

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3141

By Delegates Summers and Tully

[Introduced January 30, 2023; Referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-4-3 and §30-4-8a of the Code of West Virginia, 1931, as
2 amended; and to amend said code by adding thereto a new section, designated §30-4-
3 25; all relating to the practice of dentistry; providing for updated definitions; modifying the
4 requirements of dental specialists; and specifying duties during declared public health
5 emergencies.

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
17 equivalent to those required by the Commission on Dental Accreditation of the American Dental
18 Association;

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

24 "Authorize" means that the dentist is giving permission or approval to dental auxiliary
25 personnel to perform delegated procedures in accordance with the dentist's diagnosis and
26 treatment plan;

27 "BLS" means basic life support;

28 "Board" means the West Virginia Board of Dentistry;

29 "Business entity" means any firm, partnership, association, company, corporation, limited
30 partnership, limited liability company, or other entity;

31 "Central nervous system anesthesia" means an induced, controlled state of
32 unconsciousness or depressed consciousness produced by a pharmacologic method;

33 "Certificate of qualification" means a certificate authorizing a dentist to practice a
34 specialty;

35 "CPR" means cardiopulmonary resuscitation;

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

41 "CRNA" means certified registered nurse anesthetist;

42 "Defibrillator" means ~~a device used to sustain asthmatic heartbeat in an emergency~~ an
43 electronic device that applies an electric shock to the heart to restore the normal functional

44 rhythm of a fibrillating, nonfunctional heart and includes an Automatic Electronic Defibrillator
45 (AED);

46 "Delegated procedures" means those procedures specified by law or by rule of the board
47 and performed by dental auxiliary personnel under the supervision of a licensed dentist;

48 "Dentist anesthesiologist" means a dentist who is trained in the practice of
49 anesthesiology and has completed an additional approved anesthesia education course;

50 "Dental anesthesiology" is the specialty of dentistry and discipline of anesthesiology
51 encompassing the art and science of managing pain, anxiety, and overall patient health during
52 dental, oral, maxillofacial and adjunctive surgical or diagnostic procedures throughout the entire
53 perioperative period. The specialty is dedicated to promoting patient safety as well as access to
54 care for all dental patients, including the very young and patients with special health care needs;

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

58 "Dental auxiliary personnel" or "auxiliary" means dental hygienists and dental assistants
59 who assist the dentist in the practice of dentistry;

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

62 "Dental hygienist" means a person licensed by the board to practice and who provides
63 dental hygiene and other services as specified by the board by rule to patients in the dental
64 office and in a public health setting;

65 "Dental laboratory" means a business performing dental laboratory services;

66 "Dental laboratory services" means the fabricating, repairing, or altering of a dental
67 prosthesis;

68 "Dental laboratory technician" means a person qualified by education, training, or
69 experience who has completed a dental laboratory technology education program and who

70 fabricates, repairs, or alters a dental prosthesis in accordance with a dentist's work
71 authorization;

72 "Dental office" means the place where the licensed dentist and dental auxiliary personnel
73 are practicing dentistry;

74 "Dental prosthesis" means ~~an artificial appliance~~ a fixed or removable device fabricated
75 to replace one or more teeth or other oral or peri-oral structure in order to restore or alter
76 function or aesthetics;

77 "Dental public health" is the science and art of preventing and controlling dental diseases
78 and promoting dental health through organized community efforts. It is that form of dental
79 practice which considers the community to be the patient rather than any individual. It is
80 concerned with the dental health education of the public, with applied dental research, and with
81 the administration of group dental care programs as well as the prevention and control of dental
82 diseases on a community basis;

83 "Dentist" means an individual licensed by the board to practice dentistry;

84 "Dentistry" means the evaluation, diagnosis, prevention, and treatment, through surgical,
85 nonsurgical, or related procedures, of diseases, disorders, and conditions of the oral cavity and
86 the maxillofacial, adjacent, and associated structures and their impact on the human body;
87 ~~maxillofacial area, and the adjacent and associated structures provided by a dentist~~

88 "Direct supervision" means supervision ~~of dental auxiliary personnel~~ provided by a
89 licensed dentist who is physically present in the dental office or treatment facility when
90 procedures are being performed;

91 "Endodontics" is the branch of dentistry which is concerned with the morphology,
92 physiology, and pathology of the human dental pulp and periradicular tissues. Its study and
93 practice encompass the basic and clinical sciences including biology of the normal pulp, the
94 etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and
95 associated periradicular conditions;

96 "Facility permit" means a permit for a facility where sedation procedures are used that
97 correspond with the level of anesthesia provided;

98 "General anesthesia" means an induced, controlled state of unconsciousness in which
99 the patient experiences complete loss of protective reflexes, as evidenced by the inability to
100 independently maintain an airway, the inability to respond purposefully to physical stimulation or
101 the inability to respond purposefully to verbal command;

102 "Deep conscious sedation/general anesthesia" includes partial loss of protective reflexes
103 while the patient retains the ability to independently and continuously maintain an airway;

104 "General supervision" means a dentist is not required to be in the office or treatment
105 facility when procedures are being performed ~~by the auxiliary dental personnel, but has~~
106 ~~personally diagnosed the condition to be treated~~ has personally authorized the procedures to be
107 completed, and will evaluate the treatment provided at a future appointment; ~~by the dental~~
108 ~~auxiliary personnel~~

109 ~~"Good moral character" means a lack of history of dishonesty;~~

110 "Health care provider BLS/CPR" means health care provider basic life
111 support/cardiopulmonary resuscitation;

112 "License" means a license to practice dentistry or dental hygiene;

113 "Licensee" means a person holding a license;

114 "Mobile dental facility" means any self-contained facility in which dentistry or dental
115 hygiene will be practiced which may be moved, towed, or transported from one location to
116 another;

117 "Portable dental unit" means any nonfacility in which dental equipment, utilized in the
118 practice of dentistry, is transported to and utilized on a temporary basis in an out-of-office
119 location, including, but not limited to, patients' homes, schools, nursing homes, or other
120 institutions;

121 "Oral medicine" is the specialty of dentistry responsible for the oral health care of
122 medically complex patients and for the diagnosis and management of medically related
123 disorders or conditions affecting the oral and maxillofacial region;

124 "Oral pathology" is the specialty of dentistry and discipline of pathology that deals with
125 the nature, identification, and management of diseases affecting the oral and maxillofacial
126 regions. It is a science that investigates the causes, processes, and effects of these diseases.
127 The practice of oral pathology includes research and diagnosis of diseases using clinical,
128 radiographic, microscopic, biochemical, or other examinations;

129 "Oral and maxillofacial radiology" is the specialty of dentistry and discipline of radiology
130 concerned with the production and interpretation of images and data produced by all modalities
131 of radiant energy that are used for the diagnosis and management of diseases, disorders, and
132 conditions of the oral and maxillofacial region;

133 "Oral and maxillofacial surgery" is the specialty of dentistry which includes the diagnosis,
134 surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional
135 and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;

136 "Orofacial pain" is the specialty of dentistry that encompasses the diagnosis,
137 management and treatment of pain disorders of the jaw, mouth, face and associated regions,
138 which specialty is dedicated to the evidenced-based understanding of the underlying
139 pathophysiology, etiology, prevention, and treatment of these disorders and improving access to
140 interdisciplinary patient care. These disorders as they relate to orofacial pain include but are not
141 limited to temporomandibular muscle and joint (TMJ) disorders, jaw movement disorders,
142 neuropathic and neurovascular pain disorders, headache, and sleep disorders;

143 "Orthodontics and dentofacial orthopedics" is the dental specialty that includes the
144 diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular
145 and skeletal abnormalities of the developing or mature orofacial structures;

146 ~~"Other dental practitioner" means those persons excluded from the definition of the~~
147 ~~practice of dentistry under the provisions of §30-4-24(3), §30-4-24(4), and §30-4-24(5) of this~~
148 ~~code and also those persons who hold teaching permits which have been issued to them under~~
149 ~~the provisions of §30-4-14 of this code~~

150 "PALS" means pediatric advanced life support;

151 "Pediatric dentistry" is an age-defined specialty that provides both primary and
152 comprehensive preventive and therapeutic oral health care for infants and children through
153 adolescence, including those with special health care needs;

154 "Pediatric patient" means infants and children;

155 "Periodontics" is that specialty of dentistry which encompasses the prevention,
156 diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or
157 their substitutes and the maintenance of the health, function, and aesthetics of these structures
158 and tissues;

159 "Physician anesthesiologist" means a physician, medical doctor, or doctor of osteopathy
160 who is specialized in the practice of anesthesiology;

161 "Prosthodontics" is the dental specialty pertaining to the diagnosis, treatment planning,
162 rehabilitation and maintenance of the oral function, comfort, appearance and health of patients
163 with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial
164 tissues using biocompatible substitutes;

165 "Public health practice" means treatment or procedures in a public health setting which
166 shall be designated by a rule promulgated by the board to require direct, general, or no
167 supervision of a dental hygienist by a dentist;

168 "Public health setting" means hospitals, schools, correctional facilities, jails, community
169 clinics, long-term care facilities, nursing homes, home health agencies, group homes, state
170 institutions under the West Virginia Department of Health and Human Resources, public health

171 facilities, homebound settings, accredited dental hygiene education programs, and any other
172 place designated by the board by rule;

173 "Qualified monitor" means an individual who by virtue of credentialing and/or training is
174 qualified to check closely and document the status of a patient undergoing anesthesia and
175 observe utilized equipment;

176 "Relative analgesia/minimal sedation" means an induced, controlled state of minimally
177 depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide
178 and oxygen or single oral premedication without the addition of nitrous oxide and oxygen in
179 which the patient retains the ability to independently and continuously maintain an airway and to
180 respond purposefully to physical stimulation and to verbal command;

181 "Specialty" means the practice of a certain branch of dentistry;

182 "Subcommittee" means West Virginia Board of Dentistry Subcommittee on Anesthesia;
183 and

184 "Work authorization" means a written order for dental laboratory services which has been
185 issued by a licensed dentist ~~or other dental practitioner.~~

§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
6 practice 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
11 been issued a dental specialty license by the board.

12 (c) Specialties recognized by the board and the educational requirements for obtaining a
13 specialty license shall include:

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

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

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

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

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

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

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

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

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

44 (10) Dental anesthesiology. — In order to qualify for this specialty, the licensee shall have
45 successfully completed a minimum of two full-time academic years of at least eight calendar
46 months each of graduate or post-graduate education, internship, or residency.

47 (11) Oral medicine. — In order to qualify for this specialty, the licensee shall have
48 successfully completed a minimum of two full-time academic years of at least eight calendar
49 months each of graduate or post-graduate education, internship, or residency.

50 (12) Orofacial pain. — In order to qualify for this specialty, the licensee shall have
51 successfully completed a minimum of two full-time academic years of at least eight calendar
52 months each of graduate or post-graduate education, internship, or residency.

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

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

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

§30-4-25. Declared public health emergencies.

- 1 During a declared public health emergency, dentists and dental hygienists with a local
- 2 anesthesia certificate, may administer vaccines, perform FDA-authorized diagnostic tests to
- 3 screen patients for infectious diseases, triage medical patients, and perform other ancillary
- 4 medical procedures and activities as requested by medical personnel.

NOTE: The purpose of this bill is to update the practice of dentistry, to update definitions, to add to disciplinary section language concerning orthodontic treatment, and add a section concerning a declared public health emergency.

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