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Final Regulation Agency Background Document

Agency name	Board of Dentistry, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC60-30
VAC Chapter title(s)	Regulations Governing the Practice of Dental Assistants
Action title	Requirements for educational programs and registration of DAII
Date this document prepared	9/13/20

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board has modified the educational qualifications for registration of a dental assistant II by moving to a competency-based program in which basic didactic course work is followed by clinical training under the direction and supervision of a dentist who has successfully completed a calibration exercise on evaluating the clinical skills of a student.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DANB = Dental Assisting National Board

CRFDA = Certified Restorative Functions Dental Assistant

Statement of Final Agency Action

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 September 11, 2020, the Board of Dentistry amended 18VAC60-30-10 et seq., Regulations Governing the Practice of Dental Assistants.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the impetus for the regulatory action. The Board received a petition for rulemaking in 2013 to allow a person who has completed the CRFDA certification issued by DANB to become a DAII without attending dental assisting school. The Board declined the petition because there are wide variances in the duties of an “expanded duty dental assistant” among various states, and the CRFDA certification does not cover all duties that may be performed by a DAII in Virginia. The Board did agree to take the matter under advisement and to refer it to a committee for further review.

For several years, the Board has been discussing the need to re-examine the requirements to determine whether they could be made less burdensome and costly, and that is the impetus for this regulatory action.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

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:

1. *To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
2. *To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
3. *To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- ...
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. ...*

Specific authority for regulation of the profession of dental assisting is found in Chapter 27 of Title 54.1:

§ 54.1-2729.01. Practice of dental assistants.

- A. A person who is employed to assist a licensed dentist or dental hygienist by performing duties not otherwise restricted to the practice of a dentist, dental hygienist, or dental assistant II, as prescribed in regulations promulgated by the Board may practice as a dental assistant I.*
- B. A person who (i) has met the educational and training requirements prescribed by the Board; (ii) holds a certification from a credentialing organization recognized by the American Dental Association; and (iii) has met any other qualifications for registration as prescribed in regulations promulgated by the Board may practice as a dental assistant II. A dental assistant II may perform duties not otherwise restricted to the practice of a dentist or dental hygienist under the direction of a licensed dentist that are reversible, intraoral procedures specified in regulations promulgated by the Board.*

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The proposed regulatory action is to amend the educational requirements to become a dental assistant II from a program based on completion of required hours to a competency-based program based on satisfactory completion of didactic course work and clinical experiences. The expanded duties permitted for practice by a DAII in Virginia are outside the scope of practice for dental assistants in most other states. However, the current qualifications for a DAII appear to be more burdensome and costly that most dental assistants can afford. Therefore, the Board is proposing to modify the qualifications to a competency-based model that would allow a well-

trained assistant to complete the coursework and clinical training in fewer hours. To ensure some standardization in the determination of competency by supervising dentists, they will be required to undergo a calibration of the procedures in which they are training. The combination of didactic hours, competency determination in specific procedures, and both written and clinical examination should provide evidence of competency to protect the public health and safety.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Following recommendations from the Regulatory Advisory Panel, the Board amended the educational requirements to become a dental assistant II from a program based on completion of required hours to a competency-based program based on satisfactory completion of didactic course work and clinical experiences.

There will be a new section (18VAC60-30-116) to specify the requirements for educational programs training persons for registration as dental assistants II to include requirements for the program to be accredited by the Commission on Dental Accreditation of the American Dental Association; to have a program coordinator who is registered in Virginia as a dental assistant II or licensed in Virginia as a dental hygienist or dentist; to have a clinical practice advisor who is a licensed dentist in Virginia; to have a registered dental assistant II who assists in teaching the laboratory training component of the program with a minimum of two years' experience in performing clinical dental assisting; to have a participation agreement with any dentist who has successfully complete a calibration exercise on evaluating the clinical skills of a student and who agrees to supervise clinical experience.

The clinical experience component with live patients must be under the direct and immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist has to attest to successful completion of the clinical competencies and restorative experiences.

Section 120 is amended to delete a certain number of hours in the didactic portion to a competency-based program that includes basic histology, understanding of the periodontium and temporal mandibular joint, pulp tissue and nerve innervation, occlusion and function, muscles of mastication and any other item related to the restorative dental process. A written examination is required at the conclusion of didactic coursework.

The laboratory training hours are also reduced but specified to be completed on a manikin simulator to competency. Clinical experience applying the techniques learned in the preclinical coursework and laboratory training may be completed in a dental office on a live patient in the three modules with specified components. A clinical competency exam is also required.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

- 1) The primary advantage to the public is the possibility of more access to affordable dental care through greater utilization of expanded duty dental assistant. If dental assistants are appropriately trained in the laboratory on a manikin simulator and then have clinical experience with a calibrated dentist, there should be no disadvantages to the changes.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 “To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system...” The rules for education and training of dental assistants II and are intended to protect the public receiving such services. Therefore, the proposed amendments are a foreseeable result of the statute requiring the Board to protect the safety and health of patients in the Commonwealth.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected - None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

There was a public comment period from 1/20/20 to 3/20/20; a public hearing was held on 2/28/20.

Commenter	Comment	Agency response
Pamela Kitner Rachel Stanley Va. Dental Hygienist Association	To amend section 120 A to allow, in addition to the requirement to be a certified dental assistant, the credential of an active dental hygiene license to count as a prerequisite for entry into an educational program for registration as a Dental Assistant II	The Board concurred with the request and amended its proposed regulation.
Margaret Green	Same comment	Same response
Misty Mesimer	At the public hearing, commented in support of the proposed education requirements for DAII and feels that this will support forthcoming proposed training.	The Board concurs.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
120	Subsection A was not amended in the previous stage	An amendment to subsection A added another pathway as a prerequisite for entry into an educational program preparing a person for registration as a dental assistant II	The change will allow a person with an active license as a dental hygienist to use that as the prerequisite for a DAII education and training program. <i>The change was made in response to comments on the proposed regulation. In reviewing the requirements for the certified dental assistant certification (the current prerequisite for DA II registration), the Board determines that a dental hygienist would have sufficient knowledge of infection control, etc. to enter a DAII program.</i>



Detail of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. ** Put an asterisk next to any substantive changes.*

Current section number	New section	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
60		Sets out the duties that may be delegated under the direction and direct supervision of a dentist	The modules currently set out in section 60 do not match up with the modules for training and clinical experience in the proposed regulations, so the specific listing of six modules has been deleted. Subsection C of section 120 states that a dental assistant II may be registered with the specified competencies set out in that section. A dentist may delegate tasks within those competencies.
	116		<p>Section 116 is added to specify the requirements for educational programs training persons for registration. Such programs have the following requirements:</p> <ol style="list-style-type: none"> 1. Accredited by the Commission on Dental Accreditation of the American Dental Association. <i>Accreditation by CODA is currently required in subsection B of section 120.</i> 2. The program shall have a program coordinator who is registered in Virginia as a dental assistant II or licensed in Virginia as a dental hygienist or dentist. The program coordinator shall have administrative responsibility and accountability for operation of the program. <i>Because the program will be competency-based rather than measured by a specified number of hours, the Board needs to ensure that the didactic and laboratory education is the responsibility of a person registered or licensed and accountability for the quality of the program.</i> 3. The program shall have a clinical practice advisor who must be a licensed dentist in Virginia. The clinical practice advisor shall assist in the laboratory training component of the program and conduct the calibration exercise for dentists who supervise the student clinical experience. <i>The laboratory and clinical components of the program are critical to assurance of competency and must be overseen by a licensed dentist. Likewise, it is essential that the calibration exercises are conducted by the clinical advisor to ensure consistency and competency.</i>

			<ol style="list-style-type: none"> 4. A dental assistant II who assists in teaching the laboratory training component of the program must have a minimum of two years' experience in performing clinical dental assisting. <i>Again, the laboratory component is competency-based, so it is essential to have someone assisting with the manikin simulator who has substantial clinical experience.</i> 5. The program must enter into a participation agreement with any dentist who agrees to supervise clinical experience. The dentist shall successfully complete a calibration exercise on evaluating the clinical skills of a student. The dentist supervisor may be the employer of the student. <i>The program is designed to allow the clinical experience on live patients to occur in a dental office, so the dentist must learn through calibration exercise how to evaluate the clinical skills of a student and determine competency.</i> 6. Each program shall enroll practice sites for clinical experience which may be a dental office, non-profit dental clinic or at an educational institution clinic. <i>In order to expand the number of clinical experiences, the Board allows a variety of dental practices to serve clinical sites – including non-profit clinics and educational institutions.</i> 7. 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. <i>Regulations require direct and immediate supervision for students working on live patients, so the dentist is responsible for what the student does and must be prepared to correct or adjust as necessary. Before a person can be registered by the Board, the supervising dentist must attest to successful completion of the components practices.</i>
120		Sets out the educational requirements for becoming a dental assistant II	<p>Subsection A is amended in the final action to allow licensure as a dental hygienist to serve as the prerequisite for entry into an educational program preparing a person for registration as a dental assistant II.</p> <p>Subsection B is amended to specify that a student must complete a competency-based program that meets the requirements of section 116. The program must include:</p>

			<p>1. Didactic course work in dental anatomy that includes basic histology, understanding of the periodontium and temporal mandibular joint, pulp tissue and nerve innervation, occlusion and function, muscles of mastication and any other item related to the restorative dental process.</p> <p>2. Didactic course work in operative dentistry to include materials used in direct and indirect restorative techniques, economy of motion, fulcrum techniques, tooth preparations, etch and bonding techniques and systems, and luting agents.</p> <p><i>Current regulations require 50 hours of didactic coursework in dental anatomy and operative dentistry. The specific hour requirement is deleted and replaced with the content that must be included in order to cover the subjects necessary for competency. A written examination is required to test competency. While there is no prohibition on completing coursework online, the program must have a coordinator who is a regulant of the Board and responsible for the quality and content of the didactic coursework.</i></p> <p>Laboratory training must be completed in the following modules</p> <p>a. No less than 15 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-epinephrine retraction cord, and pulp capping procedures and no less than six class I and six class II restorations completed on a manikin simulator to competency;</p> <p><i>The number of hours in amalgam restorations has been reduced from 40 to 15, which the RAP believed was sufficient to cover the training necessary. Placement of a non-epinephrine retraction cord was considered a separate module in the current regulations, but the RAP advised that it is an essential part of every module and should be so stated.</i></p> <p>b. No less than 40 hours of placing and shaping composite resin restorations, placement of a non-epinephrine retraction cord, and pulp capping procedures and no less than 12 class I, 12 class II, five class III, five class IV, and</p>
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			<p>five class V restorations completed on a manikin simulator to competency;</p> <p><i>The hourly requirement for composite resin restorations was reduced from 60 to 40. Many dentists are only doing composite restorations rather than using amalgam, so it is likely that this component will be more prevalent.</i></p> <p>c. At least 10 hours of making final impressions, placement of a non-epinephrine retraction cord, and final cementation of crowns and bridges after preparation, adjustment and fitting by the dentist and no less than four crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a manikin simulator to competency.</p> <p><i>The hourly requirement for the component for making final impressions and final cementation of bridges and crowns was reduced from 20 to 10. Final cementation is a separate component in the current regulation but is included with making final impressions in the proposed regulation.</i></p> <p><i>In each component, there is additional specificity for the number of procedures or tasks that must be completed. So while the number of hours is reduced, the specific tasks must be completed to competency. There are a minimum number of hours in each component, so it is possible to show proficiency within that number. However, it is also possible that a student who does not demonstrate competency will exceed the number of hours. The measurement is competency, rather than hours.</i></p> <p><i>The allowance for up to 20% of the laboratory to be completed as "homework" in a dental office is deleted, so all of the training must be completed in the educational program on a manikin simulator. The program is then able to determine competency in the lab and ensure that the student is ready to move to clinical experience on live patients under the supervision of a dentist.</i></p> <p>Clinical experience applying the techniques learned in the preclinical coursework and laboratory training must be completed in the following modules:</p> <p>a. At least 30 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-</p>
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			<p>epinephrine retraction cord, and no less than six class I and six class II restorations completed on a live patient to competency;</p> <p><i>Similar to the laboratory training, the number of hours is reduced and specified competencies added. The hours for amalgam restorations is reduced from 80 to 30, which the RAP believed was adequate to demonstrate competency. The placement of a non-epinephrine retraction cord is included in each component rather than listed separately.</i></p> <p>b. At least 60 hours of placing and shaping composite resin restorations, placement of a non-epinephrine retraction cord, and no less than six class I, six class II, five class III, three class IV and five class V restorations completed on a live patient to competency;</p> <p><i>The minimum number of hours for composite restorations is reduced from 120 to 60 with competency in specified restorations.</i></p> <p>c. At least 30 hours of making final impressions, placement of non-epinephrine retraction cord, and final cementation of crowns and bridges after preparation, adjustment and fitting by the dentist and no less than four crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a live patient to competency.</p> <p><i>The minimum number of hours in making final impressions is reduced from 40 to 30 and the separate 60 hours of final cementation is eliminated.</i></p> <p>5. Successful completion of the following competency examinations given by the accredited educational programs is required:</p> <p>a. A written examination at the conclusion of didactic coursework; and</p> <p>b. A clinical competency exam.</p> <p><i>The educational program is responsible for the written and clinical examinations rather than the dentist who is supervising the clinical experience and may be the employer of the student.</i></p>
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			<p>C. An applicant may be registered as a dental assistant II with specified competencies set forth in a, b, or c of subdivisions B 3 and B 4.</p> <p><i>Currently, the registration specifies the modules listed in 1-6 in section 60 for which the dental assistant II has completed coursework and clinical training. Subsection C is section 120 specifies that the applicant for DAII registration will provide evidence of competency in modules a, b, or c as set forth in the laboratory training and clinical experience requirements of this section. All applicants are required to complete the didactic portion of the program in dental anatomy and operative dentistry, but an applicant may be trained and competent in one or more clinical components. His or her registration will indicate such competency.</i></p>
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