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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR

ENROLLED

Senate Bill No. 13

(SENATOR BAILEY, *original sponsor*)

[Passed March 6, 2008; in effect ninety days from passage.]

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AN ACT to amend and reenact §30-4-3, §30-4-5, §30-4-6, §30-4-13, §30-4-14, §30-4-15 and §30-4-21 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Dental Practice Act; clarifying definitions, powers of the board, rulemaking and temporary permits;

authorizing Board of Dental Examiners to promulgate rules allowing dental hygienists to practice in public health settings under different degrees of supervision; providing method of service that a copy of a complaint against a dentist or dental hygienist to a dentist or dental hygienist be established by board rule; establishing a special volunteer dental license; and providing civil immunity.

Be it enacted by the Legislature of West Virginia:

That §30-4-3, §30-4-5, §30-4-6, §30-4-13, §30-4-14, §30-4-15 and §30-4-21 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-3. Definitions.

1 As used in this article, the following words and terms
2 have the following meanings, unless the context clearly
3 indicates otherwise:

4 (1) “Approved dental hygiene program” means a
5 program that is approved by the board and is accredited
6 or its educational standards are deemed by the board to
7 be substantially equivalent to those required by the
8 Commission on Dental Accreditation of the American
9 Dental Association.

10 (2) “Approved dental school, college or dental
11 department of a university” means a dental school,
12 college or dental department of a university that is
13 approved by the board and is accredited or its
14 educational standards are deemed by the board to be
15 substantially equivalent to those required by the

16 Commission on Dental Accreditation of the American
17 Dental Association.

18 (3) "Authorize" means that the dentist is giving
19 permission or approval to dental auxiliary personnel to
20 perform delegated procedures in accordance with the
21 dentist's diagnosis and treatment plan.

22 (4) "Board" means the West Virginia Board of Dental
23 Examiners;

24 (5) "Certificate of qualification" means a certificate
25 authorizing a dentist to practice a specialty.

26 (6) "Delegated procedures" means those procedures
27 specified by law or by rule of the board and performed
28 by dental auxiliary personnel under the supervision of
29 a licensed dentist.

30 (7) "Dental assistant" means a person qualified by
31 education, training and experience who aids or assists
32 a dentist in the delivery of patient care in accordance
33 with delegated procedures or who may perform
34 nonclinical duties in the dental office: *Provided*, That no
35 occupational title other than dental assistant shall be
36 used to describe this auxiliary.

37 (8) "Dental auxiliary personnel" or "auxiliary" means
38 dental hygienists and dental assistants who assist the
39 dentist in the provision of oral health care services to
40 patients.

41 (9) "Dental hygienist" means a person licensed by the
42 board who provides preventative oral health care
43 services to patients in the dental office and in a public

44 health setting: *Provided*, That no occupational title
45 other than dental hygienist may be used to describe this
46 auxiliary.

47 (10) "Dental laboratory" means a dental laboratory as
48 defined in section one, article four-b of this chapter.

49 (11) "Dental office" means the place where the
50 licensed dentist and dental auxiliary personnel are
51 practicing dentistry.

52 (12) "Dental prosthesis" means an artificial appliance
53 fabricated to replace one or more teeth or other oral or
54 peri-oral structure in order to restore or alter function
55 or aesthetics.

56 (13) "Dentist" means an individual licensed by the
57 board to practice dentistry.

58 (14) "Dentistry" means the evaluation, diagnosis,
59 prevention and treatment of diseases, disorders and
60 conditions of the oral cavity, maxillofacial area and the
61 adjacent and associated structures provided by a
62 dentist.

63 (15) "Direct supervision" means supervision of dental
64 auxiliary personnel provided by a licensed dentist who
65 is physically present in the dental office or treatment
66 facility when procedures are being performed.

67 (16) "General supervision" means a dentist is not
68 required to be in the office or treatment facility when
69 procedures are being performed by the auxiliary dental
70 personnel, but has personally diagnosed the condition
71 to be treated, has personally authorized the procedures

72 and will evaluate the treatment provided by the dental
73 auxiliary personnel.

74 (17) "Good moral character" means a lack of history
75 of dishonesty.

76 (18) "License" means a license to practice dentistry or
77 dental hygiene.

78 (19) "Licensee" means a person holding a license.

79 (20) "Public health practice" means treatment or
80 procedures in a public health setting which shall be
81 designated by a rule promulgated by the Board of
82 Dental Examiners to require direct, general or no
83 supervision of a dental hygienist by a licensed dentist.

84 (21) "Public health setting" means hospitals, schools,
85 correctional facilities, jails, community clinics, long-
86 term care facilities, nursing homes, home health
87 agencies, group homes, state institutions under the West
88 Virginia Department of Health and Human Resources,
89 public health facilities, homebound settings, accredited
90 dental hygiene education programs and any other place
91 designated by the board by rule.

92 (22) "Specialty" means the practice of a certain
93 branch of dentistry.

§30-4-5. Powers of the board.

1 The board has all the powers set forth in article one of
2 this chapter and in addition may:

3 (1) Sue and be sued in its official name as an agency of

4 this state;

5 (2) Hire, fix the compensation of and discharge the
6 employees necessary to enforce the provisions of this
7 article;

8 (3) Examine and determine the qualifications of any
9 applicant for a license;

10 (4) Examine and determine the qualifications of any
11 applicant for a certificate of qualification;

12 (5) Issue, renew, deny, suspend, revoke, limit or
13 reinstate licenses and discipline licensees;

14 (6) Issue, renew, deny, suspend, revoke, limit or
15 reinstate certificates of qualification and discipline
16 holders of a certificate of qualification;

17 (7) Investigate alleged violations of the provisions of
18 this article and article four-b of this chapter reasonable
19 regulations promulgated hereunder and orders and final
20 decisions of the board;

21 (8) Conduct hearings upon charges calling for
22 discipline of a licensee or revocation or suspension of a
23 license;

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

27 (10) Take all other actions necessary and proper to
28 effectuate the purposes of this article.

§30-4-6. Rule-making authority.

- 1 (a) The board shall propose rules for legislative
- 2 approval in accordance with the provisions of article
- 3 three, chapter twenty-nine-a of this code to implement
- 4 the provisions of this article including, but not limited
- 5 to, the following:
 - 6 (1) The examinations administered under this article;
 - 7 (2) Issuing and renewing a license;
 - 8 (3) Issuing temporary permits, teaching permits and
 - 9 dental intern or resident permits;
 - 10 (4) Specialities that a dentist may practice;
 - 11 (5) Issuing and renewing a certificate of qualification;
 - 12 (6) Denying, suspending, revoking, reinstating or
 - 13 limiting the practice of a licensee or certificate of
 - 14 qualification;
 - 15 (7) Continuing education requirements for licensees;
 - 16 (8) Delegated procedures to be performed by a dental
 - 17 hygienist;
 - 18 (9) Designating the services and procedures requiring
 - 19 or allowing direct supervision, general supervision and
 - 20 public health practice to be completed and filed as an
 - 21 emergency rule no later than the first day of July, two
 - 22 thousand eight;
 - 23 (10) Delegated procedures to be performed by a dental

24 assistant;

25 (11) Use of firm or trade names;

26 (12) Dental corporations; and

27 (13) Professional conduct requirements.

28 (b) All rules in effect on the effective date of this
29 article shall remain in effect until they are withdrawn,
30 revoked or amended.

§30-4-13. Temporary permits; dental intern or resident permit; teaching permit; dentist.

1 (a) The board may issue a temporary permit to
2 practice dentistry to an applicant who:

3 (1) Has graduated from an approved dental college,
4 school or dental department of a university with a
5 degree in dentistry;

6 (2) Has been offered employment under the direct
7 supervision of a licensed dentist;

8 (3) Has paid the application fee specified by rule; and

9 (4) Meets the other qualifications specified by rule by
10 the board in accordance with the provisions of this
11 article.

12 (b) A temporary permit to practice dentistry may not
13 be renewed and expires on the earlier of:

14 (1) The date the dentist ceases to be under the direct

15 supervision of a licensed dentist; or

16 (2) Sixty days after issuance.

17 (c) The board shall issue a dental intern or dental
18 resident permit to an applicant who meets the
19 qualifications set forth in subdivisions (1), (3) and (4),
20 subsection (a) of this section and who has been accepted
21 as a dental intern or dental resident by a licensed
22 hospital or dental school in this state which maintains
23 an established dental department under the supervision
24 of a licensed dentist.

25 (d) The dental intern or dental resident permit may be
26 renewed and expires on the earlier of:

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

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

30 (e) The board shall issue a teaching permit to an
31 applicant who meets the qualifications set forth in
32 subdivisions (1), (3) and (4), subsection (a) of this section
33 and who has been certified by the dean of a dental
34 school located in this state to be a member of the
35 teaching staff of the dental school.

36 (f) A teaching permit is valid for one year from the
37 date of issue and may be renewed.

38 (g) While in effect, a temporary permit to practice
39 dentistry, a permit to practice as a dental intern or
40 dental resident and a teaching permit are subject to the
41 restrictions and requirements imposed by this article.

42 In addition, the holder of a permit to practice as a
43 dental intern or dental resident may not receive any fee
44 for service other than a salary paid by the hospital or
45 dental school and the holder of a teaching permit may
46 only practice dentistry within the facilities of the dental
47 school.

**§30-4-14. Temporary permits; teaching permit; dental
hygienist.**

1 (a) The board may issue a temporary permit to
2 practice dental hygiene to an applicant who:

3 (1) Has graduated from an approved dental hygiene
4 program of a college, school or dental department of a
5 university with a degree in dental hygiene;

6 (2) Has been offered employment as a dental hygienist;

7 (3) Has paid the application fee specified by rule; and

8 (4) Meets the other qualifications specified by rule by
9 the board, in accordance with the provisions of this
10 article.

11 (b) A temporary permit to practice dental hygiene
12 shall not be renewed and expires on the earlier of:

13 (i) The date the dental hygienist ceases to be
14 employed; or

15 (ii) Sixty days after issuance.

16 (c) The board may issue a teaching permit to an
17 applicant who meets the qualifications set forth in

18 subdivisions (1), (3) and (4), subsection (a) of this section
19 and who has been certified by the dean of a dental
20 school located in this state to be a member of the
21 teaching staff of the dental school.

22 (d) A teaching permit is valid for one year from the
23 date of issue and may be renewed.

24 (e) While in effect, a temporary permit to practice
25 dental hygiene and a teaching permit are subject to the
26 restrictions and requirements imposed by this article.
27 In addition, the holder of a teaching permit may only
28 practice dental hygiene within the facilities of the
29 dental school.

§30-4-15. Scope of practice; dentist.

1 The practice of dentistry includes the following:

2 (1) Coordinating dental services to meet the oral
3 health needs of the patient;

4 (2) Examining, evaluating and diagnosing diseases,
5 disorders and conditions of the oral cavity,
6 maxillofacial area and adjacent and associated
7 structures;

8 (3) Treating diseases, disorders and conditions of the
9 oral cavity, maxillofacial area and the adjacent and
10 associated structures;

11 (4) Providing services to prevent diseases, disorders
12 and conditions of the oral cavity, maxillofacial area and
13 the adjacent and associated structures;

14 (5) Fabricating, repairing or altering a dental
15 prosthesis;

16 (6) Administering anesthesia in accordance with the
17 provisions of article four-a of this chapter;

18 (7) Prescribing drugs necessary for the practice of
19 dentistry;

20 (8) Executing and signing a death certificate when it
21 is required in the practice of dentistry;

22 (9) Employing and supervising dental auxiliary
23 personnel;

24 (10) Authorizing delegated procedures to be
25 performed by dental auxiliary personnel; and

26 (11) Performing any other work included in the
27 curriculum of an approved dental school, college or
28 dental department of a university.

§30-4-21. Complaints; investigations.

1 (a) Upon receipt of a written complaint filed against
2 any dentist or dental hygienist, the board shall provide
3 a copy of the complaint to the dentist or dental
4 hygienist as specified by legislative rule promulgated by
5 the board.

6 (b) The board may investigate the complaint. If the
7 board finds upon investigation that probable cause
8 exists that the dentist or dental hygienist has violated
9 any provision of this article or the rules, the board shall
10 serve the dentist or dental hygienist with a written

13 [Enr. Com. Sub. for Com. Sub. for S. B. No. 13

11 statement of charges and a notice specifying the date,
12 time and place of hearing. The hearing shall be held in
13 accordance with section twenty-two of this article.



Enr. Com. Sub for Com. Sub for S. B. No. 13] 14

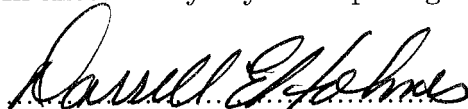
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

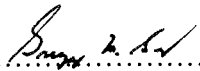

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Chairman Senate Committee

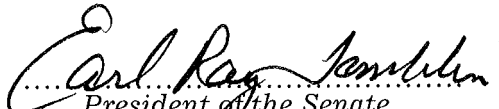

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Chairman House Committee

Originated in the Senate.

In effect ninety 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


.....
Speaker House of Delegates

The within *is appended* this
the *20th* Day of *May*, 2008.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 14 2008

Time 11:25AM