

SB580 CC #1 4-13

90 days

BURRELL 4483

Senator Williams, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Senate Bill No. 580 Updating requirements for dental intern, resident and teaching permits.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Senate Bill No. 580 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both recede from their respective positions as to the amendment of the House, striking out everything after the enacting clause, and agree to the same as follows:

1 That §30-4-8a, §30-4-10a, §30-4-25, §30-4-26, §30-4-27,
2 §30-4-28 and §30-4-29 of the Code of West Virginia, 1931, as
3 amended, be repealed; that §30-4A-6a, §30-4A-6b, §30-4A-6c,
4 §30-4A-6d and §30-4A-18 of said code be repealed; that §30-4B-5,
5 §30-4B-6, §30-4B-7 and §30-4B-8 of said code be repealed; that
6 §30-4-1, §30-4-2, §30-4-3, §30-4-4, §30-4-5, §30-4-6, §30-4-7,
7 §30-4-8, §30-4-9, §30-4-10, §30-4-11, §30-4-12, §30-4-13, §30-4-14,
8 §30-4-15, §30-4-16, §30-4-17, §30-4-18, §30-4-19, §30-4-20,
9 §30-4-21, §30-4-22, §30-4-23 and §30-4-24 of said code be amended

1 and reenacted; that §30-4A-1, §30-4A-2, §30-4A-3, §30-4A-4,
2 §30-4A-5, §30-4A-6, §30-4A-7, §30-4A-8, §30-4A-9, §30-4A-10,
3 §30-4A-11, §30-4A-12, §30-4A-13, §30-4A-14, §30-4A-15, §30-4A-16
4 and §30-4A-17 of said code be amended and reenacted; and that
5 §30-4B-1, §30-4B-2, §30-4B-3 and §30-4B-4 of said code be amended
6 and reenacted; all to read as follows:

7 **ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.**

8 **§30-4-1. Unlawful acts.**

9 (a) It is unlawful for any person to practice or offer to
10 practice dentistry or dental hygiene in this state without a
11 license, issued under the provisions of this article, or advertise
12 or use any title or description tending to convey or give the
13 impression that they are a dentist or dental hygienist, unless the
14 person is licensed under the provisions of this article.

15 (b) A business entity may not render any service or engage in
16 any activity which, if rendered or engaged in by an individual,
17 would constitute the practice of dentistry, except through a
18 licensee.

19 **§30-4-2. Applicable law.**

20 The practices authorized under the provisions of this article
21 and the Board of Dentistry are subject to article one of this
22 chapter, the provisions of this article, and any rules promulgated
23 hereunder.

24 **§30-4-3. Definitions.**

25 As used in article four, four-a and four-b, the following

1 words and terms have the following meanings:

2 (1) "AAOMS" means the American Association of Oral and
3 Maxillofacial Surgeons;

4 (2) "AAPD" means the American Academy of Pediatric Dentistry;

5 (3) "ACLS" means Advanced Cardiac Life Support;

6 (4) "ADA" means the American Dental Association;

7 (5) "AMA" means the American Medical Association;

8 (6) "ASA" means American Society of Anesthesiologists;

9 (7) "Anxiolysis/minimal sedation" means removing, eliminating
10 or decreasing anxiety by the use of a single anxiety or analgesia
11 medication that is administered in an amount consistent with the
12 manufacturer's current recommended dosage for the unsupervised
13 treatment of anxiety, insomnia or pain, in conjunction with nitrous
14 oxide and oxygen. This does not include multiple dosing or
15 exceeding current normal dosage limits set by the manufacturer for
16 unsupervised use by the patient at home, for the treatment of
17 anxiety;

18 (8) "Approved dental hygiene program" means a program that is
19 approved by the board and is accredited or its educational
20 standards are deemed by the board to be substantially equivalent to
21 those required by the Commission on Dental Accreditation of the
22 American Dental Association;

23 (9) "Approved dental school, college or dental department of
24 a university" means a dental school, college or dental department
25 of a university that is approved by the board and is accredited or
26 its educational standards are deemed by the board to be

1 substantially equivalent to those required by the Commission on
2 Dental Accreditation of the American Dental Association;

3 (10) "Authorize" means that the dentist is giving permission
4 or approval to dental auxiliary personnel to perform delegated
5 procedures in accordance with the dentist's diagnosis and treatment
6 plan;

7 (11) "BLS" means Basic Life Support;

8 (12) "Board" means the West Virginia Board of Dentistry;

9 (13) "Business entity" means any firm, partnership,
10 association, company, corporation, limited partnership, limited
11 liability company or other entity;

12 (14) "Central Nervous System Anesthesia" means an induced,
13 controlled state of unconsciousness or depressed consciousness
14 produced by a pharmacologic method;

15 (15) "Certificate of qualification" means a certificate
16 authorizing a dentist to practice a specialty;

17 (16) "CPR" means Cardiopulmonary Resuscitation;

18 (17) "Conscious sedation/Moderate sedation" means an induced,
19 controlled state of depressed consciousness, produced through the
20 administration of nitrous oxide and oxygen and/or the
21 administration of other agents whether enteral or parenteral, in
22 which the patient retains the ability to independently and
23 continuously maintain an airway and to respond purposefully to
24 physical stimulation and to verbal command;

25 (18) "CRNA" means Certified Registered Nurse Anesthetist;

26 (19) "Defibrillator" means a device used to sustain asthmatic

1 heart beat in an emergency and includes an automatic electronic
2 defibrillator (AED)

3 (20) "Delegated procedures" means those procedures specified
4 by law or by rule of the board and performed by dental auxiliary
5 personnel under the supervision of a licensed dentist;

6 (21) "Dentist Anesthesiologist" means a dentist who is trained
7 in the practice of anesthesiology and has completed an additional
8 approved anesthesia education course;

9 (22) "Dental assistant" means a person qualified by education,
10 training or experience who aids or assists a dentist in the
11 delivery of patient care in accordance with delegated procedures as
12 specified by the board by rule or who may perform nonclinical
13 duties in the dental office;

14 (23) "Dental auxiliary personnel" or "auxiliary" means dental
15 hygienists and dental assistants who assist the dentist in the
16 practice of dentistry;

17 (24) "Dental Hygiene" means the performance of educational,
18 preventive or therapeutic dental services and as further provided
19 in section eleven and legislative rule;

20 (25) "Dental hygienist" means a person licensed by the board
21 to practice and who provides dental hygiene and other services as
22 specified by the board by rule to patients in the dental office and
23 in a public health setting;

24 (26) "Dental laboratory" means a business performing dental
25 laboratory services;

26 (27) "Dental laboratory services" means the fabricating,

1 repairing or altering of a dental prosthesis;

2 (28) "Dental laboratory technician" means a person qualified
3 by education, training or experience who has completed a dental
4 laboratory technology education program and who fabricates, repairs
5 or alters a dental prosthesis in accordance with a dentist's work
6 authorization;

7 (29) "Dental office" means the place where the licensed
8 dentist and dental auxiliary personnel are practicing dentistry;

9 (30) "Dental prosthesis" means an artificial appliance
10 fabricated to replace one or more teeth or other oral or peri-oral
11 structure in order to restore or alter function or aesthetics;

12 (31) "Dentist" means an individual licensed by the board to
13 practice dentistry;

14 (32) "Dentistry" means the evaluation, diagnosis, prevention
15 and treatment of diseases, disorders and conditions of the oral
16 cavity, maxillofacial area and the adjacent and associated
17 structures provided by a dentist;

18 (33) "Direct supervision" means supervision of dental
19 auxiliary personnel provided by a licensed dentist who is
20 physically present in the dental office or treatment facility when
21 procedures are being performed;

22 (34) "Facility Permit" means a permit for a facility where
23 sedation procedures are used that correspond with the level of
24 anesthesia provided;

25 (35) "General anesthesia" means an induced, controlled state
26 of unconsciousness in which the patient experiences complete loss

1 of protective reflexes, as evidenced by the inability to
2 independently maintain an airway, the inability to respond
3 purposefully to physical stimulation, or the inability to respond
4 purposefully to verbal command.

5 (36) "Deep conscious sedation/general anesthesia" includes
6 partial loss of protective reflexes and the patient retains the
7 ability to independently and continuously maintain an airway;

8 (37) "General supervision" means a dentist is not required to
9 be in the office or treatment facility when procedures are being
10 performed by the auxiliary dental personnel, but has personally
11 diagnosed the condition to be treated, has personally authorized
12 the procedures and will evaluate the treatment provided by the
13 dental auxiliary personnel;

14 (38) "Good moral character" means a lack of history of
15 dishonesty;

16 (39) "Health Care Provider BLS/CPR" means Health Care Provider
17 Basic Life Support/Cardiopulmonary Resuscitation;

18 (40) "License" means a license to practice dentistry or dental
19 hygiene;

20 (41) "Licensee" means a person holding a license;

21 (42) "Mobile Dental Facility" any self-contained facility in
22 which dentistry or dental hygiene will be practiced which may be
23 moved, towed, or transported from one location to another;

24 (43) "Portable dental unit" means any non-facility in which
25 dental equipment, utilized in the practice of dentistry, is
26 transported to and utilized on a temporary basis an out of office

1 location, including but not limited to, patient's homes, schools,
2 nursing homes or other institutions;

3 (44) "Other dental practitioner" means those persons excluded
4 from the definition of the practice of dentistry under the
5 provisions of subdivisions (3), (4) and (5), section twenty-four,
6 article four, of this chapter, and also those persons who hold
7 teaching permits which have been issued to them under the
8 provisions of section fourteen, article four of this chapter;

9 (45) "PALS" means Pediatric Advanced Life Support;

10 (46) "Pediatric Patient" means infants and children;

11 (47) "Physician Anesthesiologist" means a physician, MD or DO,
12 who is specialized in the practice of anesthesiology;

13 (48) "Public health practice" means treatment or procedures in
14 a public health setting which shall be designated by a rule
15 promulgated by the board to require direct, general or no
16 supervision of a dental hygienist by a dentist;

17 (49) "Public health setting" means hospitals, schools,
18 correctional facilities, jails, community clinics, long-term care
19 facilities, nursing homes, home health agencies, group homes, state
20 institutions under the West Virginia Department of Health and Human
21 Resources, public health facilities, homebound settings, accredited
22 dental hygiene education programs and any other place designated by
23 the board by rule;

24 (50) "Qualified Monitor" means an individual who by virtue of
25 credentialing and/or training is qualified to check closely and
26 document the status of a patient undergoing anesthesia and observe

1 utilized equipment;

2 (51) "Relative analgesia /minimal sedation" means an induced,
3 controlled state of minimally depressed consciousness, produced
4 solely by the inhalation of a combination of nitrous oxide and
5 oxygen, or single oral premedication without the addition of
6 nitrous oxide and oxygen in which the patient retains the ability
7 to independently and continuously maintain an airway and to respond
8 purposefully to physical stimulation and to verbal command.

9 (52) "Specialty" means the practice of a certain branch of
10 dentistry;

11 (53) "Subcommittee" means West Virginia Board of Dentistry
12 Subcommittee on Anesthesia; and

13 (54) "Work authorization" means a written order for dental
14 laboratory services which has been issued by a licensed dentist or
15 other dental practitioner.

16 **§30-4-4. Board of dental examiners.**

17 (a) The West Virginia Board of Dental Examiners is continued
18 and on July 1, 2013, the board shall be renamed the West Virginia
19 Board of Dentistry. The members of the board in office on the date
20 this section takes effect shall, unless sooner removed, continue to
21 serve until their respective terms expire and until their
22 successors have been appointed and qualified.

23 (b) The Governor, by and with the advice and consent of the
24 Senate, shall appoint:

25 (1) Six licensed dentists;

26 (2) One licensed dental hygienist;

1 (3) One nationally certified dental assistant or currently
2 practicing dental assistant with a minimum of ten years experience
3 and;

4 (4) One citizen member who is not licensed under the
5 provisions of this article and does not perform any services
6 related to the practice of dentistry.

7 (c) The West Virginia Dental Association may submit
8 recommendations to the Governor for the appointment of the licensed
9 dentists board members, the West Virginia Association of Dental
10 Hygienists may submit recommendations to the Governor for the
11 appointment of an Dental Hygienist board member, and the West
12 Virginia Dental Assistant Association may submit recommendations to
13 the Governor for the appointment of an Dental Assistant board
14 member.

15 (d) A person connected with a commercial entity that may
16 derive financial gain from the profession of dentistry and a person
17 employed as full-time faculty with a dental college, school or
18 dental department of a university are not eligible for appointment
19 to the board.

20 (e) After the initial appointment term, the appointment term
21 is five years. A member may not serve more than two consecutive
22 terms. A member who has served two consecutive full terms may not
23 be reappointed for at least one year after completion of his or her
24 second full term. A member may continue to serve until his or her
25 successor has been appointed and qualified.

26 (f) Each licensed member of the board, at the time of his or

1 her appointment, shall have held a license in this state for a
2 period of not less than five years immediately preceding the
3 appointment.

4 (g) Each member of the board shall be a resident of this state
5 during the appointment term.

6 (h) A vacancy on the board shall be filled by appointment by
7 the Governor for the unexpired term of the member whose office is
8 vacant.

9 (i) The Governor may remove any member from the board for
10 neglect of duty, incompetency or official misconduct.

11 (j) A licensed member of the board immediately and
12 automatically forfeits membership to the board if his or her
13 license to practice is suspended or revoked in any jurisdiction.

14 (k) A member of the board immediately and automatically
15 forfeits membership to the board if he or she is convicted of a
16 felony under the laws of any jurisdiction or becomes a nonresident
17 of this state.

18 (l) The board shall elect annually one of its members as
19 president and one member as secretary who shall serve at the will
20 and pleasure of the board.

21 (m) Each member of the board is entitled to receive
22 compensation and expense reimbursement in accordance with article
23 one of this chapter.

24 (n) A simple majority of the membership serving on the board
25 at a given time is a quorum for the transaction of business.

26 (o) The board shall hold at least two meetings annually.

1 Other meetings shall be held at the call of the president or upon
2 the written request of four members, at the time and place as
3 designated in the call or request.

4 (p) Prior to commencing his or her duties as a member of the
5 board, each member shall take and subscribe to the oath required by
6 section five, article four of the Constitution of this state.

7 (q) The members of the board, when acting in good faith and
8 without malice, shall enjoy immunity from individual civil
9 liability while acting within the scope of their duties as board
10 members.

11 **§30-4-5. Powers of the board.**

12 The board has all the powers and duties set forth in this
13 article, by rule, in article one of this chapter and elsewhere in
14 law, including:

15 (1) Hold meetings;

16 (2) Establish procedures for submitting, approving and
17 rejecting applications for a license, certificate and permit;

18 (3) Determine the qualifications of any applicant for a
19 license, certificate and permit;

20 (4) Establish the fees charged under the provisions of this
21 article;

22 (5) Issue, renew, deny, suspend, revoke or reinstate a
23 license, certificate and permit;

24 (6) Prepare, conduct, administer and grade written, oral or
25 written and oral examinations for a license;

26 (7) Contract with third parties to administer the examinations

1 required under the provisions of this article;

2 (8) Maintain records of the examinations the board or a third
3 party administrators, including the number of persons taking the
4 examination and the pass and fail rate;

5 (9) Maintain an office, and hire, discharge, establish the job
6 requirements and fix the compensation of employees and contract
7 with persons necessary to enforce the provisions of this article.

8 (10) Employ investigators, attorneys, hearing examiners,
9 consultants and other employees as may be necessary, who are exempt
10 from the classified service and who serve at the will and pleasure
11 of the board.

12 (11) Investigate alleged violations of the provisions of this
13 article, article four-a and article four-b of this chapter, and
14 legislative rules, orders and final decisions of the board;

15 (12) Conduct disciplinary hearings of persons regulated by the
16 board;

17 (13) Determine disciplinary action and issue orders;

18 (14) Institute appropriate legal action for the enforcement of
19 the provisions of this article;

20 (15) Maintain an accurate registry of names and addresses of
21 all persons regulated by the board;

22 (16) Keep accurate and complete records of its proceedings,
23 and certify the same as may be necessary and appropriate;

24 (17) Propose rules in accordance with the provisions of
25 article three, chapter twenty-nine-a of this code to implement the
26 provisions of this article;

1 (18) Sue and be sued in its official name as an agency of this
2 state; and

3 (19) Confer with the Attorney General or his or her assistant
4 in connection with legal matters and questions.

5 **§30-4-6. Rule-making authority.**

6 (a) The board shall propose rules for legislative approval, in
7 accordance with the provisions of article three, chapter
8 twenty-nine-a of this code, to implement the provisions of this
9 article, and articles four-a and four-b of this chapter including:

10 (1) Standards and requirements for licenses, certifications
11 and permits;

12 (2) Requirements for third parties to prepare and/or
13 administer examinations and reexaminations;

14 (3) Educational and experience requirements;

15 (4) Continuing education requirements and approval of
16 continuing education courses;

17 (5) Procedures for the issuance and renewal of licenses,
18 certifications and permits;

19 (6) Establish a fee schedule;

20 (7) Regulate dental specialities;

21 (8) Delegate procedures to be performed by a dental hygienist;

22 (9) Delegate procedures to be performed by a dental assistant;

23 (10) Designate the services and procedures performed under
24 direct supervision, general supervision in public health practice;

25 (11) Designate additional public health settings;

26 (12) Regulate the use of firm or trade names;

- 1 (13) Regulate dental corporations;
- 2 (14) Regulate mobile dental facilities;
- 3 (15) Regulate portable dental units;
- 4 (16) Regulate professional limited liability companies;
- 5 (17) Establish professional conduct requirements;
- 6 (18) Establish the procedures for denying, suspending,
7 revoking, reinstating or limiting the practice of licensees,
8 certifications and permitees;
- 9 (19) Establish requirements for inactive or revoked licenses,
10 certifications and permits;
- 11 (20) Regulate dental anesthesia, including:
 - 12 (A) Fees;
 - 13 (B) Evaluations;
 - 14 (C) Equipment;
 - 15 (D) Emergency Drugs;
 - 16 (E) Definitions;
 - 17 (F) Qualified Monitor Requirements; and
 - 18 (G) Education;
- 19 (21) Any other rules necessary to implement this article.
- 20 (b) All of the board's rules in effect and not in conflict
21 with these provisions, shall remain in effect until they are
22 amended or rescinded.

23 **§30-4-7. Fees; special revenue account; administrative fines.**

24 (a) All fees and other moneys, except administrative fines,
25 received by the board shall be deposited in a separate special
26 revenue fund in the State Treasury designated the "Board of

1 Dentists and Dental Hygienist Special Fund", which is continued and
2 shall be known as the "Board of Dentistry Special Fund". The fund
3 is used by the board for the administration of this article. Except
4 as may be provided in article one of this chapter, the board
5 retains the amount in the special revenue account from year to
6 year. No compensation or expense incurred under this article is a
7 charge against the General Revenue Fund.

8 (b) Any amounts received as administrative fines imposed
9 pursuant to this article shall be deposited into the general
10 revenue fund of the State Treasury.

11 **§30-4-8. License to practice dentistry.**

12 (a) The board shall issue a license to practice dentistry to
13 an applicant who meets the following requirements:

14 (1) Is at least eighteen years of age;

15 (2) Is of good moral character;

16 (3) Is a graduate of and has a diploma from a school
17 accredited by the Commission on Dental Accreditation or
18 equivalently approved dental college, school or dental department
19 of a university as determined by the board;

20 (4) Has passed the National Board examination as given by the
21 Joint Commission on National Dental Examinations and a clinical
22 examination as specified by the board by rule;

23 (5) Has not been found guilty of cheating, deception or fraud
24 in the examination or any part of the application;

25 (6) Has paid the application fee specified by rule; and

26 (7) Not be an alcohol or drug abuser, as these terms are

1 defined in section eleven, article one-a, chapter twenty-seven of
2 this code: *Provided*, That an applicant in an active recovery
3 process, which may, in the discretion of the board, be evidenced by
4 participation in a twelve-step program or other similar group or
5 process, may be considered.

6 (b) A dentist may not represent to the public that he or she
7 is a specialist in any branch of dentistry or limit his or her
8 practice to any branch of dentistry unless first issued a
9 certificate of qualification in that branch of dentistry by the
10 board.

11 (c) A license to practice dentistry issued by the board shall
12 for all purposes be considered a license issued under this section:
13 *Provided*, That a person holding a license shall renew the license.

14 **§30-4-9. Scope of practice of a dentist.**

15 The practice of dentistry includes the following:

16 (1) Coordinate dental services to meet the oral health needs
17 of the patient;

18 (2) Examine, evaluate and diagnose diseases, disorders and
19 conditions of the oral cavity, maxillofacial area and adjacent and
20 associated structures;

21 (3) Treat diseases, disorders and conditions of the oral
22 cavity, maxillofacial area and the adjacent and associated
23 structures;

24 (4) Provide services to prevent diseases, disorders and
25 conditions of the oral cavity, maxillofacial area and the adjacent
26 and associated structures;

- 1 (5) Fabricate, repair or alter a dental prosthesis;
2 (6) Administer anesthesia in accordance with the provisions of
3 article four-a of this chapter;
4 (7) Prescribe drugs necessary for the practice of dentistry;
5 (8) Execute and sign a death certificate when it is required
6 in the practice of dentistry;
7 (9) Employ and supervise dental auxiliary personnel;
8 (10) Authorize delegated procedures to be performed by dental
9 auxiliary personnel; and
10 (11) Perform any other work included in the curriculum of an
11 approved dental school, college or dental department of a
12 university.

13 **§30-4-10. License to practice dental hygiene.**

- 14 (a) The board shall issue a dental hygienist license to an
15 applicant who meets the following requirements:
16 (1) Is at least eighteen years of age;
17 (2) Is of good moral character;
18 (3) Is a graduate with a degree in dental hygiene from an
19 approved dental hygiene program of a college, school or dental
20 department of a university;
21 (4) Has passed the national board dental hygiene examination,
22 a regional or state clinical examination and a state law
23 examination that tests the applicant's knowledge of subjects
24 specified by the board by rule;
25 (5) Has not been found guilty of cheating, deception or fraud
26 in the examination or any part of the application;

1 (6) Has paid the application fee specified by rule; and,
2 (7) Not be an alcohol or drug abuser, as these terms are
3 defined in section eleven, article one-a, chapter twenty-seven of
4 this code: Provided, That an applicant in an active recovery
5 process, which may, in the discretion of the board, be evidenced by
6 participation in a twelve-step program or other similar group or
7 process, may be considered.

8 (b) A dental hygienist license issued by the board and in good
9 standing on the effective date of the amendments to this section
10 shall for all purposes be considered a dental hygienist license
11 issued under this section: Provided, That a person holding a dental
12 hygienist license shall renew the license.

13 **§30-4-11. Scope of practice for a dental hygienist.**

14 The practice of dental hygiene includes the following:

15 (1) Perform a complete prophylaxis, including the removal of
16 any deposit, accretion or stain from supra and subgingival, the
17 surface of a tooth or a restoration;

18 (2) Apply a medicinal agent to a tooth for a prophylactic
19 purpose;

20 (3) Take a radiograph for interpretation by a dentist;

21 (4) Instruct a patient on proper oral hygiene practice;

22 (5) Place sealants on a patient's teeth without a prior
23 examination by a licensed dentist: Provided, That for this
24 subdivision, the dental hygienist has a public health practice
25 permit issued by the board, and subject to a collaborative
26 agreement with a supervising dentist and the patient is referred

1 for a dental examination within six months of sealant application;

2 (6) Perform all delegated procedures of a dental hygienist
3 specified by rule by the board; and

4 (7) Performing all delegated procedures of a dental assistant
5 specified by rule by the board.

6 **§30-4-12. License renewal.**

7 (a) All persons regulated by this article shall annually or
8 biannually, renew his or her board authorization by completing a
9 form prescribed by the board and submitting any other information
10 required by the board.

11 (b) The board shall charge a fee for each renewal of a board
12 authorization and shall charge a late fee for any renewal not paid
13 by the due date.

14 (c) The board shall require as a condition of renewal that
15 each licensee, certificate holder or permittee complete continuing
16 education.

17 (d) The board may deny an application for renewal for any
18 reason which would justify the denial of an original application.

19 **§30-4-13. Board authorizations shall be displayed.**

20 (a) The board shall prescribe the form for a board
21 authorization, and may issue a duplicate upon payment of a fee.

22 (b) Any person regulated by the article shall conspicuously
23 display his or her board authorization at his or her principal
24 business location.

25 **§30-4-14. Dental intern, resident, or teaching permit.**

1 (a) The board may issue a dental intern or dental resident
2 permit to an applicant who has been accepted as a dental intern or
3 dental resident by a licensed hospital or dental school in this
4 state which maintains an established dental department under the
5 supervision of a licensed dentist and meets the following
6 qualifications:

7 (1) Has graduated from a Commission on Dental Accreditation or
8 equivalent approved dental college, school or dental department of
9 a university with a degree in dentistry;

10 (2) Has paid the application fee specified by rule; and

11 (3) Meets the other qualifications specified by rule.

12 (b) The dental intern or dental resident permit may be renewed
13 and expires on the earlier of:

14 (1) The date the permit holder ceases to be a dental intern or
15 dental resident; or

16 (2) One year after the date of issue.

17 (c) The board may issue a teaching permit to an applicant who
18 is not otherwise licensed to practice dentistry in this state and
19 who meets the following conditions:

20 (1) Is authorized or is eligible, as determined by the board,
21 for a authorization to practice dentistry in another jurisdiction;

22 (2) Has met or been approved under the credentialing standards
23 of a dental school or an academic medical center with which the
24 person is to be affiliated: *Provided*, That the dental school or
25 academic medical center is accredited by the Commission on Dental
26 Accreditation or Joint Commission on Accreditation of Health Care

1 Organizations;

2 (3) The permittee may teach and practice dentistry in or on
3 behalf of a dental school or college offering a doctoral degree in
4 dentistry operated and conducted in this state, in connection with
5 an academic medical center or at any teaching hospital adjacent to
6 a dental school or an academic medical center;

7 (4) Shall successfully complete the West Virginia Dental Law

8 Examination;

9 (5) Shall pay annual renewal fees to the board;

10 (6) Shall comply with continuing education requirements; and

11 (7) Has had no disciplinary actions taken or pending against
12 him or her by any other jurisdiction.

13 (d) A teaching permit may be renewed annually with a written
14 recommendation from the dental school dean.

15 (e) While in effect, a permittee is subject to the
16 restrictions and requirements imposed by this article to the same
17 extent as a licensee. In addition, a permittee may not receive any
18 fee for service other than a salary paid by the hospital or dental
19 school

20 **§30-4-15. Special volunteer dentist or dental hygienist license;**
21 **civil immunity for voluntary services rendered to indigents.**

22 (a) There is continued a special volunteer dentist and dental
23 hygienist license for dentist and dental hygienists retired or
24 retiring from the active practice of dentistry and dental hygiene
25 who wish to donate their expertise for the care and treatment of
26 indigent and needy patients in the clinic setting of clinics

1 organized, in whole or in part, for the delivery of health care
2 services without charge. The special volunteer dentist or dental
3 hygienist license shall be issued by the board to dentist or dental
4 hygienists licensed or otherwise eligible for licensure under this
5 article and the legislative rules promulgated hereunder without the
6 payment of an application fee, license fee or renewal fee, shall be
7 issued for the remainder of the licensing period, and renewed
8 consistent with the boards other licensing requirements. The board
9 shall develop application forms for the special license provided in
10 this subsection which shall contain the dental hygienist's
11 acknowledgment that:

12 (1) The dentist or dental hygienist's practice under the
13 special volunteer dentist or dental hygienist license will be
14 exclusively devoted to providing dentistry or dental hygiene care
15 to needy and indigent persons in West Virginia;

16 (2) The dentist or dental hygienist will not receive any
17 payment or compensation, either direct or indirect, or have the
18 expectation of any payment or compensation, for any dentistry or
19 dental hygiene services rendered under the special volunteer
20 dentist or dental hygienist license;

21 (3) The dentist or dental hygienist will supply any supporting
22 documentation that the board may reasonably require; and

23 (4) The dentist or dental hygienist agrees to continue to
24 participate in continuing professional education as required by the
25 board for the special volunteer dentist or dental hygienist.

26 (b) Any dentist or dental hygienist who renders any dentistry

1 or dental hygiene service to indigent and needy patients of a
2 clinic organized, in whole or in part, for the delivery of health
3 care services without charge under a special volunteer dentist or
4 dental hygienist license authorized under subsection (a) of this
5 section without payment or compensation or the expectation or
6 promise of payment or compensation is immune from liability for any
7 civil action arising out of any act or omission resulting from the
8 rendering of the dental hygiene service at the clinic unless the
9 act or omission was the result of the dentist's or dental
10 hygienist's gross negligence or willful misconduct. In order for
11 the immunity under this subsection to apply, there shall be a
12 written agreement between the dentist or dental hygienist and the
13 clinic pursuant to which the dentist or dental hygienist will
14 provide voluntary uncompensated dental hygiene services under the
15 control of the clinic to patients of the clinic before the
16 rendering of any services by the dentist or dental hygienist at the
17 clinic: *Provided,* That any clinic entering into such written
18 agreement is required to maintain liability coverage of not less
19 than one million dollars per occurrence.

20 (c) Notwithstanding the provisions of subsection (b) of this
21 section, a clinic organized, in whole or in part, for the delivery
22 of health care services without charge is not relieved from imputed
23 liability for the negligent acts of a dentist or dental hygienist
24 rendering voluntary dental hygiene services at or for the clinic
25 under a special volunteer dentist or dental hygienist license
26 authorized under subsection (a) of this section.

1 (d) For purposes of this section, "otherwise eligible for
2 licensure" means the satisfaction of all the requirements for
3 licensure as listed in section eight of this article and in the
4 legislative rules promulgated thereunder, except the fee
5 requirements of subdivision six of that section and of the
6 legislative rules promulgated by the board relating to fees.

7 (e) Nothing in this section may be construed as requiring the
8 board to issue a special volunteer dentist or dental hygienist
9 license to any dental hygienist whose license is or has been
10 subject to any disciplinary action or to any dentist or dental
11 hygienist who has surrendered a license or caused such license to
12 lapse, expire and become invalid in lieu of having a complaint
13 initiated or other action taken against his or her dentist or
14 dental hygienist license, or who has elected to place a dentist or
15 dental hygienist license in inactive status in lieu of having a
16 complaint initiated or other action taken against his or her
17 license, or who has been denied a dentist or dental hygienist
18 license.

19 (f) Any policy or contract of liability insurance providing
20 coverage for liability sold, issued or delivered in this state to
21 any dentist or dental hygienist covered under the provisions of
22 this article shall be read so as to contain a provision or
23 endorsement whereby the company issuing such policy waives or
24 agrees not to assert as a defense on behalf of the policyholder or
25 any beneficiary thereof, to any claim covered by the terms of such
26 policy within the policy limits, the immunity from liability of the

1 insured by reason of the care and treatment of needy and indigent
2 patients by a dentist or dental hygienist who holds a special
3 volunteer dentist or dental hygienist license.

4 **§30-4-16. Dental corporations.**

5 (a) Dental corporations are continued.

6 (b) One or more dentists may organize and become a shareholder
7 or shareholders of a dental corporation domiciled within this state
8 under the terms and conditions and subject to the limitations and
9 restrictions specified by rule.

10 (c) No corporation may practice dentistry, or any of its
11 branches, or hold itself out as being capable of doing so without
12 a certificate of authorization from the board.

13 (d) When the Secretary of State receives a certificate of
14 authorization to act as a dental corporation from the board, he or
15 she shall attach the authorization to the corporation application
16 and, upon compliance with the applicable provisions of chapter
17 thirty-one of this code, the Secretary of State shall issue to the
18 incorporators a certificate of incorporation for the dental
19 corporation.

20 (e) A corporation holding a certificate of authorization shall
21 renew annually, on or before June 30, on a form prescribed by the
22 board and pay an annual fee in an amount specified by rule.

23 (f) A dental corporation may practice dentistry only through
24 an individual dentist or dentists licensed to practice dentistry in
25 this state, but the dentist or dentists may be employees rather
26 than shareholders of the corporation.

1 (g) A dental corporation holding a certificate of
2 authorization shall cease to engage in the practice of dentistry
3 upon being notified by the board that any of its shareholders is no
4 longer a licensed dentist or when any shares of the corporation
5 have been sold or disposed of to a person who is not a licensed
6 dentist: *Provided*, That the personal representative of a deceased
7 shareholder has a period, not to exceed twenty-four months from the
8 date of the shareholder's death, to dispose of the shares; but
9 nothing contained herein may be construed as affecting the
10 existence of the corporation or its right to continue to operate
11 for all lawful purposes other than the practice of dentistry.

12 **§30-4-17. Reinstatement.**

13 (a) A licensee against whom disciplinary action has been taken
14 under the provisions of this article shall be afforded an
15 opportunity to demonstrate the qualifications to resume practice.
16 The application for reinstatement shall be in writing and subject
17 to the procedures specified by the board by rule.

18 (b) A licensee who does not complete annual renewal, as
19 specified by the board by rule, and whose licensed has lapsed for
20 one year or longer, shall make application for reinstatement as
21 specified by the board by rule.

22 (c) The board, at its discretion and for cause, may require an
23 applicant for reinstatement to undergo a physical and/or mental
24 evaluation to determine a licensee is competent to practice or if
25 the licensee is impaired by drugs or alcohol.

26 **§30-4-18. Actions to enjoin violations.**

1 (a) If the board obtains information that any person has
2 engaged in, is engaging in or is about to engage in any act which
3 constitutes or will constitute a violation of the provisions of
4 this article, the rules promulgated pursuant to this article, or a
5 final order or decision of the board, it may issue a notice to the
6 person to cease and desist in engaging in the act and/or apply to
7 the circuit court in the county of the alleged violation for an
8 order enjoining the act.

9 (b) The circuit court may issue a temporary injunction pending
10 a decision on the merits, and may issue a permanent injunction
11 based on its findings in the case.

12 (c) The judgment of the circuit court on an application
13 permitted by the provisions of this section is final unless
14 reversed, vacated or modified on appeal to the West Virginia
15 Supreme Court of Appeals.

16 **§30-4-19. Complaints; investigations; due process procedure;**
17 **grounds for disciplinary action.**

18 (a) The board may initiate a complaint upon receipt of
19 credible information, and shall upon the receipt of a written
20 complaint of any person, cause an investigation to be made to
21 determine whether grounds exist for disciplinary action under this
22 article or the legislative rules promulgated pursuant to this
23 article.

24 (b) After reviewing any information obtained through an
25 investigation, the board shall determine if probable cause exists
26 that the licensee, certificate holder or permittee has violated

1 subsection (g) of this section or rules promulgated pursuant to
2 this article.

3 (c) Upon a finding of probable cause to go forward with a
4 complaint, the board shall provide a copy of the complaint to the
5 licensee, certificate holder or permittee.

6 (d) Upon a finding that probable cause exists that the
7 licensee, certificate holder or permittee has violated subsection
8 (g) of this section or rules promulgated pursuant to this article,
9 the board may enter into a consent decree or hold a hearing for
10 disciplinary action against the licensee, certificate holder or
11 permittee. Any hearing shall be held in accordance with the
12 provisions of this article, and shall require a violation to be
13 proven by a preponderance of the evidence.

14 (e) A member of the complaint committee or the executive
15 director of the board may issue subpoenas and subpoenas duces tecum
16 to obtain testimony and documents to aid in the investigation of
17 allegations against any person regulated by the article.

18 (f) Any member of the board or its executive director may sign
19 a consent decree or other legal document on behalf of the board.

20 (g) The board may, after notice and opportunity for hearing,
21 deny or refuse to renew, suspend, restrict or revoke the license,
22 certificate or permit of, or impose probationary conditions upon or
23 take disciplinary action against, any licensee, certificate holder
24 or permittee for any of the following reasons:

25 (1) Obtaining a board authorization by fraud,
26 misrepresentation or concealment of material facts;

1 (2) Being convicted of a felony or a misdemeanor crime of
2 moral turpitude;

3 (3) Being guilty of unprofessional conduct which placed the
4 public at risk, as defined by legislative rule of the board;

5 (4) Intentional violation of a lawful order or legislative
6 rule of the board;

7 (5) Having had a board authorization revoked or suspended,
8 other disciplinary action taken, or an application for a board
9 authorization denied by the proper authorities of another
10 jurisdiction;

11 (6) Aiding or abetting unlicensed practice;

12 (7) Engaging in an act while acting in a professional capacity
13 which has endangered or is likely to endanger the health, welfare
14 or safety of the public;

15 (8) Having an incapacity that prevents a licensee from
16 engaging in the practice of dentistry or dental hygiene, with
17 reasonable skill, competence, and safety to the public;

18 (9) Committing fraud in connection with the practice of
19 dentistry or dental hygiene;

20 (10) Failing to report to the board one's surrender of a
21 license or authorization to practice dentistry or dental hygiene in
22 another jurisdiction while under disciplinary investigation by any
23 of those authorities or bodies for conduct that would constitute
24 grounds for action as defined in this section;

25 (11) Failing to report to the board any adverse judgment,
26 settlement, or award arising from a malpractice claim arising

1 related to conduct that would constitute grounds for action as
2 defined in this section;

3 (12) Being guilty of unprofessional conduct as contained in
4 the American Dental Association principles of ethics and code of
5 professional conduct. The following acts are conclusively presumed
6 to be unprofessional conduct:

7 (A) Being guilty of any fraud or deception;

8 (B) Committing a criminal operation or being convicted of a
9 crime involving moral turpitude;

10 (C) Abusing alcohol or drugs;

11 (D) Violating any professional confidence or disclosing any
12 professional secret;

13 (E) Being grossly immoral;

14 (F) Harassing, abusing, intimidating, insulting, degrading or
15 humiliating a patient physically, verbally or through another form
16 of communication;

17 (G) Obtaining any fee by fraud or misrepresentation;

18 (H) Employing directly or indirectly, or directing or
19 permitting any suspended or unlicensed person so employed, to
20 perform operations of any kind or to treat lesions of the human
21 teeth or jaws or correct malimposed formations thereof;

22 (I) Practicing, or offering, or undertaking to practice
23 dentistry under any firm name or trade name not approved by the
24 board;

25 (J) Having a professional connection or association with, or
26 lending his or her name to another, for the illegal practice of

1 dentistry, or professional connection or association with any
2 person, firm or corporation holding himself or herself, themselves
3 or itself out in any manner contrary to this article;

4 (K) Making use of any advertising relating to the use of any
5 drug or medicine of unknown formula;

6 (L) Advertising to practice dentistry or perform any operation
7 thereunder without causing pain;

8 (M) Advertising professional superiority or the performance of
9 professional services in a superior manner;

10 (N) Advertising to guarantee any dental service;

11 (O) Advertising in any manner that is false or misleading in
12 any material respect;

13 (P) Soliciting subscriptions from individuals within or
14 without the state for, or advertising or offering to individuals
15 within or without the state, a course or instruction or course
16 materials in any phase, part or branch of dentistry or dental
17 hygiene in any journal, newspaper, magazine or dental publication,
18 or by means of radio, television or United States mail, or in or by
19 any other means of contacting individuals: *Provided, That the*
20 provisions of this paragraph may not be construed so as to
21 prohibit:

22 (i) An individual dentist or dental hygienist from
23 presenting articles pertaining to procedures or technique to state
24 or national journals or accepted dental publications; or

25 (ii) educational institutions approved by the board from
26 offering courses or instruction or course materials to individual

1 dentists and dental hygienists from within or without the state; or

2 (Q) Engaging in any action or conduct which would have
3 warranted the denial of the license.

4 (13) Knowing or suspecting that a licensee is incapable of
5 engaging in the practice of dentistry or dental hygiene, with
6 reasonable skill, competence, and safety to the public, and failing
7 to report any relevant information to the board;

8 (14) Using or disclosing protected health information in an
9 unauthorized or unlawful manner;

10 (15) Engaging in any conduct that subverts or attempts to
11 subvert any licensing examination or the administration of any
12 licensing examination;

13 (16) Failing to furnish to the board or its representatives
14 any information legally requested by the board, or failing+ to
15 cooperate with or engaging in any conduct which obstructs an
16 investigation being conducted by the board;

17 (17) Announcing or otherwise holding himself or herself out to
18 the public as a specialist or as being specially qualified in any
19 particular branch of dentistry or as giving special attention to
20 any branch of dentistry or as limiting his or her practice to any
21 branch of dentistry without first complying with the requirements
22 established by the board for the specialty and having been issued
23 a certificate of qualification in the specialty by the board;

24 (18) Failing to report to the board within 72 hours of
25 becoming aware thereof any life threatening occurrence, serious
26 injury or death of a patient resulting from dental treatment or

1 complications following a dental procedure;

2 (19) Failing to report to the board any Driving Under the
3 Influence and/or Driving While Intoxicated offense; or

4 (20) Violation of any of the terms or conditions of any order
5 entered in any disciplinary action.

6 (h) For the purposes of subsection (g) of this section,
7 effective July 1, 2013, disciplinary action may include:

8 (1) Reprimand;

9 (2) Probation;

10 (3) Restrictions;

11 (4) Suspension;

12 (5) Revocation;

13 (6) Administrative fine, not to exceed \$1,000 per day per
14 violation;

15 (7) Mandatory attendance at continuing education seminars or
16 other training;

17 (8) Practicing under supervision or other restriction; or

18 (9) Requiring the licensee or permittee to report to the board
19 for periodic interviews for a specified period of time.

20 (i) In addition to any other sanction imposed, the board may
21 require a licensee or permittee to pay the costs of the proceeding.

22 (j) A person authorized to practice under this article, who
23 reports or otherwise provides evidence of the negligence,
24 impairment or incompetence of another member of this profession to
25 the board or to any peer review organization, is not liable to any
26 person for making the report if the report is made without actual

1 malice and in the reasonable belief that the report is warranted by
2 the facts known to him or her at the time.

3 **§30-4-20. Procedures for hearing; right of appeal.**

4 (a) Hearings are governed by the provisions of section eight,
5 article one of this chapter.

6 (b) The board may conduct the hearing or elect to have an
7 administrative law judge conduct the hearing.

8 (c) If the hearing is conducted by an administrative law
9 judge, at the conclusion of a hearing he or she shall prepare a
10 proposed written order containing findings of fact and conclusions
11 of law. The proposed order may contain proposed disciplinary
12 actions if the board so directs. The board may accept, reject or
13 modify the decision of the administrative law judge.

14 (d) Any member or the executive director of the board has the
15 authority to administer oaths, examine any person under oath.

16 (e) If, after a hearing, the board determines the licensee or
17 permittee has violated provisions of this article or the board's
18 rules, a formal written decision shall be prepared which contains
19 findings of fact, conclusions of law and a specific description of
20 the disciplinary actions imposed.

21 **§30-4-21. Judicial review.**

22 A person adversely affected by a decision of the board denying
23 an application or entered after a hearing may obtain judicial
24 review of the decision in accordance with section four, article
25 five, chapter twenty-nine-a of this code, and may appeal any ruling
26 resulting from judicial review in accordance with article six,

1 chapter twenty-nine-a of this code.

2 **§30-4-22. Criminal offenses.**

3 (a) When, as a result of an investigation under this article
4 or otherwise, the board has reason to believe that a person
5 authorized under this article has committed a criminal offense
6 under this article, the board may bring its information to the
7 attention of an appropriate law-enforcement official.

8 (b) Any person who intentionally practices, or holds himself
9 or herself out as qualified to practice dentistry or dental
10 hygiene, or uses any title, word or abbreviation to indicate to or
11 induce others to believe he or she is licensed to practice as a
12 dentist or dental hygienist without obtaining an active, valid West
13 Virginia license to practice that profession or with a license that
14 is:

15 (1) Expired, suspended or lapsed; or

16 (2) Inactive, revoked, suspended as a result of disciplinary
17 action, or surrendered, is guilty of a misdemeanor and, upon
18 conviction thereof, shall be fined not more than \$10,000.

19 **§30-4-23. Single act evidence of practice.**

20 In any action brought under this article, article four-a or
21 article four-b any proceeding initiated under this article,
22 evidence of the commission of a single act prohibited by this
23 article is sufficient to justify a penalty, injunction, restraining
24 order or conviction without evidence of a general course of
25 conduct.

26 **§30-4-24. Inapplicability of article.**

1 The provisions of this article do not apply to:

2 (1) A licensed physician or surgeon in the practice of his or
3 her profession when rendering dental relief in emergency cases,
4 unless he or she undertakes to reproduce or reproduces lost parts
5 of the human teeth or to restore or replace lost or missing teeth
6 in the human mouth;

7 (2) A dental laboratory in the performance of dental
8 laboratory services, while the dental laboratory, in the
9 performance of the work, conforms in all respects to the
10 requirements of article four-b and further does not apply to
11 persons performing dental laboratory services under the direct
12 supervision of a licensed dentist or under the direct supervision
13 of a person authorized under this article to perform any of the
14 acts in this article defined to constitute the practice of
15 dentistry while the work is performed in connection with, and as a
16 part of, the dental practice of the licensed dentist or other
17 authorized person and for his or her dental patients;

18 (3) A student enrolled in and regularly attending any dental
19 college recognized by the board, provided their acts are done in
20 the dental college and under the direct and personal supervision of
21 their instructor;

22 (4) A student enrolled in and regularly attending any dental
23 college, recognized by the board, practicing dentistry in a public
24 health setting, provided their acts are done under the direct
25 supervision of their instructor, adjunct instructor or a dentist;

26 (5) An authorized dentist of another state temporarily

1 operating a clinic under the auspices of a organized and reputable
2 dental college or reputable dental society, or to one lecturing
3 before a reputable society composed exclusively of dentists; or

4 (6) A dentists whose practice is confined exclusively to the
5 service of the United States Army, the United States Navy, the
6 United States Air Force, The United States Coast Guard, the United
7 States Public Health Service, the United States Veteran's Bureau or
8 any other authorized United States government agency or bureau.

9 **ARTICLE 4A. ADMINISTRATION OF ANESTHESIA BY DENTISTS.**

10 **§30-4A-1. Requirement for anesthesia permit; qualifications and**
11 **requirments for qualified monitors.**

12 (a) No dentist may induce central nervous system anesthesia
13 without first having obtained an anesthesia permit for the level of
14 anesthesia being induced.

15 (b) The applicant for an anesthesia permit shall pay the
16 appropriate permit fees and renewal fees, submit a completed
17 board-approved application and consent to an office evaluation.

18 (c) Permits shall be issued to coincide with the annual
19 renewal dates for licensure.

20 (d) Permit holders shall report the names and qualifications
21 of each qualified monitor providing services to that permit holder.

22 A qualified monitor may not perform the functions and
23 responsibilities specified in this article for any level of
24 anesthesia, other than relative analgesia/minimal sedation, without
25 certification by the board. Qualified monitors shall apply for

1 certification and pay the appropriate application fees and renewal
2 fees. Qualified monitors are required to renew annually by the 30th
3 day of June. To be certified as a qualified monitor, the applicant
4 must meet the following minimum qualifications:

5 (1) Possess a current health care provider BLS/CPR
6 certification;

7 (2) For monitoring, conscious sedation/moderate sedation or
8 general anesthesia/deep conscious sedation procedures, successful
9 completion of an AAOMS or AAPD anesthesia assistants certification
10 program; and

11 (3) For monitoring a nitrous oxide unit, successful completion
12 of a board-approved course in nitrous oxide monitoring.

13 (e) A dentist shall hold a class permit equivalent to or
14 exceeding the anesthesia level being provided, unless the provider
15 of anesthesia is a physician anesthesiologist or another licensed
16 dentist who holds a current anesthesia permit issued by the board.

17 **§30-4A-2. Presumption of Degree of Central Nervous System**
18 **Depression.**

19 (a) In any hearing where a question exists as to the level of
20 central nervous system depression a licensee has induced, as
21 outlined in this article, the board may base its findings on, among
22 other things, the types, dosages and routes of administration of
23 drugs administered to the patient and what result can reasonably be
24 expected from those drugs in those dosages and routes administered
25 in a patient of that physical and psychological status.

26 (b) No permit holder may have more than one person under

1 conscious sedation/moderate sedation and/or general anesthesia/deep
2 conscious sedation at the same time, exclusive of recovery.

3 **§30-4A-3. Classes of anesthesia permits.**

4 (a) The board shall issue the following permits:

5 (1) Class 2 Permit: A Class 2 Permit authorizes a dentist to
6 induce anxiolysis/minimal sedation.

7 (2) Class 3 Permit: A Class 3 Permit authorizes a dentist to
8 induce conscious sedation/moderate sedation as limited enteral (3a)
9 and/or comprehensive parenteral (3b), and anxiolysis/minimal
10 sedation.

11 (3) Class 4 Permit: A Class 4 Permit authorizes a dentist to
12 induce general anesthesia/deep conscious sedation, conscious
13 sedation/moderate sedation, and anxiolysis/minimal sedation.

14 (b) When anesthesia services are provided in dental facilities
15 by a MD or DO physician anesthesiologist or dentist
16 anesthesiologist, the dental facility shall be inspected and
17 approved for a Class 4 permit, and the dentist shall have a minimum
18 of a Class 2 permit. If anesthesia services are provided by a CRNA,
19 the dental facility shall be inspected and approved for a Class 4
20 permit and the supervising dentist shall have the same level of
21 permit for the level of anesthesia provided by the CRNA.

22 **§30-4A-4. Qualifications, standards, and continuing education**
23 **requirements for relative analgesia/minimal sedation use.**

24 (a) The board shall allow administration of relative
25 analgesia/minimal sedation if the practitioner:

1 (1) Is a licensed dentist in the state;
2 (2) Holds valid and current documentation showing successful
3 completion of a Health Care Provider BLS/CPR course; and
4 (3) Has completed a training course of instruction in dental
5 school, continuing education or as a postgraduate in the
6 administration of relative analgesia/minimal sedation.
7 (b) A practitioner who administers relative analgesia/minimal
8 sedation shall have the following facilities, equipment and drugs
9 available during the procedure and during recovery:
10 (1) An operating room large enough to adequately accommodate
11 the patient on an operating table or in an operating chair and to
12 allow delivery of age appropriate care in an emergency situation;
13 (2) An operating table or chair which permits the patient to
14 be positioned so that the patient's airway can be maintained,
15 quickly alter the patient's position in an emergency, and provide
16 a firm platform for the administration of basic life support;
17 (3) A lighting system which permits evaluation of the
18 patient's skin and mucosal color and a backup lighting system of
19 sufficient intensity to permit completion of any operation underway
20 in the event of a general power failure;
21 (4) Suction equipment which permits aspiration of the oral and
22 pharyngeal cavities;
23 (5) An oxygen delivery system with adequate age appropriate
24 full face masks and appropriate connectors that is capable of
25 delivering high flow oxygen to the patient under positive pressure,
26 together with an adequate backup system;

1 (6) A nitrous oxide delivery system with a fail-safe mechanism
2 that will insure appropriate continuous oxygen delivery and a
3 scavenger system; and

4 (7) A defibrillator device: *Provided, That* this requirement is
5 only for Class 2, 3, and 4 permittees.

6 (c) All equipment used shall be appropriate for the height and
7 weight and age of the patient.

8 (d) Before inducing relative analgesia/minimal sedation by
9 means of nitrous oxide or a single pre-medication agent, a
10 practitioner shall:

11 (1) Evaluate the patient;

12 (2) Give instruction to the patient or, when appropriate due
13 to age or psychological status of the patient, the patient's
14 guardian; and

15 (3) Certify that the patient is an appropriate candidate for
16 relative analgesia/minimal sedation.

17 (e) A practitioner who administers relative analgesia/minimal
18 sedation shall see that the patient's condition is visually
19 monitored. At all times, the patient shall be observed by a
20 qualified monitor until discharge criteria have been met.

21 (f) A qualified monitor's record shall include documentation
22 of all medications administered with dosages, time intervals and
23 route of administration including local anesthesia.

24 (g) A discharge entry shall be made in the patient's record
25 indicating the patient's condition upon discharge.

26 (h) A qualified monitor shall hold valid and current

1 documentation:

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

4 (2) Have received training and be competent in the recognition
5 and treatment of medical emergencies, monitoring vital signs, the
6 operation of nitrous oxide delivery systems and the use of the
7 sphygmomanometer and stethoscope.

8 (i) The practitioner shall assess the patient's responsiveness
9 using preoperative values as normal guidelines and discharge the
10 patient only when the following criteria are met:

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

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

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

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

19 (5) The patient does not have uncontrollable nausea, vomiting
20 or dizziness.

21 **§30-4A-5. Qualifications, standards, and continuing education**
22 **requirements for a Class 2 Permit.**

23 (a) The board shall issue a Class 2 Permit to an applicant
24 who:

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

26 (2) Holds valid and current documentation showing successful

1 completion of a Health Care Provider BLS/CPR; and

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

5 (b) A dentist who induces relative analgesia/minimal sedation
6 and anxiolysis/minimal sedation shall have the following
7 facilities, properly maintained equipment and appropriate drugs
8 available during the procedures and during recovery:

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

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

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

22 (4) Suction equipment which permits aspiration of the oral and
23 pharyngeal cavities;

24 (5) An oxygen delivery system with adequate age appropriate
25 full face mask and appropriate connectors that is capable of
26 delivering high flow oxygen to the patient under positive pressure,

1 together with an adequate backup system;

2 (6) A nitrous oxide delivery system with a fail-safe mechanism
3 that will insure appropriate continuous oxygen delivery and a
4 scavenger system;

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

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

9 (9) Emergency drugs as specified by rule;

10 (10) A defibrillator device; and

11 (11) All equipment and medication dosages shall be in
12 accordance with the height and weight and age of the patient being
13 treated.

14 (c) Before inducing anxiolysis/minimal sedation, a dentist
15 shall:

16 (1) Evaluate the patient by using the ASA Patient Physical
17 Status Classification of the ASA that the patient is an appropriate
18 candidate for anxiolysis/minimal sedation; and

19 (2) Obtain written informed consent from the patient or
20 patient's guardian for the anesthesia. The obtaining of the
21 informed consent shall be documented in the patient's record.

22 (d) The dentist shall monitor and record the patient's
23 condition or shall use a qualified monitor to monitor and record
24 the patient's condition. The documented requirements of a
25 qualified monitor monitoring anxiolysis/minimal sedation cases are
26 as specified by rule. A Class 2 Permit holder may have no more than

1 one person under anxiolysis/minimal sedation at the same time.

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

3 (1) Patients shall have continuous monitoring using pulse
4 oximetry. The patient's blood pressure, heart rate and respiration
5 shall be recorded at least once before, during and after the
6 procedure, and these recordings shall be documented in the patient
7 record. At all times, the patient shall be observed by a qualified
8 monitor until discharge criteria have been met. If the dentist is
9 unable to obtain this information, the reasons shall be documented
10 in the patient's record. The record shall also include
11 documentation of all medications administered with dosages, time
12 intervals and route of administration including local anesthesia.

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

15 (f) A permit holder who uses anxiolysis/minimal sedation shall
16 see that the patient's condition is visually monitored. The
17 patient shall be monitored as to response to verbal stimulation,
18 oral mucosal color and preoperative and postoperative vital signs.

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

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

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

26 (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 uncontrollable nausea or
7 vomiting and has minimal dizziness.

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

11 **§30-4A-6. Qualifications, standards, and continuing education**
12 **requirements for Class 3 Anesthesia Permit.**

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

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

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

19 (3) Satisfies one of the following criteria:

20 (A) Certificate of completion of a comprehensive training
21 program in conscious sedation that satisfies the requirements
22 described in the ADA Guidelines for Teaching Pain Control and
23 Sedation to Dentists and Dental Students and the ADA Guidelines for
24 the Use of Sedation and General Anesthesia by Dentists at the time
25 training was commenced.

26 (B) Certificate of completion of an ADA accredited

1 postdoctoral training program which affords comprehensive and
2 appropriate training necessary to administer and manage conscious
3 sedation, commensurate with these guidelines.

4 (C) In lieu of these requirements, the board may accept
5 documented evidence of equivalent training or experience in
6 conscious sedation anesthesia for Limited Enteral Permit as Class
7 3a or comprehensive Parenteral Permit as Class 3b as specified by
8 rule.

9 (b) A dentist who induces conscious sedation shall have the
10 following facilities, properly maintained age appropriate equipment
11 and age appropriate medications available during the procedures and
12 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 two individuals to freely move
16 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
25 in the event of a general power failure;

26 (4) Suction equipment which permits aspiration of the oral and

1 pharyngeal cavities and a backup suction device which will function
2 in the event of a general power failure;

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

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

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

13 (8) Sphygmomanometer, pulse oximeter, oral and nasopharyngeal
14 airways, intravenous fluid administration equipment and/or
15 equipment required for the standard of care or as specified by
16 rule;

17 (9) Emergency drugs as specified by rule; and

18 (10) A defibrillator device.

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

20 (1) Evaluate the patient and document, using the ASA Patient
21 Physical Status Classifications, that the patient is an appropriate
22 candidate for conscious sedation;

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

26 (3) Obtain written informed consent from the patient or

1 patient's guardian for the anesthesia.

2 (d) The dentist shall ensure that the patient's condition is
3 monitored and recorded on a contemporaneous record. The dentist
4 shall use a Qualified Monitor to monitor and record the patient's
5 condition in addition to the chair side dental assistant. A
6 Qualified Monitor shall be present to monitor the patient at all
7 times.

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

9 (1) Patients shall have continuous monitoring using pulse
10 oximetry and/or equipment required for the standard of care or as
11 specified by rule by a Qualified Monitor until discharge criteria
12 have been met. The documented requirements of a Qualified Monitor
13 monitoring limited enteral or comprehensive parenteral sedations
14 cases are as specified by rule. The patient's blood pressure,
15 heart rate, and respiration shall be recorded every five minutes,
16 and these recordings shall be documented in the patient record. The
17 record shall also include documentation of preoperative and
18 postoperative vital signs, all medications administered with
19 dosages, time intervals and route of administration including local
20 anesthesia. If the dentist is unable to obtain this information,
21 the reasons shall be documented in the patient's record.

22 (2) During the recovery phase, the patient shall be monitored
23 by a qualified monitor.

24 (3) A discharge entry shall be made by the dentist in the
25 patient's record indicating the patient's condition upon discharge
26 and the name of the responsible party to whom the patient was

1 discharged.

2 (f) A dentist may not release a patient who has undergone
3 conscious sedation/moderate sedation except to the care of a
4 responsible adult third party.

5 (g) When discharging a pediatric patient the dentist shall
6 follow the current edition of AAPD Guidelines for Monitoring and
7 Management of Pediatric Patients During and After Sedation for
8 Diagnostic and Therapeutic Procedures.

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

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

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

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

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

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

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

24 (i) A dentist who induces conscious sedation shall employ the
25 services of a Qualified Monitor and a chair side dental assistant
26 at all times who each shall hold a valid BLS/CPR certification and

1 maintains certification as specified by rule.

2 **§30-4A-7. Qualifications, standards, and continuing education**
3 **requirements for Class 4 Anesthesia Permit.**

4 (a) A Class 4 Permit permits the use of general
5 anesthesia/deep conscious sedation, conscious sedation/moderate
6 sedation, and anxiolysis/minimal sedation.

7 (b) The board shall issue or renew a Class 4 Permit to an
8 applicant who:

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

10 (2) Holds a valid and current documentation showing successful
11 completion of a Healthcare Provider BLS/CPR course, Advanced
12 Cardiac Life Support (ACLS) and/or Pediatric Advanced Life Support
13 (PALS) course if treating pediatric patients;

14 (3) Satisfies one of the following criteria:

15 (A) Completion of an advanced training program in anesthesia
16 and related subjects beyond the undergraduate dental curriculum
17 that satisfies the requirements described in the ADA Guidelines for
18 Teaching Pain Control and Sedation to Dentists and Dental Students
19 and the ADA Guidelines for the Use of Sedation and General
20 Anesthesia by Dentists at the time training was commenced;

21 (B) Completion of an ADA or AMA accredited postdoctoral
22 training program which affords comprehensive and appropriate
23 training necessary to administer and manage general anesthesia,
24 commensurate with these guidelines;

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

1 anesthesia/deep conscious sedation.

2 (c) A dentist who induces general anesthesia/deep conscious
3 sedation shall have the following facilities, properly maintained
4 age appropriate equipment and age appropriate drugs available
5 during the procedure and during recovery:

6 (1) An operating room large enough to adequately accommodate
7 the patient on an operating table or in an operating chair and to
8 allow an operating team of at least three individuals to freely
9 move about the patient;

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

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

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

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

26 (6) A nitrous oxide delivery system with a fail-safe mechanism

1 that will insure appropriate continuous oxygen delivery and a
2 scavenger system;

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

6 (8) Equipment as specified by rule;

7 (9) Emergency drugs as specified by rule

8 (10) A defibrillator device.

9 (d) Before inducing general anesthesia/deep conscious sedation
10 the dentist shall:

11 (1) Evaluate the patient and document, using the ASA Patient
12 Physical Status Classifications, that the patient is an appropriate
13 candidate for general anesthesia or deep conscious sedation;

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

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

19 (e) A dentist who induces general anesthesia/deep conscious
20 sedation shall ensure that the patient's condition is monitored and
21 recorded on a contemporaneous record. The dentist shall use a
22 Qualified Monitor to monitor and record the patient's condition on
23 a contemporaneous record and a chair side dental assistant. The
24 documented requirements of a Qualified Monitor monitoring general
25 anesthesia/deep conscious sedation cases are as specified by rule.

26 No permit holder may have more than one patient under general

1 anesthesia at the same time.

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

3 (1) Patients shall have continuous monitoring using pulse
4 oximetry and/or equipment required for the standard of care or as
5 specified by rule by a Qualified Monitor until discharge criteria
6 have been met. The patient's blood pressure, heart rate and oxygen
7 saturation shall be assessed every five minutes, and shall be
8 contemporaneously documented in the patient record. The record
9 shall also include documentation of preoperative and postoperative
10 vital signs, all medications administered with dosages, time
11 intervals and route of administration including local anesthesia.
12 The person administering the anesthesia may not leave the patient
13 while the patient is under general anesthesia;

14 (2) During the recovery phase, the patient shall be monitored,
15 including the use of pulse oximetry, by a Qualified Monitor; and

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

19 (4) When discharging a pediatric patient the dentist shall
20 follow the current edition of AAPD Guidelines for the Monitoring
21 and Management of Pediatric Patients During and After Sedation for
22 Diagnostic and Therapeutic Procedures.

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

26 (1) Vital signs including blood pressure, pulse rate and

1 respiratory rate are stable;

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

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

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

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

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

12 (7) A discharge entry shall be made in the patient's record by
13 the dentist indicating the patient's condition upon discharge and
14 the name of the responsible party to whom the patient was
15 discharged.

16 (h) A dentist who induces general anesthesia shall employ the
17 services of a Qualified Monitor and a chair side dental assistant
18 at all times, who each shall hold a valid BLS/CPR certification and
19 maintains certification as specified by rule.

20 **§30-4A-8. Board to review, inspect and reinspect dentists for**
21 **issuance of permits.**

22 (a) By making application to the board for an anesthesia
23 permit, a dentist consents and authorizes the board to review his
24 or her credentials, inspect or reinspect his or her facilities, and
25 investigate any alleged anesthesia mortalities, misadventure, or
26 other adverse occurrences. The board shall conduct an in-office

1 review or on-site inspection of any dentist applying for or holding
2 a permit to administer anesthesia.

3 Prior to issuing a permit, the board shall conduct an on-site
4 inspection of facility, equipment, and auxiliary personnel of the
5 applicant to determine if, in fact, all the requirements for the
6 permit have been met. This inspection or evaluation, if required,
7 shall be carried out by at least two members of the subcommittee.
8 This evaluation is to be carried out in a manner following the
9 principles, but not necessarily the procedures, set forth by the
10 current edition of the AAOMS Office Anesthesia Evaluation Manual.
11 On-site inspections are required and shall be performed for all
12 Class 3a, 3b and 4 permittees. The board may reinspect annually, at
13 its discretion, but shall perform an on-site inspection for all
14 permit holders at least once every five years except Class 2 permit
15 holders. The board reserves the right to conduct an on-site
16 inspection whenever it deems necessary for all permit holders. All
17 on-site inspections shall be held during regular business hours.

18 (b) Cancellation or failure to appear or be present for a
19 scheduled evaluation by a permit holder, for an unexplained or
20 unexcusable reason, shall be assessed a penalty fee two times the
21 permit holders normal annual renewal fee. The penalty fee shall be
22 separate from the annual renewal fees.

23 **§30-4A-9. Office evaluations.**

24 (a) The in-office evaluation shall include:

25 (1) Observation of one or more cases of anesthesia to
26 determine the appropriateness of technique and adequacy of patient

1 evaluation and care;

2 (2) Inspection of facilities, which shall include but not be
3 limited to, the inspection of equipment, drugs and patient records
4 and qualified monitor's certifications and documentation; and

5 (3) The evaluation shall be performed by a team appointed by
6 the board and shall include a member of the Subcommittee who holds
7 a current anesthesia permit in the same class or in a higher class
8 than that held by the permit holder being evaluated.

9 (4) Class 2 permit holders may be audited periodically as
10 determined by the committee; and

11 (5) Class 3 and 4 permit holders shall be evaluated once every
12 five years.

13 (b) A dentist utilizing a licensed dentist who holds a current
14 anesthesia permit issued by the board shall have his or her office
15 inspected to the level of a class 4 permit as specified by section
16 twelve of this article. The office is only approved at that level
17 when the anesthesia permit holder is present and shall have the
18 number of qualified monitors present as required by this article.

19 (c) In addition to the requirements of this article a treating
20 dentist who applies for a certificate to allow a CRNA to administer
21 anesthesia and sedation to a patient, shall maintain a permit as
22 follows:

23 (1) A treating dentist, who allows a CRNA to administer
24 limited enteral sedation to a patient, shall maintain a Class 3a
25 permit for themselves and the administration site shall be
26 inspected to a Class 4 permit level;

1 (2) A treating dentist, who allows a CRNA to administer
2 comprehensive parenteral sedation to a patient, shall maintain a
3 Class 3b permit for themselves and the administration site shall be
4 inspected to a Class 4 permit level; and

5 (3) A treating dentist, who allows a CRNA to administer
6 general anesthesia/deep conscious sedation to a patient, shall
7 maintain a Class 4 permit for themselves and the administration
8 site shall be inspected to a Class 4 permit level.

9 **§30-4A-10. Reporting of Death, Serious Complications or Injury.**

10 If a death, any serious complication or any injury occurs
11 which may have resulted from the administration of general
12 anesthesia/deep conscious sedation, conscious sedation/moderate
13 sedation, anxiolysis/minimal sedation, or relative
14 analgesia/minimal sedation, the licensee performing the dental
15 procedure shall submit a written detailed report to the board
16 within 72 hours of the incident along with copies of the patient's
17 original complete dental records. If the anesthetic agent was
18 administered by a person other than the person performing the
19 dental procedure, that person shall also submit a detailed written
20 report. The detailed report(s) shall include:

21 (1) Name, age and address of patient;

22 (2) Name of the licensee and other persons present during the
23 incident along with their names and addresses;

24 (3) Address where the incident took place;

25 (4) Type of anesthesia and dosages of drugs administered to
26 the patient including local anesthesia;

1 (5) A narrative description of the incident including
2 approximate times and evolution of symptoms; and

3 (6) The anesthesia record and the signed informed consent form
4 for the anesthesia.

5 **§30-4A-11. Immunity from liability.**

6 (a) Notwithstanding any other provision of law, no person
7 providing information to the board or to the subcommittee may be
8 held, by reason of having provided the information, to be civilly
9 liable under any law unless the information was false and the
10 person providing information knew or had reason to believe the such
11 information was false.

12 (b) No member or employee of the board or the subcommittee may
13 be held by reason of the performance by him or her of any duty,
14 function or activity authorized or required of the board or the
15 subcommittee to be civilly liable. The foregoing provisions of this
16 subsection do not apply with respect to any action taken by any
17 individual if the individual, in taking the action, was motivated
18 by malice toward any person affected by the action.

19 **§30-4A-12. Facility Inspections.**

20 (a) The board shall perform an onsite evaluation of Class 3
21 and 4 applicants dental facilities, equipment, techniques, and
22 personnel prior to issuing a permit. The board may conduct further
23 on-site evaluations.

24 (b) The board may inspect Class 2 applicants facilities.

25 **§30-4A-13. Issuance of regular annual permits.**

1 Upon the recommendation of the subcommittee, the board shall
2 issue permits to applicable dentists. An anesthesia permit shall be
3 renewed annually: Provided, That the permittee meets the
4 requirements of this article and has not been subject to
5 disciplinary action prohibiting issuance of .the permit.

6 **§30-4A-14. Waiting period for reapplication or reinspection of**
7 **facilities.**

8 A dentist whose application has been denied for failure to
9 satisfy the requirements in the application procedure or the on-
10 site evaluation shall wait thirty days from the date of the denial
11 prior to reapplying and shall submit to another on-site evaluation
12 prior to receiving a permit. The board and the subcommittee shall
13 promptly reinspect the applicant dentist's facilities, techniques,
14 equipment, and personnel within ninety days after the applicant has
15 made reapplication.

16 **§30-4A-15. Application and annual renewal of regular permits; fees.**

17 The board shall require an initial application fee and an
18 annual renewal fee for Class 2, Class 3 and 4 Permits. Permits
19 expire annually. The board shall renew permits for the use of
20 anesthesia after the permittee satisfies the application for
21 renewal.

22 **§30-4A-16. Violations of article; penalties for practicing**
23 **anesthesia without a permit.**

24 Violations of any of the provisions of this article, whether
25 intentional or unintentional, may result in the revocation or

1 suspension of the dentist's permit to administer anesthesia;
2 multiple or repeated violations or gross infractions, such as
3 practicing anesthesia without a valid permit may result in
4 suspension of the dentist's license to practice dentistry for up to
5 one year as well as other disciplinary measures as deemed
6 appropriate by the board.

7 **§30-4A-17. Appointment of Subcommittee; credentials review; and on-**
8 **site inspections.**

9 (a) The board shall appoint a subcommittee to carry out the
10 review and on-site inspection of any dentist applying for or
11 renewing a permit under this article.

12 (b) The subcommittee shall make a recommendation for issuing
13 or revoking a permit under this article.

14 (c) This subcommittee shall be known as the West Virginia
15 Board of Dentistry Subcommittee on Anesthesia. The subcommittee
16 shall, at a minimum, consist of one member of the board who shall
17 act as chairman of the subcommittee, and two members holding a
18 Class 4 permit and two members holding a Class 3 permit.

19 (d) The subcommittee shall adopt policies and procedures
20 related to the regulation of general anesthesia/deep conscious
21 sedation, conscious sedation/moderate sedation, anxiolysis/minimal
22 sedation, and relative analgesia/minimal sedation with the same
23 being approved by the board. The subcommittee members shall be paid
24 and reimbursed expenses pursuant to article one of this chapter.

25 **ARTICLE 4B. DENTAL LABORATORY SERVICES.**

1 §30-4B-1. Unlawful acts.

2 (a) It is unlawful for any person, other than a dentist or
3 other dental practitioner, to sell, offer for sale or furnish any
4 dental prosthesis or other dental laboratory service to any person
5 who is not a dentist or other dental practitioner.

6 (b) It is unlawful for any person to perform dental laboratory
7 services without a work authorization: *Provided,* That this
8 subsection does not apply to a dentist or other dental
9 practitioner, or to their employees working under their direct
10 supervision, performing dental laboratory services as a part of
11 their own dental practice and for their own dental patients.

12 (c) It is unlawful for any dental laboratory to perform any
13 dental laboratory service without the issuance of a work
14 authorization by a dentist or other dental practitioner.

15 (d) It is unlawful for any dental laboratory or dentist who
16 fabricates a full upper or full lower set of prosthetic dentures
17 not to affix upon the dentures, in a nonremovable manner, the name
18 of the patient, the initials of the dentist's state of practice and
19 license identification.

20 (e) It is unlawful for any dental laboratory either directly
21 or indirectly:

22 (1) To advertise that it is engaged in the business of
23 performing dental laboratory services;

24 (2) To advertise it performs dental laboratory services for
25 members of the public;

26 (3) To advertise a price for the performance of dental

1 laboratory services; or

2 (4) To advertise techniques used or materials employed by it
3 in the performance of dental laboratory services: *Provided, That*
4 this subsection does not prevent dental laboratories from
5 advertising in dental journals or in other professional dental
6 publications or from communicating directly to a dentist and other
7 dental practitioner or from listing the dental laboratory in
8 business and telephone directories if the business and telephone
9 directory announcements are limited to name, address and telephone
10 number and do not occupy more than the number of lines necessary to
11 disclose the information, or from displaying the trade name and
12 address of the dental laboratory on the door of its place of
13 business or on name plates or door plates exhibited on the interior
14 or exterior of the place of business.

15 **§30-4B-2. Work authorization required; contents; retention.**

16 (a) No dental laboratory technician may perform any dental
17 laboratory service without the issuance of a work authorization by
18 a dentist or other dental practitioner.

19 (b) Each work authorization shall contain:_____

20 (1) The name and address of the dental laboratory to which it
21 is directed;_____

22 (2) The case identification;_____

23 (3) A specification of the materials to be used;_____

24 (4) A description of the work to be done and, if necessary,
25 diagrams thereof;_____

26 (5) The date of issue; and_____

1 (6) The signature and address of the dentist or other dental
2 practitioner issuing the work authorization.

3 (c)A separate work authorization shall be issued for each
4 patient of the dentist or other dental practitioner for whom a
5 dental laboratory service is to be performed.

6 (d) Every work authorization shall be made in duplicate with
7 the original being delivered to the dental laboratory to which it
8 is directed and the copy being retained in the office of the
9 issuing dentist or other dental practitioner. A work authorization
10 shall be saved for a period of two years from its date of issue.

11 **§30-4B-3. Denture identification.**

12 A dental laboratory or a dentist who engages in dental
13 laboratory services and who fabricates any full upper or full lower
14 set of prosthetic dentures shall affix upon the dentures, in a
15 nonremovable manner, the name of the patient for whom the dentures
16 are made and the initials of the dentist's state of practice and
17 license identification number.

18 **§30-4B-4. Review of dental laboratory services.**

19 The board may review the dental laboratory services of a
20 dental laboratory on a random and general basis without any
21 requirement of a formal complaint or suspicion of impropriety.

And,

That the Senate agree to the House of Delegates amendment to
the title.

Respectfully submitted,

Margaret Stagers,
Chair,

Bob Williams,
Chair,

Meshea Poore

Rocky Fitzsimmons

Kelli Sobonya
*Conferees on the part
of the House of Delegates.*

Bill Cole
*Conferees on the part
Senate.*