



**TO:** The Honorable the Members of the Board of Regents

**FROM:** Douglas E. Lentivech  


**SUBJECT:** Proposed Amendment to Section 61.7 of the Regulations of the Commissioner of Education Relating to the Licensing Examination Requirements for Dental Hygienists

**DATE:** February 16, 2016

**AUTHORIZATION(S):**  
 

## SUMMARY

### Issue for Decision (Consent Agenda)

Should the Board of Regents amend subdivisions (b) and (e) of section 61.7 of the Regulations of the Commissioner of Education relating to the licensing examination requirements for dental hygienists?

### Reason for Consideration

Review of policy.

### Proposed Handling

The proposed amendment will be presented to the Full Board for adoption at the February 2016 Regents meeting. A copy of the proposed amendment is attached. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

### Procedural History

The proposed amendment was discussed by the Professional Practice Committee at the November 2015 Regents meeting. A Notice of Proposed Rule Making was published in the State Register on December 2, 2015 for a 45-day public comment

period. The Department received no comments on the proposed amendment. Therefore, an Assessment of Public Comment is not required and no changes to the proposed amendment are needed.

### **Background Information**

In order to become licensed as a dental hygienist in New York State, a candidate must, inter alia, pass a two part licensing examination. Pursuant section 61.7(a)(1) and (2), Part I of the examination is designed to sample knowledge from all areas related to dental hygiene and Part II is an examination in dental hygiene practice, including both comprehensive and clinical components. Currently, for licensing purposes, section 61.7(b) of the Regulations of the Commissioner of Education states that the Department may accept grades acceptable to the State Board of Dentistry on an examination of the National Board Dental Hygiene Examination as meeting the requirements of Part I of the licensing examination, and satisfactory performance on the clinical examination administered by the Northeast Regional Board of Dental Examiners or another acceptable clinical testing agency for Part II of the licensing examination. However, on January 9, 2015, the Northeast Regional Board of Dental Examiners (NERB) changed its name to the Commission on Dental Competency Assessments (CDCA). The proposed amendment to paragraph (b) of section 61.7 of the Regulations of the Commissioner of Education will eliminate the need to amend this section in the future, should CDCA or another clinical testing agency change its name. Instead of specifically naming the acceptable testing agency, the proposed amendment states that the Department may accept satisfactory performance on a clinical examination administered by a clinical testing agency acceptable to the Department for Part II of the licensing examination.

The CDCA Examination in Dental Hygiene consists of two components – the Computer Simulated Clinical Examination (CSCE) and the Patient Treatment Clinical Examination (PTCE). Presently, under section 61.7(e) of the Regulations of the Commissioner of Education, a candidate who fails any component of Part II retains credit for components of that part passed for two subsequent examination administrations. However, before admission to a third administration of the Part II examination may be granted, the candidate must present evidence satisfactory to the Department of completion of remedial education subsequent to the second failure, in a school of dental hygiene registered by the Department, or accredited by an accrediting organization acceptable to the Department. Such remedial education must include completion of 20 clock hours of instruction in each subject failed in the Dental Hygiene Comprehensive component of Part II and completion of 40 clock hours of clinical instruction for failure in the clinical component of Part II. In addition, CDCA requires that candidates failing either the CSCE or the PTCE on three successive attempts must begin the entire examination process again and retake both of these examination components.

CDCA administers the dental hygiene examination for 46 states and Jamaica. Scores are automatically sent to all CDCA participating state boards for candidates taking the CDCA examination. The structure of the examination itself has changed considerably since section 61.7 was last amended in 1987. The CSCE is administered at Prometric testing centers and the candidates are tested on 7 different content areas. As stated previously, section 61.7(e) currently requires 20 clock hours of remedial education in each subject area the candidate failed in the Dental Hygiene

Comprehensive component of Part II. In former versions of the examination, the content areas were separated by topic. Thus, if remedial education was required, candidates would know what topics they failed. However, the examination is now 100 questions, which are not categorized or separated by topic, and the candidates are graded pass/fail, based on the number of questions they have answered correctly. This has created a situation where a candidate, who has failed a component of Part II, cannot satisfy the remedial education requirements of section 61.7(e) because he or she has no way of knowing what topic area or areas he or she failed. In addition, a remediation curriculum does not exist for either the CSCE or the PTCE. This situation has created undue hardship for some candidates for dental hygiene licensure.

Moreover, the remedial education requirements of section 61.7(e) have adversely affected numerous candidates for New York State licensure, who have practiced dental hygiene out of state and are seeking to relocate to this State. There have been instances where out of state candidates who have failed the examination twice and then eventually passed it, and had been practicing dental hygiene in other states for years, have been required to take remedial education to satisfy the requirements of section 61.7(e) for an examination they passed years ago, in order to become licensed in this State. The remedial education requirement in these instances does not further the protection of the public and creates an unnecessary barrier to licensure for such out of state licensure candidates. This may adversely affect New Yorkers' access to dental hygiene services.

Additionally, as stated above, section 61.7(e) currently requires completion of 40 clock hours of clinical instruction for failure in the clinical component of Part II. However, there is a lack of places to send such candidates for the required remedial education because dental hygiene schools cannot take on the liability of having a candidate perform clinical procedures on a patient if they are not enrolled in the school.

The proposed amendment's removal of the remedial education requirements of section 61.7(e) would eliminate all of the aforementioned issues, as well as all the unnecessary barriers to dental hygiene licensure in this State.

### **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That subdivisions (b) and (e) of section 61.7 of the Regulations of the Commissioner of Education be amended, as submitted, effective March 9, 2016.

### **Timetable for Implementation**

If adopted at the February 2016 Regents meeting, the proposed amendment will become effective on March 9, 2016.

## AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6606, 6608, and 6609 of the Education Law

Section 61.7 of the Regulations of the Commissioner of Education is amended, effective March 9, 2016, as follows:

61.7 Licensing examination for dental hygienist.

(a) Content. The examination shall consist of two parts:

(1) Part I. Designed to sample knowledge from all areas related to dental hygiene.

(2) Part II. An examination in dental hygiene practice, including both comprehensive and clinical components the scope and content of which shall be determined by the State Board for Dentistry.

(b) The department may accept grades acceptable to the State Board for Dentistry on an examination of the National Board Dental Hygiene Examination[s] as meeting the requirements of Part I of the licensing examination, and satisfactory performance on [the] a clinical examination administered by [the Northeast Regional Board of Dental Examiners or another] a [acceptable] clinical testing agency acceptable to the department for Part II of the licensing examination.

(c) . . .

(d) . . .

(e) A candidate who fails any component of Part II shall retain credit for components of that part passed, to the extent permitted by the testing agency. [for two subsequent examinations. Before admission to the third administration of Part II may be granted, such candidate shall present evidence satisfactory to the department of completion of instruction subsequent to the second failure, in a school of dental hygiene

registered by the department or accredited by an accrediting organization acceptable to the department, in accordance with the following provisions:

(1) completion of 20 clock hours of instruction in each subject failed in the Dental Hygiene Comprehensive component of Part II; and

(2) completion of 40 clock hours of clinical instruction for failure in the clinical component of Part II.]

(f) Special examination conditions.

(1) An applicant who has completed not less than one academic year in a program of dental hygiene education registered by the department or accredited by an accrediting organization acceptable to the department may be admitted to Part I of the examination. Such applicant shall meet all requirements for admission to the licensing examination, except for the completion of professional education.

(2) An applicant attending a program of dental hygiene education registered by the department, or accredited by an accrediting organization acceptable to the department, may be admitted to Part II during the last year of study and prior to graduation.