

## **VIRGINIA BOARD OF DENTISTRY**

### **Compilation of Provisions in the Code of Virginia Addressing Dental Practice, Practice of Dentistry by Professional Business Entities, and Practice Locations and the Duties Restricted to Dentists in the Code of Virginia and the Regulations Governing the Practice of Dentistry**

The following sections of the Code of Virginia and Regulations Governing the Practice of Dentistry have been identified as applicable to the subject topics. The listing is not intended to be all-inclusive but should be regarded as a reference. Every licensed dentist should be familiar with these and any other legal responsibilities relating to the practice of dentistry that are included in the Code of Virginia and regulations.

#### **DENTAL PRACTICE**

- **§54.1-2700** - "Dentistry" means the evaluation, diagnosis, prevention, and treatment, through surgical, nonsurgical or related procedures, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent and associated structures and their impact on the human body.
- **§54.1-2711** - Any person shall be deemed to be practicing dentistry who
  - (i) uses the words dentist, or dental surgeon, the letters D.D.S., D.M.D., or any letters or title in connection with his name, which in any way represents him as engaged in the practice of dentistry;
  - (ii) holds himself out, advertises or permits to be advertised that he can or will perform dental operations of any kind;
  - (iii) diagnoses, treats, or professes to diagnose or treat any of the diseases or lesions of the oral cavity, its contents or contiguous structures, or
  - (iv) extracts teeth, corrects malpositions of the teeth or jaws, takes impressions for the fabrication of appliances or dental prosthesis, supplies or repairs artificial teeth as substitutes for natural teeth, or places in the mouth and adjusts such substitutes.No dentist shall be supervised within the scope of the practice of dentistry by any person who is not a licensed dentist.

#### **PRACTICE OF DENTISTRY BY PROFESSIONAL BUSINESS ENTITIES**

- **§54.1-2717** - A. No corporation shall be formed or foreign corporation domesticated in the Commonwealth for the purpose of practicing dentistry other than a professional corporation as permitted by Chapter 7 (§ 13.1-542 et seq.) of Title 13.1.  
B. No limited liability company shall be organized or foreign limited liability company domesticated in the Commonwealth for the purpose of practicing dentistry other than a professional limited liability company as permitted by Chapter 13 (§ 13.1-1100 et seq.) of Title 13.1.  
C. Notwithstanding the provisions of subsections A and B, dentists licensed pursuant to this chapter may practice as employees of the dental clinics operated as specified in subsection A of § 54.1-2715.
- **§54.1-2718** - A. No person shall practice, offer to practice, or hold himself out as practicing dentistry, under a name other than his own. This section shall not prohibit the practice of dentistry by a partnership under a firm name, or a licensed dentist from practicing dentistry

as the employee of a licensed dentist, practicing under his own name or under a firm name, or as the employee of a professional corporation, or as a member, manager, employee, or agent of a professional limited liability company or as the employee of a dental clinic operated as specified in subsection A of § 54.1-2715.

B. A dentist, partnership, professional corporation, or professional limited liability company that owns a dental practice may adopt a trade name for that practice so long as the trade name meets the following requirements:

1. The trade name incorporates one or more of the following: (i) a geographic location, e.g., to include, but not be limited to, a street name, shopping center, neighborhood, city, or county location; (ii) type of practice; or (iii) a derivative of the dentist's name.
2. Derivatives of American Dental Association approved specialty board certifications may be used to describe the type of practice if one or more dentists in the practice are certified in the specialty or if the specialty name is accompanied by the conspicuous disclosure that services are provided by a general dentist in every advertising medium in which the trade name is used.
3. The trade name is used in conjunction with either (i) the name of the dentist or (ii) the name of the partnership, professional corporation, or professional limited liability company that owns the practice. The owner's name shall be conspicuously displayed along with the trade name used for the practice in all advertisements in any medium.
4. Marquee signage, web page addresses, and email addresses are not considered to be advertisements and may be limited to the trade name adopted for the practice.

### **PRACTICE LOCATIONS**

- **§ 54.1-2708.3** - No person shall operate a mobile dental clinic or other portable dental operation without first registering such mobile dental clinic or other portable dental operation with the Board, except that mobile dental clinics or other portable dental operations operated by federal, state, or local government agencies or other entities identified by the Board in regulations shall be exempt from such registration requirement.
- **§54.1-2709.4.B(4)** – requires health care institutions licensed by the Commonwealth to report any type of disciplinary action taken against an oral and maxillofacial surgeon.
- **§54.1-2711.1** – Temporary licenses for persons enrolled in advanced dental education programs authorize the holder to perform patient care activities associated with the program in which he is enrolled that take place only within educational facilities owned or operated by, or affiliated with, the dental school or program. Temporary licenses issued pursuant to this section shall not authorize a licensee to practice dentistry in nonaffiliated clinics or private practice settings.
- **§54.1-2712(3)** - Dental students who are enrolled in accredited D.D.S. or D.M.D. degree programs performing dental operations, under the direction of competent instructors (i) within a dental school or college, dental department of a university or college, or other dental facility within a university or college that is accredited by an accrediting agency recognized by the United States Department of Education; (ii) in a dental clinic operated by a nonprofit organization providing indigent care; (iii) in governmental or indigent care clinics in which the student is assigned to practice during his final academic year rotations; (iv) in a private dental office for a limited time during the student's final academic year when under the direct tutorial supervision of a licensed dentist holding appointment on the dental faculty of the school in which the student is enrolled; or (v) practicing dental hygiene in a private dental

office under the direct supervision of a licensed dentist holding appointment on the dental faculty of the school in which the student is enrolled;

- **§54.1-2712.1.B(1)** - A person holding a restricted volunteer license under this section shall only practice in public health or community free clinics that provide dental services to underserved populations.
- **§54.1-2713.C** – a faculty license permits the holder to perform all activities that a person licensed to practice dentistry would be entitled to perform and that are part of his faculty duties, including all patient care activities associated with teaching, research, and the delivery of patient care, which take place only within educational facilities owned or operated by or affiliated with the dental school or program.
- **§54.1-2715(A)** - temporary permits may be issued to dentists who serve as clinicians in dental clinics operated by:
  - (a) the Virginia Department of Corrections,
  - (b) the Virginia Department of Health,
  - (c) the Virginia Department of Behavioral Health and Developmental Services, or
  - (d) a Virginia charitable corporation granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as a clinic for the indigent and uninsured that is organized for the delivery of primary health care services:
    - (i) as a federal qualified health center designated by the Centers for Medicare and Medicaid Services or
    - (ii) at a reduced or sliding fee scale or without charge.
- **§54.1-2716** - It shall be unlawful for any dentist to practice his profession in a commercial or mercantile establishment, or to advertise, either in person or through any commercial or mercantile establishment, that he is a licensed practitioner and is practicing or will practice dentistry in such commercial or mercantile establishment. This section shall not prohibit the rendering of professional services to the officers and employees of any person, firm or corporation by a dentist, whether or not the compensation for such service is paid by the officers and employees, or by the employer, or jointly by all or any of them. Any dentist who violates any of the provisions of this section shall be guilty of a Class 1 misdemeanor. For the purposes of this section, the term "commercial or mercantile establishment" means a business enterprise engaged in the selling of commodities or services unrelated to the practice of dentistry or the other healing arts.

## **DUTIES OF HEALTH PROFESSIONALS**

- **§ 32.1-127.1:03.A.** There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.
- **§ 32.1-127.1:03.B.**
  - "Health care entity" means any health care provider, health plan or health care clearinghouse.
  - "Health care provider" means those entities listed in the definition of "health care provider" in § [8.01-581.1](#), except that state-operated facilities shall also be considered health care providers for the purposes of this section. Health care provider shall also include all persons who are licensed, certified, registered or permitted or

who hold a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine.

- **§ 8.01-581.1.**
  - "Health care provider" means (i) a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, dentist, pharmacist, registered nurse or licensed practical nurse or a person who holds a multistate privilege to practice such nursing under the Nurse Licensure Compact, nurse practitioner, optometrist, podiatrist, physician assistant, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, clinical social worker, professional counselor, licensed marriage and family therapist, licensed dental hygienist, health maintenance organization, or emergency medical care attendant or technician who provides services on a fee basis; (ii) a professional corporation, all of whose shareholders or members are so licensed; (iii) a partnership, all of whose partners are so licensed; (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions conducted by and for those who rely upon treatment by spiritual means alone through prayer in accordance with a recognized church or religious denomination; (v) a professional limited liability company comprised of members as described in subdivision A 2 of § 13.1-1102; (vi) a corporation, partnership, limited liability company or any other entity, except a state-operated facility, which employs or engages a licensed health care provider and which primarily renders health care services; or (vii) a director, officer, employee, independent contractor, or agent of the persons or entities referenced herein, acting within the course and scope of his employment or engagement as related to health care or professional services.
- **§ 54.1-2403.3** Medical records maintained by any health care provider as defined in § 32.1-127.1:03 shall be the property of such health care provider or, in the case of a health care provider employed by another health care provider, the property of the employer. Such health care provider shall release copies of any such medical records in compliance with § 32.1-127.1:03 or § 8.01-413, if the request is made for purposes of litigation, or as otherwise provided
- **§ 54.1-2404.** Upon the request of any of his patients, any health care provider licensed or certified by any of the boards within the Department, except in the case of health care services as defined in Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2, shall provide to such patient an itemized statement of the charges for the services rendered to the requesting patient regardless of whether a bill for the services which are the subject of the request has been or will be submitted to any third party payer including medical assistance services or the state/local hospitalization program.
- **§ 54.1-2405.A.** No person licensed, registered, or certified by one of the health regulatory boards under the Department shall transfer records pertaining to a current patient in conjunction with the closure, sale or relocation of a professional practice until such person has first attempted to notify the patient of the pending transfer, by mail, at the patient's last known address, and by publishing prior notice in a newspaper of general circulation within the provider's practice area, as specified in § 8.01-324.

**DUTIES RESTRICTED TO DENTISTS BY REGULATION**

- **18VAC60-21-60.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...
- **18VAC60-21-90.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...
- **18VAC60-21-110** - 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.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.
- **18VAC60-21-130** - 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.