

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2977

BY DELEGATES HOWELL, PACK, C. MARTIN, D. JEFFRIES,

ELLINGTON, HILL AND HANSEN

[Introduced February 11, 2019; Referred
to the Committee on Government Organization.]

1 A BILL to amend and reenact §30-4-3, §30-4-8, and §30-4-10 of the Code of West Virginia, 1931,
 2 as amended; and to amend said code by adding thereto a new section, designated §30-
 3 4-8a, all relating to permitting the Board of Dentistry to create specialty certifications.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-3. Definitions.

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

3 ~~(1)~~ “AAOMS” means the American Association of Oral and Maxillofacial Surgeons;

4 ~~(2)~~ “AAPD” means the American Academy of Pediatric Dentistry;

5 ~~(3)~~ “ACLS” means Advanced Cardiac Life Support;

6 ~~(4)~~ “ADA” means the American Dental Association;

7 ~~(5)~~ “AMA” means the American Medical Association;

8 ~~(6)~~ “ASA” means American Society of Anesthesiologists;

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

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

19 ~~(9)~~ “Approved dental school, college or dental department of a university” means a dental
 20 school, college or dental department of a university that is approved by the board and is accredited

21 or its educational standards are deemed by the board to be substantially equivalent to those
22 required by the Commission on Dental Accreditation of the American Dental Association;

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

26 ~~(11)~~ "BLS" means Basic Life Support;

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

28 ~~(13)~~ "Business entity" means any firm, partnership, association, company, corporation,
29 limited partnership, limited liability company or other entity;

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

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

34 ~~(16)~~ "CPR" means Cardiopulmonary Resuscitation;

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

40 ~~(18)~~ "CRNA" means Certified Registered Nurse Anesthetist;

41 ~~(19)~~ "Defibrillator" means a device used to sustain asthmatic heartbeat in an emergency
42 and includes an automatic electronic defibrillator (AED);

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

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

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

50 ~~(23)~~ “Dental auxiliary personnel” or “auxiliary” means dental hygienists and dental
51 assistants who assist the dentist in the practice of dentistry;

52 ~~(24)~~ “Dental Hygiene” means the performance of educational, preventive or therapeutic
53 dental services and as further provided in §30-4-11 of this code and legislative rule;

54 ~~(25)~~ “Dental hygienist” means a person licensed by the board to practice and who provides
55 dental hygiene and other services as specified by the board by rule to patients in the dental office
56 and in a public health setting;

57 ~~(26)~~ “Dental laboratory” means a business performing dental laboratory services;

58 ~~(27)~~ “Dental laboratory services” means the fabricating, repairing or altering of a dental
59 prosthesis;

60 ~~(28)~~ “Dental laboratory technician” means a person qualified by education, training or
61 experience who has completed a dental laboratory technology education program and who
62 fabricates, repairs or alters a dental prosthesis in accordance with a dentist's work authorization;

63 ~~(29)~~ “Dental office” means the place where the licensed dentist and dental auxiliary
64 personnel are practicing dentistry;

65 ~~(30)~~ “Dental prosthesis” means an artificial appliance fabricated to replace one or more
66 teeth or other oral or peri-oral structure in order to restore or alter function or aesthetics;

67 “Dental public health” is the science and art of preventing and controlling dental diseases
68 and promoting dental health through organized community efforts. It is that form of dental practice
69 which serves the community as a patient rather than the individual. It is concerned with the dental
70 health education of the public, with applied dental research, and with the administration of group
71 dental care programs as well as the prevention and control of dental diseases on a community
72 basis.

73 ~~(31)~~ “Dentist” means an individual licensed by the board to practice dentistry;

74 ~~(32)~~ “Dentistry” means the evaluation, diagnosis, prevention and treatment of diseases,
75 disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated
76 structures provided by a dentist;

77 ~~(33)~~ “Direct supervision” means supervision of dental auxiliary personnel provided by a
78 licensed dentist who is physically present in the dental office or treatment facility when procedures
79 are being performed;

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

85 ~~(34)~~ “Facility Permit” means a permit for a facility where sedation procedures are used
86 that correspond with the level of anesthesia provided;

87 ~~(35)~~ “General anesthesia” means an induced, controlled state of unconsciousness in
88 which the patient experiences complete loss of protective reflexes, as evidenced by the inability
89 to independently maintain an airway, the inability to respond purposefully to physical stimulation
90 or the inability to respond purposefully to verbal command.

91 ~~(36)~~ “Deep conscious sedation/general anesthesia” includes partial loss of protective
92 reflexes and the patient retains the ability to independently and continuously maintain an airway;

93 ~~(37)~~ “General supervision” means a dentist is not required to be in the office or treatment
94 facility when procedures are being performed by the auxiliary dental personnel, but has personally
95 diagnosed the condition to be treated, has personally authorized the procedures and will evaluate
96 the treatment provided by the dental auxiliary personnel;

97 ~~(38)~~ “Good moral character” means a lack of history of dishonesty;

98 ~~(39)~~ “Health Care Provider BLS/CPR” means Health Care Provider Basic Life

99 Support/Cardiopulmonary Resuscitation;

100 ~~(40)~~ "License" means a license to practice dentistry or dental hygiene;

101 ~~(41)~~ "Licensee" means a person holding a license;

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

104 ~~(43)~~ "Portable dental unit" means any nonfacility in which dental equipment, utilized in the
105 practice of dentistry, is transported to and utilized on a temporary basis an out-of-office location,
106 including but not limited to, patients' homes, schools, nursing homes or other institutions;

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

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

116 "Oral and maxillofacial surgery" is the specialty of dentistry which includes the diagnosis,
117 surgical and adjunctive treatment of diseases, injuries and defects involving both the functional
118 and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

119 "Orthodontics and dentofacial orthopedics" is the dental specialty that includes the
120 diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and
121 skeletal abnormalities of the developing or mature orofacial structures.

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

125 the provisions of §30-4-14 of this code;

126 ~~(45)~~ "PALS" means Pediatric Advanced Life Support;

127 "Pediatric Dentistry" is an age-defined specialty that provides both primary and
128 comprehensive preventive and therapeutic oral health care for infants and children through
129 adolescence, including those with special health care needs.

130 ~~(46)~~ "Pediatric patient" means infants and children;

131 "Periodontics" is that specialty of dentistry which encompasses the prevention, diagnosis
132 and treatment of diseases of the supporting and surrounding tissues of the teeth or their
133 substitutes and the maintenance of the health, function and esthetics of these structures and
134 tissues.

135 ~~(47)~~ "Physician anesthesiologist" means a physician, medical doctor or doctor of
136 osteopathy, who is specialized in the practice of anesthesiology;

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

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

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

149 ~~(50)~~ "Qualified monitor" means an individual who by virtue of credentialing and/or training
150 is qualified to check closely and document the status of a patient undergoing anesthesia and

151 observe utilized equipment;

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

157 ~~(52)~~ “Specialty” means the practice of a certain branch of dentistry;

158 ~~(53)~~ “Subcommittee” means West Virginia Board of Dentistry Subcommittee on
159 Anesthesia; and

160 ~~(54)~~ “Work authorization” means a written order for dental laboratory services which has
161 been issued by a licensed dentist or other dental practitioner.

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

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

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

4 (2) Is of good moral character;

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

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

10 (4) Has successfully passed a National Board examination as given by the Joint
11 Commission on National Dental Examinations and satisfactorily passing a clinical examination as
12 developed by the American Board of Dental Examiners, Inc., or its successor agency, or an
13 equivalent.

14 (5) Has not been found guilty of cheating, deception or fraud in the examination or any

15 part of the application;

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

17 (7) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code:

18 *Provided*, That an applicant in an active recovery process, which may, in the discretion of the
19 board, be evidenced by participation in a twelve-step program or other similar group or process,
20 may be considered.

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

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

§30-4-8a Dental specialties.

1 (a) The Board of Dentistry may issue a dental specialty certificate authorizing a dentist to
2 represent himself or herself to the public as a specialist, and to practice as a specialist, in up to
3 two dental specialties upon proper application for each specialty.

4 (b) No dentist shall represent himself or herself to the public as a specialist, nor practice
5 as a specialist, unless the individual:

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

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

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

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

12 (1) Dental public health, in order to qualify for this specialty, the licensee shall have
13 successfully completed a minimum of one full-time academic year of at least eight calendar

14 months each of graduate or post-graduate education, internship or residency.

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

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

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

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

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

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

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

39 (9) Oral pathology, in order to qualify for this specialty, the licensee shall have successfully

40 completed a minimum of two full-time academic years of at least eight calendar months each of
41 graduate or post-graduate education, internship or residency.

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

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

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

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

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

- 3 (1) Is at least 18 years of age;
- 4 (2) Is of good moral character;
- 5 (3) Is a graduate with a degree in dental hygiene from an approved dental hygiene
6 program of a college, school or dental department of a university;

7 (4) Has passed the National Board Dental Hygiene examination as given by the Joint
8 Commission on National Dental Examiners ~~a regional or state clinical examination and a state~~
9 ~~law examination that tests the applicant's knowledge of subjects specified by the board by rule~~
10 and satisfactorily passing a clinical examination as developed by the American Board of Dental
11 Examiners, Inc., or its successor agency, or an equivalent.

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

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

15 (7) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code:

16 *Provided, That an applicant in an active recovery process, which may, in the discretion of the*

17 board, be evidenced by participation in a twelve-step program or other similar group or process,
18 may be considered.

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

NOTE: The purpose of this bill is to permit the Board of Dentistry to create specialty certifications.

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