



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

**FROM:** Sarah S. Benson *Sarah S. Benson*

**SUBJECT:** Proposed Amendment to Section 61.18 of the Regulations of the Commissioner of Education Relating to the Residency Program Requirement for Dental Licensure

**DATE:** April 23, 2020 *Sharon L. Takoe*

**AUTHORIZATION(S):** *[Signature]*

## SUMMARY

### Issue for Decision (Consent)

Should the Board of Regents amend Section 61.18 of the Regulations of the Commissioner relating to the residency program for dental licensure?

### Reason for Consideration

Review of policy.

### Proposed Handling

The proposed amendment will be presented to the Full Board for adoption as a permanent rule at the May 2020 meeting of the Board of Regents. A copy of the proposed rule is included as Attachment A. Supporting materials for the proposed rule are available upon request from the Secretary to the Board of Regents.

### Procedural History

The proposed amendment was initially presented to the Professional Practice Committee for discussion at the January 2020 meeting of the Board of Regents. A Notice of Proposed Rule Making was published in the State Register on January 29, 2020. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received approximately thirty-six supportive comments on the proposed amendment. However, no changes to the proposed amendment are

recommended at this time. An assessment of public comment is included as Attachment B.

### **Background Information**

Subdivision (3) of section 6604 of the Education Law provides the Department with the authority to establish the experience requirements for dental licensure, provided that such experience must consist of satisfactory completion of a clinically-based postdoctoral general practice or specialty dental residency program, of at least one year's duration, in a hospital or dental facility accredited for teaching purposes by a national accrediting body approved by the Department, and provided, further that any such residency program must include a formal outcome assessment evaluation of the resident's competence to practice dentistry acceptable to the Department.

The American Dental Association's (ADA) Commission on Dental Accreditation (CODA) was established in 1975 and is nationally recognized as the sole organization to accredit dental and dental-related education programs conducted at the postsecondary level. Dental Anesthesiology residency training programs have been accredited by CODA for more than a decade.

Additionally, the ADA established the National Commission on Recognition of Dental Specialties and Certifying Boards (NCRDSCB) to evaluate the process and criteria by which specialties and specialty certifying boards are recognized. NCRDSCB is an independent branch of the ADA and has its own distinct mission. NCRDSCB is independent in its decision-making process to ensure that bias and conflicts of interest are avoided. NCRDSCM also provides an objective evaluation of dental specialties and their certifying boards based on transparent standards that protect and help the public ascertain the importance of educationally qualified and board-certified dental specialists.

On March 11, 2019, NCRDSCB voted to recognize the new specialty of Dental Anesthesiology, joining nine other ADA-recognized dental specialties, 25 years after the first application for this specialty was submitted to the ADA by the American Society of Dentists Anesthesiologists.

In order to obtain a dental general anesthesia certificate from a dental anesthesia residency program, dentist anesthesiologists must complete a minimum of 800 cases of deep sedation/general anesthesia with a minimum of 300 endotracheal intubations, including 50 nasal intubations and 25 other advanced airway techniques. Additionally, since dentist anesthesiologist specialists frequently manage small children and patients with special needs, who often require extensive dental procedures, dentist anesthesiologists are required to provide anesthesia for at least 125 children aged 7 years or younger and for at least 75 patients with special needs.

Currently, paragraph (2) of subdivision (b) of section 61.18 of the Regulations of the Commissioner of Education states that the accredited dental residency programs in a specialty of dentistry shall be in the specialty of endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial pathology, oral and maxillofacial radiology or

another specialty of dentistry, as determined by the Department, for which at least 50 percent of the CODA accredited residency program consists of clinical training in one or more of the aforementioned dental specialties.

As of January 1, 2019, Dental Anesthesiology is now a three-year, instead of a two-year, specialty training program. Presently, unless a dentist is already licensed prior to entering a dental anesthesiology training program, after completion of their three-year specialty program, residents must go back and complete a one-year general practice residency in order to be licensed to practice in this State or have two years of lawful and reputable practice in dentistry in another state and apply for licensure in New York State via endorsement. As a result, most of these residents do not seek licensure in New York State, instead they move out of state to obtain licensure elsewhere. However, it should be noted that four of the seven Dental Anesthesiology programs in the United States are in New York State. Thus, this State is losing qualified dental licensure applicants, with dental anesthesiology specialty training, because dental anesthesiology is not currently on the list of accredited residency programs in a specialty of dentistry that can be used to meet the residency program requirement for dental licensure.

At the same time, the greater demand for the delivery of increasingly complex dental procedures by operating dentists has given rise to a similar demand for a separate dentist anesthesia specialist to concentrate solely on providing the anesthetic, during such procedures in order to enhance patient safety.

The proposed amendment of paragraph (2) of subdivision (b) of section 61.18 of the Regulations of the Commissioner of Education addresses these issues by adding dental anesthesiology to the list of accredited residency programs in a specialty of dentistry that can be used to meet the residency program requirement for dental licensure. The proposed amendment is further intended to improve access to dental anesthesiology services in this State.

### **Related Regent's Items**

January 2020: [Proposed Amendment to Sections 61.18 of the Regulations of the Commissioner of Education Relating to the Residency Program Requirement for Dental Licensure](http://www.regents.nysed.gov/common/regents/files/120ppcd2.pdf) (<http://www.regents.nysed.gov/common/regents/files/120ppcd2.pdf>)

### **Recommendation**

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

VOTED: That subdivision (b) of section 61.18 of the Regulations of the Commissioner of Education be amended, as submitted, effective May 20, 2020.

### **Timetable for Implementation**

If adopted at the May 2020 meeting, the proposed amendment will become effective on May 20, 2020.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to section 207, 6504, 6506, 6507, 6601, 6604, and 6605-a of the Education Law

1. Subdivision (b) of section 61.18 of the Regulations of the Commissioner of Education is amended, as follows:

(b) Residency program. To be acceptable to the department for purposes of licensure under section 6604 of the Education Law, a residency program shall meet the requirements of this section.

(1) The residency program shall be a postdoctoral clinical dental residency program in either general dentistry, or a specialty of dentistry as defined in paragraph (2) of this subdivision, of at least one year's duration in a hospital or dental facility accredited for teaching purposes by an acceptable national accrediting body, which is completed successfully by the applicant prior to the submission to the department of the application for licensure.

(2) The accredited residency program in a specialty of dentistry shall be in the specialty of endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, dental anesthesiology or another specialty of dentistry, as determined by the department, for which at least 50 percent of the accredited residency program consists of clinical training in one or more of the following areas: general dentistry, endodontics, oral and maxillofacial surgery, orthodontics and

dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, and/or dental anesthesiology.

(3) . . .

8 NYCRR § 61.18

ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Proposed Making in the State Register on January 29, 2020, the State Education Department has received the following comments:

1. COMMENT:

Several comments noted that accepting Dental Anesthesiology as a licensure qualifying specialty in New York will increase access to care to underserved populations by increasing the number of dental anesthesia providers in the State who are able to provide sedation to special needs and anxious patients.

DEPARTMENT RESPONSE:

The Department appreciates the supportive comments as it works to both protect the public and provide greater access to oral health services for all New Yorkers and especially our most vulnerable populations.

2. COMMENT:

Dental Anesthesiology faculty from a number of programs across the country were all in support of the proposed regulation amendment and commented that the extra year of General Practice Residency is an unreasonable requirement and adds an additional financial burden on the resident. Despite New York having four of the seven anesthesia programs in the nation, they said that as a result of the current General Practice requirement, most of the best trained dentists in dental anesthesiology are not applying for licenses in New York state.

To that end, several former New York dental anesthesia residents wrote in supporting the amendment and stated that the reason they chose to practice in another state was because of the additional one-year General Practice Residency Requirement or completion of another licensure qualifying specialty.

DEPARTMENT RESPONSE:

On March 11, 2019, the National Commission on Recognition of Dental Specialties and Certifying Boards voted to recognize Dental anesthesiology as the tenth recognized dental specialty of the American Dental Association. Shortly afterwards, the Department began the process of amending the regulations to add Dental Anesthesiology as a licensure qualifying specialty in New York.

3. COMMENT:

Patient safety was also addressed in the supportive comments. One dental student noted that the increased number of dental anesthesiologists would lead to increased patient safety when sedation is required. Another noted that recognition of the specialty would give the public a clear and unambiguous standard for dental anesthesia providers.

DEPARTMENT RESPONSE:

The Department is in agreement that these highly trained specialists will enhance the delivery of safe dental anesthesia to patients requiring or desiring dental sedation.

4. COMMENT:

Three post-grad residency directors in support of the regulation amendment felt that the increased numbers of dental anesthesiologists could respond to the request for more practitioners who can use ventilators during the COVID-19 health crisis.

DEPARTMENT RESPONSE:

The Department agrees that the proposed regulation will increase the number of dental anesthesiologists, however, the comments relating to the COVID-19 crisis are outside the scope of the proposed regulation, therefore no response is needed.