

H. B. 2479

(By Delegates Morgan, Stephens, Hartman, Hatfield,
D. Poling, Martin, Staggers, Swartzmiller and Rowan)

[Introduced ; referred to the
Committee on Health and Human Resources then the
Judiciary.]

A BILL to repeal §30-4A-6 of the Code of West Virginia, 1931, as
amended; to amend and reenact §30-4A-4, §30-4A-5 and §30-4A-8
of said code; and to amend said code by adding thereto four
new sections, designated §30-4A-6a, §30-4A-6b, §30-4A-6c and
§30-4A-6d, all relating to anesthesia.

Be it enacted by the Legislature of West Virginia:

That §30-4A-6 of the Code of West Virginia, 1931, as amended,
be repealed; that §30-4A-4, §30-4A-5 and §30-4A-8 of said code be
amended and reenacted; and that said code be amended by adding
thereto four new sections, designated §30-4A-6a, §30-4A-6b,
§30-4A-6c and §30-4a-6d, all to read as follows:

**ARTICLE 4A. ADMINISTRATION OF GENERAL ANESTHESIA AND
PARENTERALCONSCIOUS SEDATION BY DENTISTS.**

§30-4A-4. Requirement for anesthesia certificate or permit.

(1) No dentist may induce central nervous system anesthesia

1 without first having obtained an anesthesia permit under these
2 rules for the level of anesthesia being induced.

3 (2) The applicant for an anesthesia permit must pay the
4 appropriate permit fees and renewal fees, designated in section six
5 of this article, submit a completed board-approved application and
6 consent to an office evaluation. The fees are to be set in
7 accordance with section eighteen of this article.

8 (3) Permits shall be issued to coincide with the applicant's
9 licensing period.

10 (4) Permit holders shall report the names and qualifications
11 of each qualified monitor. A monitor qualified by PALS or ACLS
12 shall maintain that certification to act as a qualified monitor.

13 (5) A dentist shall hold a permit class equivalent to or
14 exceeding the anesthesia level being provided, unless the provider
15 of anesthesia is a physician or dentist anesthesiologist.

16 **§30-4A-5. Classes of anesthesia certificates and permits.**

17 (a) The Board shall issue the following certificates and/or
18 permits:

19 (1) Class 2 Certificate: A Class 2 Certificate authorizes a
20 dentist to induce anxiolysis.

21 (2) Class 3 Permit: A Class 3 Permit authorizes a dentist to
22 induce conscious sedation as limited enteral (3a) and/or
23 comprehensive parenteral (3b), and anxiolysis.

24 (3) Class 4 Permit: A Class 4 Permit authorizes a dentist to

1 induce general anesthesia/deep conscious sedation, conscious
2 sedation, and anxiolysis.

3 (b) When anesthesia services are provided in dental facilities
4 by medical personnel, the dental facility shall be inspected and
5 approved for a Class 4 permit.

6 **§30-4A-6a. Qualifications, standards applicable, and continuing**
7 **education requirements for relative analgesia**
8 **permit.**

9 (a) The board shall allow administration of relative analgesia
10 without a permit if the practitioner:

11 (1) Is a licensed dentist in the State of West Virginia;

12 (2) Holds valid and current documentation showing successful
13 completion of a Health Care Provider BLS/CPR course; and

14 (3) Has completed a training course of instruction in dental
15 school, continuing education or as a postgraduate in the
16 administration of relative analgesia.

17 (b) A practitioner who administers relative analgesia shall
18 have the following facilities, equipment and drugs available during
19 the procedure and during recovery:

20 (1) An operating room large enough to adequately accommodate
21 the patient on an operating table or in an operating chair and to
22 allow delivery of age appropriate care in an emergency situation;

23 (2) An operating table or chair which permits the patient to
24 be positioned so that the patient's airway can be maintained,

1 quickly alter the patient's position in an emergency, and provide
2 a firm platform for the administration of basic life support;

3 (3) A lighting system which permits evaluation of the
4 patient's skin and mucosal color and a backup lighting system of
5 sufficient intensity to permit completion of any operation underway
6 in the event of a general power failure;

7 (4) Suction equipment which permits aspiration of the oral and
8 pharyngeal cavities;

9 (5) An oxygen delivery system with adequate full face masks
10 and appropriate connectors that is capable of delivering high flow
11 oxygen to the patient under positive pressure, together with an
12 adequate backup system; and

13 (6) A nitrous oxide delivery system with a fail-safe mechanism
14 that will insure appropriate continuous oxygen delivery and a
15 scavenger system.

16 All equipment used must be appropriate for the height and
17 weight of the patient.

18 (c) Before inducing nitrous oxide sedation, a practitioner
19 shall:

20 (1) Evaluate the patient;

21 (2) Give instruction to the patient or, when appropriate due
22 to age or psychological status of the patient, the patient's
23 guardian; and

24 (3) Certify that the patient is an appropriate candidate for

1 relative analgesia.

2 (d) A practitioner who administers relative analgesia shall
3 see that the patient's condition is visually monitored. At all
4 times the patient shall be observed by trained personnel until
5 discharge criteria have been met. Trained personnel shall be
6 certified in both adult and pediatric CPR. Documentation of
7 credentials and training must be maintained in the personnel
8 records of the trained personnel. The patient shall be monitored as
9 to response to verbal stimulation and oral mucosal color.

10 (e) The record must include documentation of all medications
11 administered with dosages, time intervals and route of
12 administration.

13 (f) A discharge entry shall be made in the patient's record
14 indicating the patient's condition upon discharge.

15 (g) Hold valid and current documentation:

16 (1) Showing successful completion of a Health Care Provider
17 BLS/CPR course; and

18 (2) Have received training and be competent in the recognition
19 and treatment of medical emergencies, monitoring vital signs, the
20 operation of nitrous oxide delivery systems and the use of the
21 sphygmomanometer and stethoscope.

22 (h) The practitioner shall assess the patient's responsiveness
23 using preoperative values as normal guidelines and discharge the
24 patient only when the following criteria are met:

1 (1) The patient is alert and oriented to person, place and
2 time as appropriate to age and preoperative neurological status;

3 (2) The patient can talk and respond coherently to verbal
4 questioning or to preoperative neurological status;

5 (3) The patient can sit up unaided or without assistance or to
6 preoperative neurological status;

7 (4) The patient can ambulate with minimal assistance or to
8 preoperative neurological status; and

9 (5) The patient does not have nausea, vomiting or dizziness.

10 **§30-4A-6b. Qualifications, standards applicable, and continuing**
11 **education requirements for a Class II Certificate.**

12 (a) The board shall issue a Class II Certificate to an
13 applicant who:

14 (1) Is a licensed dentist in West Virginia;

15 (2) Holds valid and current documentation showing successful
16 completion of a Health Care Provider BLS/CPR; and

17 (3) Has completed a board approved course of at least six
18 hours didactic and clinical of either predoctoral dental school or
19 postgraduate instruction.

20 (b) A dentist who induces anxiolysis shall have the following
21 facilities, properly maintained equipment and appropriate drugs
22 available during the procedures and during recovery:

23 (1) An operating room large enough to adequately accommodate
24 the patient on an operating table or in an operating chair and to

1 allow an operating team of at least two individuals to freely move
2 about the patient;

3 (2) An operating table or chair which permits the patient to
4 be positioned so the operating team can maintain the patient's
5 airway, quickly alter the patient's position in an emergency, and
6 provide a firm platform for the administration of basic life
7 support;

8 (3) A lighting system which permits evaluation of the
9 patient's skin and mucosal color and a backup lighting system of
10 sufficient intensity to permit completion of any operation underway
11 in the event of a general power failure;

12 (4) Suction equipment which permits aspiration of the oral and
13 pharyngeal cavities;

14 (5) An oxygen delivery system with adequate full face mask and
15 appropriate connectors that is capable of delivering high flow
16 oxygen to the patient under positive pressure, together with an
17 adequate backup system;

18 (6) A nitrous oxide delivery system with a fail-safe mechanism
19 that will insure appropriate continuous oxygen delivery and a
20 scavenger system;

21 (7) A recovery area that has available oxygen, adequate
22 lighting, suction and electrical outlets. The recovery area can be
23 the operating room;

24 (8) Sphygmomanometer, stethoscope, and pulse oximeter;

1 (9) Emergency drugs; and

2 (10) A defibrillator device is recommended.

3 (11) All equipment and medication dosages must be in
4 accordance with the height and weight of the patient being treated.

5 (c) Before inducing anxiolysis, a dentist shall:

6 (1) Evaluate the patient;

7 (2) Certify that the patient is an appropriate candidate for
8 anxiolysis sedation; and

9 (3) Obtain written informed consent from the patient or
10 patient's guardian for the anesthesia. The obtaining of the
11 informed consent shall be documented in the patient's record.

12 (d) The dentist shall monitor and record the patient's
13 condition or shall use trained personnel qualified as a monitor to
14 monitor and record the patient's condition. The trained personnel
15 must have a certificate showing successful completion in the last
16 two years of BLS/CPR training. A Class II Certificate holder shall
17 have no more than one person under anxiolysis at the same time.

18 (e) The patient shall be monitored as follows:

19 (1) Patients must have continuous monitoring using pulse
20 oximetry. The patient's blood pressure, heart rate and respiration
21 shall be recorded at least once before, during and after the
22 procedure, and these recordings shall be documented in the patient
23 record. At all times the patient shall be observed by trained
24 personnel until discharge criteria have been met. If the dentist

1 is unable to obtain this information, the reasons shall be
2 documented in the patient's record. The record must also include
3 documentation of all medications administered with dosages, time
4 intervals and route of administration.

5 (2) A discharge entry shall be made by the dentist in the
6 patient's record indicating the patient's condition upon discharge.

7 (f) A permit holder who uses anxiolysis shall see that the
8 patient's condition is visually monitored. The patient shall be
9 monitored as to response to verbal stimulation, oral mucosal color
10 and preoperative and postoperative vital signs.

11 (g) The dentist shall assess the patient's responsiveness
12 using preoperative values as normal guidelines and discharge the
13 patient only when the following criteria are met:

14 (1) Vital signs including blood pressure, pulse rate and
15 respiratory rate are stable;

16 (2) The patient is alert and oriented to person, place and
17 time as appropriate to age and preoperative neurological status;

18 (3) The patient can talk and respond coherently to verbal
19 questioning, or to preoperative neurological status;

20 (4) The patient can sit up unaided, or to preoperative
21 neurological status;

22 (5) The patient can ambulate with minimal assistance, or to
23 preoperative neurological status; and

24 (6) The patient does not have uncontrollable nausea or

1 vomiting and has minimal dizziness.

2 (7) A dentist may not release a patient who has undergone
3 anxolysis except to the care of a responsible adult third party.

4 **§30-4A-6c. Qualifications, standards applicable, and continuing**
5 **education requirements for Class III Anesthesia**
6 **Certificate or permit.**

7 (a) The board shall issue or renew a Class 3 Permit to an
8 applicant who:

9 (1) Is a licensed dentist in West Virginia;

10 (2) Holds valid and current documentation showing successful
11 completion of a Health Care Provider BLS/CPR course, ACLS and/or a
12 PALS course if treating pediatric patients; and

13 (3) Satisfies one of the following criteria:

14 (A) Certificate of completion of a comprehensive training
15 program in conscious sedation that satisfies the requirements
16 described in Part III of the ADA Guidelines for Teaching the
17 Comprehensive Control of Pain and Anxiety in Dentistry at the time
18 training was commenced.

19 (B) Certificate of completion of an ADA accredited
20 postdoctoral training program which affords comprehensive and
21 appropriate training necessary to administer and manage conscious
22 sedation, commensurate with these guidelines.

23 (C) In lieu of these requirements, the board may accept
24 documented evidence of equivalent training or experience in

1 conscious sedation anesthesia:

2 (i) Limited (Enteral) Permit (3(a)) must have a board approved
3 course of at least eighteen hours didactic and twenty mentored
4 clinical cases (PALS or ACLS course).

5 (ii) Comprehensive (Parenteral) Permit (3(b)) must have a
6 board approved course of at least sixty hours didactic and twenty
7 mentored clinical cases (ACLS course).

8 (b) A dentist who induces conscious sedation shall have the
9 following facilities, properly maintained age appropriate equipment
10 and age appropriate medications available during the procedures and
11 during recovery:

12 (1) An operating room large enough to adequately accommodate
13 the patient on an operating table or in an operating chair and to
14 allow an operating team of at least two individuals to freely move
15 about the patient;

16 (2) An operating table or chair which permits the patient to
17 be positioned so the operating team can maintain the patient's
18 airway, quickly alter the patient's position in an emergency, and
19 provide a firm platform for the administration of basic life
20 support;

21 (3) A lighting system which permits evaluation of the
22 patient's skin and mucosal color and a backup lighting system of
23 sufficient intensity to permit completion of any operation underway
24 in the event of a general power failure;

1 (4) Suction equipment which permits aspiration of the oral and
2 pharyngeal cavities and a backup suction device which will function
3 in the event of a general power failure;

4 (5) An oxygen delivery system with adequate full face mask and
5 appropriate connectors that is capable of delivering high flow
6 oxygen to the patient under positive pressure, together with an
7 adequate backup system;

8 (6) A nitrous oxide delivery system with a fail-safe mechanism
9 that will insure appropriate continuous oxygen delivery and a
10 scavenger system;

11 (7) A recovery area that has available oxygen, adequate
12 lighting, suction and electrical outlets. The recovery area can be
13 the operating room;

14 (8) Sphygmomanometer, pulse oximeter, oral and nasopharyngeal
15 airways, intravenous fluid administration equipment;

16 (9) Emergency drugs including, but not limited to:
17 Pharmacologic antagonists appropriate to the drugs used,
18 vasopressors, corticosteroids, bronchodilators, antihistamines,
19 antihypertensives and anticonvulsants; and

20 (10) A defibrillator device.

21 (c) Before inducing conscious sedation, a dentist shall:

22 (1) Evaluate the patient and document, using the *American*
23 *Society of Anesthesiologists Patient Physical Status*
24 *Classifications*, that the patient is an appropriate candidate for

1 conscious sedation;

2 (2) Give written preoperative and postoperative instructions
3 to the patient or, when appropriate due to age or neurological
4 status of the patient, the patient's guardian; and

5 (3) Obtain written informed consent from the patient or
6 patient's guardian for the anesthesia.

7 (d) The dentist shall monitor and record the patient's
8 condition or shall use an assistant qualified as a monitor to
9 monitor and record the patient's condition. A qualified monitor
10 shall be present to monitor the patient at all times.

11 (e) The patient shall be monitored as follows:

12 (1) Patients must have continuous monitoring using pulse
13 oximetry. At no time shall the patient be unobserved by trained
14 personnel until discharge criteria have been met. The trained
15 personnel must have a certificate showing successful completion in
16 the last two years of BLS/CPR training and the American Association
17 of Oral and Maxillofacial Surgeon Office Anesthesia Assistant
18 certification or an equivalent. The patient's blood pressure,
19 heart rate, and respiration shall be recorded every five minutes,
20 and these recordings shall be documented in the patient record. The
21 record must also include documentation of preoperative and
22 postoperative vital signs, all medications administered with
23 dosages, time intervals and route of administration. If the
24 dentist is unable to obtain this information, the reasons shall be

1 documented in the patient's record.

2 (2) During the recovery phase, the patient must be monitored
3 by a qualified monitor.

4 (3) A discharge entry shall be made by the dentist in the
5 patient's record indicating the patient's condition upon discharge
6 and the name of the responsible party to whom the patient was
7 discharged.

8 (f) A dentist may not release a patient who has undergone
9 conscious sedation except to the care of a responsible adult third
10 party.

11 (g) The dentist shall assess the patient's responsiveness
12 using preoperative values as normal guidelines and discharge the
13 patient only when the following criteria are met:

14 (1) Vital signs including blood pressure, pulse rate and
15 respiratory rate are stable;

16 (2) The patient is alert and oriented to person, place and
17 time as appropriate to age and preoperative neurological status;

18 (3) The patient can talk and respond coherently to verbal
19 questioning, or to preoperative neurological status;

20 (4) The patient can sit up unaided, or to preoperative
21 neurological status;

22 (5) The patient can ambulate with minimal assistance, or to
23 preoperative neurological status; and

24 (6) The patient does not have uncontrollable nausea or

1 vomiting and has minimal dizziness.

2 (h) A dentist who induces conscious sedation shall employ the
3 services of an assistant at all times who holds a valid BLS/CPR
4 certification and maintains such certification.

5 (i) A dentist granted a Class III Permit must hold a valid
6 Health Care Provider BLS/CPR and ACLS certification for
7 Comprehensive (3(a)) Permit and ACLS or PALS certification for
8 Limited (3(b)) Permit and maintain such certification.

9 **§30-4A-6d. Qualifications, standards applicable, and continuing**
10 **education requirements for Class IV Anesthesia**
11 **Permit.**

12 (a) A Class IV Permit permits the use of general
13 anesthesia/deep conscious sedation, conscious sedation, and
14 anxiolysis.

15 (b) The board shall issue a Class IV Permit to an applicant
16 who:

17 (1) Is a licensed dentist in West Virginia;

18 (2) Has a current Advanced Cardiac Life Support (ACLS)
19 Certificate;

20 (3) Satisfies one of the following criteria:

21 (A) Completion of an advanced training program in anesthesia
22 and related subjects beyond the undergraduate dental curriculum
23 that satisfies the requirements described in Part II of the ADA
24 Guidelines for Teaching the Comprehensive Control of Pain and

1 Anxiety in Dentistry at the time training was commenced;

2 (B) Completion of an ADA or AMA accredited postdoctoral
3 training program which affords comprehensive and appropriate
4 training necessary to administer and manage general anesthesia,
5 commensurate with these guidelines;

6 (C) In lieu of these requirements, the board may accept
7 documented evidence of equivalent training or experience in general
8 anesthesia.

9 (c) A dentist who induces general anesthesia/deep conscious
10 sedation shall have the following facilities, properly maintained
11 age appropriate equipment and age appropriate drugs available
12 during the procedure and during recovery:

13 (1) An operating room large enough to adequately accommodate
14 the patient on an operating table or in an operating chair and to
15 allow an operating team of at least three individuals to freely
16 move about the patient;

17 (2) An operating table or chair which permits the patient to
18 be positioned so the operating team can maintain the patient's
19 airway, quickly alter the patient's position in an emergency, and
20 provide a firm platform for the administration of basic life
21 support;

22 (3) A lighting system which permits evaluation of the
23 patient's skin and mucosal color and a backup lighting system of
24 sufficient intensity to permit completion of any operation underway

1 in the event of a general power failure;

2 (4) Suction equipment which permits aspiration of the oral and
3 pharyngeal cavities and a backup suction device which will function
4 in the event of a general power failure;

5 (5) An oxygen delivery system with adequate full face mask and
6 appropriate connectors that is capable of delivering high flow
7 oxygen to the patient under positive pressure, together with an
8 adequate backup system;

9 (6) A nitrous oxide delivery system with a fail-safe mechanism
10 that will insure appropriate continuous oxygen delivery and a
11 scavenger system;

12 (7) A recovery area that has available oxygen, adequate
13 lighting, suction and electrical outlets. The recovery area can be
14 the operating room;

15 (8) Sphygmomanometer, pulse oximeter, electrocardiograph
16 monitor, defibrillator or automated external defibrillator,
17 laryngoscope with endotracheal tubes, oral and nasopharyngeal
18 airways, intravenous fluid administration equipment;

19 (9) Emergency drugs including, but not limited to:
20 Pharmacologic antagonists appropriate to the drugs used,
21 vasopressors, corticosteroids, bronchodilators, intravenous
22 medications for treatment of cardiac arrest, narcotic antagonist,
23 antihistaminic, antiarrhythmics, antihypertensives and
24 anticonvulsants; and

1 (10) A defibrillator device.

2 (d) Before inducing general anesthesia/deep conscious sedation
3 the dentist shall:

4 (1) Evaluate the patient and document, using the *American*
5 *Society of Anesthesiologists Patient Physical Status*
6 *Classifications*, that the patient is an appropriate candidate for
7 general anesthesia or deep conscious sedation;

8 (2) Shall give written preoperative and postoperative
9 instructions to the patient or, when appropriate due to age or
10 neurological status of the patient, the patient's guardian; and

11 (3) Shall obtain written informed consent from the patient or
12 patient's guardian for the anesthesia.

13 (e) A dentist who induces general anesthesia/deep conscious
14 sedation shall monitor and record the patient's condition on a
15 contemporaneous record or shall use an assistant qualified as a
16 monitor to monitor and record the patient's condition on a
17 contemporaneous record. The trained personnel must have a
18 certificate showing successful completion in the last two years of
19 BLS/CPR training and the American Association of Oral and
20 Maxillofacial Surgeon Office Anesthesia Assistant certification or
21 an equivalent. No permit holder shall have more than one patient
22 under general anesthesia at the same time.

23 (f) The patient shall be monitored as follows:

24 (1) Patients must have continuous monitoring of their heart

1 rate, oxygen saturation levels and respiration. At no time shall
2 the patient be unobserved by trained personnel until discharge
3 criteria have been met. The patient's blood pressure, heart rate
4 and oxygen saturation shall be assessed every five minutes, and
5 shall be contemporaneously documented in the patient record. The
6 record must also include documentation of preoperative and
7 postoperative vital signs, all medications administered with
8 dosages, time intervals and route of administration. The person
9 administering the anesthesia may not leave the patient while the
10 patient is under general anesthesia;

11 (2) During the recovery phase, the patient must be monitored,
12 including the use of pulse oximetry, by a qualified individual to
13 monitor patients recovering from general anesthesia; and

14 (3) A dentist may not release a patient who has undergone
15 general anesthesia/deep conscious sedation except to the care of a
16 responsible adult third party.

17 (g) The dentist shall assess the patient's responsiveness
18 using preoperative values as normal guidelines and discharge the
19 patient only when the following criteria are met:

20 (1) Vital signs including blood pressure, pulse rate and
21 respiratory rate are stable;

22 (2) The patient is alert and oriented to person, place and
23 time as appropriate to age and preoperative neurological status;

24 (3) The patient can talk and respond coherently to verbal

1 questioning, or to preoperative neurological status;

2 (4) The patient can sit up unaided, or to preoperative
3 neurological status;

4 (5) The patient can ambulate with minimal assistance, or to
5 preoperative neurological status; and

6 (6) The patient does not have nausea or vomiting and has
7 minimal dizziness.

8 (7) A discharge entry shall be made in the patient's record by
9 the dentist indicating the patient's condition upon discharge and
10 the name of the responsible party to whom the patient was
11 discharged.

12 (h) A dentist who induces general anesthesia shall employ the
13 services of a qualified dental assistant who holds a valid BLS/CPR
14 certification and maintains such certification.

15 (i) A Class IV permit holder must hold a valid Health Care
16 Provider BLS/CPR and ACLS certification and maintain such
17 certification.

18 **§30-4A-8. Office evaluations.**

19 ~~(1)~~ (a) The in-office evaluation shall include:

20 ~~(a)~~ (1) Observation of one or more cases of anesthesia to
21 determine the appropriateness of technique and adequacy of patient
22 evaluation and care;

23 ~~(b)~~ (2) Inspection of facilities, equipment, drugs and
24 records; and

1 ~~(2)~~ (3) The evaluation shall be performed by a team appointed
2 by the board and shall include:

3 ~~(a)~~ (A) A permit holder who has the same type of license as
4 the licensee to be evaluated and who holds a current anesthesia
5 permit in the same class or in a higher class than that held by the
6 licensee being evaluated;

7 ~~(b)~~ (B) A member of the board's Anesthesia Committee;

8 ~~(c)~~ (C) Class II Certificate Holders may be audited
9 periodically as determined by the committee; and

10 ~~(d)~~ (D) Class III and IV permit holders shall be evaluated
11 once every five years.

12 (b) A dentist utilizing a licensed dentist anesthesiologist
13 shall have his or her office inspected to the level of permit by
14 the dentist anesthesiologist. The office is only approved at that
15 level when the dentist anesthesiologist is present and shall have
16 the number of qualified monitors present as required by this
17 article.

NOTE: The purpose of this bill is to clarify the certificate and permit requirements to administer anesthesia.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.