



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Board of Dentistry, Department of Health Professions
VAC Chapter Number:	18 VAC 60-20-10 et seq.
Regulation Title:	Regulations Governing the Practice of Dentistry and Dental Hygiene
Action Title:	Voluntary practice and temporary licensure
Date:	4/4/03

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The Board of Dentistry is recommending that 18 VAC 60-20-10 et seq. be amended to comply with Chapters 740 and 549 of the 2002 Acts of the Assembly. Chapter 740 mandated that the board promulgate regulations for an out-of-state practitioner to be licensed to volunteer his services to a non-profit organization. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute.

Chapter 549 of the 2002 Acts of the Assembly expands the use of temporary permits to allow eligible graduates to serve as clinicians in public and charitable dental clinics. The enactment clauses on both bills required the board to adopt emergency regulations, and the proposed regulations are identical to and must replace those regulations prior to their expiration on July 18, 2003

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

House Bill 1900 of the 2003 General Assembly eliminated the requirement that a volunteer organization using out-of-state licensees have “no paid employees” and provide health care to underserved populations “throughout the world”. There was an emergency clause to implement the change from the date of passage. Therefore, those requirements were eliminated in the final regulations.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On April 4, 2003, the Board of Dentistry adopted final amendments to 18 VAC 60-20-10 et seq., Regulations Governing the Practice of Dentistry and Dental Hygiene.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

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

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

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

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

The specific legal mandate to promulgate the regulation for the provision of voluntary health care services by out-of-state practitioners in clinics in underserved areas sponsored by nonprofit organizations is found in Chapter 740 of the 2002 Acts of the Assembly.

<http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+CHAP0740>

The specific legal mandate to promulgate the regulation for issuance of temporary permits to qualified graduates of dental programs is found in Chapter 549 of the 2002 Acts of the Assembly.

<http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+CHAP0549>

The Office of the Attorney General has certified by letter that the Board has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amended regulation is to expand the opportunities for dentists or dental hygienists to be authorized to provide treatment to populations in Virginia that are underserved in their access to dental care. The regulations for voluntary practice will ensure that out-of-state practitioners who are registered and authorized to provide treatment to patients have provided sufficient information to determine their eligibility and their standing with the licensing board of their state. While the treatment is being provided free of charge to underserved populations in the state, the Board needs to carry out its statutory mandate to protect the public health, safety and welfare. Therefore, basic information on licensure must be verified by the board of the licensing state to ensure that a practitioner whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations does not come into Virginia to practice, even on a voluntary basis.

Regulations for issuance of a temporary permit enable a person to practice in a public health clinic for up to two years or until the second June 30th after issuance. Current regulations were more restrictive and only permitted practice until the release of grades of the next licensure examination after issuance of the temporary permit. Amendments will also allow a person to take an examination during the course of holding a temporary permit rather than being required to take the first examination available. Such amendments allow the practitioner more flexibility and potentially make his services in a public clinic available for a longer period of time. Since the temporary permit holders have completed their education and training to practice, the Board

believes the amendments are consistent with the Code and with their responsibility to protect the public in provision of dental and dental hygiene services.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Chapter 740 of the 2002 Acts of the Assembly provides specific conditions under which a health care practitioner who is licensed in another state can provide free care in underserved areas of Virginia. Statutory requirements include: 1) that they do not regularly practice in Virginia; 2) that they hold a current valid license or certificate in another U. S. jurisdiction; 3) that they volunteer to provide free care; 4) that they file copies of their licenses or certificates in advance with the Board; 5) that they notify the Board of the dates and location of services; and 6) that they acknowledge in writing that they will only provide services within the parameters stated in the application. The statute also provides specific requirements for the non-profit organization sponsoring provision of health care and allows the Board to charge a fee for each practitioner.

As also provided by the statute, the Board has the right to deny practice to any person whose license or certificate has been previously revoked or suspended, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations. In order to protect the health, safety and welfare of the consuming public and to ensure that the care provided by out-of-state practitioners will be minimally competent, the Board will use the information garnered from the application and verification from other states to determine whether the practitioner meets the criteria set forth in the law.

Chapter 549 of the 2002 Acts of the Assembly provides the specific locations in which an eligible graduate of a dental program can provide services with a temporary permit issued by the Board. Such permits are currently issued for work in clinics operated by the Department of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services. With the passage of HB1055, a graduate with a temporary permit may also work in a clinic operated by a charitable organization.

Regulations are amended to make the expiration of such a permit consistent with the statute, which states that it is valid for no more than two years and shall expire on the second June 30 after issuance or when the permit holder ceases to be employed at the clinic. The permit may be reissued or revoked at the discretion of the Board. Amendments will eliminate the provision that the permit is valid until the release of grades of the next licensure examination given in the Commonwealth and the requirement that the permit holder take the next licensure examination given immediately after issuance. Unless there are extraordinary circumstances preventing him from doing so, the permittee is required to take the licensure examination during the term of the temporary permit.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantages to the public of implementing the amended regulations for voluntary practice are as follows: a) additional practitioners may be available to staff voluntary or public clinics, especially in the Southwestern part of the state with proximity to several other states; b) a requirement for licensure in another state to be verified will ensure that the practitioner holds a current, unrestricted license; and c) the requirement for a notarized statement from a representative of the nonprofit organization will ensure compliance with provisions of law for voluntary practice. The primary advantages to the public of implementing the amended regulations for temporary permits are as follows: a) additional practitioners may be available to staff public clinics and b) graduates with temporary permits will not be required to take the first available examination and be able to more fully prepare for its passage.

There are no disadvantages to the public as all amendments are intended to provide better access to qualified practitioners who are duly licensed in another state.

There are no advantages or disadvantages to the agency; the amended regulation does not impose a new responsibility on the Board. Since the number of practitioners seeking registration for voluntary practice is expected to remain very small, it does not involve additional cost or staff time. Likewise, the Board already issues temporary permits. The amended regulations will not increase the number but may allow some graduates to practice longer with a temporary permit.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

A public hearing was held before the Board of Dentistry at the Department of Health Professions in Richmond on January 10, 2003. No comment was presented at that time nor was any written or electronically submitted comment received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

18 VAC 60-20-90. Temporary permit, teacher's license and full-time faculty license.

Regulations are amended to make the expiration of such a permit consistent with the statute, which states that it is valid for no more than two years and shall expire on the second June 30 after issuance or when the permit holder ceases to be employed at the clinic. Amendments will eliminate the provision that the permit is valid until the release of grades of the next licensure examination given in the Commonwealth and the requirement that the permit holder take the next licensure examination given immediately after issuance.

A new section (**18 VAC 60-20-106**) is added to specify the requirements for registration of out-of-state licensees to register for voluntary practice in Virginia.

The final amended regulations provide that a practitioner who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;
2. Provide a complete list 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, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of the applicable section of the Code of Virginia.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action would not strengthen or erode the authority and rights of parents, encourage or discourage economic self-sufficiency, strengthen or erode the marital commitment or increase or decrease disposable family income. The ability of out-of-state practitioners to provide health care services at no charge to persons in underserved areas may benefit a small number of families who have limited access to such services.