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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	Elimination of direct pulp-capping as a delegable action
Date this document prepared	March 6, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 determined that 18VAC60-30-120 should be amended to eliminate the practice of direct pulp capping from the list of practices that can be delegated to an appropriately trained dental assistant II. Appropriately trained dental assistants II may still perform delegated tasks related to indirect pulp capping.

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.

DAII = Dental Assistant II

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) that the agency has “adopted final amendments” to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, “On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)].”

On March 6, 2026, the Board of Dentistry adopted final amendments to 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.

The impetus for this regulatory change is concern expressed by members of the Board that the practice of pulp capping is inherently risky and should not be performed by a DAII. Because a dentist must create the exposure of a pulp (tooth nerve) that requires direct pulp capping, the Board believes a dentist should perform the resulting direct pulp capping.

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 of the Board of Dentistry are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

Virginia Code § 54.1-2729.01 requires the Board to promulgate regulations regarding duties dental assistants may perform.

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 is intended to solve.

The rationale for this action is to ensure protection of patients in dental offices. This regulatory change is essential to protect the health, safety, and welfare of citizens because pulp capping is an inherently risky

procedure and the Board believes only Dentists should perform direct pulp capping. The goals of this regulatory change are to prevent DAIs from performing direct pulp capping and the problems the change is intended to solve are a heightened level of risk related to pulp capping when performed by DAIs.

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.

Direct pulp capping is the covering of an exposed dental pulp (tooth nerve) with material to provide protection against external influences and to encourage healing. The Board has added the word "indirect" before "pulp capping" in 18VAC60-30-120(B)(3)(a) and (b) to clarify that a DAI can only perform indirect pulp capping under supervision, rather than direct *and* indirect, as a delegable task.

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 assurance that a procedure with a high level of risk of harm to patients will not be performed by dental assistants. There are no disadvantages to the public.
- 2) There are no primary 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. Any restraint on competition as a result of promulgating these regulations is a foreseeable, inherent, and ordinary result of the statutory obligation of the Board to protect the safety and health of citizens of the Commonwealth. The Board is authorized under § 54.1-2400 "[t]o 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 . . . 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 promulgated regulations do not conflict with the purpose or intent of Chapters 1 or 25 of Title 54.1.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, 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’s 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.

Commenter	Comment	Agency response
Ryan Dunn, VDA via TownHall	Feels the Board has not demonstrated sufficient evidence to warrant prohibiting DALLs from performing direct pulp capping. States that DALLs have performed this procedure for 15 years alongside dentists. Asks the Board to reconsider this action.	The Board is appreciative of the working relationship they have with the VDA over many years and the support they have shown the Board. Board members feel that due to the risk associated with direct pulp capping, and considering the dentist is required to expose the pulp for the procedure, the dentist should be the individual performing the capping. The Board recognizes the important role DALLs in the state play in patient care and is ensuring with this regulatory change that the 52 DALLs with direct pulp capping on their registration may still be involved in the pulp capping process by performing indirect pulp capping procedures.

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.

None.

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 chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
30-120		120(B)(3)(a) and (b) list the training required to be permitted to perform specific delegable tasks as a DAII	<p>(B)(3)(a) and (b) are edited to add "indirect" before "pulp capping" in both provisions.</p> <p>The inclusion of the word "indirect" removes direct pulp capping from a task delegable to a DAII. The Board wished to indicate that DAII's may have been permitted to perform direct pulp capping as a delegable task prior to the regulatory change.</p>