



Final Regulation Agency Background Document

Agency name	Board of Dentistry, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 60-20
Regulation title	Regulations Governing the Practice of Dentistry and Dental Hygiene
Action title	Temporary license for dental residents
Document preparation date	4/15/05

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Chapter 754 of the Acts of the Assembly required the adoption of an “emergency” regulation by the Board of Dentistry to comply with statutory language in § 54.1-2711.1 and the second enactment clause in HB 1049 passed by the 2004 General Assembly. § 54.1-2711.1 B authorizes the Board to adopt regulations for licensure of persons enrolled in advanced dental education programs. The proposed action replaces the emergency regulation currently in effect by setting an application and renewal fee and establishing the requirements for issuance of a temporary license and for practice by a dentist under such a license.

Statement of final agency action

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

On April 15, 2005, the Board of Dentistry adopted a final regulation for 18VAC60-20-10 et seq. to establish the issuance of a temporary resident license in dentistry.

Legal basis

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

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Dentistry 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. ...

In § [54.1-2711.1](#) of the Dental Practice Act, the Board of Dentistry is authorized to issue a temporary license, as prescribed in regulations:

A. Upon recommendation by the dean of the school of dentistry, the Board may issue a temporary annual license to practice dentistry to persons enrolled in advanced dental education programs, serving as dental interns, residents or post-doctoral certificate or degree candidates in hospitals or schools of dentistry that maintain dental intern, residency or post-doctoral programs accredited by the Commission on Dental Accreditation of the American Dental Association. No such license shall be issued to a dental intern or resident or post-doctoral certificate or degree candidate who has not completed successfully the academic education required for admission to examination given by the Board. Such license shall expire upon the holder's graduation, withdrawal or termination from the relevant program.

B. The Board may prescribe such regulations not in conflict with existing law and require such reports from any hospital or the school of dentistry operating an accredited advanced dental education program in the Commonwealth as may be necessary to carry out the provisions of this section.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the action is to comply with the statutory mandate in the enactment clause of Chapter 754 of the 2004 Acts of the Assembly and prescribe those regulations necessary to carry out the provisions of § 54.1-2711.1 on the issuance of temporary annual licenses for persons enrolled in advanced dental education programs. By granting a limited license and requiring oversight from a licensed member of the dental program, the Board will authorize practice and the prescribing of controlled substances with appropriate provisions in place to protect the health and safety of citizens treated in dental clinics by persons holding a temporary resident license. Regulations clearly provide that licensure only extends for the duration of the time in a graduate or post-doctoral program and is confined to work in an outpatient clinic that is a recognized part of an advanced dental education program. The new provision in Chapter 27 of Title 54.1 and proposed regulations to implement the law will authorize practice in dental programs on a par with licensure of interns and residents enrolled in advanced medical programs.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Section 20 is amended to establish an application fee of \$55 and an annual renewal fee of \$35 for a temporary resident license. Section 91 is adopted to: 1) set out the educational requirements for issuance of a temporary license, including a recommendation from the dean or director of the advanced dental program; 2) establish the limitations on practice; 3) provide for renewal of the license based on continued recommendation by the program and limited to five times; and 4) specify that the temporary license holder is accountable to a licensed dentist who is a member of staff where the residency or internship is being served.

Issues

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

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

If there are no disadvantages to the public or the Commonwealth, please indicate.

1) The advantages to the public include the expansion of dental services available to persons served in the dental school at MCV or in outpatient dental clinics that are a recognized part of an advanced dental education program. While resident or post-doctoral fellows have been working in those clinics, they have been unable to prescribe controlled substances without a license issued by the state. Such a license is necessary to obtain a controlled substance registration from the Drug Enforcement Administration, so their practice has been severely hampered. Now, dental residents will be able to practice in much the same way as medical residents who provide services at MCV and related clinics. With oversight by members of the dental school staff,

limitations on employment outside the dental program and requirements for adherence to standards of the Commission on Dental Accreditation, the practice of dentists with a temporary resident license is more closely monitored than that of a dentist holding a full license for practice. With such requirements in place and with the temporary licensee subject to disciplinary action by the Board, there are no disadvantages to the public.

2) There are no advantages or disadvantages to the agency or the Commonwealth. Given the limited number of persons who will seek a resident license and the limited scope of their practice, the Board does not expect the licensing and disciplinary activities to become burdensome. Processing of initial applications may be time-consuming, but thereafter, the annual renewals and handling new applications should be routine in nature.

3) There is no other pertinent matter of interest related to this action.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There were no changes made to the proposed regulation since its publication.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published on January 10, 2005 with a 60-day comment period ending on March 11, 2005. A public hearing on proposed regulations was held on January 21, 2005. There were no public comments submitted.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20		Sets fees and renewal schedules for all regulated entities under the Board	Currently, there are no fees established for a temporary resident’s license, so the proposed rules set the schedule for annual expiration of a license at June 30 th , set the

n/a	91	n/a	<p>application fee at \$55 and the annual renewal fee at \$35. A fee for a late renewal is set at \$15.</p> <p><i>Currently, other special licenses, such as a teacher's license, expire on June 30th. The Board has included the resident license among the list of those that have a June expiration date.</i></p> <p><i>Since the resident's license under Dentistry is modeled in law and regulation after the intern/resident license in Medicine, the Board proposes to charge the same fees. While the fees are a fraction of those charged to fully licensed dentists, there are severe limitations on practice by residents with a temporary license, so the lesser fee is deemed appropriate.</i></p> <p>Subsection A sets the requirements for issuance of a temporary license to include:</p> <ol style="list-style-type: none"> 1. Successful completion of a D.D.S. or D.M.D. dental degree program required for admission to board-approved examinations and 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. <p><i>(Subsection A of § 54.1-2711.1 requires that an applicant for the license must have successfully completed the academic education required for admission to examination given by the Board, so the regulation specifies what evidence must be provided to verify completion.)</i></p> <ol style="list-style-type: none"> 2. Submission a recommendation from the dean of the dental school or the director of the accredited graduate program specifying the applicant's acceptance as an intern, resident or post-doctoral certificate or degree candidate in an advanced dental education program. The beginning and ending dates of the internship, residency or post-doctoral program must be specified. <p><i>(Since enrollment in an advanced dental education program is a statutory requirement for a temporary license, the regulations set out the evidence required to verify such enrollment and the length of the program. The law specifies that the license expires upon the holder's graduation, withdrawal or termination from the relevant program.)</i></p> <p>Subsection B specifies that the temporary</p>
-----	----	-----	--

			<p>license applies only to practice in the hospital or outpatient clinics of the hospital or dental school where the internship, residency or post-doctoral time is served. Outpatient clinics in a hospital or other facility must be a recognized part of an advanced dental education program.</p> <p><i>(The temporary license is valid only during the course of enrollment in a program and does not permit practice outside the program.)</i></p> <p>Subsection C states that the temporary license may be renewed annually, for up to five times, upon the recommendation of the dean of the dental school or director of the accredited graduate program.</p> <p><i>(Renewal is allowed for up to 5 times to accommodate those dentists who may be enrolled in a six-year advanced residency in a specialty area of practice.)</i></p> <p>D. 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 candidacy is served. The temporary licensee is prohibited from employment outside of the advanced dental education program where a full license is required.</p> <p><i>(The temporary license does not authorize independent practice and is issued to individuals who have not been examined and found competent for a full license to practice dentistry. Therefore, the oversight by and accountability to a licensed member of the dental faculty is necessary to ensure public health and safety.)</i></p> <p>F. 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.</p> <p><i>(Advanced dental education programs approved by the Commission on Dental Accreditation maintain standards for practice as applicable to each of the specialty programs. Adherence to those standards is necessary for continued, temporary licensure by the Board.)</i></p>
--	--	--	---

Family impact

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

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