

Frequently Asked Questions

Remote Supervision Practice Law

LAW

Where can I find additional guidance and information beyond what the law states?

The best source of further information or clarification is the Board of Dentistry (BOD) website:

https://www.dhp.virginia.gov/Dentistry/dentistry_laws_regs.htm

The Board updated (February 2020) their Guidance Document entitled “Practice of a Dental Hygienist Under Remote Supervision” (60-13). We also suggest emailing questions regarding interpretation of the law to Sandra Reen, BOD Executive Director:

Sandra.reen@dhp.virginia.gov

Can you explain the requirement of two years of experience with 2500 hours? Can it be ‘either/or’?

The law states clearly that the hygienist must have at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience; i.e., experience as a licensed dental hygienist. It is not ‘either/or’.

Is the remote supervision dentist required to take the remote supervision course?

No, but we recommend it. It is easily accessible on the VDHA website.

What Schedule VI drugs can the dental hygienist administer under remote supervision?

The hygienist can administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § [54.1-3408](#). This includes silver diamine fluoride, as interpreted by the Board of Dentistry.

Can the supervising dentist be a retired dentist working at a clinic?

The law states that the remote supervising dentist is required to have an active license from the Virginia BOD and have a dental practice physically located in the Commonwealth. The BOD interprets the language to include a retired dentist who volunteers or is employed by the specified legal settings qualifies as ‘having a dental practice physically located in the Commonwealth’. Please refer to the BOD “Practice of a Dental Hygienist Under Remote Supervision” Guidance Document.

Could a specialty dentist be considered a remote supervising dentist?

There is nothing in the law that prohibits a specialty dentist from being a remote supervising dentist.

Will there be a standardized contract or protocol for remote supervision use?

Because each setting will be different, it is up to the dentist and dental hygienist to develop the protocol that suits their needs for the setting and the services provided. The Remote Supervision toolkits include sample templates.

What happens if the patient does not follow up on the recommended examination by the dentist after the designated 90 day period? Can the hygienist continue to see the patient? If so, for how long; i.e., at what point does the hygienist have to refuse to see the patient?

RESPONSE FROM THE BOARD OF DENTISTRY:

A dental hygienist cannot continue to see a patient after 90 days without direction from the supervising dentist to continue treatment. The supervising dentist cannot authorize continued treatment unless there are emergent circumstances. The supervising dentist decides if there are emergent circumstances that warrant further dental hygiene treatment without an examination by a dentist. If the supervising dentist decides dental hygiene treatment should continue without an examination by a dentist he would be responsible for documenting the emergent circumstance and specifying the hygiene treatment to be provided and when it must be completed.

In effect, the practice protocol developed by the supervising dentist is the initial authorization for a hygienist to provide hygiene treatment under remote supervision for 90 days of treatment. After that 90 day period (absent emergent circumstances), the supervising dentist (or another dentist) must examine the patient and establish the treatment plan for the patient which might address both future dental treatment and dental hygiene treatment and the time spans for such treatment. The dentist decides how often he will see a patient in accord with his professional judgment of the patient's dental needs and the resulting treatment plan. In addition, by statute the dentist must review the patient's records at a minimum of every 10 months. Treatment planning and record review are not synonymous requirements.

Is our remote supervision status considered an independent practice for the dental hygienist?

No. Under remote supervision, we are practicing under the 'direction' of a remote supervising dentist who is accessible and available for communication and consultation with the hygienist during the delivery of dental hygiene services, per the Virginia statutes.

May x-rays be taken under a standing order or only as ordered after consultation? The law states that the remote hygienist can take X-rays 'as ordered by the supervising dentist or consistent with a standing order'. The supervising dentist can stipulate details in the written protocol. Consulting with the dentist prior to taking x-rays is not required under the law.

If I have a three year old or memory care patient, do I still need a verbal confirmation that there is no dentist? The verbal confirmation would then come from the parent or legal guardian/representative of that patient. For instance, if the patient is being seen either through a program like Head Start or an institutional setting, and cannot verbally respond to that question, then it can be addressed in writing to the parent and/or legal representative prior to the rendering of services. The paperwork for consent, etc., would include the required signature acknowledging that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and could include a statement to verify there is no dentist that the patient is seeing regularly.

Is there a time limit to report findings to the dentist? That is not stipulated in the law, but is something that could be included in the written protocol. It might be dependent on factors such as the availability of the supervising dentist, professional judgment at the time of the visit, etc. Other factors include how many patients are seen over a specific time period. If it is a one time event, for instance in a Head Start

classroom, then the reporting time should occur quickly (one/two days); but if the practitioner is seeing eight patients per day, several days per week, such as in a single facility, perhaps consider weekly or bi-weekly. The time period should be included in the written protocol and documented in the patient record.

How many dental hygienists can practice under the remote supervision of the employing dentist?

§ 54.1-2724 of the Code of Virginia states: The Board shall determine **by regulation*** the total number of dental hygienists, including dental hygienists under general supervision and dental hygienists under remote supervision, who may work at one time for a dentist. No dentist shall employ more than two dental hygienists who practice under remote supervision at one time.

*18VAC60-25-50. Utilization of dental hygienists and dental assistants.

GETTING STARTED

How do dental hygienists get started? Do I need to seek out a dentist to provide remote supervision? Or will dentists be seeking hygienists to do remote practice under their supervision?

Opportunities for dental hygienists to practice via remote supervision, could be generated from a number of sources. If you have a targeted population of interest, you could seek out a dentist to provide the required supervision. There have also been organizations advertising to hire a hygienist to work under remote supervision, so be sure to watch for posted positions, including ones from individual dentists. Last, but not least, if you are not a VDHA member, become one, as professional networking is one of many benefits of membership as well as unlimited access to resources provided by VDHA (www.vdha.wildapricot.org)

How can I help move remote supervision forward in my community for long-term care facilities?

There is no right or wrong way to start exploring options. You may contact a local facility directly, or contact the Virginia Health Care Association/Virginia Center for Assisted Living (<https://www.vhca.org/>). This is not a linear process, and will involve discussion and exploration of a variety of options. If you have suggestions, please email VDHA at: President@vdha.org.

Who can I talk to directly that might already be trying remote supervision?

VDHA has identified ‘champions’ in certain venues of practice, e.g. nursing homes, free clinics, Head Start, who will serve as valuable resources as remote supervision expands. These hygienists will be willing to answer questions based on their experience with remote supervision. Their names and contact information are included in the site-specific toolkits available for purchase through the VDHA website.

BILLING/FUNDING

Who pays for the necessary equipment and supplies needed by the dental hygienist?

This is a challenging question, as it will differ, depending on funding. A Federally Qualified Health Center who is seeking to fill a position for a hygienist is more than likely already funded to provide the necessities to support that position and all it entails. For other settings, grant funding might be the best

source for providing a full range of dental hygiene services. The Head Start setting costs would include only clinical supplies and your time as a practitioner, as no special equipment would be needed to provide, for instance, a toothbrush prophylaxis and a fluoride varnish application. Many corporations, health organizations and local non-profit entities offer oral health/health grant funds. The exploratory toolkit includes an extensive list of grant opportunities.

Can the remote supervising dentist bill for the services I provide in a remote setting?

Yes, the dentist providing remote supervision may bill for any services that you provide under remote supervision.

Can a dental hygienist directly bill Medicaid for Medicaid-insured patients?

In Virginia, dental hygienists are not yet recognized as Medicaid providers. Until that changes, we cannot bill Medicaid for our services. You may, however, obtain your National Provider Identification (NPI) number using this link: <https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/downloads/CMS10114.pdf>

What kind of exam can we charge for? Is there a difference in codes?

Insurance codes are universal, procedure-based codes. Billing codes will be no different than those under other levels of direction. The patient can be charged (and insurance filed) for any kind of exam or other service that the hygienist can legally provide, just as in the typical dental practice setting. The remote supervision law changed only the direction level and the practice setting, not our scope of practice.

How does the dental hygienist get compensated for the services provided?

The hygienist may be paid by the remote supervising dentist, particularly if she is employed by that dentist, or by a Federally Qualified Health Center or other non-profit organization (e.g. free clinic). Some organizations, e.g. Head Start, may have grant funding that supports oral health services, and may cover some practitioner expenses and time. Please note that under current Virginia law, hygienists are *currently not recognized* as Medicaid providers. We cannot bill Medicaid directly for the services we provide, for instance, in a Head Start program, where most children are Medicaid-enrolled. However, when those laws change, hygienists will be able to bill Medicaid and be directly remunerated for their services.

Would the dentist be paid by, for instance, a long term care facility (LTCF)?

That would depend on what type of arrangement is specified in the contractual terms of service. If the dentist is providing direct services, then remuneration by the facility might be an option. The dentist can also be billing for the services that the hygienist provides. For Medicaid enrolled residents, there is an option called "incurred medical expenses" (IME), formerly referred to as 'Patient Pay'. It varies from state to state, but should be discussed with the facility staff as an option to pay for dental expenses not covered by Medicaid. Additionally, the 2020 General Assembly included comprehensive dental coverage for Medicaid enrolled adults in the final budget. This will be effective beginning January 2021, unless budgetary constraints brought on by COVID19 eliminate the funding.

MISCELLANEOUS

How do we stay HIPAA compliant practicing at remote supervision locations?

A major goal of HIPAA is to assure that ‘individuals’ health information is properly protected while allowing the flow of health information needed to provide and promote high quality health care and to protect the public’s health and well being. The standards apply regardless of practice setting. Patients will need to acknowledge receipt of the HIPAA information via signature, as they would in an office setting. Since paper records may be transported between facilities, these records should be transported in the most reasonable secure manner, e.g. locked portable file case or locked zippered pouches.

<https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>

For the school setting, who is our first point of contact?

The Public Health dental hygienists, employed by the Virginia Department of Health, make their initial contact with the District Superintendent. If you are interested in a particular school, there would be no harm in contacting the Principal to get further guidance.

What happens if the patient needs restorative treatment or extractions?

After the 90 day period of being treated by the hygienist, the remote supervising dentist shall either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The examining dentist will develop a treatment plan and provide it to the patient. The dentist decides how often he will see the patient based on his professional judgment of the patient’s dental needs, overall health, and the resulting treatment plan.

Is a hospital considered a long term care facility?

Most long-term care isn't medical care, but rather helps with basic personal tasks of everyday life. However, some hospitals are considered charitable safety net facilities, which are approved settings for remote supervision. Safety net hospitals are those that provide a significant amount of care to low income, uninsured and other vulnerable populations. You would have to find out the classification of the specific hospital of interest.

How can a dental hygienist practicing under remote supervision be utilized for re-care, once the patient has been seen by the dentist for exam and treatment planning?

This will be specific to each patient and is determined by the treatment plan of the supervising dentist. The treatment plan for the patient might address both future dental treatment and dental hygiene treatment and the time spans for such treatment.

How can I use remote supervision to treat children or adults who are not in a school or other facility listed?

The law states that a dental hygienist shall **only** practice under remote supervision at the specified locations, federally qualified health centers, charitable safety net facilities, free clinics, long term care facilities, elementary or secondary schools, Head Start programs, or WIC clinic programs.