

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Emergency Regulation

Title of Regulation: 18VAC60-21. Regulations Governing the Practice of Dentistry (adding 18VAC60-21-101 through 18VAC60-21-106).

Statutory Authority: §§ 54.1-2400 and 54.1-2708.4 of the Code of Virginia.

Effective Dates: April 24, 2017, through October 23, 2018.

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Preamble:

Regulations for dentists prescribing medications containing opioids are being promulgated as emergency regulations to address the opioid abuse crisis in Virginia. On November 16, 2016, State Health Commissioner Marissa Levine declared the opioid addiction crisis to be a public health emergency in Virginia. In a news conference about the opioid crisis, Governor McAuliffe noted that the declaration would "provide a framework for further actions to fight it, and to save Virginians' lives." One of those "further actions" is adoption of emergency regulations by the Board of Dentistry setting out rules for prescribing opioids.

Section 2.2-4011 of the Code of Virginia authorizes an agency to adopt emergency regulations necessitated by an emergency situation upon consultation with the Attorney General, and the necessity for the action is at the sole discretion of the Governor. The declaration by Commissioner Levine is indeed evidence that such an emergency situation exists in the Commonwealth. In addition, the board is required to adopt regulations by Chapter 291 of the 2017 Acts of Assembly, effective March 3, 2017.

The emergency regulations for the management of acute pain include requirements for the evaluation of the patient, limitations on quantity and dosage, and recordkeeping. A dentist who manages a patient with chronic pain must either refer the patient to a pain management specialist or adhere to the regulations of the Board of Medicine. A dentist who prescribes Schedules II through IV controlled substances is required to complete two hours of continuing education in pain management during the license renewal cycle following the effective date of the emergency regulations.

Part III

Prescribing for pain management

18VAC60-21-101. Definitions.

The following words and terms when used in this part shall have the following meanings unless the context clearly indicates otherwise:

"Acute pain" means pain that occurs within the normal course of a disease or condition or as the result of surgery for which controlled substances may be prescribed for no more than three months.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances may be prescribed for a period greater than three months.

"Controlled substance" means drugs listed in The Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) in Schedules II through IV.

"MME" means morphine milligram equivalent.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

18VAC60-21-102. Evaluation of the patient in prescribing for acute pain.

A. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. If an opioid is considered necessary for the treatment of acute pain, the dentist shall follow the regulations for prescribing and treating with opioids in 18VAC60-21-103 and 18VAC60-21-104.

B. Prior to initiating treatment with a controlled substance containing an opioid for a complaint of acute pain, the dentist shall perform a health history and physical examination appropriate to the complaint, query the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia, and conduct an assessment of the patient's history and risk of substance abuse.

18VAC60-21-103. Treatment of acute pain with opioids.

A. Initiation of opioid treatment for all patients with acute pain shall include the following:

1. A prescription for an opioid shall be a short-acting opioid in the lowest effective dose for the fewest number of days, not to exceed seven days as determined by the manufacturer's directions for use, unless extenuating circumstances are clearly documented in the patient record.
2. The dentist shall carefully consider and document in the patient record the reasons to exceed 50 MME/day.
3. Prior to exceeding 120 MME/day, the dentist shall refer the patient to or consult with a pain management specialist and document in the patient record the reasonable justification for such dosage.
4. Naloxone shall be prescribed for any patient when any risk factor of prior overdose, substance abuse, doses in excess of 120 MME/day, or concomitant use of benzodiazepine is present.

B. If another prescription for an opioid is to be written beyond seven days, the dentist shall:

1. Reevaluate the patient and document in the patient record the continued need for an opioid prescription; and
2. Check the patient's prescription history in the Prescription Monitoring Program.

C. Due to a higher risk of fatal overdose when opioids are prescribed with benzodiazepines, sedative hypnotics, carisoprodol, and tramadol, the dentist shall only co-prescribe these substances when there are extenuating circumstances and shall document in the patient record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

18VAC60-21-104. Patient recordkeeping requirement in prescribing for acute pain.

The patient record shall include a description of the pain, a presumptive diagnosis for the origin of the pain, an examination appropriate to the complaint, a treatment plan, and the medication prescribed (including date, type, dosage, strength, and quantity prescribed).

18VAC60-21-105. Prescribing of opioids for chronic pain.

If a dentist treats a patient for whom an opioid prescription is necessary for chronic pain, he shall either:

1. Refer the patient to a medical doctor who is a pain management specialist; or
2. Comply with regulations of the Board of Medicine, 18VAC85-21-60 through 18VAC85-21-120 (see [33:16 VA.R. 1930-1931 April 3, 2017](#)), if he chooses to manage the chronic pain with an opioid prescription.

18VAC60-21-106. Continuing education required for prescribers.

A dentist who prescribes Schedules II through IV controlled substances during one license renewal cycle shall obtain two hours of continuing education on pain management during the next renewal cycle following April 24, 2017. Continuing education hours required for prescribing of controlled substances may be included in the 15 hours required for renewal of licensure.

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