3. Dental temporary resident's license	$35
4. Restricted volunteer license	$15
5. Oral maxillofacial surgeon registration	$175
6. Cosmetic procedures certification	$100
7. Conscious/moderate sedation permit	$100
8. Deep sedation/general anesthesia permit	$100

C. Late fees.

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

D. Reinstatement fees.

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

E. Document fees.

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

F. Other fees.

1. 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 Practice

18VAC60-21-50. Scope of practice.

A. A dentist shall only treat based on a bona fide dentist-patient relationship for medicinal or therapeutic purposes within the course of his professional practice consistent with the definition of dentistry in § 54.1-2710 of the Code, the provisions for controlled substances in the Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code), and the general provisions for health practitioners in the Code. A bona fide dentist-patient relationship is established when examination and diagnosis of a patient is initiated.

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

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

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

1. Maintaining a safe and sanitary practice, including containing or isolating pets away from the treatment areas of the dental practice. An exception shall be made for a service dog trained to accompany its owner or handler for the purpose of carrying items, retrieving objects, pulling a wheelchair, alerting the owner or handler to medical conditions, or other such activities of service or support necessary to mitigate a disability.

2. Consulting with or referring patients to other practitioners with specialized knowledge, skills, and experience when needed to safeguard and advance the health of the patient.

3. Treating according to the patient's desires only to the extent that such treatment is within the bounds of accepted treatment and only after the patient has been given a treatment recommendation and an explanation of the acceptable alternatives.

4. Only delegating patient care and exposure of dental x-rays to qualified, properly trained and supervised personnel as authorized in Part III (18VAC60-21-110 et seq.) of this chapter.

5. Giving patients at least 30 days written notice of a decision to terminate the dentist-patient relationship.

6. Knowing the signs of abuse and neglect and reporting suspected cases to the proper authorities consistent with state law.

7. Accurately representing to a patient and the public the materials or methods and techniques to be used in treatment.

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

1. Maintaining a listing of customary fees and representing all fees being charged clearly and accurately.

2. Making a full and fair disclosure to his patient of all terms and considerations before entering into a payment agreement for services.

3. Not obtaining, attempting to obtain, or cooperating with others in obtaining payment for services by misrepresenting procedures performed, dates of service, or status of treatment.

4. Making a full and fair disclosure to his patient of any financial incentives he received for promoting or selling products.

5. Not exploiting the dentist-patient relationship for personal gain related in nondental transactions.

18VAC60-21-70. Unprofessional practice.

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

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

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

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

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

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

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

1. The sexual conduct is unwanted or nonconsensual or

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

18VAC60-21-80. Advertising.

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

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

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

D. Retention of broadcast advertising. A prerecorded copy of all advertisements on radio or television shall be retained for a 12-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 this section is limited to procedures that are set forth in the American Dental Association's "Dental Procedures Codes," published in Current Dental Terminology in effect at the time the advertisement is issued.

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

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

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

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

3. Publishing an advertisement that contains a false claim of professional superiority, contains a claim to be a specialist, or uses any terms to designate a dental specialty unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 2009), or such guidelines or requirements as subsequently amended.

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

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

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

1. Records of a minor child shall be maintained until the child reaches the age of 18 years or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;

2. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

3. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

B. Every patient record shall include the following:

1. Patient's name on each page in the patient record;

2. A health history taken at the initial appointment that is updated (i) when analgesia, sedation, or anesthesia is to be administered; (ii) when medically indicated; and (iii) at least annually;

3. Diagnosis and options discussed, including the risks and benefits of treatment or non-treatment and the estimated cost of treatment options;

4. Consent for treatment obtained and treatment rendered;

5. List of drugs prescribed, administered, or dispensed and the route of administration, quantity, dose, and strength;

6. Radiographs, digital images, and photographs clearly labeled with patient name and date taken;

7. Notation of each date of treatment and of the dentist, dental hygienist, and dental assistant II providing service;

8. Duplicate laboratory work orders that meet the requirements of § 54.1-2719 of the Code including the address and signature of the dentist;

9. Itemized patient financial records as required by § 54.1-2404 of the Code;

10. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-21-140 B; and

11. The information required for the administration of moderate sedation, deep sedation, and general anesthesia required in 18VAC60-21-260 D.

C. A licensee shall comply with the patient record confidentiality, release, and disclosure provisions of § 32.1-127.1:03 of the Code and shall only release patient information as authorized by law.

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

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

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

G. Records shall not be abandoned or otherwise left in the care of someone who is not licensed by the board except that, upon the death of a licensee, a trustee or executor of the estate may safeguard the records until they are transferred to a licensee, are sent to the patients of record, or are destroyed.

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

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

The treating dentist shall submit a written report to the board within 15 calendar days following an unexpected patient event that occurred intra-operatively or during the first 24 hours immediately following the patient's departure from his facility, resulting in either a physical injury or a respiratory, cardiovascular, or neurological complication that necessitated admission of the patient to a hospital or in a patient death.

Part III
Direction and Delegation of Duties

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 or 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 with the patient or his representative the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter and the Code.

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

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

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

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

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

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

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

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

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

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

Only licensed dentists shall perform the following duties:

1. Final diagnosis and treatment planning;

2. Performing surgical or cutting procedures on hard or soft tissue except a dental hygienist performing gingival curettage as provided in 18VAC60-21-140;

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

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

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

6. Administering and monitoring conscious/moderate sedation, deep sedation, or general anesthetics except as provided for in § 54.1-2701 of the Code and Part VI (18VAC60-21-260 et seq.) of this chapter;

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

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

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

18VAC60-21-140. Dental hygienists.

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

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and athermal 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 18VAC60-25-100.

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

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

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

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

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

5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in 18VAC60-21-130, those restricted to indirect supervision in subsection A of this section, and those restricted to delegation to dental assistants II in 18VAC60-21-150.

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

The following duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II who has completed the coursework, corresponding module of laboratory training, corresponding module of clinical experience, and examinations specified in 18VAC60-30-120:

1. Performing pulp capping procedures;

2. Packing and carving of amalgam restorations;

3. Placing and shaping composite resin restorations with a slow speed handpiece;

4. Taking final impressions;

5. Use of a non-epinephrine retraction cord; and

6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.

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

A. Duties appropriate to the training and experience of the dental assistant and the practice of the supervising dentist may be delegated to a dental assistant I or II under the indirect or under general supervision required in 18VAC60-21-120, with the exception of those listed as nondelegable in 18VAC60-21-130, those which may only be delegated to dental hygienists as listed in 18VAC60-21-140, and those which may only be delegated to a dental assistant II as listed in 18VAC60-21-150.

B. Duties delegated to a dental assistant under general supervision shall be 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.

18VAC60-21-170. Radiation certification.

No dentist or dental hygienist shall permit a person not otherwise licensed by this board to place or expose dental x-ray film unless he has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory

completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

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

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

1. General oral health education.

2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.

3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.

Part IV
Entry, Licensure, and Registration Requirements

18VAC60-21-190. General application provisions.

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

1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral degree or certificate;

2. An original grade card documenting passage of all parts of the Joint Commission on National Dental Examinations; and

3. A current report from the Healthcare Integrity and Protection Data Bank (HIPDB) and a current report from the National Practitioner Data Bank (NPDB).

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

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

D. Any application for a dental license, registration, or permit may be denied for any cause specified in § 54.1-111 or 54.1-2706 of the Code.

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

18VAC60-21-200. Education.

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

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

A. Dental licensure by examination.

1. All applicants for licensure by examination shall have:

a. Successfully completed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations; and

b. Passed a dental clinical competency examination that is accepted by the board.

2. If a candidate has failed any section of a clinical competency examination three times, the candidate shall complete a minimum of 14 hours of additional clinical training in each section of the examination to be retested in order to be approved by the board to sit for the examination a fourth time.

3. Applicants who successfully completed a clinical competency examination five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake an examination or take continuing education that meets the requirements of 18VAC60-21-250 unless they demonstrate that they have maintained clinical, ethical, and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure.

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

1. Have passed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations;

2. Have successfully completed a clinical competency examination acceptable to the board;

3. Hold a current, unrestricted license to practice dentistry in another jurisdiction of the United States and be certified to be in good standing by each jurisdiction in which a license is currently held or has been held; and

4. Have been in continuous clinical practice in another jurisdiction of the United States or in federal civil or military service for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in another jurisdiction of the United States (i) as a volunteer in a public health clinic, (ii) as an intern, or (iii) in a residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant.

18VAC60-21-220. Inactive license.

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

B. 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 that meet the requirements of 18VAC60-21-250; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a clinical competency examination that is accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.

1. Continuing education hours equal to the requirement for the number of years in which the license has been inactive, not to exceed a total of 45 hours, must be included with the application. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation.

2. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2706 of the Code or who is unable to demonstrate continuing competence.

18VAC60-21-230. Qualifications for a restricted license.

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

1. Passage of a clinical competency examination is not required, but the applicant cannot have failed a clinical competency examination accepted by the board.

2. A temporary permit will not be renewed unless the holder shows that extraordinary circumstances prevented the holder from taking the licensure examination during the term of the temporary permit.

B. 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.

1. Passage of a clinical competency examination is not required, but the applicant cannot have failed a clinical competency examination accepted by the board.

2. 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, and the license 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.

C. 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.

1. Passage of a clinical competency examination is not required, but the applicant cannot have failed a clinical competency examination accepted by the board.

2. The holder of a faculty license may practice intramurally and may receive fees for service but cannot 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.

D. Temporary licenses to persons enrolled in advanced dental education programs. A dental intern, resident, or post-doctoral certificate or degree candidate shall obtain a temporary license to practice in Virginia.

1. The applicant shall have successfully completed a D.D.S. or D.M.D. degree program required for admission to a 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. The applicant shall submit a recommendation from the dean of the dental school or the director of the accredited advanced dental education program specifying the applicant's acceptance as an intern, resident, or post-doctoral certificate or degree candidate. The beginning and ending dates of the internship, residency, or post-doctoral program shall be specified.

3. The temporary license permits the holder to practice only in the hospital or outpatient clinics that are recognized parts of an advanced dental education program.

4. The temporary license may be renewed annually by June 30, for up to five times, upon the recommendation of the dean of the dental school or director of the accredited advanced dental education program.

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 practicing 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.

E. Restricted volunteer license.

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

a. Held an unrestricted license in Virginia or another 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;

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 18VAC60-21-90.

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

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

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

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;

2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;

3. Provide the name of the nonprofit organization, and the dates and location of the voluntary provision of services; and

4. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 5 of § 54.1-2701 of the Code.

Part V
Licensure Renewal

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

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

B. Every person holding an active or inactive license; a permit to administer conscious/moderate sedation, deep sedation, or general anesthesia; or a full-time faculty license shall annually, on or before March 31, renew his license or permit. 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.

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

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

E. Reinstatement procedures.

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

2. To evaluate continuing competence, the board shall consider (i) hours of continuing education that meet the requirements of subsection G of 18VAC60-21-250; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a clinical competency examination 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.

3. The executive director may reinstate such expired license or permit provided that the applicant can demonstrate continuing competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of

the Code and Part II (18VAC60-21-50 et seq.) of this chapter.

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

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

1. All renewal applicants shall attest that they have read and understand and will remain current with the laws and regulations governing the practice of dentistry and dental hygiene in Virginia. Continuing education credit may be earned for passage of the online Virginia Dental Law Exam.

2. A dentist shall maintain current training certification in basic cardiopulmonary resuscitation or basic life support unless he is required by 18VAC60-21-290 or 18VAC60-21-300 to hold current certification in advanced life support with hands-on simulated airway and megacode training for health care providers.

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

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

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

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

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

4. The American Dental Association specialty organizations and their constituent and component/branch associations;

5. A provider accredited by the Accreditation Council for Continuing Medical Education for Category 1 credits;

6. The Academy of General Dentistry, its constituent and component/branch associations, and approved providers;

7. A college or university that is accredited by an accrediting agency approved by the U.S. Department of Education or a hospital or health care institution accredited by the Joint Commission on Accreditation of Healthcare Organizations;

8. The American Heart Association, the American Red Cross, the American Safety and Health Institute, and the American Cancer Society;

9. A medical school accredited by the American Medical Association's Liaison Committee for Medical Education;

10. A dental, dental hygiene, or dental assisting program or advanced dental education program accredited by the Commission on Dental Accreditation of the American Dental Association;

11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);

12. The Commonwealth Dental Hygienists' Society;

13. The MCV Orthodontic Education and Research Foundation;

14. The Dental Assisting National Board; 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 and 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.

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 Substances, Sedation, and Anesthesia

18VAC60-21-260. General provisions.

A. Application of Part VI. This part applies to prescribing, dispensing, and administering controlled substances in dental offices, mobile dental facilities, and portable dental operations and shall not apply to administration by a dentist practicing in (i) a licensed hospital as defined in § 32.1-123 of the Code, (ii) a state-operated hospital, or (iii) a facility directly maintained or operated by the federal government.

B. Registration required. Any dentist who prescribes, administers, or dispenses Schedules 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) in effect at the time of treatment. The findings of the evaluation, the ASA risk assessment class assigned, and any special considerations must be recorded in the patient's record.

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

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

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

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

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

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

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

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

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

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

1. Notation of the patient's American Society of Anesthesiologists classification;

2. Review of medical history and current conditions;

3. Written informed consent for administration of sedation and anesthesia and for the dental procedure to be performed;

4. Pre-operative vital signs;

5. A record of the name, dose, and strength of drugs and route of administration including the administration of local anesthetics with notations of the time sedation and anesthesia were administered;

6. Monitoring records of all required vital signs and physiological measures recorded every five minutes; and

7. A list of staff participating in the administration, treatment, and monitoring including name, position, and assigned duties.

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

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

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

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

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

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

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

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

K. Patient monitoring.

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

sedative agent, (ii) throughout the administration of drugs, (iii) throughout the treatment of the patient, and (iv) throughout recovery until the patient is discharged by the dentist.

2. The person monitoring the patient shall:

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

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

c. Converse with the patient to assess the patient's ability to respond in order to determine the patient's level of sedation;

d. Closely observe the patient for coloring, breathing, level of physical activity, facial expressions, eye movement, and bodily gestures in order to immediately recognize and bring any changes in the patient's condition to the attention of the treating dentist; and

e. Read, report, and record the patient's vital signs and physiological measures.

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

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

1. A dentist;

2. An anesthesiologist;

3. A certified registered nurse anesthetist under his medical direction and indirect supervision;

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

5. A dental hygienist to administer Schedule VI topical oral anesthetics under indirect supervision or under his order for such treatment under general supervision; or

6. A dental assistant or a registered or licensed practical nurse to administer Schedule VI topical oral anesthetics under indirect supervision.

18VAC60-21-280. 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 D of this section.

B. No sedating medication shall be prescribed for or administered to a child 12 years of age or younger prior to his arrival at the dental office or treatment facility.

C. Delegation of administration.

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

a. A dentist;

b. An anesthesiologist;

c. A certified registered nurse anesthetist under his medical direction and indirect supervision;

d. A dental hygienist with the training required by 18VAC60-25-90 B or C only for administration of nitrous oxide/oxygen and under indirect supervision; or

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

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

a. A dental hygienist with the training required by 18VAC60-25-90 C to administer Schedule VI local anesthesia to persons 18 years of age or older; or

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

3. If minimal sedation is self-administered by or to a patient 13 years of age or older before arrival at the dental office or treatment facility, the dentist may only use the personnel listed in subdivision 1 of this subsection to administer local anesthesia.

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

1. Blood pressure monitoring equipment;

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

3. Mechanical (hand) respiratory bag;

4. Suction apparatus; and

5. Pulse oximeter.

E. Required staffing.

1. The treatment team for minimal sedation 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 18VAC60-21-260 I; 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.

F. Monitoring requirements.

1. Baseline vital signs to include blood pressure, respiratory rate, and heart rate shall be taken and recorded prior to administration of sedation and prior to discharge.

2. Blood pressure, oxygen saturation, respiratory rate, pulse, and heart rate shall be monitored intraoperatively.

3. Once the administration of minimal sedation has begun by any route of administration, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I monitors the patient at all times until discharged as required in subsection G of this section.

4. 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 another qualified licensed health professional identified in subsection C of this section. Only the dentist or another qualified licensed health professional identified in subsection C of this section may turn the nitrous oxide/oxygen machines on or off.

G. Discharge requirements.

1. The dentist shall not discharge a patient until he exhibits baseline responses in a post-operative evaluation of the level of consciousness. Vital signs, to include blood pressure, respiratory rate, and heart rate shall be taken and recorded prior to discharge.

2. Post-operative instructions shall be given verbally and in writing. The written instructions shall include a 24-hour emergency telephone number.

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

18VAC60-21-290. Requirements for a conscious/moderate sedation permit.

A. After March 31, 2013, no dentist may employ or use conscious/moderate sedation in a dental office unless he has been issued a permit by the board. The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in the American Association of Oral and Maxillofacial Surgeons (AAOMS) and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.

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

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

1. A completed application form indicating one of the following permits for which the applicant is qualified:

a. Conscious/moderate sedation by any method;

b. Conscious/moderate sedation by enteral administration only; or

c. Temporary conscious/moderate sedation permit (may be renewed one time);

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

3. A copy of a transcript, certification, or other documentation of training content that meets the educational and training qualifications as specified in subsection D of this section, as applicable; and

4. A copy of current certification in advanced cardiac life support (ACLS) or pediatric advanced life support (PALS) as required in subsection E of this section.

D. Education requirements for a permit to administer conscious/moderate sedation.

1. Administration by any method. A dentist may be issued a conscious/moderate sedation permit to administer by any method 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 that meets the requirements of 18VAC60-21-250 and consists of (i) 60 hours of didactic instruction plus the management of at least 20 patients per participant, (ii) demonstration of competency and clinical experience in conscious/moderate sedation, and (iii) 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.

2. Enteral administration only. A dentist may be issued a conscious/moderate sedation permit to administer only by an enteral method if he has completed a continuing education program that meets the requirements of 18VAC60-21-250 and consists of not less than 18 hours of didactic instruction plus 20 clinically-oriented experiences in enteral or a combination of enteral and nitrous oxide/oxygen conscious/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. The certificate of completion and a detailed description of the course content must be maintained.

3. A dentist who self-certified his qualifications in anesthesia and moderate sedation prior to January 1989 may continue to administer only conscious/moderate sedation until September 14, 2012. After September 14, 2012, a dentist shall meet the requirements for and obtain a conscious/moderate sedation permit to administer by any method or by enteral administration only.

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

1. Hold current certification in advanced resuscitation techniques with hands-on simulated airway and megacode training for health care providers, such as ACLS or PALS as evidenced by a certificate of completion posted with the dental license; and

2. Have current training in the use and maintenance of the equipment required in 18VAC60-21-291.

18VAC60-21-291. Requirements for administration of conscious/moderation sedation.

A. Delegation of administration.

1. A dentist not qualified to administer conscious/moderate sedation shall only use the services of a qualified dentist or an anesthesiologist to administer such sedation in a dental office. In a licensed outpatient surgery center, a dentist not qualified to administer conscious/moderate sedation shall use either a qualified dentist, 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 conscious/moderate sedation:

a. A dentist with the training required by 18VAC60-21-290 D 2 to administer by an enteral method;

b. A dentist with the training required by 18VAC60-21-290 D 1 to administer by any method;

c. An anesthesiologist;

d. A certified registered nurse anesthetist under the medical direction and indirect supervision of a dentist who meets the training requirements of 18VAC60-21-290 D 1; or

e. A registered nurse upon his direct instruction and under the immediate supervision of a dentist who meets the training requirements of 18VAC60-21-290 D 1.

3. If minimal sedation is self-administered by or to a patient 13 years of age or older before arrival at the dental office, the dentist may only use the personnel listed in subdivision 2 of this subsection to administer local anesthesia. No sedating medication shall be prescribed for or administered to a child 12 years of age or younger prior to his arrival at the dentist office or treatment facility.

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

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

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

B. Equipment requirements. A dentist who administers conscious/moderate sedation shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face mask for children or adults, as appropriate for the patient being treated;

2. Oral and nasopharyngeal airway management adjuncts;

3. Endotracheal tubes for children or adults, or both, with appropriate connectors or other appropriate airway management adjunct such as a laryngeal mask airway;

4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades;

5. Pulse oximetry;

6. Blood pressure monitoring equipment;

7. Pharmacologic antagonist agents;

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

9. Mechanical (hand) respiratory bag;

10. Appropriate emergency drugs for patient resuscitation;

11. Electrocardiographic monitor;

12. Defibrillator;

13. Suction apparatus;

14. Temperature measuring device;

15. Throat pack; and

16. Precordial or pretracheal stethoscope.

C. Required staffing. At a minimum, there shall be a two person treatment team for conscious/moderate sedation. The team shall include the operating dentist and a second person to monitor the patient as provided in 18VAC60-21-260 K and assist the operating dentist as provided in 18VAC60-21-260 L, 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 18VAC60-21-291 A, such person may monitor the patient.

D. Monitoring requirements.

1. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug at the facility and prior to discharge.

2. Blood pressure, oxygen saturation, pulse, and heart rate shall be monitored continually during the administration and recorded every five minutes.

3. Monitoring of the patient under conscious/moderate sedation is to begin prior to administration of sedation or, if pre-medication is self-administered by the patient, immediately upon the patient's arrival at the dental facility and shall take place continuously during the dental procedure and recovery from sedation. The person who administers the sedation or another licensed practitioner qualified to administer the same level of sedation must remain on the premises of the dental facility until the patient is evaluated and is discharged.

E. Discharge requirements.

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

2. Post-operative instructions shall be given verbally and in writing. The written instructions shall include a 24-hour emergency telephone number.

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

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

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

A. After March 31, 2013, no dentist may employ or use deep sedation or general anesthesia in a dental office unless he has been issued a permit by the board. The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in the American Association of Oral and Maxillofacial Surgeons (AAOMS) and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.

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

1. A completed application form;

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

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

4. A copy of current certification in ACLS or PALS as required in subsection C of this section.

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

1. Completion of a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with the ADA's Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry in effect at the time the training occurred; or

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

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

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

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

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

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

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

3. Be given pre-operative verbal and written instructions including any dietary or medication restrictions.

B. Delegation of administration.

1. A dentist not qualified to administer deep sedation or general anesthesia shall only use the services of a qualified dentist or an anesthesiologist to administer deep sedation or general anesthesia in a dental office. In a licensed outpatient surgery center, a dentist not qualified to administer deep sedation or general anesthesia shall use either a qualified dentist, 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 18VAC60-21-300 C;

b. An anesthesiologist; or

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

3. Preceding the administration of deep sedation or general anesthesia, a qualified dentist may use the services of the following personnel under indirect supervision to administer local anesthesia to numb the injection or treatment site:

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

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

C. Equipment requirements. A dentist who administers deep sedation or general anesthesia shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face mask for children or adults, as appropriate for the patient being treated;

2. Oral and nasopharyngeal airway management adjuncts;

3. Endotracheal tubes for children or adults, or both, with appropriate connectors or other appropriate airway management adjunct such as a laryngeal mask airway;

4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades;

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

6. Mechanical (hand) respiratory bag;

7. Pulse oximetry 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^2 monitor;

14. Suction apparatus;

15. Throat pack; and

16. Precordial or pretracheal stethoscope.

D. Required staffing. At a minimum, there shall be a three-person treatment team for deep sedation or general anesthesia. The team shall include the operating dentist, a second person to monitor the patient as provided in 18VAC60-21-260 K, and a third person to assist the operating dentist as provided in 18VAC60-21-260 J, all of whom shall be in the operatory with the patient during the dental procedure. If a second dentist, an anesthesiologist, or a certified registered nurse anesthetist administers the drugs as permitted in 18VAC60-21-301 B, such person may serve as the second person to monitor the patient.

E. Monitoring requirements.

1. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug at the facility to include: temperature, blood pressure, pulse, pulse oximeter, oxygen saturation, respiration, and heart rate.

2. The patient's vital signs shall be monitored, recorded every five minutes, 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.

F. Emergency management.

1. A secured intravenous line must be established and maintained throughout the procedure.

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

G. Discharge requirements.

1. 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. Post-operative instructions shall be given verbally and in writing. The written instructions shall include a 24 hour emergency telephone number.

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

Part VII
Oral and Maxillofacial Surgeons

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

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

1. After initial registration, an oral and maxillofacial surgeon shall renew his registration annually on or before December 31.

2. An oral and maxillofacial surgeon who fails to register or to renew his registration and continues to practice oral and maxillofacial surgery may be subject to disciplinary action by the board.

3. Within one year of the expiration of a registration, an oral and maxillofacial surgeon may renew by payment of the renewal fee and a late fee.

4. After one year from the expiration date, an oral and maxillofacial surgeon who wishes to reinstate his registration shall update his profile and pay the reinstatement fee.

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

A. In compliance with requirements of § 54.1-2709.2 of the Code, an oral and maxillofacial surgeon registered with the board shall 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;

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, subspecialities obtained, and honors or awards received.

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

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

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

1. The year the claim was paid;

2. The total amount of the paid claim in United States dollars; and

3. The city, state, and country in which the paid claim occurred.

B. The board shall use the information provided to determine the relative frequency of paid claims described in terms of the percentage who have made malpractice payments within the most recent 10-year period. The statistical methodology used will be calculated on more than 10 paid claims for all dentists reporting, with the top 16% of the paid claims to be displayed as above-average payments, the next 68% of the paid claims to be displayed as average payments, and the last 16% of the paid claims to be displayed as below-average payments.

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

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

A. The failure to provide the information required in 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.

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

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

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

1. Rhinoplasty and other treatment of the nose;

2. Blepharoplasty and other treatment of the eyelid;

3. Rhytidectomy and other treatment of facial skin wrinkles and sagging;

4. Submental liposuction and other procedures to remove fat;

5. Laser resurfacing or dermabrasion and other procedures to remove facial skin irregularities;

6. Browlift (either open or endoscopic technique) and other procedures to remove furrows and sagging skin on the upper eyelid or forehead;

7. Platysmal muscle plication and other procedures to correct the angle between the chin and neck;

8. Otoplasty and other procedures to change the appearance of the ear; and

9. Application of injectable medication or material for the purpose of treating extra-oral cosmetic conditions.

18VAC60-21-360. Certification not required.

Certification shall not be required for performance of the following:

1. Treatment of facial diseases and injuries, including maxillofacial structures;

2. Facial fractures, deformity, and wound treatment;

3. Repair of cleft lip and palate deformity;

4. Facial augmentation procedures; and

5. Genioplasty.

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

An applicant for certification shall:

1. Hold an active, unrestricted license from the board;

2. Submit a completed application and fee;

3. Complete an oral and maxillofacial residency program accredited by the Commission on Dental Accreditation;

4. Hold board certification by the American Board of Oral and Maxillofacial Surgery (ABOMS) or board eligibility as defined by ABOMS;

5. Have current privileges on a hospital staff to perform oral and maxillofacial surgery; and

6. If his oral and maxillofacial residency or cosmetic clinical fellowship was completed after July 1, 1996, and training in cosmetic surgery was a part of such residency or fellowship, submit:

a. A letter from the director of the residency or fellowship program documenting the training received in the residency or in the clinical fellowship to substantiate adequate training in the specific procedures for which the applicant is seeking certification; and

b. Documentation of having performed as primary or assistant surgeon at least 10 proctored cases in each of the procedures for which he seeks to be certified.

7. If his oral and maxillofacial residency was completed prior to July 1, 1996, or if his oral and maxillofacial residency was completed after July 1, 1996, and training in cosmetic surgery was not a part of the applicant's residency, submit:

a. Documentation of having completed didactic and clinically approved courses to include the dates attended, the location of the course, and a copy of the certificate of attendance. Courses shall provide sufficient training in the specific procedures requested for certification and shall be offered by:

(1) An advanced specialty education program in oral and maxillofacial surgery accredited by the Commission on Dental Accreditation;

(2) A medical school accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association;

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

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

b. Documentation of either:

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

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

18VAC60-21-380. Renewal of certification.

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

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

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

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

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

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

Complaints arising out of performance of cosmetic procedures by a certified oral and maxillofacial surgeon shall be adjudicated solely by the Board of Dentistry. Upon receipt of the investigation report on such complaints, the Board of Dentistry shall promptly notify the Board of Medicine, and the investigation report shall be reviewed and an opinion rendered by both a physician licensed by the Board of Medicine who actively practices in a related specialty and by an oral and maxillofacial surgeon licensed by the Board of Dentistry. The Board of Medicine shall maintain the

confidentiality of the complaint consistent with § 54.1-2400.2 of the Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Patient name, date of service, and location where treatment was provided;

2. Name of dentist or dental hygienist who provided services;

3. Description of the treatment rendered and tooth numbers, when appropriate;

4. Billed service codes and fees associated with treatment;

5. Description of any additional dental needs observed or diagnosed;

6. Referral or recommendation to another dentist if the facility or operation is unable to provide follow-up treatment; and

7. Emergency contact information.

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

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

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

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

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

2. Dental treatment that is provided without charge to patients or to any third party payer.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (18VAC60-21)

Application Requirements for Faculty License (rev. 6/13)

Application for Registration for Volunteer Practice (rev. 8/08)

Requirements and Instructions for a Temporary Resident's License for Persons Enrolled in Advanced Dental Education Programs (rev. 7/12)

Application for a Permit to Administer Conscious/Moderate Sedation (rev. 10/12)

Application for a Permit to Administer Deep Sedation/General Anesthesia (rev. 10/12)

Application for Certification to Perform Cosmetic Procedures (rev. 3/12)

Application Requirements for Restricted Dental Volunteer License (rev. 11/10)

Oral and Maxillofacial Surgeon Registration of Practice (rev. 9/10)

Application for Registration of a Mobile Dental Facility or Portable Dental Operation (rev. 6/10)

Oral and Maxillofacial Surgeon Reinstatement of Registration of Practice (rev. 9/10)

Instructions for Application for Reactivation of License (rev. 8/10)

Instructions for Reinstatement of License (rev. 5/10)

Instructions for Filing Online Application for Licensure by Examination or Credentials for Dentists (rev. 9/12)

Licensure Procedures for Application for Registration for Volunteer Practice (rev. 5/08)

Sponsor Certification for Volunteer Registration (rev. 5/08)

CHAPTER 25
REGULATIONS GOVERNING THE PRACTICE OF DENTAL HYGIENE

Part I
General Provisions

18VAC60-25-10. Definitions.

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

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

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

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

"ADA" means the American Dental Association.

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

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

"Code" means the Code of Virginia.

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

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

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

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

"Indirect supervision" means the dentist examines the patient at some point during the appointment and is continuously present in the office to advise and assist a dental hygienist or a dental assistant who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist, or (iii) preparing the patient for dismissal following treatment.

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

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

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

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

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

"Topical oral anesthetic" means any drug, available in creams, ointments, aerosols, sprays, lotions, or jellies, that can be used orally for the

purpose of rendering the oral cavity insensitive to pain without affecting consciousness.

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

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

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

18VAC60-25-30. Required fees.

A. Application fees.

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

B. Renewal fees.

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

C. Late fees.

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

D. Reinstatement fees.

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

E. Administrative fees.

1. Duplicate wall certificate	$60
2. Duplicate license	$20
3. Certification of licensure	$35
4. Returned check	$35

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

Part II
Practice of Dental Hygiene

18VAC60-25-40. Scope of practice.

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

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

1. Final diagnosis and treatment planning;

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

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

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

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

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

7. Condensing, contouring, or adjusting any final, fixed, or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam and placing and shaping composite resins by dental assistants II with advanced training as specified in Part IV (18VAC60-25-130 et seq.) of this chapter;

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

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

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

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and athermal 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 18VAC60-25-100.

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

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

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

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

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

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

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

1. Performing pulp capping procedures;

2. Packing and carving of amalgam restorations;

3. Placing and shaping composite resin restorations with a slow speed handpiece;

4. Taking final impressions;

5. Use of a non-epinephrine retraction cord; and

6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18VAC60-25-80. Radiation certification.

No dentist or dental hygienist shall permit a person not otherwise licensed by this board to place or expose dental x-ray film unless he has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

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

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

1. General oral health education.

2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.

3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.

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

A. A licensed dental hygienist may:

1. Administer topical oral fluoride varnish to children aged six months to three years of age under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408 of the Code;

2. Administer topical Schedule VI drugs, including topical oral fluorides, topical oral anesthetics, and topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions pursuant to subsection I of § 54.1-3408 of the Code; and

3. If qualified in accordance with subsection B or C of this section, administer Schedule VI nitrous oxide/inhalation analgesia and, to persons 18 years of age or older, Schedule VI parenterally local anesthesia under the indirect supervision of a dentist.

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

1. Successfully complete a didactic and clinical course leading to certification in administration of nitrous oxide offered by a CODA accredited dental or dental hygiene program, which includes a minimum of eight hours in didactic and clinical instruction in the following topics:

a. Patient physical and psychological assessment;

b. Medical history evaluation;

c. Equipment and techniques used for administration of nitrous oxide;

d. Neurophysiology of nitrous oxide administration;

e. Pharmacology of nitrous oxide;

f. Recordkeeping, medical, and legal aspects of nitrous oxide;

g. Adjunctive uses of nitrous oxide for dental patients; and

h. Clinical experiences in administering nitrous oxide, including training with live patients.

2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia given by the accredited program.

C. To administer both nitrous oxide/inhalation analgesia and, to patients 18 years of age or older, parenterally local anesthesia, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of local anesthesia and nitrous oxide/inhalation analgesia that is offered by a CODA accredited dental or dental hygiene program, which includes a minimum of 36 didactic and clinical hours in the following topics:

a. Patient physical and psychological assessment;

b. Medical history evaluation and recordkeeping;

c. Neurophysiology of local anesthesia;

d. Pharmacology of local anesthetics and vasoconstrictors;

e. Anatomical considerations for local anesthesia;

f. Techniques for maxillary infiltration and block anesthesia;

g. Techniques for mandibular infiltration and block anesthesia;

h. Local and systemic anesthetic complications;

i. Management of medical emergencies;

j. Clinical experiences in maxillary and mandibular infiltration and block injections;

k. Pharmacology of nitrous oxide;

l. Adjunctive uses of nitrous oxide for dental patients; and

m. Clinical experiences in administering nitrous oxide and local anesthesia injections on patients.

2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia and local anesthesia given by the accredited program.

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

1. The qualifications on which the credential or certificate was issued were substantially equivalent in hours of instruction and course content to those set forth in subsections B and C of this section; or

2. If the certificate or credential issued by another jurisdiction was not substantially equivalent, the hygienist can document experience in such administration for at least 24 of the past 48 months preceding application for licensure in Virginia.

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

Part III
Standards of Conduct

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

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

1. Patient's name on each page in the patient record;

2. A health history taken at the initial appointment, which is updated when local anesthesia or nitrous oxide/inhalation analgesia is to be administered and when medically indicated and at least annually;

3. Options discussed and oral or written consent for any treatment rendered with the exception of prophylaxis;

4. List of drugs administered and the route of administration, quantity, dose, and strength;

5. Radiographs, digital images, and photographs clearly labeled with the patient's name and date taken;

6. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-25-60 C; and

7. Notation of each date of treatment and the identity of the dentist and the dental hygienist providing service.

B. A dental hygienist shall comply with the provisions of § 32.1-127.1:03 of the Code related to the confidentiality and disclosure of patient records. A dental hygienist shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the hygienist shall not be considered negligent or willful.

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

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

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

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

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

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

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

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

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

Part IV
Requirements for Licensure

18VAC60-25-130. General application requirements.

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

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

2. An original grade card from the National Board Dental Hygiene Examination 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. Attestation of having read and understood the laws and the regulations governing the practice of dentistry and dental hygiene in Virginia and of the applicant's intent to remain current with such laws and regulations.

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

18VAC60-25-140. Licensure by examination.

A. An applicant for licensure by examination shall have:

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

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

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

B. If the candidate has failed any section of a board-approved examination three times, the candidate shall complete a minimum of seven hours of additional clinical training in each section of the examination to be retested in order to be approved by the board to sit for the examination a fourth time.

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

18VAC60-25-150. Licensure by credentials.

An applicant for dental hygiene licensure by credentials shall:

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

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

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

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

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

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

18VAC60-25-160. Temporary permit; teacher's license.

A. Issuance of a temporary permit.

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

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

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

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

18VAC60-25-170. Voluntary practice.

A. Restricted volunteer license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;

2. Provide a copy of a current license or certificate to practice dental hygiene;

3. Provide a complete record of professional licensure in each jurisdiction in the United States in which he has held a license or certificate;

4. Provide the name of the nonprofit organization and the dates and location of the voluntary provision of services;

5. Pay a registration fee as required in 18VAC60-25-30; and

6. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 5 of § 54.1-2701 of the Code.

Part V
Licensure Renewal and Reinstatement

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

A. An active dental hygiene license shall be renewed on or before March 31 each year. A teacher's license, a restricted volunteer license, or a temporary permit shall be renewed on or before June 30 each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The American Dental Association specialty organizations and their constituent and component/branch associations;

5. A provider accredited by the Accreditation Council for Continuing Medical Education for Category 1 credits;

6. The Academy of General Dentistry and its constituent and component/branch associations;

7. Community colleges with an accredited dental hygiene program if offered under the auspices of the dental hygienist program;

8. A college or university that is accredited by an accrediting agency approved by the U.S. Department of Education or a hospital or health care institution accredited by the Joint Commission on Accreditation of Healthcare Organizations;

9. The American Heart Association, the American Red Cross, the American Safety and Health Institute, and the American Cancer Society;

10. A medical school accredited by the American Medical Association's Liaison Committee for Medical Education or a dental school or dental specialty residency program accredited by the Commission on Dental Accreditation of the American Dental Association;

11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);

12. The Commonwealth Dental Hygienists' Society;

13. The MCV Orthodontic Education 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. Verification of compliance.

1. All licensees are required to verify compliance with continuing education requirements at the time of annual license renewal.

2. Following the renewal period, the board may conduct an audit of licensees to verify compliance.

3. Licensees selected for audit must provide original documents certifying that they have fulfilled their continuing education requirements by the deadline date as specified by the board.

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

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

E. Exemptions.

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

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

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

18VAC60-25-200. Inactive license.

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

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

C. An inactive dental hygiene license may be renewed on or before March 31 of each year.

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

A. Reinstatement of an expired license.

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

2. An applicant for reinstatement shall submit evidence of completion of continuing education that meets the requirements of 18VAC60-25-190 and is equal to the requirement for the number of years in which his license has not been active in Virginia, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months preceding an application for reinstatement.

3. An applicant for reinstatement shall also provide evidence of continuing competence that may also include (i) documentation of active practice in another state or in federal service, (ii) recent passage of a clinical competency examination accepted by the board, or (iii) completion of a refresher program offered by a CODA accredited program.

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

B. Reactivation of an inactive license.

1. An inactive license may be reactivated upon submission of the required application, payment of the current renewal fee, and documentation of having completed continuing education that meets the requirements of 18VAC60-25-190 and is equal to the requirement for the number of years in which the license has been inactive, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation.

2. An applicant for reactivation shall also provide evidence of continuing competence that may also include (i) documentation of active practice in another state or in federal service, (ii) recent passage of a clinical competency examination accepted by the board, or (iii) completion of a refresher program offered by a CODA accredited program.

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

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (18VAC60-25)

Instructions for Filing Online Application for Licensure by Examination or Endorsement for Dental Hygienists (rev. 9/13)

Licensure Procedures for Application for Registration for Volunteer Practice (rev. 8/08)

Instructions and Application for Reactivation of License (rev. 2/10)

Instructions and Application for Reinstatement of License (rev. 5/10)

Application Requirements and Application for Restricted Dental Hygiene Volunteer License (rev. 11/10)

Sponsor Certification for Volunteer Registration (rev. 5/08)

CHAPTER 30
REGULATIONS GOVERNING THE PRACTICE OF DENTAL ASSISTANTS II

Part I
General Provisions

18VAC60-30-10. Definitions.

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

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

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

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

"Code" means the Code of Virginia.

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

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

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

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

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

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

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

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

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

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

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

B. Posting of registration. A copy of the registration of a dental assistant II shall either be posted in an operatory in which the person is providing services to the public or in the patient reception area where it is clearly visible to patients and accessible for reading.

18VAC60-30-30. Required fees.

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

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

Part II
Practice of Dental Assistants II

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

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

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

18VAC60-30-50. Nondelegable duties; dentists.

Only licensed dentists shall perform the following duties:

1. Final diagnosis and treatment planning;

2. Performing surgical or cutting procedures on hard or soft tissue except a dental hygienist performing gingival curettage as provided in 18VAC60-21-140;

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

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

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

6. Administering and monitoring conscious/moderate sedation, deep sedation, or general anesthetics except as provided for in § 54.1-2701 of the Code and subsections J and K of 18VAC60-21-260;

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

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

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

18VAC60-30-60. Delegation to dental assistants II.

The following duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II who has completed the coursework, corresponding module of laboratory training, corresponding module of clinical experience, and examinations specified in 18VAC60-30-120:

1. Performing pulp capping procedures;

2. Packing and carving of amalgam restorations;

3. Placing and shaping composite resin restorations with a slow speed handpiece;

4. Taking final impressions;

5. Use of a non-epinephrine retraction cord; and

6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.

18VAC60-30-70. 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 indirect or under general supervision required in 18VAC60-21-120, with the exception of those listed as nondelegable in 18VAC60-30-50, those which may only be delegated to dental hygienists as listed in 18VAC60-21-140, and those which may only be delegated to a dental assistant II as listed in 18VAC60-30-60.

B. Duties delegated to 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.

18VAC60-30-80. Radiation certification.

No dentist or dental hygienist shall permit a person not otherwise licensed by this board to place or expose dental x-ray film unless he has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

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

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

1. General oral health education.

2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.

Part III
Standards of Conduct

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

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

1. Patient's name on each page in the patient record;

2. Radiographs, digital images, and photographs clearly labeled with the patient name and date taken; and

3. Notation of each date of treatment and the identity of the dentist, the dental hygienist, or the dental assistant providing service.

B. A dental assistant shall comply with the provisions of § 32.1-127.1:03 of the Code related to the confidentiality and disclosure of patient records. A dental assistant shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the assistant shall not be considered negligent or willful.

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

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

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

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

3. Misrepresenting to a patient and the public the materials or methods and techniques used or intended to be used.

4. Committing any act in violation of the Code reasonably related to dental practice.

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

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

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

Part IV
Entry Requirements for Dental Assistants II

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

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

B. To be registered as a dental assistant II, a person shall complete the following requirements from an educational program accredited by CODA:

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

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

a. At least 40 hours of placing, packing, carving, and polishing of amalgam restorations and pulp capping procedures;

b. At least 60 hours of placing and shaping composite resin restorations and pulp capping procedures;

c. At least 20 hours of taking final impressions and use of a non-epinephrine retraction cord; and

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

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

a. At least 80 hours of placing, packing, carving, and polishing of amalgam restorations;

b. At least 120 hours of placing and shaping composite resin restorations;

c. At least 40 hours of taking final impressions and use of a non-epinephrine retraction cord; and

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

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

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

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

c. A comprehensive written examination at the conclusion of all required coursework, training, and experience for each of the corresponding

modules.

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

18VAC60-30-130. Registration certification.

A. All applicants for registration as a dental assistant II shall provide evidence of a current credential as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another certification from a credentialing organization recognized by the American Dental Association and acceptable to the board, which was granted following passage of an examination on general chairside assisting, radiation health and safety, and infection control.

B. All applicants who successfully completed the board-approved examinations five or more years prior to the date of receipt of their applications for registration by the board may be required to retake the board-approved examinations or take board-approved continuing education unless they demonstrate that they have maintained clinical, ethical, and legal practice for 48 of the past 60 months immediately prior to submission of an application for registration.

C. All applicants for registration as a dental assistant II shall be required to attest that they have read and understand and will remain current with the applicable Virginia dental and dental hygiene laws and the regulations of this board.

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

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

1. Hold current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association;

2. Be currently authorized to perform expanded duties as a dental assistant in each jurisdiction of the United States;

3. Hold a credential, registration, or certificate with qualifications substantially equivalent in hours of instruction and course content to those set forth in 18VAC60-30-120 or if the qualifications were not substantially equivalent the dental assistant can document experience in the restorative and prosthetic expanded duties set forth in 18VAC60-30-60 for at least 24 of the past 48 months preceding application for registration in Virginia.

B. An applicant shall also:

1. Be certified to be in good standing from each jurisdiction of the United States in which he is currently registered, certified, or credentialed or in which he has ever held a registration, certificate, or credential;

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

3. Attest to having read and understand and to remain current with the laws and the regulations governing dental practice in Virginia.

Part V
Requirements for Renewal and Reinstatement

18VAC60-30-150. Registration renewal requirements.

A. Every person holding an active or inactive registration shall annually, on or before March 31, renew his registration. Any person who does not return the completed form and fee by the deadline shall be required to pay an additional late fee.

B. The registration of any person who does not return the completed renewal form and fees by the deadline shall automatically expire and become invalid and his practice as a dental assistant II shall be illegal. Practicing in Virginia with an expired registration may subject the registrant to disciplinary action by the board.

C. In order to renew registration, a dental assistant II shall be required to maintain and attest to current certification from the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association.

D. A dental assistant II shall also be required to maintain evidence of successful completion of training in basic cardiopulmonary resuscitation.

E. Following the renewal period, the board may conduct an audit of registrants to verify compliance. Registrants selected for audit must provide original documents certifying current certification.

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

18VAC60-30-160. Inactive registration.

Any dental assistant II who holds a current, unrestricted registration in Virginia may upon a request on the renewal application and submission of the required fee be issued an inactive registration. The holder of an inactive registration shall not be entitled to perform any act requiring registration to practice as a dental assistant II in Virginia. An inactive registration may be reactivated upon submission of evidence of current certification from the national credentialing organization recognized by the American Dental Association. The board reserves the right to deny a request for reactivation to any registrant who has been determined to have committed an act in violation of § 54.1-2706 of the Code.

18VAC60-30-170. Registration reinstatement requirements.

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

B. A dental assistant II who has allowed his registration to lapse or who has had his registration suspended or revoked must submit evidence of current certification from a credentialing organization recognized by the American Dental Association to reinstate his registration.

C. The executive director may reinstate such expired registration provided that the applicant can demonstrate continuing competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code and 18VAC60-30-110.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (18VAC60-30)

Application for Registration to Practice as a Dental Assistant II (rev. 2/12)

Application Requirements for Registration to Practice as a Dental Assistant II (rev. 2/12)

Form A - Certification of Dental Assisting Education (rev. 2/12)

Form B (rev. 10/11)

Form C - Certification of Authorization to Perform Expanded Duties as a Dental Assistant (rev. 3/11)

VA.R. Doc. No. R10-2362; Filed October 15, 2013, 11:34 a.m.

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REGULATIONS

VOL. 30 ISS. 5 - NOVEMBER 04, 2013

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING
BOARD OF DENTISTRY
Chapter 25
Proposed Regulation

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Titles of Regulations: 18VAC60-15. Regulations Governing the Disciplinary Process (adding 18VAC60-15-10, 18VAC60-15-20).

18VAC60-20. Regulations Governing Dental Practice (repealing 18VAC60-20-10 through 18VAC60-20-352).

18VAC60-21. Regulations Governing the Practice of Dentistry (adding 18VAC60-21-10 through 18VAC60-21-430).

18VAC60-25. Regulations Governing the Practice of Dental Hygiene (adding 18VAC60-25-10 through 18VAC60-25-210).

18VAC60-30. Regulations Governing the Practice of Dental Assistants II (adding 18VAC60-30-10 through 18VAC60-30-170).

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Hearing Information:

January 10, 2014 - 9 a.m. - Perimeter Building Conference Center, 2nd Floor, 9960 Mayland Drive, Henrico VA

Public Comment Deadline: January 11, 2014.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4538, FAX (804) 527-4428, or email sandra.reen@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system. Specific regulatory authority for the Board of Dentistry is found in Chapter 27 (§ 54.1-2700et seq.) of the Code of Virginia.

Purpose: All regulations for dentists, dental hygienists, and dental assistants are currently found in one chapter, 18VAC60-20. The purpose of this action is to reorganize the regulation to create a new chapter with common provisions regarding the disciplinary process and three new chapters, one for each of the professions regulated: dentists, dental hygienists, and dental assistants II. More specifically:

1. The two proposed sections of 18VAC60-15 set out provisions for recovery of disciplinary costs in a case in which there is a finding of a violation and for establishment of criteria for delegation of informal fact-finding proceedings to an agency subordinate. The proposed regulations are intended to facilitate the disciplinary process so cases can be adjudicated in a more timely and cost-effective manner. Assessment of costs for violations may deter unprofessional conduct that is detrimental to the health and safety of dental patients.

2. 18VAC60-21 is a reorganization and restatement of current requirements for licensure and practice for dentists. Such requirements are necessary to ensure the health and safety of dental patients, while assuring appropriate access to care by dentists.

3. 18VAC60-25 is a reorganization and restatement of current requirements for licensure and practice for dental hygienists. Such requirements are necessary to ensure the health and safety of dental patients, while assuring appropriate access to care by dental hygienists.

4. 18VAC60-30 contains the provisions for registration and practice regarding dental assistants II (DAII). To ensure the services can be safely provided by a DAII, the regulation specifies the minimal competency that a dental assistant must demonstrate to be registered and authorized to perform expanded duties. Qualifications include specified hours of didactic education, clinical training, and experience and examination in modules for the performance of specific duties delegated under direct supervision. While the applicant will have to demonstrate clinical knowledge and skills to be registered as a DAII, the dentist will have to be present in the facility, will have to examine the patient both before and after treatment by a DAII, and will remain responsible for the care of the patient. Such requirements are necessary to ensure the health and safety of dental patients, while increasing the number of qualified dental personnel and access to care.

Substance: 18VAC60-15 provides for the recovery of disciplinary costs in a case in which there is a finding of a violation and for establishment of criteria for delegation of informal fact-finding to an agency subordinate. The provisions in current 18VAC60-20 that are applicable to the licensure and practice of dentists and oral and maxillofacial surgeons are included in new 18VAC60-21. There are no substantive changes to these regulations, as amended by emergency action pursuant to Chapter 526 of the 2011 Acts of the Assembly requiring the Board of Dentistry to revise its regulations for issuance of permits for dentists who provide or administer conscious/moderate sedation, deep sedation or general anesthesia in

a dental office. The provisions in current 18VAC60-20 that are applicable to the registration and practice of dental hygienists and dental assistants II are included in new 18VAC60-25 for dental hygienists and in 18VAC60-30 for dental assistants II. There are no substantive changes to the current regulations governing dental hygienists or dental assistants II.

Issues:

1. 18VAC60-15: The primary advantage of the amendments to the public is the potential to reduce expenditures of the board and its licensees for the investigation and monitoring by assessing a licensee or registrant who has violated law or regulation a portion of the costs the board incurred. Offsetting expenditures relating to discipline will have a positive effect on the board's budget and may result in stability in fees charged to licensees and registrants, which in turn benefits patients of those licensees and registrants. The ability to delegate non-patient care cases to an agency subordinate allows the board to expedite some disciplinary proceedings and meet agency goals for case resolution. There are no disadvantages to the public, the agency, or the Commonwealth.

2. 18VAC60-21: Regulations for the practice of dentistry are necessary to assure minimal competency in the provision of dental services that protect public health and safety. There are no substantive new regulations, but reorganization and clarification should make current requirements more understandable and encourage compliance. There should be no disadvantages to the public. Specificity about practice and qualifications should allow board staff to direct persons with questions about those issues to the regulations. There are no disadvantages of these provisions to the agency or the Commonwealth; registration is required by law.

3. 18VAC60-25: Regulations for the practice of dental hygiene establish the qualifications for licensure and standards of practice. There are advantages to the public if those standards and requirements are reasonable and clearly stated, so practitioners and consumers understand the scope of practice of a hygienist. There should be no disadvantages. Specificity about direction and the levels of supervision should allow board staff to direct persons with questions about those issues to the regulations. There are no disadvantages of these provisions to the agency or the Commonwealth; licensure is required by law.

4. 18VAC60-30: Regulations for dental assistants II became effective March 2, 2011. In promulgating those regulations, the agency stated that the primary advantage to the public is more accessibility for dental care by persons who are qualified by education, training, and examination to perform certain restorative and prosthetic dental functions. The ability of dental practices to provide services to populations of patients is enhanced with dental assistants II and with an increase in the ratio of dentists to dental hygienists and/or dental assistants II from two per dentist to four per dentist. To the extent dental assistants acquire the additional qualifications and credentials for expanded functions as a dental assistant II, the regulation has the potential to improve accessibility and reduce costs. If dental assistants II are appropriately trained and clinically competent, and if the dentist provides direct supervision as specified in regulation, there should be no disadvantages. Specificity about direction and the levels of supervision should allow board staff to direct persons with questions about those issues to the regulations. There are no disadvantages of these provisions to the agency or the Commonwealth; registration is required by law.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to periodic review requirements, the Board of Dentistry (Board) proposes to repeal its regulatory chapter governing all dental practices (18VAC60-20) and replace it with four regulatory chapters: Regulations Governing the Disciplinary Process (18VAC60-15), Regulations Governing the Practice of Dentistry (18VAC60-21), Regulations Governing the Practice of Dental Hygiene (18VAC60-25) and Regulations Governing the Practice of Dental Assistants II (18VAC60-30). All changes in these replacement regulations are clarifying in nature except for the requirements in the regulations for disciplinary practices (18VAC60-15), which are identical to requirements already proposed in an earlier regulatory action that is in its final stage, and for the requirements for administration of moderate and deep sedation in dental practices and for permitting of dentists that administer moderate or deep sedation. Requirements for moderate and deep sedation in proposed 18VAC60-21 are identical to those in an earlier regulatory action that is in an Emergency/NOIRA stage in the Governor's office.

Result of Analysis. Benefits likely outweigh costs for implementing most of these proposed changes. For some changes in these regulations, there is insufficient information at this time to accurately measure benefits against costs.

Estimated Economic Impact. The current regulatory chapter governs all aspects of dental services; including licensure of dentists, licensure of dental hygienists, licensure of dental assistants II and all disciplinary criteria. The length of this chapter has, however, gotten unwieldy over the years. Because of this, the Board now proposes to repeal 18VAC60-20 and replace it with regulatory chapters for each profession (18VAC60-21, 18VAC60-25 and 18VAC60-30) as well as a separate chapter that lays out the disciplinary process (18VAC60-15). In addition to partitioning the requirements in current dental regulations, the Board proposes to make many amendments to regulatory text. With the exception of 18VAC60-15, which contains new language allowing the Board to recover certain disciplinary costs, and new requirements that dentists who administer moderate or deep sedation get and maintain a sedation permit from the Board, all proposed changes to these regulations are clarifying in nature. No affected entity is likely to incur any additional costs on account of either this regulatory reorganization or the included clarifying changes. Affected entities will, however, benefit from changes that make particular requirements easier to find and from language changes that make regulatory text easier to understand.

Virginia Board of Dentistry

Executive Committee Meeting

Materials For January 10, 2014

P54-P89

UNAPPROVED - DRAFT

BOARD OF DENTISTRY
MINUTES OF EXECUTIVE COMMITTEE

Thursday, December 6, 2012

Department of Health Professions
9960 Mayland Drive, 2nd Floor
Henrico, Virginia 23233
Board Room 3

CALL TO ORDER: The meeting was called to order at 10:55 a.m.

PRESIDING: Herbert R. Boyd, III, D.D.S., President

MEMBERS PRESENT: Jeffrey Levin, D.D.S.
Martha C. Cutright, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director

QUORUM: All members of the Committee were present.

APPROVAL OF MINUTES: Dr. Boyd requested a motion for approval of the minutes of the March 8, 2012 meeting of the Committee. Dr. Levin moved the approval of the minutes. The motion was seconded and passed.

REVIEW OF BYLAWS: Ms. Reen led the discussion of the proposed revisions. It decided by consensus to propose amendments to:

- Include a provision for the appointment of a nominating committee before the Fall meeting
- Expand provisions for addressing vacancies in offices to include a provision for an acting president if succession is not possible
- Change the parliamentary reference to the Standard Code of Parliamentary Procedure
- Permit the president to vote in committees when serving as a substitute for an absent member, and
- Add clarifying language in various sections.

Dr. Boyd asked Ms. Reen to draft a proposed revision of the bylaws as discussed and then circulate the draft for review and comment by the committee members so it might be presented to the Board at its March meeting.

ADJOURNMENT: With all business concluded, the Committee adjourned at 12:08 p.m.

Herbert R. Boyd, III, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date

UNAPPROVED - DRAFT

BOARD OF DENTISTRY
MINUTES OF EXECUTIVE COMMITTEE

Thursday, March 7, 2013

Department of Health Professions
9960 Mayland Drive, 2nd Floor
Henrico, Virginia 23233
Board Room 4

CALL TO ORDER: The meeting was called to order at 5:40 p.m.

PRESIDING: Herbert R. Boyd, III, D.D.S., President

MEMBERS PRESENT: Jeffrey Levin, D.D.S.
Martha C. Cutright, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Huong Q. Vu, Operations Manager

QUORUM: With all members of the Committee present, a quorum was established.

DISCUSS ARTICLE III, #3 OF BYLAWS: Dr. Boyd asked the Committee to consider whether limiting Board members to examining for testing agencies in which the Board holds a membership should be changed. The consensus was to advance the language in Article III, #3 as previously adopted by the Committee for recommendation to the Board.

Dr. Gaskins asked that *"**American Institute of Parliamentarian**" be added* before Standard Code of Parliamentary Procedure on P115 in Article II, # 1.

Dr. Gaskins asked to add a "," after either the absence of; and to add *"**to serve**"* after or the inability of the President on P116 in Article II, # 2.

By consensus, the Committee agreed to recommend the revised proposed draft to the Board.

ADJOURNMENT: With all business concluded, the Committee adjourned at 5:45 p.m.

Herbert R. Boyd, III, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date

Agenda Item: **Regulatory Actions - Chart of Regulatory Actions**
(As of November 20, 2013)

Chapter		Action / Stage Information
[18 VAC 60 - 20]	Regulations Governing Dental Practice	Periodic review; reorganizing chapter 20 into four new chapters: 15, 21, 25 and 30 [Action 3252] Proposed - *Register Date: 11/4/13* *Comment period: 11/4/13 to 1/11/14* *Public hearing: 1/10/14*
[18 VAC 60 - 20]	Regulations Governing Dental Practice	Sedation and anesthesia permits for dentists [Action 3564] Proposed - *Register Date: 10/7/13* *Comment period: 10/7/13 to 12/6/13* *Board discussion of comment: 12/6/13* *Executive comment adoption of final rules: 1/10/14*
[18 VAC 60 - 20]	Regulations Governing Dental Practice	(E) Correction of renewal deadline for faculty licenses [Action 4081] Final - *Register Date: 1/13/14* *Effective: 2/12/14*

Agenda Item: Adoption of Final Regulations for Sedation/Anesthesia Permits – Replacement of Emergency Regulations

Included in the agenda package:

Comment received after 12/5/13 meeting of Regulatory/Legislative Comm.

Summary of comment

A copy of proposed regulations with changes recommended by full Board sitting as the Regulatory/Legislative Committee in brackets [ ]

Staff note:

The public comment period on proposed regulations concluded on December 6th. The Administrative Process Act requires an agency to wait 15 days after the conclusion of the comment period before final regulations are adopted. At the time of adopting final regulations, the Board must respond to public comment and adopt regulations as amended.

Emergency regulations initially expired on 9/13/13 but were extended to 3/15/14. To have final regulations in effect by the 3/15/14 deadline will be difficult, so the Board needs to act as expeditiously as possible. Therefore, the Board discussed the public comment and possible amendments and recommended action to the Executive Committee for adoption at this meeting.

Logged in: DHP

Agency **Department of Health Professions**

Board **Board of Dentistry**

Chapter **Regulations Governing Dental Practice [18 VAC 60 - 20]**

Action	**Sedation and anesthesia permits for dentists**
Stage	**Proposed**
Comment Period	Ends 12/6/2013

Back to List of Comments

Commenter: M. Scott Gore, DDS * 12/6/13 11:47 am

Concerns Regarding Proposal

Virginia Board of Dentistry,

This is intended to be a response to the currently proposed regulation requiring the use of an EKG machine when a dentist is performing oral titration.

Current ADA and state standards already ensure patient safety

The current training requirements as adopted by the ADA for dental sedation are sufficient. As you are aware the dentist and staff are required to be certified at CPR, ACLS, AED use and the proper sedation medication titration techniques. Patients are constantly monitored for heart rate, blood pressure and blood oxygen saturation. I and 4 dental associates have been practicing sedation dentistry in Midlothian Virginia for approximately 9 years and have served well over 200 patients without incident. In addition we are consistently attending continuing education courses such as: 2003 Dental Organization for Conscious Sedation, LLC (15 hours), 2006 Dental Organization for Conscious Oral Sedation, LLC (22.5 hours) and 2009 Sedation Solutions for the Challenging Patient (15 hours). Most recently, the state imposed a permit requirement to continue performing this procedure and I and the other dentists in my practice complied with those requirement by taking another 26 hour course that included 3 live patient clinics. Existing regulations are more than adequate to ensure patient safety and the additional requirement of EKG monitoring is simply not needed for patient safety.

Increased costs would price vulnerable patients with significant dental care needs out of moderate sedation procedures

The cost of the EKG machine and the disposable items necessary for each patient will add to the cost of treatment. Many patients requiring sedation dentistry are in their current predicament because they delayed care for many years due to the already high costs. This new board requirement will actually make it more difficult for patients to afford their dental care thus contributing to the declining dental health of an already needy population. The other most common reason patients delay dental care is fear. Requiring the dentist to use this invasive monitoring device will only contribute to this already overwhelming fear, thus causing patients to further delay treatment. Requiring EKG monitoring for all titration sedation patients would unintentionally cause more patients not to receive the dental care they so desperately need.

EKG monitoring requires patients to do a certain amount of disrobing, which patients do

not expect at a dental office and for which dental offices are not well equipped.

Many dental offices are set up in an open concept where there is not enough privacy for patients to comfortably have the EKG leads attached. Whereas patients are accustomed to disrobing in physician's offices, this is certainly not the case in dental offices and will undoubtedly cause awkward situations. Many sedation patients need to get up 2 or 3 times during the 4-5 hour procedure to urinate. Un-attaching and reattaching the EKG leads is simply not practical, in addition to being costly and time consuming.

EKG was not required by the emergency regulations

I don't believe this requirement was part of the recent emergency regulations on moderate sedation procedures. Furthermore, while EKG is standard of care for IV sedation (whether the regulations require it or not), no state *currently* requires EKG for moderate oral sedation, UNLESS the state doesn't split moderate sedation by the route of administration. I.e. if an IV permit is required for any moderate sedation (e.g. Florida, Pennsylvania). In addition, ADA guidelines require it for deep/general anesthesia, but only **recommend** it for moderate (whether oral or IV): "Continuous ECG monitoring of patients with significant cardiovascular disease should be considered." In cases such as these I would never even consider oral conscious sedation as an option due to the extremely high risk involved.

Patient care and safety is my first priority and I would not perform any procedure for which I did not feel adequately trained and equipped or any procedure which I thought unsafe. The practice of moderate sedation dentistry is extremely important because it allows most individuals who have been putting off dental care out of fear, to finally get proper treatment. Certain major surgical procedures obviously require a deeper sedation and are rightly performed by oral surgeons or other medical doctors, but moderate oral sedation does not pose anywhere near the risks inherent in the sort of deep sedation required for those procedures. It would be helpful to know on what medical basis the Board feels the need to necessitate this proposed regulation

Sincerely,

M. Scott Gore, DDS

Jared A. Hoover, DDS

Amanda A. Hoover, DDS

r this text and enter your comments here. You are limited to approximately 3000 words.

* Nonregistered public user

Board of Dentistry

Summary of Comment on Proposed Regulations

Permits for Sedation and Anesthesia in Dental Offices

Comment Period from 10/7/13 to 12/6/13

Public Hearing: 11/8/13

Commenter at Public Hearing	Comment
Dr. Preston Burns Va. Association of Dentists by Intravenous Sedation	Organization has been providing CE courses for dentists administering conscious sedation for nearly 10 years. Organization supports proposed regulations, except proposal to end self-certification and opposition to some of the required equipment. Was self-certified for conscious sedation in 1989 & should be allowed to continue with a permanent conscious/moderate sedation permit without additional qualifications. Contrary to the stated goal of allowing persons currently qualified to administer sedation, the proposed regulations would preclude one category of qualified dentists from practicing conscious sedation. The estimated expense for a course is $75,000 to $100,000.
Dr. James Pollard	Received training in IV sedation at MCV in '72 and have used it successfully. Opposed to limitation on ability to treat patients with that modality. The death of 3 children is reason for emergency regulations. Only a few places in the U. S. that offer the training. Self-certified dentists have an impeccable record, so the risks are very slight. Patients will have to seek other dentists, which restricts their access to good care. Oral medication may be the bigger problem but getting the titration accurate can be guesswork & then if there is a problem, you have to start an IV.
Dr. Scott Leaf	Is a pediatric dentist; has a temporary permit. Had courses in conscious sedation in residency at Georgetown but cannot produce documentation of training content from the 1980's. Met all the requirements at the time but proof of training content is problematic. Requests modification of documentation requirement.
Dr. Rod Mayberry	Been practicing moderate/conscious since 1978 & trained at MCV; have sedated many patients without serious complications. Regulations are an intrusion into practice and not in patient's best interest. Mandating ACLS and unnecessary training is unnecessary for doctors that have a proven history of success with IV sedation. Some equipment requirements are unnecessary as well, such as laryngoscopes, electrocardiograms, endotracheal tubes will never be used. CPR and cardiac defibrillators should be required for emergency but not much more is needed to preserve a life. Supports required CE updates. Problem is sedation in children; no need for blanket regulations and mandates.
Dr. Brian McAndrew	Representing the Va. Society of Oral and Maxillofacial Surgeons. Concern about definition of morbidity and which events have to be reported under the new guidelines. What events require a written report?
Kenneth Stallard	Represents Va. Association of Dentists for Intravenous Sedation; providing information about how other states permit dentists to do conscious/moderate sedation. Maryland allowed all dentists who held a parenteral sedation permit and facility permit to convert under its new regulations. NC also grandfathered current permit holders. In WV, the Board accepted documented evidence of equivalent training or experience for issuance of a permit. SC allows educational requirements to be waived for dentists who have been utilizing conscious sedation for at least 10 years. IL and TN allowed grandfathering of dentists holding a permit

	for administration of conscious sedation. CT allows an application for conscious sedation permit to be qualified by documenting completion of 12 parentally-administered procedures per year for 3 years prior to the date of application with completion of CE. Several of these jurisdictions do not require EKG. Language regarding other appropriate airway management adjunct such as a laryngeal mask airway should be deleted from its present location and reinserted after the word "adult." The association does not believe precordial and pretracheal stethoscopes are warranted in conscious/moderate sedation of adult patients. Board should allow self-certified dentists to continue administration of conscious/moderate sedation without additional educational requirements.
Dr. Michael Link	Concern about deletion of definition for anxiolysis. Should not use the term "minimum sedation" because it might increase malpractice rates if a dentist checks that he uses sedation.

Other Commenters	Comment
Dr. Stanley Dameron	Has been utilizing conscious sedation since 1979 with training at Univ. of Md hospital, general practice residency. Section 120 states that laryngeal mask airways are acceptable but a laryngoscope and blades are still necessary equipment; laryngoscopes are not used with LMA's. Self-certified dentists should be grandfathered so they can continue providing care to patients.
Dr. Preston Burns Va. Association of Dentists for Intravenous Sedation	Provided an edited copy of the proposed regulations with amendments to: 1) add "moderate sedation" to the definition and usage of "conscious/moderate sedation;" 2) allow dentists who were self-certified in administration of moderate sedation to be issued a permit without additional education & training; 3) eliminate requirements training in interpretation of an EKG and an EKG in the dental office where parental sedation or sedation with titration is administered; 4) modify the requirement for airway management adjuncts; and 5) eliminate requirement for precordial and pretracheal stethoscope;
Dr. Brian McAndrew Va. Society of Oral & Maxillofacial Surgeons	Recommends: 1) That the permit exemption remain but language be added to restrict an OMS to performing anesthesia only in their primary or affiliated surgery offices. The OMS should sign an affidavit that the satellite offices are held to the same standard as the inspected office for equipment and staff. 2) OMS who desire to provide "itinerant anesthesia" in offices of dentists who do not have permits are not covered under the exemption and must obtain a permit from the Board.
Dr. Brian Hoard UVA Dept. of Dentistry	Recommends: 1) Leave the definitions of anesthesia and sedation but go strictly by the ASA definition 2) Isn't necessary to have written consent in patient record for any level of sedation, such as nitrous. (section 107) 3) Should include an exception for patients under the age of 12 to have medication administered prior to arrival at dental office if "there is a previously documented trial period with the sedative medication and dose or the patient's physician prescribes an anxiolytic in advance to facilitate entrance to the facility." (section 107) 4) Wants clarification about whether the 2nd person in the operatory can act as both the dental assistant and the monitor.(sections 108 and 120) 5) Should restate "pulse and heart rate" as they are redundant; does the Board mean "heart rate and rhythm"
Dr. M. Scott Gore Dr. Jared Hoover Dr. Amanda Hoover	Opposed to the requirement for an EKG when performing oral titration. Patients are monitored for heart rate, blood pressure and oxygen saturation; EKG monitoring is not necessary for patient safety. Costs will increase. Patients will have to partially

	disrobe and there isn't an adequacy space for privacy. Other states do not require EKG for oral sedation.

Project 2984 – DRAFT FINAL

BOARD OF DENTISTRY

Sedation and anesthesia permits for dentists

Part I

General Provisions

18VAC60-20-10. Definitions.

A. 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.~~

~~"Anxiolysis" means the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness.~~

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

~~"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by pharmacological or~~

~~nonpharmacological methods, including inhalation, parenteral, transdermal or enteral, or a combination thereof.~~

~~"Deep sedation/general anesthesia" means an induced state of depressed consciousness or unconsciousness accompanied by a complete or partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or respond purposefully to physical stimulation or verbal command and is produced by a pharmacological or nonpharmacological method or a combination thereof.~~

"Dental assistant I" means any unlicensed person under the direction of a dentist 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 this chapter.

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

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

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

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

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the tooth or

teeth to be restored and remains immediately available to the dental assistant II for guidance or assistance during the delivery of treatment and related services.The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

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

"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. The order may authorize the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

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

"Indirect supervision" means the dentist examines the patient at some point during the appointment, and is continuously present in the office to advise and assist a dental hygienist or a dental assistant who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist or dental hygienist, or (iii) preparing the patient for dismissal following treatment.

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

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

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

"Enteral" means 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 ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

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

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

"Local anesthesia" means the loss of sensation or pain in the oral cavity or the maxillofacial or adjacent and associated structures generally produced by a topically applied or injected agent without depressing the level of consciousness.

"Minimal sedation" means a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, and ventilator and cardiovascular functions are unaffected. Minimal sedation includes "anxiolysis" (the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness) and includes "inhalation analgesia" (the inhalation of nitrous oxide and oxygen to produce a state of reduced sensibility to pain without the loss of consciousness).

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

"Moderate sedation" (see meaning of conscious/moderate sedation).

"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part IV (18VAC60-20-107 et seq.).

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

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

~~"Radiographs" means intraoral and extraoral x-rays of hard and soft tissues to be used for purposes of diagnosis.~~

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

18VAC60-20-30. Other fees.

A. Dental licensure application fees. The application fee for a dental license by examination, a faculty license, or a temporary permit as a dentist shall be $400. The application fee for dental license by credentials shall be $500.

B. Dental hygiene licensure application fees. The application fee for a dental hygiene license by examination, a faculty license to teach dental hygiene, or a temporary permit as a dental hygienist shall be $175. The application fee for dental hygienist license by endorsement shall be $275.

C. Dental assistant II registration application fee. The application fee for registration as a dental assistant II shall be $100.

D. Wall certificate. Licensees desiring a duplicate wall certificate or a dental assistant II desiring a wall certificate shall submit a request in writing stating the necessity for a wall certificate, accompanied by a fee of $60.

E. Duplicate license or registration. Licensees or registrants desiring a duplicate license or registration shall submit a request in writing stating the necessity for such duplicate, accompanied by a fee of $20. If a licensee or registrant maintains more than one office, a notarized photocopy of a license or registration may be used.

F. Licensure or registration certification. Licensees or registrants requesting endorsement or certification by this board shall pay a fee of $35 for each endorsement or certification.

G. Restricted license. Restricted license issued in accordance with § 54.1-2714 of the Code of Virginia shall be at a fee of $285.

H. Restricted volunteer license. The application fee for licensure as a restricted volunteer dentist or dental hygienist issued in accordance with § 54.1-2712.1 or § 54.1-2726.1 of the Code of Virginia shall be $25.

I. Returned check. The fee for a returned check shall be $35.

J. Inspection fee. The fee for an inspection of a dental office shall be $350 with the exception of a routine inspection of an office in which the dentist has a conscious/moderate sedation permit or a deep sedation/general anesthesia permit.

K. Mobile dental clinic or portable dental operation. The application fee for registration of a mobile dental clinic or portable dental operation shall be $250. The annual renewal fee shall be $150 and shall be due by December 31. A late fee of $50 shall be charged for renewal received after that date.

L. Conscious/moderate sedation permit. The application fee for a permit to administer conscious/moderate sedation shall be $100. The annual renewal fee shall be $100 and shall be due by March 31. A late fee of $35 shall be charged for renewal received after that date.

M. Deep sedation/general anesthesia permit. The application fee for a permit to administer deep sedation/general anesthesia shall be $100. The annual renewal fee shall be $100 and shall be due by March 31. A late fee of $35 shall be charged for renewal received after that date.

Part IV

Anesthesia, Sedation and Analgesia

18VAC60-20-107. General provisions.

A. This part (18VAC60-20-107 et seq.) shall not apply to:

1. The administration of local anesthesia in dental offices; or

2. The administration of anesthesia in (i) a licensed hospital as defined in § 32.1-123 of the Code of Virginia or state-operated hospitals or (ii) a facility directly maintained or operated by the federal government.

B. Appropriateness of administration of general anesthesia or sedation in a dental office.

1. Anesthesia and sedation may be provided in a dental office for patients who are Class I and II as classified by the American Society of Anesthesiologists (ASA).

2. Conscious sedation, deep sedation or general anesthesia shall not be provided in a dental office for patients in ASA risk categories of Class IV and V.

3. Patients in ASA risk category Class III shall only be provided general anesthesia or any level of sedation by:

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

b. An oral and maxillofacial surgeon after performing an evaluation and documenting the ASA risk assessment category of the patient and any special monitoring requirements that may be necessary.

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

D. The determinant for the application of these rules 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 unlikely an unintended reduction of or loss of consciousness when factoring in titration and the patient's age, weight, and ability to metabolize drugs.

E. ~~A dentist who is administering anesthesia or sedation to patients prior to June 29, 2005, shall have one year from that date to comply with the educational requirements set forth in this chapter for the administration of anesthesia or sedation.~~ When conscious/moderate sedation, deep sedation, or general anesthesia is administered, the [dentist ~~patient record~~] shall [~~also~~] include [in the patient record] :

1. Notation of the patient's American Society of Anesthesiologists classification;

2. Review of medical history and current conditions;

3. Written informed consent for administration of sedation and anesthesia and for the dental treatment to be performed;

4. Preoperative vital signs;

5. A record of the name, dose, strength of drugs, and route of administration including the administration of local anesthetics with notations of the time sedation and anesthesia were administered;

6. Monitoring records of all required vital signs and physiological measures recorded every five minutes; and

7. A list of staff participating in the administration, treatment, and monitoring including name, position, and assigned duties.

F. Pediatric patients. No sedating medication shall be prescribed for or administered to a [~~child~~ patient] age 12 years and under prior to his arrival at the dentist office or treatment facility.

G. Emergency management.

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

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

H. Reporting of adverse reactions. A written report shall be submitted to the board by the treating dentist within 30 days following any mortality or morbidity that directly results from the administration of any level of sedation or anesthesia and that occurs in the facility or during the first 24 hours immediately following the patient's departure from the facility.

I. Continuing education. A dentist who administers or a dental hygienist who monitors patients under general anesthesia, deep sedation, or conscious [/moderate] sedation shall complete four hours every two years of approved continuing education directly related to administration or monitoring of such anesthesia or sedation as part of the hours required for licensure renewal as specified in 18VAC60-20-50.

[J. A dentist who allows the administration of general anesthesia, deep sedation or conscious/moderate sedation in his dental office is responsible for assuring that:

1. The equipment for administration and monitoring, as required in subsection F of 18VAC60-20-110 or subsection E of 18VAC60-20-120, is readily available and in good working order prior to performing dental treatment with anesthesia or sedation. The equipment shall either be maintained by the dentist in his office or provided by the anesthesia or sedation provider; and

2. The [~~staff providing and monitoring~~ person administering] the anesthesia or sedation is appropriately licensed and [the staff monitoring the patient is] qualified.

18VAC60-20-108. Administration of minimal sedation (anxiolysis or inhalation analgesia).

A. Education and training requirements. A dentist who utilizes anxiolysis or inhalation analgesia shall have training in and knowledge of:

1. Medications used, the appropriate dosages and the potential complications of administration.

2. Physiological effects of nitrous oxide and potential complications of administration.

B. Equipment requirements. A dentist who utilizes anxiolysis or inhalation analgesia or who directs the administration of inhalation analgesia by a dental hygienist shall maintain the following equipment in his office and be trained in its use:

1. Blood pressure monitoring equipment.

2. Positive pressure oxygen.

3. Mechanical (hand) respiratory bag.

C. Monitoring requirements.

1. The treatment team for anxiolysis shall consist of the dentist and a second person in the operatory with the patient to assist, monitor and observe the patient. Once the administration of anxiolysis has begun, the dentist shall ensure that a person qualified in accordance with 18VAC60-20-135 is present with the patient at all times to determine the level of consciousness by continuous visual monitoring of the patient.

2. A dentist or a dental hygienist who utilizes inhalation analgesia shall ensure that there is continuous visual monitoring of the patient to determine the level of consciousness.

3. If inhalation analgesia is used, monitoring shall include making the proper adjustments of nitrous oxide machines at the request of or by the dentist or a dental hygienist

qualified in accordance with requirements of 18VAC60-20-81 to administer nitrous oxide during administration of the sedation and observing the patient's vital signs.

4. If any other pharmacological agent is used in addition to nitrous oxide/oxygen and a local anesthetic, requirements for the induced level of sedation must be met.

D. Discharge requirement. The dentist shall ensure that the patient is not discharged to his own care until he exhibits normal responses.

18VAC60-20-110. Requirements ~~to administer~~ for the administration of deep sedation/general anesthesia.

A. ~~Educational requirements.~~ After March 31, 2013, no dentist may administer deep sedation/general anesthesia in a dental office unless he has been issued a permit by the board. The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in the American Association of Oral and Maxillofacial Surgeons (AAOMS) and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.

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

1. A completed application form;

2. The application fee as specified in 18VAC60-20-30;

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

4. A copy of current certification in ACLS or PALS as required in subsection C of this section.

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

1. A dentist may ~~employ or~~ be issued a permit to use deep sedation/general anesthesia ~~on an outpatient basis~~ in a dental office by meeting one of the following educational criteria ~~and by posting the educational certificate, in plain view of the patient, which verifies completion of the advanced training as required in subdivision 1 or 2 of this subsection~~. These requirements shall not apply ~~nor~~ or interfere with requirements for obtaining hospital staff privileges.

~~1. Has completed~~ a. 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 published guidelines by the American Dental Association (Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry) in effect at the time the training occurred; or

~~2.~~ b. Completion of ~~an American Dental Association approved~~ a 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 published guidelines by the American Dental Association for Graduate and Postgraduate Training in Anesthesia in effect at the time the training occurred.

~~After June 29, 2006, dentists~~ 2. Dentists who administer deep sedation/general anesthesia shall hold current certification in advanced resuscitative techniques with hands-on simulated airway and megacode training for healthcare providers, including

basic electrocardiographic interpretation, such as courses in Advanced Cardiac Life Support (ACLS) for Health Professionals or Pediatric Advanced Life Support (PALS) for Health Professionals and current Drug Enforcement Administration registration.

~~B. Exceptions.~~

~~1. A dentist who has not met the requirements specified in subsection A of this section may treat patients under deep sedation/general anesthesia in his practice if a qualified anesthesiologist, or a dentist who fulfills the requirements specified in subsection A of this section, is present and is responsible for the administration of the anesthetic.~~

~~2. If a dentist fulfills the requirements specified in subsection A of this section, he may employ the services of a certified nurse anesthetist.~~

~~C.~~ D. Posting. ~~Any dentist who utilizes deep sedation/general anesthesia shall post~~ The deep sedation/general anesthesia permit or AAOMS certificate required under subsection A of this section shall be posted along with the dental license and ~~current~~ registration with the Drug Enforcement Administration~~, the certificate of education required under subsection A of this section~~. All licenses and permits must be current.

E. Delegation of administration.

1. A dentist who does not hold a permit to administer deep sedation and general anesthesia shall only use the services of a dentist with a current deep sedation/general anesthesia permit or an anesthesiologist to administer deep sedation or general anesthesia in a dental office. In a licensed outpatient surgery center, a dentist not qualified who does not hold a permit to administer deep sedation or general anesthesia shall use either a permitted dentist, an anesthesiologist, or a certified registered nurse anesthetist to administer deep sedation or general anesthesia.

2. A dentist who does hold a permit may administer or use the services of the following personnel to administer deep sedation or general anesthesia:

a. A dentist with a current deep sedation/anesthesia permit;

b. An anesthesiologist; or

c. A certified registered nurse anesthetist under the medical direction and indirect supervision of a dentist who meets the educational requirements of subsection C of this section.

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

a. A dental hygienist with the training required in 18VAC60-20-81 to parenterally administer Schedule VI local anesthesia to persons age 18 years or older; or

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

4. A dentist who delegates administration of deep sedation/general anesthesia shall ensure that:

a. All equipment required in subsection F of this section is present, in good working order, and immediately available to the areas where patients will be sedated and treated and will recover; and

b. Qualified staff is on site to monitor patients in accordance with requirements of subsection G of this section.

~~D.~~ F. ~~Emergency~~ Required equipment and techniques. A dentist who administers deep sedation/general anesthesia shall be proficient in handling emergencies and complications

related to pain control procedures, including the maintenance of respiration and circulation~~,~~ and immediate establishment of an airway and cardiopulmonary resuscitation~~, and~~. He shall ~~maintain~~ have available the following ~~emergency~~ equipment in ~~the dental facility~~ sizes for adults or children as appropriate for the patient being treated and shall maintain it in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face ~~mask for children or adults, as appropriate for the patient being treated~~ masks;

2. Oral and nasopharyngeal ~~airways~~ airway management adjuncts;

3. Endotracheal tubes ~~for children or adults, or both,~~ with appropriate connectors or other appropriate airway management adjunct such as a laryngeal mask airway;

4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades 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 and temperature measuring devices;

10. Pharmacologic antagonist agents;

11. External defibrillator (manual or automatic); ~~and~~

12. For intubated patients, an End-Tidal CO^2 monitor;

13. Suction apparatus;

14. Throat pack; and

15. Precordial or pretracheal stethoscope.

~~E.~~ G. Monitoring requirements.

1. The treatment team for deep sedation/general anesthesia shall at least consist of the operating dentist, a second person to monitor and observe the patient and a third person to assist the operating dentist, all of whom shall be in the operatory with the patient during the dental ~~procedure~~ treatment. The second person may be the health professional delegated to administer sedation or anesthesia.

2. Monitoring of the patient ~~under~~ undergoing deep sedation/general anesthesia, including direct, visual observation of the patient by ~~a~~ one member of the treatment team, is to begin prior to induction ~~of anesthesia~~ and shall take place continuously following induction, during the dental procedure, and during recovery from anesthesia. The person who administered 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.

3. Monitoring deep sedation/general anesthesia shall include the following: ~~recording and reporting of blood pressure, pulse, respiration and other vital signs to the attending dentist.~~

a. EKG readings and baseline vital signs shall be taken and recorded prior to administration of any controlled drug at the facility to include: temperature, blood pressure, pulse, oxygen saturation, [and] respiration [~~, and heart rate~~] . The EKG readings and patient's vital signs shall be monitored, recorded every five minutes, and reported to the treating dentist throughout the administration of controlled drugs

and recovery. When depolarizing medications are administered, temperature shall be monitored constantly.

b. A secured intravenous line must be established during induction and maintained through recovery.

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 for the dental practice.

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

18VAC60-20-120. Requirements ~~to administer~~ for administration of conscious/moderate sedation.

A. After March 31, 2013, no dentist may administer conscious/moderate sedation in a dental office unless he has been issued a permit by the board. The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in the American Association of Oral and Maxillofacial Surgeons (AAOMS) and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.

B. Automatic qualification. Dentists ~~qualified~~ who hold a current permit to administer deep sedation/general anesthesia may administer conscious/moderate sedation.

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

1. A completed application form indicating one of the following permits for which the applicant is qualified:

a. Conscious/moderate sedation by any method;

b. Conscious/moderate sedation by enteral administration only; or

c. Temporary conscious/moderate sedation permit (may be renewed one time);

2. The application fee as specified in 18VAC60-20-30;

3. A copy of a transcript, certification, or other documentation of training content that meets the educational and training qualifications as specified in subsection D or E of this section, as applicable; and

4. A copy of current certification in ACLS or PALS as required in subsection F of this section.

~~B.~~ D. Educational requirements for ~~administration of~~ a permit to administer conscious/moderate sedation by any method.

1. A dentist may be issued a conscious/moderate sedation permit to employ or use any method of conscious [/moderate] sedation by meeting one of the following criteria:

a. Completion of training for this treatment modality according to guidelines published by the American Dental Association (Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry) in effect at the time the training occurred, while enrolled at an accredited dental program or while enrolled in a post-doctoral university or teaching hospital program; or

b. Completion of ~~an approved~~ a continuing education course offered by a provider approved in 18VAC60-20-50 and consisting of 60 hours of didactic instruction plus the management of at least 20 patients per participant, demonstrating competency and clinical experience in parenteral conscious sedation and management of a compromised airway. The course content shall be consistent with guidelines published by the American Dental Association (Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry) in effect at the time the training occurred.

2. A dentist who was self-certified in anesthesia and conscious [/moderate] sedation prior to January 1989 may be issued a temporary conscious/moderate sedation permit to continue to administer only conscious [/moderate] sedation until [~~September 14, 2014~~ one year from the effective date of this regulation] . After [~~September 14, 2014 one~~ year from the effective date of this regulation] , a dentist shall meet the requirements for and obtain a conscious/moderate sedation permit by any method or by enteral administration only.

~~C.~~ E. Educational requirement for enteral administration of conscious [/moderate] sedation only. A dentist may be issued a conscious/moderate sedation permit to only administer conscious [/moderate] sedation by an enteral method if he has completed ~~an approved~~ a continuing education program, offered by a provider approved in 18VAC60-20-50, of not less than 18 hours of didactic instruction plus 20 clinically-oriented experiences in enteral and/or combination inhalation-enteral conscious [/moderate] sedation techniques. The course content shall be consistent with the guidelines published by the American Dental Association (Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry) in effect at the time the training occurred. The certificate of completion and a detailed description of the course content must be maintained.

~~D.~~ F. Additional training required. ~~After June 29, 2006, dentists~~ Dentists who administer conscious [/moderate] sedation shall hold current certification in advanced resuscitation techniques with hands-on simulated airway and megacode training for health care providers, including basic electrocardiographic interpretation, such as Advanced Cardiac Life Support ~~as evidenced by a certificate of completion posted with the dental license~~ (ACLS) for Health Professionals or Pediatric Advanced Life Support (PALS) for Health Professionals, and current registration with the Drug Enforcement Administration.

G. Posting. The conscious/moderate sedation permit required under subsection A of this section and issued in accordance with subsection C of this section or the AAOMS certificate issued to an oral and maxillofacial surgeon shall be posted along with the dental license and registration with the Drug Enforcement Administration. All licenses and permits must be current.

H. Delegation of administration.

1. A dentist who does not hold a permit to administer conscious/moderate sedation shall only use the services of a permitted dentist or an anesthesiologist to administer such sedation in a dental office. In a licensed outpatient surgery center, a dentist who does not hold a permit to administer conscious/moderate sedation shall use either a permitted dentist, an anesthesiologist, or a certified registered nurse anesthetist to administer such sedation.

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

a. A dentist with the training required by subsection E of this section to administer by an enteral method;

b. A dentist with the training required by subsection D of this section to administer by any method;

c. An anesthesiologist;

d. A certified registered nurse anesthetist under the medical direction and indirect supervision of a dentist who meets the education and training requirements of subsection D or E of this section; or

e. A registered nurse upon his direct instruction and under the immediate supervision of a dentist who meets the education and training requirements of subsection D of this section.

3. If minimal sedation is self-administered by or to a patient age 13 years or older before arrival at the dental office, the dentist may only use the personnel listed in subdivision 2 of this subsection to administer local anesthesia. No sedating medication shall be prescribed for or administered to a [~~child~~ patient] age 12 years and younger prior to his arrival at the dentist office or treatment facility.

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

a. A dental hygienist with the training required by 18VAC60-20-81 to parenterally administer Schedule VI local anesthesia to persons age 18 years or older; or

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

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

a. All equipment required in subsection I of this section is present, in good working order, and immediately available to the areas where patients will be sedated and treated and will recover; and

b. Qualified staff is on site to monitor patients in accordance with requirements of subsection J of this section.

~~E.~~I. ~~Emergency~~ Required equipment and techniques. A dentist who administers conscious [/moderate] sedation 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, and shall ~~maintain~~ have available the following ~~emergency airway~~ equipment in ~~the dental facility~~ sizes for adults or children as appropriate for the patient being treated and shall maintain it in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face ~~mask for children or adults, as appropriate for the patient being treated~~ masks;

2. Oral and nasopharyngeal ~~airways~~ airway management adjuncts;

3. Endotracheal tubes for children or adults, or both, with appropriate connectors or other appropriate airway management adjunct such as a laryngeal mask airway and a laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both~~. 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;

10. Defibrillator;

11. Suction apparatus;

12. Temperature measuring device;

13. Throat pack;

14. Precordial and pretracheal stethoscope; and

15. Electrocardiographic monitor, if a patient is receiving parenteral administration of sedation or if the dentist is using titration.

~~F.~~ J. Monitoring requirements.

1. The ~~administration~~ treatment team for conscious [/moderate] sedation shall at least consist of the operating dentist and a second person to assist, monitor, and observe the patient. Both shall be in the operatory with the patient throughout the dental treatment. The second person may be the health professional delegated to administer sedation.

2. Monitoring of the patient ~~under conscious~~ undergoing conscious/moderate sedation, including direct, visual observation of the patient by ~~a~~ one member of the treatment team, is to begin prior to administration of sedation, or if medication is self-administered by the patient, ~~when the patient arrives~~ immediately upon the patient's arrival at the dental office and shall take place continuously during the dental ~~procedure~~ treatment and during 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 ~~responsive~~ evaluated and is discharged.

3. Monitoring conscious/moderate sedation shall include the following:

a. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug at the facility and prior to discharge; and

b. Blood pressure, oxygen saturation, [and] pulse [~~, and heart rate~~] shall be monitored continually during the administration and recorded every five minutes.

K. 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 of the dental practice.

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

18VAC60-20-135. ~~Ancillary personnel~~ Personnel assisting in sedation or anesthesia.

~~After June 29, 2006, dentists~~ Dentists who employ ~~ancillary~~ personnel to assist in the administration and monitoring of any form of conscious/moderate sedation or deep sedation/general anesthesia shall maintain documentation that such personnel have:

1. Minimal training resulting in current certification in basic resuscitation techniques with hands-on airway training for health care providers, such as Basic Cardiac Life Support for Health Professionals or ~~an approved,~~ a clinically oriented course devoted primarily to responding to clinical emergencies offered by an approved provider of continuing education as set forth in 18VAC60-20-50 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).

18VAC60-20-140. ~~Report of adverse reactions.~~ (Repealed.)

~~A written report shall be submitted to the board by the treating dentist within 30 days following any mortality or morbidity which directly results from the administration of local anesthesia, general anesthesia, conscious sedation, or nitrous oxide oxygen inhalation analgesia and which occurs in the facility or during the first 24 hours immediately following the patient's departure from the facility.~~

FORMS (18VAC60-20)

Application Requirements for Dentists and Application for License to Practice Dentistry (rev. 11/10)

Application Requirements and Application for Restricted Dental Volunteer License/Restricted Dental Hygiene License (rev. 11/10)

Requirements and Instructions for a Temporary Resident's License to Persons Enrolled in Advanced Dental Education Programs and Application for Temporary Resident's License (rev. 2/10)

Application Requirements and Application for Teacher's License or Full-Time Faculty License (rev. 11/10)

Application Requirements for Dental Hygienists and Application for Licensure to Practice Dental Hygiene (rev. 11/10)

Application Requirements for Registration as a Dental Assistant II (rev. 3/11)

Application for Registration to Practice as a Dental Assistant II (eff. 3/11)

Form A, Certification of Dental Assisting Education (eff. 3/11)

Form B, Certification of Employment (eff. 3/11)

Form C, Certification of Authorization to Perform Expanded Duties as a Dental Assistant II (eff. 3/11)

Instructions for Reinstatement of License and Reinstatement Application for Dental/Dental Hygiene Licensure (rev. 2/10)

Instructions for Application for Reactivation of License and Application for Reactivation of License (rev. 2/10)

Application for Certification to Perform Cosmetic Procedures (rev. 2/10)

Oral and Maxillofacial Surgeon Registration of Practice (rev. 2/10)

Oral and Maxillofacial Surgeon Reinstatement of Registration of Practice (rev. 2/10)

Application for Registration for Volunteer Practice (rev. 8/08)

Sponsor Certification for Volunteer Registration (rev. 8/08)

Application for Registration of a Mobile Dental Facility or Portable Dental Operation (eff. 6/10)

Application for a Permit to Administer Conscious/Moderate Sedation (rev. 10/12)

Application for a Permit to Administer Deep Sedation/General Anesthesia (rev. 10/12)