



**TO:** The Professional Practice Committee

**FROM:** Douglas E. Lentivech  


**SUBJECT:** Proposed Amendment of Section 61.4 of the Regulations of the Commissioner of Education Relating to the Endorsement Requirements for Licensure as a Dentist

**DATE:** April 26, 2018

**AUTHORIZATION(S):**  

### SUMMARY

#### Issue for Decision

Should the Board of Regents amend §61.4 of the Regulations of the Commissioner of Education relating to the endorsement requirements for licensure as a dentist?

#### Reason for Consideration

Review of policy.

#### Proposed Handling

The proposed rule will be presented to the Professional Practice Committee for recommendation and to the Full Board for adoption as a permanent rule at the May 2018 meeting of the Board of Regents. A copy of the proposed rule is attached. Supporting materials for the proposed rule are available upon request from the Secretary to the Board of Regents.

#### Procedural History

The proposed rule was presented to the Professional Practice Committee for discussion at the January 2018 Board of Regents meeting. A Notice of Proposed Rule Making was published in the State Register on February 7, 2018 for a 60-day public

comment period. Public comments were received from two separate commenters. An Assessment of Public Comment is attached, however, no change in the proposed rule is recommended at this time.

### **Background Information**

Currently, dentists who are licensed by another jurisdiction of the United States can become licensed as dentists in New York State by endorsement of their license from another state, if they meet certain requirements. These requirements include, but are not limited to: (1) submitting an application to the Department; (2) meeting the education, examination and experience requirements for licensure as a dentist in New York State; (3) be at least 21 years of age; (4) be of good moral character as determined by the Department; (5) be a United States citizen or an alien lawfully admitted for permanent residence in the United States; (6) complete coursework or training in the identification and reporting of child abuse offered by a New York State provider; and (7) lawful and reputable practice in dentistry of not less than eight months during the two years next preceding the filing of the application.

The proposed amendment to §61.4 of the Regulations of the Commissioner of Education would permit dentists with licenses issued by a Canadian province to become licensed dentists in New York State by endorsement of their Canadian license, if they meet all the other licensure by endorsement requirements.

The Commission on Dental Accreditation (CODA) is nationally recognized by the United States Department of Education as the sole agency in the United States to accredit dental schools and programs, including advanced dental education programs and allied dental education programs<sup>1</sup> at the post-secondary level. CODA's mission is to serve the oral health care needs of the public through the development and administration of standards that foster continuous quality improvement of dental and dental related educational programs. CODA accredits more than 1,400 dental educational programs.

By reciprocal agreement, programs that are accredited by the Commission on Dental Accreditation of Canada (CDAC) are recognized by CODA. Thus, graduates of the 10 accredited Canadian dental programs are held to the same standards of in-depth training and quality assurance as graduates of the 66 United States dental schools, which will assist in ensuring that public protection will be maintained as access to dental services is improved in New York State by permitting licensure as a dentist by endorsement of Canadian dentist licenses.

New York State is one of 13 states which share a border (land and/or water) with Canada and three of Canada's 10 dental schools are three hours or less away from the New York State border. Access to dental care is a challenge for New Yorkers in the North Country region of the State. According to the New York State Department of Health's 2014 New York State Oral Health Plan,<sup>2</sup> "there is a striking variability in the

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<sup>1</sup> Allied dental education programs are programs relating to dentistry but not dental programs, such as dental hygiene, dental assisting and dental laboratory programs.

<sup>2</sup> [https://www.health.ny.gov/prevention/dental/docs/oral\\_health\\_plan\\_2014.pdf](https://www.health.ny.gov/prevention/dental/docs/oral_health_plan_2014.pdf)

distribution of dentists regionally across the state. On Long Island, there are more than 105 dentists per 100,000 residents, compared to 52 dentists per 100,000 in the North Country. The actual number may be lower, as some dentists may not provide direct patient care on a full-time basis.” Thus, the proposed amendment would assist in addressing this access issue by providing another potential pool of dental services providers to serve an already seriously underserved area.

In 2007, New York State changed the experience requirement for a dental license to satisfactory completion of a clinically-based postdoctoral general practice or specialty dental residency program, of at least one year's duration (see, Education Law §6604[3]). Currently, New York State is the only state that solely requires a residency for licensure purposes. Under §61.4(a)(2) of the Regulations of the Commissioner of Education, a dentist licensed in another state who is seeking licensure in New York, but has not completed one of these two types of residency programs, must have satisfactory professional experience of at least two years preceding the filing of their New York application.

The experience requirement for a Canadian dental license does not include the satisfactory completion of a clinically-based postdoctoral general practice or specialty dental residency program, of at least one year's duration. This residency requirement has created obstacles for Canadian dentists seeking licensure in New York State and impeded the ability of some New York State dental schools to recruit Canadian dentists for faculty positions. For instance, based on information received by the Department, there have been several Canadian dentist candidates for faculty positions at the University of Buffalo and other schools, who declined faculty position offers because they were unable to obtain unrestricted New York State dental licenses, unless and until they completed a one-year residency program first, regardless of how many years they had practiced dentistry in Canada. Under Education Law §6604-b, the Department may issue a restricted dental faculty license to a full-time faculty member employed at an approved New York State school of dentistry, as long as they meet specified requirements. A restricted dental faculty license authorizes the holder to practice dentistry, as defined in Article 133 of the Education Law, but such practice of dentistry is limited to the school's facilities or the school's clinics, or facilities or clinics with relationships to the school confirmed by formal affiliation agreements. A restricted dental faculty license does not authorize the holder to engage in the private practice of dentistry at any other site.

Permitting licensure as a dentist by endorsement of a Canadian dental license would assist in eliminating this barrier in recruiting dental faculty for some New York State dental schools because Canadian dentists, like dentists licensed in other states who seek licensure in New York, would not have to complete one of the two types of residency programs to become licensed, if they have at least two years of satisfactory professional experience preceding the submission of their licensure application to the Department.

It should also be noted that, currently, §60.5(b) of the Regulations of the Commissioner of Education permits licensure as a physician by endorsement of a Canadian physician license, if certain requirements are met. Additionally, endorsement of licenses issued by other countries for New York State licensure purposes is permitted in the professions of speech-language pathology, audiology, massage therapy and licensed clinical social work.

### **Related Regents Items**

[January 2018](http://www.regents.nysed.gov/common/regents/files/118ppcd1.pdf): Proposed Amendment of §61.4 of the Regulations of the Commissioner of Education Relating to the Endorsement Requirements for Licensure as a Dentist: (<http://www.regents.nysed.gov/common/regents/files/118ppcd1.pdf>)

### **Recommendation**

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

VOTED: That §61.4 of the Regulations of the Commissioner of Education be amended, as submitted, effective May 23, 2018.

### **Timetable for Implementation**

If adopted at the May 2018 Regents meeting, the proposed rule will become effective May 23, 2018.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6506, 6507, and 6604 of the Education Law

1. Section 61.4 of the Regulations of the Commissioner of Education is amended, as follows:

(a) For endorsement of a dental license issued by another jurisdiction of the United States or a Canadian province the applicant shall submit satisfactory evidence of:

- (1) having met all requirements of section 59.6 of this Subchapter; and
- (2) lawful and reputable practice in dentistry or not less than eight months during the two years next preceding the filing of the application.

## 8 NYCRR §61.4

### ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Proposed Rulemaking in the February 7, 2018 State Register, the State Education Department received the following comments:

1. COMMENT:

The Federal Trade Commission of the United States of America (FTC), submitted comments in support of the proposed amendment. The FTC states that its comment on the “proposed amendment builds on [its] extensive experience in two important areas that affect many consumers: oral health care and occupational licensing barriers to providing health care services across state boundaries.” The FTC also summarizes some of its recent law enforcement, research and advocacy activities in these two areas. The FTC further states that its prior “advocacy comments and activities, which underscore the importance of licensure portability to an occupation and consumers, underpin [its comment on the proposed amendment].”

In summary, the FTC states that “[c]ompetition among health professionals, including dentists, have the potential to benefit consumers. By extending New York’s existing process for endorsement to dental licenses issued by Canadian provinces, the proposed amendment would decrease barriers to licensure of Canadian dentists and increase the pool of dentists qualified for licensure. Accordingly, the proposed amendment could potentially increase the supply of dentists, and thereby promote competition and consumer choice, increase access to dental care, and decrease the price of dental services. The proposed amendment may promote such benefits in both underserved areas, such as the North Country region, and other areas of New York. It could also improve the ability of dental schools to recruit Canadian dentists to faculty

positions, which might also increase access to care in nearby underserved communities. In sum, [the federal commission] staff support the proposed amendment because it would likely increase competition among dentists, increase access to dental services, improve dental outcomes, and reduce consumers' dental costs, thereby benefitting New York residents.”

DEPARTMENT RESPONSE:

No response necessary as the comment is supportive. However, the Department appreciates the support as it works to both protect the public and provide greater access to dental care for New Yorkers.

2. COMMENT:

Commenter, who identified himself as a graduate of a California dental school and a holder of a California dentist license, states that he has been working in Canada as a dentist since his graduation and supports the proposed amendment because he would like to work in New York and contribute to the oral health of the population.

DEPARTMENT RESPONSE:

No response necessary as the comment is supportive. However, the Department appreciates the support as it works to both protect the public and provide greater access to dental care for New Yorkers.