

Senate Bill No. 580

(By Senator Stollings)

[Introduced March 20, 2013; referred to the Committee on Health
and Human Resources; and then to the Committee on Government
Organization.]

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

1 §30-4B-2, §30-4B-3 and §30-4B-4 of said code, all relating to
2 the practice of dentistry; prohibiting the practice of
3 dentistry without a license; providing other applicable
4 sections; providing definitions; providing for board
5 composition; setting forth the powers and duties of the board;
6 clarifying rule-making authority; continuing a special revenue
7 account; establishing license, certification and permit
8 requirements; creating a scope of practice; creating a
9 temporary permit; establishing renewal requirements; providing
10 for exemptions from licensure; providing requirements for the
11 display of a board authorization; permitting the board to file
12 an injunction; setting forth grounds for disciplinary actions;
13 allowing for specific disciplinary actions; providing
14 procedures for investigation of complaints; providing for
15 judicial review and appeals of decisions; setting forth
16 hearing and notice requirements; providing for civil causes of
17 action; providing criminal penalties; and updating references.

18 *Be it enacted by the Legislature of West Virginia:*

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21 repealed; that §30-4A-6a, §30-4A-6b, §30-4A-6c and §30-4A-6d and
22 §30-4A-18 of said code be repealed; that §30-4B-5, §30-4B-6, §30-
23 4B-7 and §30-4B-8 of said code be repealed; that §30-4-1, §30-4-2,

1 §30-4-3, §30-4-4, §30-4-5, §30-4-6, §30-4-7, §30-4-8, §30-4-9, §30-
2 4-10, §30-4-11, §30-4-12, §30-4-13, §30-4-14, §30-4-15, §30-4-16,
3 §30-4-17, §30-4-18, §30-4-19, §30-4-20, §30-4-21, §30-4-22, §30-4-
4 23 and §30-4-24 of said code be amended and reenacted; that §30-4A-
5 1, §30-4A-2, §30-4A-3, §30-4A-4, §30-4A-5, §30-4A-6, §30-4A-7, §30-
6 4A-8, §30-4A-9, §30-4A-10, §30-4A-11, §30-4A-12, §30-4A-13, §30-4A-
7 14, §30-4A-15, §30-4A-16 and §30-4A-17 of said code be amended and
8 reenacted; and that §30-4B-1, §30-4B-2, §30-4B-3 and §30-4B-4 of
9 said code be amended and reenacted, all to read as follows:

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

11 **§30-4-1. Unlawful acts.**

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

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

22 **§30-4-2. Applicable law.**

23 The practices authorized under the provisions of this article

1 and the board of Dentistry are subject to article one of this
2 chapter, the provisions of this article, and any rules promulgated
3 hereunder.

4 **§30-4-3. Definitions.**

5 As used in article four, four-a and four-b, the following
6 words and terms have the following meanings:

7 (1) "AAOMS" means the American Association of Oral and
8 Maxillofacial Surgeons;

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

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

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

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

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

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

1 (8) "Approved dental hygiene program" means a program that is
2 approved by the board and is accredited or its educational
3 standards are deemed by the board to be substantially equivalent to
4 those required by the Commission on Dental Accreditation of the
5 American Dental Association;

6 (9) "Approved dental school, college or dental department of
7 a university" means a dental school, college or dental department
8 of a university that is approved by the board and is accredited or
9 its educational standards are deemed by the board to be
10 substantially equivalent to those required by the Commission on
11 Dental Accreditation of the American Dental Association;

12 (10) "Authorize" means that the dentist is giving permission
13 or approval to dental auxiliary personnel to perform delegated
14 procedures in accordance with the dentist's diagnosis and treatment
15 plan;

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

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

18 (13) "Business entity" means any firm, partnership,
19 association, company, corporation, limited partnership, limited
20 liability company or other entity;

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

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

3 (16) "CPR" means Cardiopulmonary Resuscitation;

4 (17) "Conscious sedation/Moderate sedation" means an induced
5 controlled state of depressed consciousness, produced through the
6 administration of nitrous oxide and oxygen and/or the
7 administration of other agents whether enteral or parenteral, in
8 which the patient retains the ability to independently and
9 continuously maintain an airway and to respond purposefully to
10 physical stimulation and to verbal command;

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

12 (19) "Delegated procedures" means those procedures specified
13 by law or by rule of the board and performed by dental auxiliary
14 personnel under the supervision of a licensed dentist;

15 (20) "Dentist Anesthesiologist" means a dentist who is trained
16 in the practice of anesthesiology and has completed an additional
17 approved anesthesia education course;

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

23 (22) "Dental auxiliary personnel" or "auxiliary" means dental

1 hygienists and dental assistants who assist the dentist in the
2 practice of dentistry;

3 (23) "Dental Hygiene" means the performance of educational,
4 preventive or therapeutic dental services and as further provided
5 in section nine and legislative rule;

6 (24) "Dental hygienist" means a person licensed by the board
7 to practice provides dental hygiene and other services as specified
8 by the board by rule to patients in the dental office and in a
9 public health setting;

10 (25) "Dental laboratory" means a business performing dental
11 laboratory services;

12 (26) "Dental laboratory services" means the fabricating,
13 repairing or altering of a dental prosthesis;

14 (27) "Dental laboratory technician" means a person qualified
15 by education, training or experience who has completed a dental
16 laboratory technology education program and who fabricates, repairs
17 or alters a dental prosthesis in accordance with a dentist's work
18 authorization;

19 (28) "Dental office" means the place where the licensed
20 dentist and dental auxiliary personnel are practicing dentistry;

21 (29) "Dental prosthesis" means an artificial appliance
22 fabricated to replace one or more teeth or other oral or peri-oral
23 structure in order to restore or alter function or aesthetics;

1 (30) "Dentist" means an individual licensed by the board to
2 practice dentistry;

3 (31) "Dentistry" means the evaluation, diagnosis, prevention
4 and treatment of diseases, disorders and conditions of the oral
5 cavity, maxillofacial area and the adjacent and associated
6 structures provided by a dentist;

7 (32) "Direct supervision" means supervision of dental
8 auxiliary personnel provided by a licensed dentist who is
9 physically present in the dental office or treatment facility when
10 procedures are being performed;

11 (33) "Facility Permit" means a permit for a facility where
12 sedation procedures are used that correspond with the level of
13 anesthesia provided;

14 (34) "General anesthesia" means an induced controlled state of
15 unconsciousness in which the patient experiences complete loss of
16 protective reflexes, as evidenced by the inability to independently
17 maintain an airway, the inability to respond purposefully to
18 physical stimulation, or the inability to respond purposefully to
19 verbal command. "Deep conscious sedation/general anesthesia"
20 includes partial loss of protective reflexes and the patient
21 retains the ability to independently and continuously maintain an
22 airway;

23 (35) "General supervision" means a dentist is not required to

1 be in the office or treatment facility when procedures are being
2 performed by the auxiliary dental personnel, but has personally
3 diagnosed the condition to be treated, has personally authorized
4 the procedures and will evaluate the treatment provided by the
5 dental auxiliary personnel;

6 (36) "Good moral character" means a lack of history of
7 dishonesty;

8 (37) "Health Care Provider BLS/CPR" means Health Care Provider
9 Basic Life Support/Cardiopulmonary Resuscitation;

10 (38) "License" means a license to practice dentistry or dental
11 hygiene;

12 (39) "Licensee" means a person holding a license;

13 (40) "Mobile Dental Facility" any self-contained facility in
14 which dentistry or dental hygiene will be practiced which may be
15 moved, towed, or transported from one location to another;

16 (41) "Other dental practitioner" means those persons excluded
17 from the definition of the practice of dentistry under the
18 provisions of subsections (3), (4) and (5), section twenty-nine of
19 this article and also those persons who hold teaching permits which
20 have been issued to them under the provisions of section fourteen
21 of this article;

22 (42) "PALS" means Pediatric Advanced Life Support;

23 (43) "Pediatric Patient" means infants and children;

1 (44) "Physician Anesthesiologist" means a physician, MD or DO,
2 who is specialized in the practice of anesthesiology;

3 (45) "Portable Dental Unit" any nonfacility in which dental
4 equipment, utilized in the practice of dentistry, is transported to
5 and utilized on a temporary basis an out-of-office location,
6 including, but not limited to, patient's homes, schools, nursing
7 homes, or other institutions;

8 (46) "Public health practice" means treatment or procedures in
9 a public health setting which shall be designated by a rule
10 promulgated by the board to require direct, general or no
11 supervision of a dental hygienist by a dentist;

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

19 (48) "Qualified Monitor" means an individual who by virtue of
20 credentialing and/or training checks closely and documents the
21 status of a patient undergoing anesthesia and observes utilized
22 equipment;

23 (49) "Relative analgesia/minimal sedation" means an induced

1 controlled state of minimally depressed consciousness, produced
2 solely by the inhalation of a combination of nitrous oxide and
3 oxygen, or single oral premedication without the addition of
4 nitrous oxide and oxygen in which the patient retains the ability
5 to independently and continuously maintain an airway and to respond
6 purposefully to physical stimulation and to verbal command. Dosage
7 of oral premedication is not to exceed the recommended dosage
8 limits set by the manufacturer for the treatment of anxiety,
9 insomnia or pain;

10 (50) "Specialty" means the practice of a certain branch of
11 dentistry;

12 (51) "Subcommittee" means West Virginia Board of Dentistry
13 Subcommittee on Anesthesia;

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

17 **§30-4-4. Board of dental examiners.**

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

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

3 (1) Six licensed dentists;

4 (2) One licensed dental hygienist;

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

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

11 (c) The West Virginia Dental Association may submit
12 recommendations to the Governor for the appointment of the licensed
13 dentists board members, the West Virginia Association of Dental
14 Hygienists may submit recommendations to the Governor for the
15 appointment of a Dental Hygienist board member, and the West
16 Virginia Dental Assistant Association may submit recommendations to
17 the Governor for the appointment of an Dental Assistant board
18 member.

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

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

7 (f) Each licensed member of the board, at the time of his or
8 her appointment, shall have held a license in this state for a
9 period of not less than five years immediately preceding the
10 appointment.

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

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

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

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

21 (k) A member of the board immediately and automatically
22 forfeits membership to the board if he or she is convicted of a
23 felony under the laws of any jurisdiction or becomes a nonresident

1 of this state.

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

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

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

10 (o) The board shall hold at least two meetings annually.
11 Other meetings shall be held at the call of the president or upon
12 the written request of four members, at the time and place as
13 designated in the call or request.

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

17 (q) The members of the board when acting in good faith and
18 without malice shall enjoy immunity from individual civil liability
19 while acting within the scope of their duties as board members.

20 **§30-4-5. Powers of the board.**

21 The board has all the powers and duties set forth in this
22 article, by rule, in article one of this chapter and elsewhere
23 in law, including:

- 1 (1) Hold meetings;
- 2 (2) Establish procedures for submitting, approving and
3 rejecting applications for a license, certificate and permit;
- 4 (3) Determine the qualifications of any applicant for a
5 license, certificate and permit;
- 6 (4) Establish the fees charged under the provisions of this
7 article;
- 8 (5) Issue, renew, deny, suspend, revoke or reinstate a
9 license, certificate and permit;
- 10 (6) Prepare, conduct, administer and grade written, oral or
11 written and oral examinations for a license;
- 12 (7) Contract with third parties to administer the
13 examinations required under the provisions of this article;
- 14 (8) Maintain records of the examinations the board or a
15 third party administers, including the number of persons taking
16 the examination and the pass and fail rate;
- 17 (9) Maintain an office, and hire, discharge, establish the
18 job requirements and fix the compensation of employees and
19 contract with persons necessary to enforce the provisions of
20 this article.
- 21 (10) Employ investigators, attorneys, hearing examiners,
22 consultants and other employees as may be necessary, who are
23 exempt from the classified service and who serve at the will and

1 pleasure of the board.

2 (11) Investigate alleged violations of the provisions of
3 this article, article four-a and article four-b of this chapter,
4 legislative rule, orders and final decisions of the board;

5 (12) Conduct disciplinary hearings of persons regulated by
6 the board;

7 (13) Determine disciplinary action and issue orders;

8 (14) Institute appropriate legal action for the enforcement
9 of the provisions of this article;

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

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

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

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

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

21 **§30-4-6. Rule-making authority.**

22 (a) The board shall propose rules for legislative approval,
23 in accordance with the provisions of article three, chapter

1 twenty-nine-a of this code, to implement the provisions of this
2 article, and articles four-a and four-b of this chapter
3 including:

4 (1) Standards and requirements for licenses, certifications
5 and permits;

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

8 (3) Educational and experience requirements;

9 (4) Continuing education requirements and approval of
10 continuing education courses;

11 (5) Procedures for the issuance and renewal of licenses,
12 certifications and permits;

13 (6) Establish a fee schedule;

14 (7) Regulate dental specialities;

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

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

19 (10) Designate the services and procedures performed under
20 direct supervision, general supervision in public health
21 practice;

22 (11) Designate additional public health settings;

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

1 (13) Regulate dental corporations;

2 (14) Regulate professional limited liability companies;

3 (15) Establish professional conduct requirements;

4 (16) Establish the procedures for denying, suspending,
5 revoking, reinstating or limiting the practice of licensees,
6 certifications and permittees;

7 (17) Establish requirements for inactive or revoked
8 licenses, certifications and permits;

9 (18) Regulate dental anesthesia, including:

10 (A) Fees;

11 (B) Evaluations;

12 (C) Equipment;

13 (D) Emergency Drugs;

14 (E) Definitions;

15 (F) Qualified Monitor Requirements; and

16 (G) Education;

17 (19) Any other rules necessary to implement this article.

18 (b) All of the board's rules in effect and not in conflict
19 with these provisions, shall remain in effect until they are
20 amended or rescinded.

21 **§30-4-7. Fees; special revenue account; administrative fines.**

22 (a) All fees and other moneys, except administrative fines,
23 received by the board shall be deposited in a separate special

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

9 (b) Any amounts received as administrative fines imposed
10 pursuant to this article shall be deposited into the General
11 Revenue Fund of the State Treasury.

12 **§30-4-8. License to practice dentistry.**

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

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

16 (2) Is of good moral character;

17 (3) Is a graduate of and has a diploma from a Commission on
18 Dental Accreditation or equivalent approved dental college,
19 school or dental department of a university;

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

23 (5) Has not been found guilty of cheating, deception or

1 fraud in the examination or any part of the application;

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

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

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

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

18 **§30-4-9. Scope of practice of a dentist.**

19 The practice of dentistry includes the following:

20 (1) Coordinate dental services to meet the oral health
21 needs of the patient;

22 (2) Examine, evaluate and diagnose diseases, disorders and
23 conditions of the oral cavity, maxillofacial area and adjacent

1 and associated structures;

2 (3) Treat diseases, disorders and conditions of the oral
3 cavity, maxillofacial area and the adjacent and associated
4 structures;

5 (4) Provide services to prevent diseases, disorders and
6 conditions of the oral cavity, maxillofacial area and the
7 adjacent and associated structures;

8 (5) Fabricate, repair or alter a dental prosthesis;

9 (6) Administer anesthesia in accordance with the provisions
10 of article four-a of this chapter;

11 (7) Prescribe drugs necessary for the practice of
12 dentistry;

13 (8) Execute and sign a death certificate when it is
14 required in the practice of dentistry;

15 (9) Employ and supervise dental auxiliary personnel;

16 (10) Authorize delegated procedures to be performed by
17 dental auxiliary personnel; and

18 (11) Perform any other work included in the curriculum of
19 an approved dental school, college or dental department of a
20 university.

21 **§30-4-10. License to practice dental hygiene.**

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

- 1 (1) Is at least eighteen years of age;
- 2 (2) Is of good moral character;
- 3 (3) Is a graduate with a degree in dental hygiene from an
4 approved dental hygiene program of a college, school or dental
5 department of a university;
- 6 (4) Has passed the national board dental hygiene
7 examination, a regional or state clinical examination and a
8 state law examination that tests the applicant's knowledge of
9 subjects specified by the board by rule;
- 10 (5) Has not been found guilty of cheating, deception or
11 fraud in the examination or any part of the application;
- 12 (6) Has paid the application fee specified by rule; and
- 13 (7) Not be an alcohol or drug abuser, as these terms are
14 defined in section eleven, article one-a, chapter twenty-seven
15 of this code: *Provided*, That an applicant in an active recovery
16 process, which may, in the discretion of the board, be evidenced
17 by participation in a twelve-step program or other similar group
18 or process, may be considered.
- 19 (b) A dental hygienist license issued by the board shall
20 for all purposes be considered a dental hygienist license issued
21 under this section: *Provided*, That a person holding a dental
22 hygienist license shall renew the license.

23 **§30-4-11. Scope of practice for a dental hygienist.**

1 The practice of dental hygiene includes the following:

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

5 (2) Apply a medicinal agent to a tooth for a prophylactic
6 purpose;

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

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

9 (5) Place sealants on a patient's teeth without a prior
10 examination by a licensed dentist: *Provided*, That for this
11 subdivision, the dental hygienist has a public health practice
12 permit issued by the board, and subject to a collaborative
13 agreement with a supervising dentist and the patient is referred
14 for a dental examination within six months of sealant
15 application;

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

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

20 **§30-4-12. License renewal.**

21 (a) All persons regulated by this article shall annually or
22 biannually, renew his or her board authorization by completing
23 a form prescribed by the board and submitting any other

1 information required by the board.

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

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

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

11 **§30-4-13. Board authorizations shall be displayed.**

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

14 (b) Any person regulated by the article shall conspicuously
15 display his or her board authorization at his or her principal
16 business location.

17 **§30-4-14. Dental intern, resident, or teaching permit.**

18 (a) The board may issue a dental intern or dental resident
19 permit to an applicant who has been accepted as a dental intern
20 or dental resident by a licensed hospital or dental school in
21 this state which maintains an established dental department
22 under the supervision of a licensed dentist and meets the
23 following qualifications:

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

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

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

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

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

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

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

14 (1) Shall have authorization or has been eligible for a
15 authorization to practice dentistry in another jurisdiction;

16 (2) Has met or been approved under the credentialing
17 standards of a dental school or an academic medical center with
18 which the person is to be affiliated; the dental school or
19 academic medical center shall be accredited by the Commission on
20 Dental Accreditation or Joint Commission on Accreditation of
21 Health Care Organizations;

22 (3) The permittee may teach and practice dentistry in or on
23 behalf of a dental school or college offering a doctoral degree

1 in dentistry operated and conducted in this state, in connection
2 with an academic medical center or at any teaching hospital
3 adjacent to a dental school or an academic medical center;

4 (4) May be renewed annually with a written recommendation
5 from the dental school dean;

6 (5) Shall successfully complete the West Virginia Dental
7 Law Examination;

8 (6) Shall pay annual renewal fees to the board;

9 (7) Shall comply with continuing education requirements;

10 (8) Has had no disciplinary actions taken or pending
11 against him or her by any other jurisdiction; and

12 (9) Shall be responsible for the permit as would a regular
13 dental license.

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

18 **§30-4-15. Special volunteer dentist or dental hygienist**
19 **license; civil immunity for voluntary services**
20 **rendered to indigents.**

21 (a) There is continued a special volunteer dentist and
22 dental hygienist license for dentist and dental hygienists
23 retired or retiring from the active practice of dentistry and

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

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

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

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

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

7 (b) Any dentist or dental hygienist who renders any
8 dentistry or dental hygiene service to indigent and needy
9 patients of a clinic organized, in whole or in part, for the
10 delivery of health care services without charge under a special
11 volunteer dentist or dental hygienist license authorized under
12 subsection (a) of this section without payment or compensation
13 or the expectation or promise of payment or compensation is
14 immune from liability for any civil action arising out of any
15 act or omission resulting from the rendering of the dental
16 hygiene service at the clinic unless the act or omission was the
17 result of the dentist's or dental hygienist's gross negligence
18 or willful misconduct. In order for the immunity under this
19 subsection to apply, there shall be a written agreement between
20 the dentist or dental hygienist and the clinic pursuant to which
21 the dentist or dental hygienist will provide voluntary
22 uncompensated dental hygiene services under the control of the
23 clinic to patients of the clinic before the rendering of any

1 services by the dentist or dental hygienist at the clinic:
2 *Provided*, That any clinic entering into such written agreement
3 is required to maintain liability coverage of not less than one
4 million dollars per occurrence.

5 (c) Notwithstanding the provisions of subsection (b) of
6 this section, a clinic organized, in whole or in part, for the
7 delivery of health care services without charge is not relieved
8 from imputed liability for the negligent acts of a dentist or
9 dental hygienist rendering voluntary dental hygiene services at
10 or for the clinic under a special volunteer dentist or dental
11 hygienist license authorized under subsection (a) of this
12 section.

13 (d) For purposes of this section, "otherwise eligible for
14 licensure" means the satisfaction of all the requirements for
15 licensure as listed in section ten of this article and in the
16 legislative rules promulgated thereunder, except the fee
17 requirements of subdivision six of that section and of the
18 legislative rules promulgated by the board relating to fees.

19 (e) Nothing in this section may be construed as requiring
20 the board to issue a special volunteer dentist or dental
21 hygienist license to any dental hygienist whose license is or
22 has been subject to any disciplinary action or to any dentist or
23 dental hygienist who has surrendered a license or caused such

1 license to lapse, expire and become invalid in lieu of having a
2 complaint initiated or other action taken against his or her
3 dentist or dental hygienist license, or who has elected to place
4 a dentist or dental hygienist license in inactive status in lieu
5 of having a complaint initiated or other action taken against
6 his or her license, or who has been denied a dentist or dental
7 hygienist license.

8 (f) Any policy or contract of liability insurance providing
9 coverage for liability sold, issued or delivered in this state
10 to any dentist or dental hygienist covered under the provisions
11 of this article shall be read so as to contain a provision or
12 endorsement whereby the company issuing such policy waives or
13 agrees not to assert as a defense on behalf of the policyholder
14 or any beneficiary thereof, to any claim covered by the terms of
15 such policy within the policy limits, the immunity from
16 liability of the insured by reason of the care and treatment of
17 needy and indigent patients by a dentist or dental hygienist who
18 holds a special volunteer dentist or dental hygienist license.

19 **§30-4-16. Dental corporations.**

20 (a) Dental corporations are continued.

21 (b) One or more dentists may organize and become a
22 shareholder or shareholders of a dental corporation domiciled
23 within this state under the terms and conditions and subject to

1 the limitations and restrictions specified by rule.

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

5 (d) When the Secretary of State receives a certificate of
6 authorization to act as a dental corporation from the board, he
7 or she shall attach the authorization to the corporation
8 application and, upon compliance with the applicable provisions
9 of chapter thirty-one of this code, the Secretary of State shall
10 issue to the incorporators a certificate of incorporation for
11 the dental corporation.

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

16 (f) A dental corporation may practice dentistry only
17 through an individual dentist or dentists licensed to practice
18 dentistry in this state, but the dentist or dentists may be
19 employees rather than shareholders of the corporation.

20 (g) A dental corporation holding a certificate of
21 authorization shall cease to engage in the practice of dentistry
22 upon being notified by the board that any of its shareholders is
23 no longer a licensed dentist or when any shares of the

1 corporation have been sold or disposed of to a person who is not
2 a licensed dentist: *Provided*, That the personal representative
3 of a deceased shareholder has a period, not to exceed twenty-
4 four months from the date of the shareholder's death, to dispose
5 of the shares; but nothing contained herein may be construed as
6 affecting the existence of the corporation or its right to
7 continue to operate for all lawful purposes other than the
8 practice of dentistry.

9 **§30-4-17. Reinstatement.**

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

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

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

23 **§30-4-18. Actions to enjoin violations.**

1 (b) After reviewing any information obtained through an
2 investigation, the board shall determine if probable cause
3 exists that the licensee, certificate holder or permittee has
4 violated subsection (g) of this section or rules promulgated
5 pursuant to this article.

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

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

18 (e) A member of the complaint committee or the executive
19 director of the board may issue subpoenas and subpoenas duces
20 tecum to obtain testimony and documents to aid in the
21 investigation of allegations against any person regulated by the
22 article.

23 (f) Any member of the board or its executive director may

1 sign a consent decree or other legal document on behalf of the
2 board.

3 (g) The board may, after notice and opportunity for
4 hearing, deny or refuse to renew, suspend, restrict or revoke
5 the license, certificate or permit of, or impose probationary
6 conditions upon or take disciplinary action against, any
7 licensee, certificate holder or permittee for any of the
8 following reasons:

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

11 (2) Being convicted of a felony or other crime involving
12 drugs, violent crime, or moral turpitude, or engaging in any act
13 involving moral turpitude or gross immorality;

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

16 (4) Intentional violation of a lawful order or legislative
17 rule of the board;

18 (5) Having had a board authorization revoked or suspended,
19 other disciplinary action taken, or an application for a board
20 authorization denied by the proper authorities of another
21 jurisdiction;

22 (6) Aiding or abetting unlicensed practice;

23 (7) Engaging in an act while acting in a professional

1 capacity which has endangered or is likely to endanger the
2 health, welfare or safety of the public;

3 (8) Incapacity that prevents a licensee from engaging in
4 the practice of dentistry or dental hygiene, with reasonable
5 skill, competence, and safety to the public;

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

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

13 (11) Failure to report to the board any adverse judgment,
14 settlement, or award arising from a malpractice claim arising
15 related to conduct that would constitute grounds for action as
16 defined in this section;

17 (12) Being guilty of unprofessional conduct as contained in
18 the American Dental Association principles of ethics and code of
19 professional conduct. The following acts are conclusively
20 presumed to be unprofessional conduct:

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

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

1 (C) Abusing alcohol or drugs;

2 (D) Violating any professional confidence or disclosing any
3 professional secret;

4 (E) Being grossly immoral;

5 (F) Harassing, abusing, intimidating, insulting, degrading
6 or humiliating a patient physically, verbally or through another
7 form of communication;

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

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

13 (I) Practicing, or offering, or undertaking to practice
14 dentistry under any firm name or trade name not approved by the
15 board;

16 (J) Having a professional connection or association with,
17 or lending his or her name to another, for the illegal practice
18 of dentistry, or professional connection or association with any
19 person, firm or corporation holding himself or herself,
20 themselves or itself out in any manner contrary to this article;

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

23 (L) Advertising to practice dentistry or perform any

1 operation thereunder without causing pain;

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

4 (N) Advertising to guarantee any dental service;

5 (O) Advertising in any manner that is false or misleading
6 in any material respect;

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

16 (i) An individual dentist or dental hygienist from
17 presenting articles pertaining to procedures or technique to
18 state or national journals or accepted dental publications; or

19 (ii) Educational institutions approved by the board from
20 offering courses or instruction or course materials to
21 individual dentists and dental hygienists from within or without
22 the state; or

23 (Q) Engaging in any action or conduct which would have

1 warranted the denial of the license.

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

6 (14) Illegal use or disclosure of protected health
7 information;

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

11 (16) Failure to furnish to the board or its representatives
12 any information legally requested by the board, or failure to
13 cooperate with or engaging in any conduct which obstructs an
14 investigation being conducted by the board;

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

23 (18) Failing to report to the board within 72 hours of

1 becoming aware thereof any life threatening occurrence, serious
2 injury or death of a patient resulting from dental treatment or
3 complications following a dental procedure;

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

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

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

10 (1) Reprimand;

11 (2) Probation;

12 (3) Restrictions;

13 (4) Suspension;

14 (5) Revocation;

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

17 (7) Mandatory attendance at continuing education seminars
18 or other training;

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

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

22 (i) In addition to any other sanction imposed, the board
23 may require a licensee or permittee to pay the costs of the

1 proceeding.

2 (j) Nothing shall be construed as barring criminal
3 prosecutions for violations of this article.

4 (k) A person authorized to practice under this article, who
5 reports or otherwise provides evidence of the negligence,
6 impairment or incompetence of another member of this profession
7 to the board or to any peer review organization, is not liable
8 to any person for making the report if the report is made
9 without actual malice and in the reasonable belief that the
10 report is warranted by the facts known to him or her at the
11 time.

12 **§30-4-20. Procedures for hearing; right of appeal.**

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

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

17 (c) If the hearing is conducted by an administrative law
18 judge, at the conclusion of a hearing he or she shall prepare a
19 proposed written order containing findings of fact and
20 conclusions of law. The proposed order may contain proposed
21 disciplinary actions if the board so directs. The board may
22 accept, reject or modify the decision of the administrative law
23 judge.

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

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

9 **§30-4-21. Judicial review.**

10 A person adversely affected by a decision of the board
11 denying an application or entered after a hearing may obtain
12 judicial review of the decision in accordance with section four,
13 article five, chapter twenty-nine-a of this code, and may appeal
14 any ruling resulting from judicial review in accordance with
15 article six, chapter twenty-nine-a of this code.

16 **§30-4-22. Criminal proceedings; penalties.**

17 (a) When, as a result of an investigation under this
18 article or otherwise, the board has reason to believe that a
19 person authorized under this article has committed a criminal
20 offense under this article, the board may bring its information
21 to the attention of an appropriate law-enforcement official.

22 (b) Any person who intentionally practices, or holds
23 himself or herself out as qualified to practice dentistry or

1 dental hygiene, or uses any title, word or abbreviation to
2 indicate to or induce others to believe he or she is licensed to
3 practice as a dentist or dental hygienist without obtaining an
4 active, valid West Virginia license to practice that profession
5 or with a license that is:

6 (1) Expired, suspended or lapsed; or

7 (2) Inactive, revoked, suspended as a result of
8 disciplinary action, or surrendered, is guilty of a felony and,
9 upon conviction thereof, shall be fined not more than \$10,000 or
10 imprisoned in a state correctional facility for not less than
11 one year nor more than five years, or both fined and imprisoned.

12 **§30-4-23. Single act evidence of practice.**

13 In any action brought under this article, article four-a or
14 article four-b any proceeding initiated under this article,
15 evidence of the commission of a single act prohibited by this
16 article is sufficient to justify a penalty, injunction,
17 restraining order or conviction without evidence of a general
18 course of conduct.

19 **§30-4-24. Inapplicability of article.**

20 The provisions of this article do not apply to:

21 (1) A licensed physician or surgeon in the practice of his
22 or her profession when rendering dental relief in emergency
23 cases, unless he or she undertakes to reproduce or reproduces

1 lost parts of the human teeth or to restore or replace lost or
2 missing teeth in the human mouth;

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

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

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

1 (5) An authorized dentist of another state temporarily
2 operating a clinic under the auspices of a organized and
3 reputable dental college or reputable dental society, or to one
4 lecturing before a reputable society composed exclusively of
5 dentists; or

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

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

13 **§30-4A-1. Requirement for anesthesia permit.**

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

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

20 (c) Permits shall be issued to coincide with the annual
21 renewal dates.

22 (d) Permit holders shall report the names and
23 qualifications of each qualified monitor. Qualified monitors

1 shall apply for certification and pay the appropriate
2 application fees and renewal fees. Qualified monitors are
3 required to renew annually by June 30th. Qualified monitor
4 requirements for each level of sedation are as specified by
5 rule.

6 (e) A dentist shall hold a class permit equivalent to or
7 exceeding the anesthesia level being provided, unless the
8 provider of anesthesia is a physician anesthesiologist or
9 licensed dentist who holds a current anesthesia permit issued by
10 the board.

11 **§30-4A-2. Presumption of Degree of Central Nervous System**
12 **Depression.**

13 (a) In any hearing where a question exists as to the degree
14 of central nervous system depression a licensee has induced
15 (i.e., local anesthesia, relative analgesia, anxiolysis,
16 conscious sedation, general anesthesia/deep conscious sedation)
17 the board may base its findings on, among other things, the
18 types, dosages and routes of administration of drugs
19 administered to the patient and what result can reasonably be
20 expected from those drugs in those dosages and routes
21 administered in a patient of that physical and psychological
22 status.

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

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

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

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

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

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

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

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

1 **§30-4A-4. Qualifications, standards, and continuing education**
2 **requirements for relative analgesia/minimal**
3 **sedation use.**

4 (a) The board shall allow administration of relative
5 analgesia if the practitioner:

6 (1) Is a licensed dentist in the state;

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

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

13 (b) A practitioner who administers relative analgesia shall
14 have the following facilities, equipment and drugs available
15 during the procedure and during recovery:

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

20 (2) An operating table or chair which permits the patient
21 to be positioned so that the patient's airway can be maintained,
22 quickly alter the patient's position in an emergency, and
23 provide a firm platform for the administration of basic life

1 support;

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

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

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

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

15 (7) A defibrillator device.

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

18 (c) Before inducing relative analgesia/minimal sedation by
19 means of nitrous oxide or a single premed agent, a practitioner
20 shall:

21 (1) Evaluate the patient;

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

1 guardian; and

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

4 (d) A practitioner who administers relative
5 analgesia/minimal sedation shall see that the patient's
6 condition is visually monitored. At all times, the patient
7 shall be observed by a qualified monitor until discharge
8 criteria have been met.

9 (e) A qualified monitor's record shall include
10 documentation of all medications administered with dosages, time
11 intervals and route of administration including local
12 anesthesia.

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

15 (g) A qualified monitor shall hold valid and current
16 documentation:

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

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

23 (h) The practitioner shall assess the patient's

1 responsiveness using preoperative values as normal guidelines
2 and discharge the patient only when the following criteria are
3 met:

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

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

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

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

12 (5) The patient does not have uncontrollable nausea,
13 vomiting or dizziness.

14 **§30-4A-5. Qualifications, standards, and continuing education**
15 **requirements for a Class 2 Permit.**

16 (a) The board shall issue a Class 2 Permit to an applicant
17 who:

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

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

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

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

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

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

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

19 (4) Suction equipment which permits aspiration of the oral
20 and pharyngeal cavities;

21 (5) An oxygen delivery system with adequate age appropriate
22 full face mask and appropriate connectors that is capable of
23 delivering high flow oxygen to the patient under positive

1 pressure, together with an adequate backup system;

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

5 (7) A recovery area that has available oxygen, adequate
6 lighting, suction and electrical outlets. The recovery area can
7 be 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
13 being treated.

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

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

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

21 (d) The dentist shall monitor and record the patient's
22 condition or shall use a qualified monitor to monitor and record
23 the patient's condition. The documented requirements of a

1 qualified monitor monitoring anxiolysis sedation cases are as
2 specified by rule. A Class 2 Permit holder may have no more than
3 one person under anxiolysis at the same time.

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

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

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

19 (f) A permit holder who uses anxiolysis shall see that the
20 patient's condition is visually monitored. The patient shall be
21 monitored as to response to verbal stimulation, oral mucosa
22 color and preoperative and postoperative vital signs.

23 (g) The dentist shall assess the patient's responsiveness

1 using preoperative values as normal guidelines and discharge the
2 patient only when the following criteria are met:

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

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

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

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

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

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

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

18 **§30-4A-6. Qualifications, standards, and continuing education**
19 **requirements for Class 3 Anesthesia Permit.**

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

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

23 (2) Holds valid and current documentation showing

1 successful completion of a Health Care Provider BLS/CPR course,
2 ACLS and/or a PALS course if treating pediatric patients; and

3 (3) Satisfies one of the following criteria:

4 (A) Certificate of completion of a comprehensive training
5 program in conscious sedation that satisfies the requirements
6 described in the ADA Guidelines for Teaching Pain Control and
7 Sedation to Dentists and Dental Students and the ADA Guidelines
8 for the Use of Sedation and General Anesthesia by Dentists at
9 the time training was commenced.

10 (B) Certificate of completion of an ADA accredited
11 postdoctoral training program which affords comprehensive and
12 appropriate training necessary to administer and manage
13 conscious sedation, commensurate with these guidelines.

14 (C) In lieu of these requirements, the board may accept
15 documented evidence of equivalent training or experience in
16 conscious sedation anesthesia for Limited Enteral Permit as
17 Class 3a or comprehensive Parenteral Permit as Class 3b as
18 specified by rule.

19 (b) A dentist who induces conscious sedation shall have the
20 following facilities, properly maintained age appropriate
21 equipment and age appropriate medications available during the
22 procedures and during recovery:

23 (1) An operating room large enough to adequately

1 accommodate the patient on an operating table or in an operating
2 chair and to allow an operating team of at least two individuals
3 to freely move about the patient;

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

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

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

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

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

23 (7) A recovery area that has available oxygen, adequate

1 lighting, suction and electrical outlets. The recovery area can
2 be the operating room;

3 (8) Sphygmomanometer, pulse oximeter, oral and
4 nasopharyngeal airways, intravenous fluid administration
5 equipment and/or equipment required for the standard of care or
6 as specified by rule;

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

8 (10) A defibrillator device.

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

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

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

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

18 (d) The dentist shall ensure that the patient's condition
19 is monitored and recorded on a contemporaneous record. The
20 dentist shall use a Qualified Monitor to monitor and record the
21 patient's condition in addition to the chair side dental
22 assistant. A Qualified Monitor shall be present to monitor the
23 patient at all times.

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

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

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

18 (3) A discharge entry shall be made by the dentist in the
19 patient's record indicating the patient's condition upon
20 discharge and the name of the responsible party to whom the
21 patient was discharged.

22 (f) A dentist may not release a patient who has undergone
23 conscious sedation/moderate sedation except to the care of a

1 responsible adult third party.

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

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

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

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

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

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

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

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

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

1 certification and 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
11 successful completion of a Healthcare Provider BLS/CPR
12 course, Advanced Cardiac Life Support (ACLS) and/or Pediatric
13 Advanced Life Support (PALS) course if treating pediatric
14 patients;

15 (3) Satisfies one of the following criteria:

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

23 (B) Completion of an ADA or AMA accredited postdoctoral

1 training program which affords comprehensive and appropriate
2 training necessary to administer and manage general anesthesia,
3 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 general anesthesia/deep conscious sedation.

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

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

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

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

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

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

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

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

14 (8) Equipment as specified by rule;

15 (9) Emergency drugs as specified by rule;

16 (10) A defibrillator device.

17 (d) Before inducing general anesthesia/deep conscious
18 sedation the dentist shall:

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

23 (2) Shall give written preoperative and postoperative

1 instructions to the patient or, when appropriate due to age or
2 neurological status of the patient, the patient's guardian; and

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

5 (e) A dentist who induces general anesthesia/deep conscious
6 sedation shall ensure that the patient's condition is monitored
7 and recorded on a contemporaneous record. The dentist shall use
8 a Qualified Monitor to monitor and record the patient's
9 condition on a contemporaneous record and a chair side dental
10 assistant. The documented requirements of a Qualified Monitor
11 monitoring general anesthesia/deep conscious sedation cases are
12 as specified by rule. No permit holder may have more than one
13 patient under general anesthesia at the same time.

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

15 (1) Patients shall have continuous monitoring using pulse
16 oximetry and/or equipment required for the standard of care or
17 as specified by rule by a Qualified Monitor until discharge
18 criteria have been met. The patient's blood pressure, heart
19 rate and oxygen saturation shall be assessed every five minutes,
20 and shall be contemporaneously documented in the patient record.
21 The record shall also include documentation of preoperative and
22 postoperative vital signs, all medications administered with
23 dosages, time intervals and route of administration including

1 local anesthesia. The person administering the anesthesia may
2 not leave the patient while the patient is under general
3 anesthesia;

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

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

10 (4) When discharging a pediatric patient the dentist shall
11 follow the current edition of AAPD Guidelines for the Monitoring
12 and Management of Pediatric Patients During and After Sedation
13 for Diagnostic and Therapeutic Procedures.

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

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

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

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

23 (4) The patient can sit up unaided, or to preoperative

1 neurological status;

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

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

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

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

14 **§30-4A-8. Board to review, inspect and reinspect dentists for**
15 **issuance of permits.**

16 (a) By making application to the board for an anesthesia
17 permit, a dentist consents and authorizes the board to review
18 his or her credentials, inspect or reinspect his or her
19 facilities, and investigate any alleged anesthesia mortalities,
20 misadventure, or other adverse occurrences. The board shall
21 conduct an in-office review or on-site inspection of any dentist
22 applying for or holding a permit to administer anesthesia.

23 Prior to issuing a permit, the board shall conduct an on-

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

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

21 **§30-4A-9. Office evaluations.**

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

23 (1) Observation of one or more cases of anesthesia to

1 determine the appropriateness of technique and adequacy of
2 patient evaluation and care;

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

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

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

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

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

23 (c) In addition to the requirements of this article a

1 treating dentist who applies for a certificate to allow a CRNA
2 to administer anesthesia and sedation to a patient, shall
3 maintain a permit as follows:

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

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

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

16 **§30-4A-10. Reporting of Death, Serious Complications or Injury.**

17 If a death, any serious complication or any injury occurs
18 which may have resulted from the administration of general
19 anesthesia/deep conscious sedation, conscious sedation/moderate
20 sedation, anxiolysis/minimal sedation, or relative
21 analgesia/minimal sedation, the licensee performing the dental
22 procedure shall submit a written detailed report to the board
23 within 72 hours of the incident along with copies of the

1 patient's original complete dental records. If the anesthetic
2 agent was administered by a person other than the person
3 performing the dental procedure, that person shall also submit
4 a detailed written report. The detailed report(s) shall include:

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

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

8 (3) Address where the incident took place;

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

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

13 (6) The anesthesia record and the signed informed consent
14 form for the anesthesia.

15 **§30-4A-11. Immunity from liability.**

16 (a) Notwithstanding any other provision of law, no person
17 providing information to the board or to the subcommittee may be
18 held, by reason of having provided the information, to be
19 civilly liable under any law unless the information was false
20 and the person providing information knew or had reason to
21 believe the such information was false.

22 (b) No member or employee of the board or the subcommittee
23 may be held by reason of the performance by him or her of any

1 duty, function or activity authorized or required of the board
2 or the subcommittee to be civilly liable. The foregoing
3 provisions of this subsection do not apply with respect to any
4 action taken by any individual if the individual, in taking the
5 action, was motivated by malice toward any person affected by
6 the action.

7 **§30-4A-12. Facility Inspections.**

8 (a) The board shall perform an onsite evaluation of Class
9 3 and 4 applicants dental facilities, equipment, techniques, and
10 personnel prior to issuing a permit. The board may conduct
11 further on-site evaluations.

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

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

14 Upon the recommendation of the subcommittee, the board
15 shall issue permits to applicable dentists. An anesthesia permit
16 shall be renewed annually.

17 **§30-4A-14. Waiting period for reapplication or reinspection of**
18 **facilities.**

19 A dentist whose application has been denied for failure to
20 satisfy the requirements in the application procedure or the on-
21 site evaluation shall wait thirty days from the date of the
22 denial prior to reapplying and shall submit to another on-site

1 evaluation prior to receiving a permit. The board and the
2 subcommittee shall promptly reinspect the applicant dentist's
3 facilities, techniques, equipment, and personnel within ninety
4 days after the applicant has made reapplication.

5 **§30-4A-15. Application and annual renewal of regular permits;**
6 **fees.**

7 The board shall require an initial application fee and an
8 annual renewal fee for Class 2, Class 3 and 4 Permits. Permits
9 expire annually. The board shall renew permits for the use of
10 anesthesia after the permittee satisfies the application for
11 renewal.

12 **§30-4A-16. Violations of article; penalties for practicing**
13 **anesthesia without a permit.**

14 Violations of any of the provisions of this article,
15 whether intentional or unintentional, may result in the
16 revocation or suspension of the dentist's permit to administer
17 anesthesia; multiple or repeated violations or gross
18 infractions, such as practicing anesthesia without a valid
19 permit may result in suspension of the dentist's license to
20 practice dentistry for up to one year as well as other
21 disciplinary measures as deemed appropriate by the board.

22 **§30-4A-17. Appointment of Subcommittee; credentials review; and**

1 **on-site inspections.**

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

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

7 (c) This subcommittee shall be known as the "West Virginia
8 Board of Dentistry Subcommittee on Anesthesia," The subcommittee
9 shall, at a minimum, consist of one member of the board who
10 shall act as chairman of the subcommittee, and two members
11 holding a Class 4 permit and two members holding a Class 3
12 permit.

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

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

21 **§30-4B-1. Unlawful acts.**

22 (a) It is unlawful for any person, other than a dentist or
23 other dental practitioner, to sell, offer for sale or furnish

1 any dental prosthesis or other dental laboratory service to any
2 person who is not a dentist or other dental practitioner.

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

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

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

17 (e) It is unlawful for any dental laboratory either
18 directly or indirectly:

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

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

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

1 laboratory services; or

2 (4) To advertise techniques used or materials employed by
3 it in the performance of dental laboratory services: *Provided,*
4 That 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
7 other dental practitioner or from listing the dental laboratory
8 in business and telephone directories if the business and
9 telephone directory announcements are limited to name, address
10 and telephone number and do not occupy more than the number of
11 lines necessary to disclose the information, or from displaying
12 the trade name and address of the dental laboratory on the door
13 of its place of business or on name plates or door plates
14 exhibited on the interior 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
18 by 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
21 it is directed;

22 (2) The case identification;

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

1 (4) A description of the work to be done and, if necessary,
2 diagrams thereof;

3 (5) The date of issue; and

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

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

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

15 **§30-4B-3. Denture identification.**

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

22 **§30-4B-4. Review of dental laboratory services.**

23 The board may review the dental laboratory services of a

1 dental laboratory on a random and general basis without any
2 requirement of a formal complaint or suspicion of impropriety.

NOTE: The purpose of this bill is to update and revise the law governing the practice of dentistry

These articles have been completely rewritten; therefore, strike-throughs and underscoring have been omitted.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the House Committee on Health.