

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 400

SENATORS ROMANO AND TAKUBO, *original sponsors*

[Passed March 8, 2019; in effect 90 days from
passage]

1 AN ACT to amend and reenact §30-4-3, §30-4-8, and §30-4-10 of the Code of West Virginia,
2 1931, as amended; and to amend said code by adding thereto a new section, designated
3 §30-4-8a, all relating generally to dentistry; permitting the West Virginia Board of Dentistry
4 to create specialty licenses; setting forth those specialty licenses; changing the specific
5 examination an applicant must pass before being issued a license to practice dentistry;
6 changing the type of exam an applicant must pass before being issued a license to
7 practice dental hygiene; and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-3. Definitions.

1 As used in §30-4-1 *et seq.*, §30-4A-1 *et seq.*, and §30-4B-1 *et seq.* of this code, the
2 following words and terms have the following meanings:

3 “AAOMS” means the American Association of Oral and Maxillofacial Surgeons;

4 “AAPD” means the American Academy of Pediatric Dentistry;

5 “ACLS” means advanced cardiac life support;

6 “ADA” means the American Dental Association;

7 “AMA” means the American Medical Association;

8 “ASA” means American Society of Anesthesiologists;

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

15 “Approved dental hygiene program” means a program that is approved by the board and
16 is accredited or its educational standards are deemed by the board to be substantially equivalent
17 to those required by the Commission on Dental Accreditation of the American Dental Association;

18 “Approved dental school, college, or dental department of a university” means a dental
19 school, college, or dental department of a university that is approved by the board and is
20 accredited or its educational standards are deemed by the board to be substantially equivalent to
21 those required by the Commission on Dental Accreditation of the American Dental Association;

22 “Authorize” means that the dentist is giving permission or approval to dental auxiliary
23 personnel to perform delegated procedures in accordance with the dentist’s diagnosis and
24 treatment plan;

25 “BLS” means basic life support;

26 “Board” means the West Virginia Board of Dentistry;

27 “Business entity” means any firm, partnership, association, company, corporation, limited
28 partnership, limited liability company, or other entity;

29 “Central nervous system anesthesia” means an induced, controlled state of
30 unconsciousness or depressed consciousness produced by a pharmacologic method;

31 “Certificate of qualification” means a certificate authorizing a dentist to practice a specialty;

32 “CPR” means cardiopulmonary resuscitation;

33 “Conscious sedation/moderate sedation” means an induced, controlled state of depressed
34 consciousness, produced through the administration of nitrous oxide and oxygen and/or the
35 administration of other agents whether enteral or parenteral, in which the patient retains the ability
36 to independently and continuously maintain an airway and to respond purposefully to physical
37 stimulation and to verbal command;

38 “CRNA” means certified registered nurse anesthetist;

39 “Defibrillator” means a device used to sustain asthmatic heartbeat in an emergency and
40 includes an Automatic Electronic Defibrillator (AED);

41 “Delegated procedures” means those procedures specified by law or by rule of the board
42 and performed by dental auxiliary personnel under the supervision of a licensed dentist;

43 “Dentist anesthesiologist” means a dentist who is trained in the practice of anesthesiology
44 and has completed an additional approved anesthesia education course;

45 “Dental assistant” means a person qualified by education, training or experience who aids
46 or assists a dentist in the delivery of patient care in accordance with delegated procedures as
47 specified by the board by rule or who may perform nonclinical duties in the dental office;

48 “Dental auxiliary personnel” or “auxiliary” means dental hygienists and dental assistants
49 who assist the dentist in the practice of dentistry;

50 “Dental hygiene” means the performance of educational, preventive or therapeutic dental
51 services and as further provided in §30-4-11 of this code and legislative rule;

52 “Dental hygienist” means a person licensed by the board to practice and who provides
53 dental hygiene and other services as specified by the board by rule to patients in the dental office
54 and in a public health setting;

55 “Dental laboratory” means a business performing dental laboratory services;

56 “Dental laboratory services” means the fabricating, repairing, or altering of a dental
57 prosthesis;

58 “Dental laboratory technician” means a person qualified by education, training, or
59 experience who has completed a dental laboratory technology education program and who
60 fabricates, repairs, or alters a dental prosthesis in accordance with a dentist’s work authorization;

61 “Dental office” means the place where the licensed dentist and dental auxiliary personnel
62 are practicing dentistry;

63 “Dental prosthesis” means an artificial appliance fabricated to replace one or more teeth
64 or other oral or peri-oral structure in order to restore or alter function or aesthetics;

65 “Dental public health” is the science and art of preventing and controlling dental diseases
66 and promoting dental health through organized community efforts. It is that form of dental practice

67 which considers the community to be the patient rather than any individual. It is concerned with
68 the dental health education of the public, with applied dental research, and with the administration
69 of group dental care programs as well as the prevention and control of dental diseases on a
70 community basis;

71 “Dentist” means an individual licensed by the board to practice dentistry;

72 “Dentistry” means the evaluation, diagnosis, prevention, and treatment of diseases,
73 disorders, and conditions of the oral cavity, maxillofacial area, and the adjacent and associated
74 structures provided by a dentist;

75 “Direct supervision” means supervision of dental auxiliary personnel provided by a
76 licensed dentist who is physically present in the dental office or treatment facility when procedures
77 are being performed;

78 “Endodontics” is the branch of dentistry which is concerned with the morphology,
79 physiology, and pathology of the human dental pulp and periradicular tissues. Its study and
80 practice encompass the basic and clinical sciences including biology of the normal pulp, the
81 etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and associated
82 periradicular conditions;

83 “Facility permit” means a permit for a facility where sedation procedures are used that
84 correspond with the level of anesthesia provided;

85 “General anesthesia” means an induced, controlled state of unconsciousness in which the
86 patient experiences complete loss of protective reflexes, as evidenced by the inability to
87 independently maintain an airway, the inability to respond purposefully to physical stimulation or
88 the inability to respond purposefully to verbal command;

89 “Deep conscious sedation/general anesthesia” includes partial loss of protective reflexes
90 while the patient retains the ability to independently and continuously maintain an airway;

91 “General supervision” means a dentist is not required to be in the office or treatment facility
92 when procedures are being performed by the auxiliary dental personnel, but has personally

93 diagnosed the condition to be treated, has personally authorized the procedures, and will evaluate
94 the treatment provided by the dental auxiliary personnel;

95 “Good moral character” means a lack of history of dishonesty;

96 “Health care provider BLS/CPR” means health care provider basic life
97 support/cardiopulmonary resuscitation;

98 “License” means a license to practice dentistry or dental hygiene;

99 “Licensee” means a person holding a license;

100 “Mobile dental facility” means any self-contained facility in which dentistry or dental
101 hygiene will be practiced which may be moved, towed, or transported from one location to another;

102 “Portable dental unit” means any nonfacility in which dental equipment, utilized in the
103 practice of dentistry, is transported to and utilized on a temporary basis in an out-of-office location,
104 including, but not limited to, patients’ homes, schools, nursing homes, or other institutions;

105 “Oral pathology” is the specialty of dentistry and discipline of pathology that deals with the
106 nature, identification, and management of diseases affecting the oral and maxillofacial regions. It
107 is a science that investigates the causes, processes, and effects of these diseases. The practice
108 of oral pathology includes research and diagnosis of diseases using clinical, radiographic,
109 microscopic, biochemical, or other examinations;

110 “Oral and maxillofacial radiology” is the specialty of dentistry and discipline of radiology
111 concerned with the production and interpretation of images and data produced by all modalities
112 of radiant energy that are used for the diagnosis and management of diseases, disorders, and
113 conditions of the oral and maxillofacial region;

114 “Oral and maxillofacial surgery” is the specialty of dentistry which includes the diagnosis,
115 surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional
116 and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;

117 “Orthodontics and dentofacial orthopedics” is the dental specialty that includes the
118 diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and
119 skeletal abnormalities of the developing or mature orofacial structures;

120 “Other dental practitioner” means those persons excluded from the definition of the
121 practice of dentistry under the provisions of §30-4-24(3), §30-4-24(4), and §30-4-24(5) of this
122 code and also those persons who hold teaching permits which have been issued to them under
123 the provisions of §30-4-14 of this code;

124 “PALS” means pediatric advanced life support;

125 “Pediatric dentistry” is an age-defined specialty that provides both primary and
126 comprehensive preventive and therapeutic oral health care for infants and children through
127 adolescence, including those with special health care needs;

128 “Pediatric patient” means infants and children;

129 “Periodontics” is that specialty of dentistry which encompasses the prevention, diagnosis,
130 and treatment of diseases of the supporting and surrounding tissues of the teeth or their
131 substitutes and the maintenance of the health, function, and aesthetics of these structures and
132 tissues;

133 “Physician anesthesiologist” means a physician, medical doctor, or doctor of osteopathy
134 who is specialized in the practice of anesthesiology;

135 “Prosthodontics” is the dental specialty pertaining to the diagnosis, treatment planning,
136 rehabilitation and maintenance of the oral function, comfort, appearance and health of patients
137 with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial
138 tissues using biocompatible substitutes;

139 “Public health practice” means treatment or procedures in a public health setting which
140 shall be designated by a rule promulgated by the board to require direct, general, or no
141 supervision of a dental hygienist by a dentist;

142 “Public health setting” means hospitals, schools, correctional facilities, jails, community
143 clinics, long-term care facilities, nursing homes, home health agencies, group homes, state
144 institutions under the West Virginia Department of Health and Human Resources, public health
145 facilities, homebound settings, accredited dental hygiene education programs, and any other
146 place designated by the board by rule;

147 “Qualified monitor” means an individual who by virtue of credentialing and/or training is
148 qualified to check closely and document the status of a patient undergoing anesthesia and
149 observe utilized equipment;

150 “Relative analgesia/minimal sedation” means an induced, controlled state of minimally
151 depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide
152 and oxygen or single oral premedication without the addition of nitrous oxide and oxygen in which
153 the patient retains the ability to independently and continuously maintain an airway and to respond
154 purposefully to physical stimulation and to verbal command;

155 “Specialty” means the practice of a certain branch of dentistry;

156 “Subcommittee” means West Virginia Board of Dentistry Subcommittee on Anesthesia;
157 and

158 “Work authorization” means a written order for dental laboratory services which has been
159 issued by a licensed dentist or other dental practitioner.

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

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

3 (1) Is at least 18 years of age;

4 (2) Is of good moral character;

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

8 (4) Has passed a national board examination as given by the Joint Commission on
9 National Dental Examinations and a clinical examination administered by the Commission on
10 Dental Competency Assessments, the Central Regional Dental Testing Service, the Council of
11 Interstate Testing Agencies, the Southern Regional Testing Agency, or the Western Regional
12 Examining Board, or the successor to any of those entities, which demonstrates competency, and
13 passed each individual component with no compensatory scoring in:

14 (A) Endodontics, including access opening of a posterior tooth and access, canal
15 instrumentation, and obturation of an anterior tooth;

16 (B) Fixed prosthodontics, including an anterior crown preparation and two posterior crown
17 preparations involving a fixed partial denture factor;

18 (C) Periodontics, including scaling and root planing in a patient-based clinical setting;

19 (D) Restorative, including a class II amalgam or composite preparation and restoration
20 and a class III composite preparation and restoration in a patient-based clinical setting; and

21 (E) The board may consider clinical examinations taken prior to July 1, 2019, or individual
22 state clinical examinations as equivalent which demonstrates competency.

23 (5) Has not been found guilty of cheating, deception, or fraud in the examination or any
24 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 defined in §27-1A-11 of this code:
27 *Provided*, That an applicant in an active recovery process, which may, in the discretion of the
28 board, be evidenced by participation in a 12-step program or other similar group or process, may
29 be considered.

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

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

§30-4-8a. Dental specialties.

1 (a) The Board of Dentistry may issue a dental specialty license authorizing a dentist to
2 represent himself or herself to the public as a specialist, and to practice as a specialist, upon
3 proper application and fee for each specialty and as provided pursuant to the provisions of this
4 article.

5 (b) A dentist may not represent himself or herself to the public as a specialist, nor practice
6 as a specialist, unless the individual:

7 (1) Has successfully completed a board-recognized dental specialty/advanced education
8 program accredited by the Commission on Dental Accreditation;

9 (2) Holds a general dental license in this state; and

10 (3) Has completed any additional requirements set forth in state law or rules and has been
11 issued a dental specialty license by the board.

12 (c) Specialties recognized by the board shall include:

13 (1) *Dental public health*. — In order to qualify for this specialty, the licensee shall have
14 successfully completed a minimum of one full-time academic year of at least eight calendar
15 months each of graduate or post-graduate education, internship, or residency.

16 (2) *Endodontics*. — In order to qualify for this specialty, the licensee shall have
17 successfully completed a minimum of two full-time academic years of at least eight calendar
18 months each of graduate or post-graduate education, internship, or residency.

19 (3) *Oral and maxillofacial surgery*. — In order to qualify for this specialty, the licensee shall
20 have successfully completed a minimum of three full-time academic years of at least eight
21 calendar months each of graduate or post-graduate education, internship, or residency.

22 (4) *Oral and maxillofacial radiology.* — In order to qualify for this specialty, the licensee
23 shall have successfully completed a minimum of two full-time years of at least eight calendar
24 months each of graduate or post-graduate education, internship, or residency.

25 (5) *Orthodontics and dentofacial orthopedics.* — In order to qualify for this specialty, the
26 licensee shall have successfully completed a minimum of two full-time academic years of at least
27 eight calendar months each of graduate or post-graduate education, internship, or residency. In
28 addition, any applicant for an orthodontic and dentofacial orthopedic specialty certificate
29 commencing on July 1, 2019, shall submit verification of successful completion of the American
30 Board of Orthodontics written examination.

31 (6) *Pediatric dentistry.* — In order to qualify for this specialty, the licensee shall have
32 successfully completed a minimum of two full-time academic years of at least eight calendar
33 months each of graduate or post-graduate education, internship, or residency.

34 (7) *Periodontics.* — In order to qualify for this specialty, the licensee shall have
35 successfully completed a minimum of two full-time academic years of at least eight calendar
36 months each of graduate or post-graduate education, internship, or residency.

37 (8) *Prosthodontics.* — In order to qualify for this specialty, the licensee shall have
38 successfully completed a minimum of two full-time academic years of at least eight calendar
39 months each of graduate or post-graduate education, internship, or residency.

40 (9) *Oral pathology.* — In order to qualify for this specialty, the licensee shall have
41 successfully completed a minimum of two full-time academic years of at least eight calendar
42 months each of graduate or post-graduate education, internship, or residency.

43 (d) The licensee shall limit his or her practice of dentistry only to the specialty in which he
44 or she is licensed and in which he or she holds himself or herself out to the public as a specialist.

45 (e) The licensee shall limit his or her listing in the telephone directory to the specialties in
46 which he or she has an office or offices.

47 (f) The limitation of practice is removed for purposes of volunteering services in organized
48 health clinics and at charitable events.

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

1 (a) The board shall issue a dental hygienist license to an applicant who meets the following
2 requirements:

3 (1) Is at least 18 years of age;

4 (2) Is of good moral character;

5 (3) Is a graduate with a degree in dental hygiene from an approved dental hygiene
6 program of a college, school, or dental department of a university;

7 (4) Has passed a national board examination as given by the Joint Commission on
8 National Dental Examinations and passed a board-approved patient-based examination designed
9 to determine the applicant's level of clinical skills;

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

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

13 (7) Is not an alcohol or drug abuser, as those terms are defined in §27-1A-11 of this code:

14 *Provided*, That an applicant in an active recovery process, which may, in the discretion of the
15 board, be evidenced by participation in a 12-step program or other similar group or process, may
16 be considered.

17 (b) A dental hygienist license issued by the board and in good standing on the effective
18 date of the amendments to this section shall for all purposes be considered a dental hygienist
19 license issued under this section: *Provided*, That a person holding a dental hygienist license shall
20 renew the license.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

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Governor