WEST VIRGINIA CODE CHAPTER 30 ARTICLE 4

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§30-4-1. Unlawful acts.

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

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

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§30-4-2. Applicable law.

The practices authorized under the provisions of this article and the Board of Dentistry are subject to article one of this chapter, the provisions of this article and any rules promulgated hereunder.

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§30-4-3. Definitions.

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

"AAOMS" means the American Association of Oral and Maxillofacial Surgeons;

"AAPD" means the American Academy of Pediatric Dentistry;

"ACLS" means advanced cardiac life support;

"ADA" means the American Dental Association;

"AMA" means the American Medical Association;

"ASA" means American Society of Anesthesiologists;

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

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

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

"Asynchronous transmission" means store and forward technology that allows a provider to transmit a patient's health information to another provider for viewing at a later time;

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

"BLS" means basic life support;

"Board" means the West Virginia Board of Dentistry;

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

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

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

"CPR" means cardiopulmonary resuscitation;

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

"CRNA" means certified registered nurse anesthetist;

"Defibrillator" means an electronic device that applies an electric shock to the heart to restore the normal functional rhythm of a fibrillating, nonfunctional heart and includes an Automatic Electronic Defibrillator (AED);

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

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

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

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

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

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

"Dental hygienist" means a person licensed by the board to practice and who provides dental

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hygiene and other services as specified by the board by rule to patients in the dental office and in a public health setting;

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

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

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

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

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

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

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

"Dentistry" means the evaluation, diagnosis, prevention, and treatment, of diseases, disorders, and conditions of the oral cavity and the maxillofacial, adjacent, and associated structures and their impact on the human body;

"Direct supervision" means supervision provided by a licensed dentist who is physically present in the dental office or treatment facility when procedures are being performed;

"Distant site" means the location of the site where a teledentistry provider of health care is providing teledentistry services to a patient located at an originating site;

"Emergent care" means treatment of pain, infection, or any other intraoral or perioral condition which presents immediate harm to the well-being of the patient and for which treatment cannot be postponed;

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

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associated periradicular conditions;

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

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

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

"General supervision" means a dentist is not required to be in the office or treatment facility when procedures are being performed, has personally authorized the procedures to be completed, and will evaluate the treatment provided at a future appointment by the dental auxiliary personnel;

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

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

"Licensee" means a person holding a license;

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

"Originating site" means the location of the site where a patient is receiving teledentistry services from a provider of health care at a distant site;

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

"Provider" means a dentist, a dental hygienist, or a medical facility as the employer of any person in this definition;

"Public health program" means a program approved by the board or any program administered by: The Department of Health, a health district, or a school district;

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

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

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

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

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

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

"PALS" means pediatric advanced life support;

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

"Pediatric patient" means infants and children;

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

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

"Prosthodontics" is the dental specialty pertaining to the diagnosis, treatment planning,

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rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial tissues using biocompatible substitutes;

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

"Public health setting" means hospitals, schools, correctional facilities, jails, community clinics, long-term care facilities, nursing homes, home health agencies, group homes, state institutions under the Department of Health Facilities, public health facilities, homebound settings, accredited dental hygiene education programs, and any other place designated by the board by rule;

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

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

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

"Subcommittee" means West Virginia Board of Dentistry Subcommittee on Anesthesia;

"Teledentistry" means the use of telehealth by a provider who is located at a distant site to facilitate the diagnosis, treatment, education, care management, and self-management of or consultation with a patient who is located at an originating site. The term includes, without limitation:

(1) Real-time interactions between a patient at an originating site and a provider at a distant site;

(2) The asynchronous transmission of medical and dental information concerning a patient from an originating site to a provider at a distant site;

(3) Interaction between a provider at a distant site who is providing dental services to a patient at an originating site and another provider at the originating site; and

(4) Monitoring of a patient at an originating site by a provider at a distant site; and

"Work authorization" means a written order for dental laboratory services which has been issued by a licensed dentist.

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§30-4-4. Board of Dental Examiners.

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

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

(1) Six licensed dentists;

(2) One licensed dental hygienist;

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

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

(c) The West Virginia Dental Association may submit recommendations to the Governor for the appointment of the licensed dentists board members, the West Virginia Association of Dental Hygienists may submit recommendations to the Governor for the appointment of a Dental Hygienist board member and the West Virginia Dental Assistant Association may submit recommendations to the Governor for the appointment of a dental assistant board member.

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

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

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

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

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

(i) The Governor may remove any member from the board for neglect of duty, incompetency

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or official misconduct.

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

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

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

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

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

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

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

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

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§30-4-5. Powers of the board.

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

(1) Hold meetings;

(2) Establish procedures for submitting, approving and rejecting applications for a license, certificate and permit;

(3) Determine the qualifications of any applicant for a license, certificate and permit;

(4) Establish the fees charged under the provisions of this article;

(5) Issue, renew, deny, suspend, revoke or reinstate a license, certificate and permit;

(6) Prepare, conduct, administer and grade written, oral or written and oral examinations for a license;

(7) Contract with third parties to administer the examinations required under the provisions of this article;

(8) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examination and the pass and fail rate;

(9) Maintain an office and hire, discharge, establish the job requirements and fix the compensation of employees and contract with persons necessary to enforce the provisions of this article.

(10) Employ investigators, attorneys, hearing examiners, consultants and other employees as may be necessary who are exempt from the classified service and who serve at the will and pleasure of the board.

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

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

(13) Determine disciplinary action and issue orders;

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

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

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

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

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

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

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§30-4-6. Rule-making authority.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article and articles four-a and four-b of this chapter including:

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

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

(3) Educational and experience requirements;

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

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

(6) Establish a fee schedule;

(7) Regulate dental specialities;

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

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

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

(11) Designate additional public health settings;

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

(13) Regulate dental corporations;

(14) Regulate mobile dental facilities;

(15) Regulate portable dental units;

(16) Regulate professional limited liability companies;

(17) Establish professional conduct requirements;

(18) Establish the procedures for denying, suspending, revoking, reinstating or limiting the practice of licensees, certifications and permitees;

(19) Standards and requirements for agreements with organizations to form professional recovery networks;

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(20) Establish an alcohol and chemical dependency treatment program, including standards and requirements;

(21) Establish requirements for inactive or revoked licenses, certifications and permits;

(22) Regulate dental anesthesia, including:

(A) Fees;

(B) Evaluations;

(C) Equipment;

(D) Emergency drugs;

(E) Definitions;

(F) Qualified monitor requirements; and

(G) Education;

(23) Any other rules necessary to implement this article.

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

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

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the Board of Dentists and Dental Hygienist Special Fund, which is continued and shall be known as the Board of Dentistry Special Fund. The fund is used by the board for the administration of this article. Except as may be provided in article one of this chapter, the board retains the amount in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the general revenue fund of the State Treasury.

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

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

(1) Is at least 18 years of age;

(2) Does not have any criminal convictions which would bar the applicant's licensure pursuant to §30-1-24 of this code;

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

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

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

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

(C) Periodontics, including scaling and root planing; and

(D) Restorative, including a class II amalgam or composite preparation and restoration and a class III composite preparation and restoration.

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

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

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

(7) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered; and

(8) Meets the other requirements specified by rule.

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

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

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§30-4-8a. Dental specialties.

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

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

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

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

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

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

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

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

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

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

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

(6) Pediatric dentistry. — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar

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

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

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

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

(10) Dental anesthesiology. – In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years, accredited by the Commission on Dental Accreditation of the American Dental Association, through (1) a graduate or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year must have consisted of at least eight calendar months.

(11) Oral medicine. – In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years, accredited by the Commission on Dental Accreditation of the American Dental Association, through (1) a graduate or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year must have consisted of at least eight calendar months.

(12) Orofacial pain. – In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years, accredited by the Commission on Dental Accreditation of the American Dental Association, through (1) a graduate or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year must have consisted of at least eight calendar months.

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

(e) If a licensee lists his or her services in a telephone directory or on the internet, then the licensee shall only list those specialties in which he or she practices in his or her office or offices.

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

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§30-4-8b. License or registration requirements to practice teledentistry; rules; and penalties.

(a) A person may not provide dental services through teledentistry to a patient who is located at an originating site in this state unless the person:

(1) Is licensed pursuant to this article or registered pursuant to §30-1-1 *et seq*. of this code to practice dentistry or dental hygiene in this state; and

(2) Possesses and maintains a policy of professional liability insurance which insures the provider against any liability arising from the provision of dental services.

(b) A provider who provides dental services through teledentistry including, without limitation, providing consultation and recommendations for treatment, issuing a prescription, diagnosing, or correcting the position of teeth and using orthodontic appliances shall provide such services in accordance with the same standards of care and professional conduct as when providing those services in person or by other means.

(1) A provider may not:

(A) Provide treatment for any condition based solely on the results of an online questionnaire;

(B) Engage in activity that is outside his or her scope of practice while providing services through teledentistry; or

(C) Delegate to a dental hygienist, dental assistant, dental auxiliary, or any other individual any act or duty through teledentistry that requires the in-person supervision of a licensed or registered dentist or that is otherwise outside such individuals permissible scope of practice.

(c) Except as otherwise provided for in §30-4-8b(d), a provider shall establish a bona fide relationship with a patient before providing services to a patient through teledentistry. A bona fide relationship between a patient and a provider shall exist if the provider has:

(1) Reviewed the patient’s relevant history, medical records, diagnostic records, and, if treatment is for the correction of a malposition of teeth, the patient’s current radiographic records;

(A) "Current radiographic records" means those radiographs or images taken contemporaneously; and

(B) Occurring with the in-person examination.

(2) Performed an appropriate, in-person, physical examination of the patient for the purpose of diagnosing, assessing, developing a treatment plan, or determining the patient’s current medical or dental condition; and

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(3) A reasonable expectation that he or she provide in-person follow-up care and treatment to the patient on a regular basis.

(d) Notwithstanding the limitations provided in §30-4-8b(c), a provider may establish a relationship with a patient through teledentistry only:

(1) For the purpose of emergent care;

(2) In connection with a public health program; or

(3) To make an initial diagnosis of a malposition of teeth and a determination of the need for an orthodontic appliance. An initial diagnosis and determination must be confirmed through an in-person visit and review of the patient's current radiographic records before the patient begins using the orthodontic appliance.

(e) Prior to the provision of services to a patient through teledentistry, a provider shall:

(1) Confirm the identity of the patient;

(2) If the patient is a minor who is not authorized by law to consent to the services, confirm that the parent or legal guardian of the patient is present;

(3) Confirm that the patient is located in a jurisdiction where the provider is licensed or otherwise authorized to practice and document the location of the patient in the record of the patient;

(4) Obtain:

(A) Informed written consent that meets the requirements of §30-4-8b(g) from a patient who is an adult or a minor authorized by law to provide consent; or

(B) Informed written consent that meets the requirements of §30-4-8b(g) from the parent or guardian of a patient who is a minor and is not authorized by law to provide consent; and

(5) Document the informed consent provided pursuant this subsection in the record of the patient.

(f) Prior to providing services through teledentistry and upon the request of a patient to whom services are provided through teledentistry, a provider or any partnership, corporation, or other entity through which a provider provides services shall make available to the patient proof of the identity of the provider, the telephone number of the provider, the address at which the provider practices, the license or registration number of the provider, and any other relevant information concerning the qualifications of the provider, and any other provider who shall be involved in providing the services through teledentistry.

(g) Informed consent to the provision of services through teledentistry requires the patient

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or his or her parent or guardian to be informed of:

(1) The types of services that will be provided through teledentistry and any limitations on the provision of those services through teledentistry;

(2) The information prescribed by §30-4-8b(f) for each provider who shall provide services through teledentistry;

(3) Precautions to be taken in the event of a technological failure or an emergency; and

(4) Any other information prescribed by legislative rule of the board.

(h) Except in situations requiring emergency treatment, a dentist of record is required for all patients being treated through teledentistry. The dentist of record shall remain primarily responsible for all dental treatment of the patient, regardless of whether treatment has been delegated to a teledentistry provider.

(i) No provider, partnership, corporation, or other entity which provides, or purports to provide teledentistry services or provides a platform, technology, or support services through which teledentistry is provided, may advertise their services unless they employ a provider licensed or registered in this state. Advertisements for teledentistry services must include the following disclaimer, in a conspicuous location, stating the limitations and safety concerns regarding teledentistry:

DISCLAIMER: Orthodontic treatment is a complex biological process that if not done correctly or performed without a thorough examination of the overall health of the teeth and gums could result in the permanent loss of teeth, which may result in additional costs or lifelong dental problems. Teledentistry services are intended to supplement traditional treatment methods and are not intended to replace in-person examinations. It is important to consult with a licensed or registered orthodontist or dentist prior to beginning any treatment.

(j) A provider who provides services through teledentistry shall:

(1) Use communications technology that complies with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191; and

(2) Create a complete record of each encounter with a patient through teledentistry and maintain such records in accordance with applicable federal and state laws and regulations.

(k) (1) A provider who provides services through teledentistry must be adequately familiar with the nature and availability of dental care in the geographical area in which the patient is located to ensure that the patient receives appropriate care during the provision of the services.

(2) If a provider is not able to competently provide services through teledentistry, including,

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without limitation, because the provider is unable to receive adequate information about the patient, the provider must notify the patient of that fact and:

(A) Provide the services in person;

(B) Request any additional information necessary to competently provide the services through teledentistry; or

(C) Refer the patient to an appropriate licensee or registrant to receive the services in person.

(l) A dentist may only delegate tasks to auxiliaries including, but not limited to, dental hygienists and dental assistants, to the extent permitted by existing law.

(m) A provider who provides services through teledentistry shall refer a patient to the emergency department of a hospital or another provider of acute care in an emergency or any other situation where the provision of acute care is necessary to protect the health and safety of the patient.

(n) The board shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code regulating dental services offered through teledentistry. Those rules shall include:

(1) The issuance of prescriptions through teledentistry, consistent with the limitations in §30-1-26(b)(5) of this code;

(2) The maintenance of records concerning patients to whom services are provided through teledentistry and the protection of the privacy of such patients;

(3) The development of evidence-based standards;

(4) The use of teledentistry for collaboration between:

(A) Providers and the office of a physician, physician assistant, or advanced practice nurse; and

(B) Providers who practice in different specialty areas; and

(5) Interaction between providers using teledentistry including, without limitation:

(A) The supervision of a dental hygienist by a dentist using teledentistry; and

(B) Interaction between different providers who are providing care to the same patient.

(6) Evidence-based standards of practice that shall be used when providing services through teledentistry to ensure the safety of patients, the quality of care, and positive outcomes.

WV Legislature

(o) It shall be considered unprofessional conduct to:

(1) Fail to actively involve a patient in decisions concerning his or her treatment;

(2) Require a patient to enter into an agreement that restricts the ability of the patient to submit a complaint to the board, file a lawsuit, join a class action lawsuit, make reports to any governmental entity, to require the patient to submit to binding arbitration, or to otherwise limit or prohibit the patient from obtaining relief for deficiencies in the treatment or services they have received;

(3) Fail to perform an in-person examination of a patient or fail to review a patient's diagnostic and radiographic images taken concurrently with the in-person visit prior to initiating treatment, except for those situations enumerated in §30-4-8b(d) of this code;

(4) Fail to review diagnostic digital or conventional radiographs for orthodontia before:

(A) Taking any action to correct a malposition of teeth; or

(B) The initial use of an orthodontic appliance;

(5) Delegate to an auxiliary a task or service that is not indicated or permitted by existing law to be performed by that individual; or

(6) Failure to comply with the requirements of §30-4-8b(f) of this code.

(p) In addition to the grounds for disciplinary action authorized by this article, the board may also take disciplinary action against any provider who is found to be practicing teledentistry in violation of any section or has committed any of the acts specified in §30-4-8b(o) of this code.

(r) The process for instituting and conducting disciplinary proceedings against a teledentistry provider pursuant to this act shall be the same process as that contained in the Dental Practice Act for disciplinary actions.

WV Legislature

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

The practice of dentistry includes the following:

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

(2) Examine, evaluate and diagnose diseases, disorders and conditions of the oral cavity, maxillofacial area and adjacent and associated structures;

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

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

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

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

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

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

(9) Employ and supervise dental auxiliary personnel;

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

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

WV Legislature

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

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

(1) Is at least 18 years of age;

(2) Does not have any criminal convictions which would bar the applicant's licensure pursuant to §30-1-24 of this code;

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

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

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

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

(7) Is not an alcohol or drug abuser, as those terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered; and

(8) Meets the other requirements specified by rule.

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

WV Legislature

§30-4-10a.

Repealed.

Acts, 2013 Reg. Sess., Ch. 150.

WV Legislature

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

The practice of dental hygiene includes the following:

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

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

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

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

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

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

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

WV Legislature

§30-4-12. License renewal.

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

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

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

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

WV Legislature

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

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

(b) Any person regulated by this article shall conspicuously display his or her board authorization at his or her principal place of practice.

WV Legislature

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

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

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

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

(3) Meets the other qualifications specified by rule.

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

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

(2) One year after the date of issue.

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

(1) Is authorized or is eligible, as determined by the board, for a authorization to practice dentistry in another jurisdiction;

(2) Has met or been approved under the credentialing standards of a dental school or an academic medical center with which the person is to be affiliated: Provided, That the dental school or academic medical center is accredited by the Commission on Dental Accreditation or Joint Commission on Accreditation of Health Care Organizations;

(3) The permittee may teach and practice dentistry in or on behalf of a dental school or college offering a doctoral degree in dentistry operated and conducted in this state, in connection with an academic medical center or at any teaching hospital adjacent to a dental school or an academic medical center;

(4) Shall successfully complete the West Virginia Dental Law Examination;

(5) Shall pay annual renewal fees to the board;

(6) Shall comply with continuing education requirements; and

(7) Has had no disciplinary actions taken or pending against him or her by any other jurisdiction.

(d) A teaching permit may be renewed annually with a written recommendation from the dental school dean.

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(e) While in effect, a permittee is subject to the restrictions and requirements imposed by this article to the same extent as a licensee. In addition, a permittee may not receive any fee for service other than a salary paid by the hospital or dental school.

WV Legislature

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

(a) There is continued a special volunteer dentist and dental hygienist license for dentists and dental hygienists retired or retiring from the active practice of dentistry and dental hygiene who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer dentist or dental hygienist license shall be issued by the board to a dentist or dental hygienist licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period and renewed consistent with the board's other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the dentist's or dental hygienist's acknowledgment that:

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

(2) The dentist or dental hygienist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any dentistry or dental hygiene services rendered under the special volunteer dentist or dental hygienist license;

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

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

(b) Any person engaged in the active practice of dentistry and dental hygiene in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the dentist or dental hygienist or the clinical setting.

(c) Any dentist or dental hygienist who renders any dentistry or dental hygiene service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer dentist or dental hygienist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability in any civil action arising out of any act or omission incident to rendering service at

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the clinic unless the act or omission was the result of the dentist's or dental hygienist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the dentist or dental hygienist and the clinic, pursuant to which the dentist or dental hygienist will provide voluntary uncompensated services under the control of the clinic to patients of the clinic, executed prior to the rendering of any services by the dentist or dental hygienist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a dentist or dental hygienist rendering voluntary uncompensated services at or for the clinic under a special volunteer dentist or dental hygienist license issued under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, except the fee requirements of subdivision (6) of said section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer dentist or dental hygienist license to any dentist or dental hygienist whose license is or has been subject to any disciplinary action or to any dentist or dental hygienist who has surrendered a license or caused such license to lapse, expire or become inactive in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a dentist or dental hygienist license.

(g) Any policy or contract of liability insurance providing coverage for liability that is sold, issued or delivered in this state to any dentist or dental hygienist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a dentist or dental hygienist who holds a special volunteer dentist or dental hygienist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

WV Legislature

§30-4-16. Dental corporations and professional limited liability companies.

(a) Dental corporations and professional limited liability companies are continued.

(b) One or more dentists licensed by the board may organize and become a shareholder or shareholders of a dental corporation, or member or members of a professional limited liability company, domiciled within this state under the terms and conditions and subject to the limitations and restrictions specified by rule.

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

(d) When the Secretary of State receives a certificate of authorization to act as a dental corporation or professional limited liability company from the board, he or she shall attach the authorization to the corporation application and, upon compliance with the applicable provisions of Chapter 31 or Chapter 31B of this code, the Secretary of State shall issue to the incorporators a certificate of incorporation for the dental corporation or to the organizers a certificate of organization for the professional limited liability company.

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

(f) A dental corporation or professional limited liability company may practice dentistry only through one or more dentists licensed to practice dentistry in this state, but the dentist or dentists may be employees rather than shareholders or members of the corporation or company.

(g) A dental corporation holding a certificate of authorization shall cease to engage in the practice of dentistry upon being notified by the board that any of its shareholders is no longer a licensed dentist or when any shares of the corporation have been sold or disposed of to a person who is not a licensed dentist: *Provided*

, That the personal representative of a deceased shareholder has a period, not to exceed twenty-four months from the date of the shareholder’s death, to dispose of the shares; but nothing contained herein may be construed as affecting the existence of the corporation or its right to continue to operate for all lawful purposes other than the practice of dentistry.

WV Legislature

§30-4-17. Reinstatement.

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

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

(c) The board, at its discretion and for cause, may require an applicant for reinstatement to undergo a physical and/or mental evaluation, at his or her expense, to determine whether the applicant is competent to practice dentistry or dental hygiene.

WV Legislature

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

(a) If the board obtains information that any person has engaged in, is engaging in or is about to engage in any act which constitutes or will constitute a violation of the provisions of this article, the rules promulgated pursuant to this article or a final order or decision of the board, it may issue a notice to the person to cease and desist in engaging in the act and/or apply to the circuit court in the county of the alleged violation for an order enjoining the act.

(b) The circuit court may issue a temporary injunction pending a decision on the merits and may issue a permanent injunction based on its findings in the case.

(c) The judgment of the circuit court on an application permitted by the provisions of this section is final unless reversed, vacated or modified on appeal to the West Virginia Supreme Court of Appeals.

WV Legislature

§30-4-19. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may initiate a complaint upon receipt of the quarterly report from the Board of Pharmacy as required by §60A-9-1 *et seq*. of this code or upon receipt of credible information and shall, upon the receipt of a written complaint of any person, cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules promulgated pursuant to this article.

(b) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee, certificate holder, or permittee has violated §30-4-19 (g) of this code or rules promulgated pursuant to this article.

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

(d) Upon a finding that probable cause exists that the licensee, certificate holder, or permittee has violated §30-4-19(g) of this code or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for disciplinary action against the licensee, certificate holder, or permittee. Any hearing shall be held in accordance with the provisions of this article and shall require a violation to be proven by a preponderance of the evidence.

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

(f) Any member of the board or its executive director may sign a consent decree or other legal document on behalf of the board.

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

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

(2) Being convicted of a felony crime, or being convicted of a misdemeanor crime related to the practice of dentistry or dental hygiene;

(3) Being guilty of malpractice or neglect in the practice of dentistry or dental hygiene;

(4) Violation of a lawful order or legislative rule of the board;

(5) Having had a board authorization revoked or suspended, other disciplinary action taken,

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or an application for a board authorization denied by the proper authorities of another jurisdiction;

(6) Aiding, abetting, or supervising the practice of dentistry or dental hygiene by an unlicensed person;

(7) Engaging in conduct, while acting in a professional capacity, which has endangered or is likely to endanger the health, welfare, or safety of the public;

(8) Having an incapacity that prevents one from engaging in the practice of dentistry or dental hygiene, with reasonable skill, competence, and safety to the public;

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

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

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

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

(A) Being guilty of any fraud or deception;

(B) Abusing alcohol or drugs;

(C) Violating or improperly disclosing any professional confidence;

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

(E) Obtaining any fee by fraud or misrepresentation;

(F) Employing directly or indirectly, or directing or permitting any suspended or unlicensed person, to perform operations of any kind or to treat lesions of the human teeth or jaws, or correct malimposed formations thereof;

(G) Practicing or offering or undertaking to practice dentistry under any firm name or trade name not approved by the board;

(H) Having a professional connection or association with, or lending his or her name to,

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another for the illegal practice of dentistry, or having a professional connection or association with any person, firm, or corporation holding himself or herself, themselves, or itself out in any manner contrary to this article;

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

(J) Advertising to practice dentistry or perform any operation thereunder without causing pain;

(K) Advertising professional superiority or the performance of professional services in a superior manner;

(L) Advertising to guarantee any dental service;

(M) Advertising in any manner that is false or misleading in any material respect; or

(N) Engaging in any action or conduct which would have warranted the denial of the license.

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

(14) Using or disclosing protected health information in an unauthorized or unlawful manner;

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

(16) Failing to furnish to the board or its representatives any information legally requested by the board or failing to cooperate with or engaging in any conduct which obstructs an investigation being conducted by the board;

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

(18) Failing to report to the board within 72 hours of becoming aware of any life threatening occurrence, serious injury, or death of a patient resulting from the licensee's or permittee's dental treatment;

(19) Administering sedation anesthesia without a valid permit, or other violation of §30-4A-1 *et seq*. of this code;

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(20) Failing to observe or adhere to regulations, standards, or guidelines regarding infection control, disinfection, or sterilization, or otherwise applicable to dental care settings;

(21) Failing to report to the board any driving under the influence and/or driving while intoxicated offense; or

(22) Violation of any of the terms or conditions of any order entered in any disciplinary action.

(h) For the purposes of §30-4-19(g) of this code, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Restrictions;

(4) Suspension;

(5) Revocation;

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

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

(8) Practicing under supervision or other restriction; or

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

(i) In addition to any other sanction imposed, the board may require a licensee or permittee to pay the board's costs incurred in investigating and adjudicating a disciplinary matter, including the board's legal fees.

(j) The board may defer disciplinary action with regard to an impaired licensee or permittee who voluntarily signs an agreement, in a form satisfactory to the board, agreeing not to practice dental care and to enter an approved treatment and monitoring program in accordance with the board's legislative rules: *Provided*, That this subsection does not apply to a licensee or permittee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to an offense relating to a controlled substance in any jurisdiction.

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

WV Legislature

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

(a) Hearings are governed by the provisions of §30-1-8 of this code and the legislative rules promulgated pursuant to this article.

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

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

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

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

WV Legislature

§30-4-21. Judicial review.

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

WV Legislature

§30-4-22. Criminal offenses.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a person has committed a criminal offense in violation of this article, the board may bring such information to the attention of an appropriate law-enforcement official.

(b) Any person who practices dentistry or dental hygiene in this state and (1) has never been licensed by the board under this article, (2) holds a license that has been classified by the board as expired or lapsed, or (3) holds a license that has been inactive, revoked, or suspended as a result of disciplinary action, or surrendered to the board, is guilty of a felony and, upon conviction, shall be fined not more than $10,000 or imprisoned in a correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(c) Any person who holds himself or herself out as licensed to practice dentistry or dental hygiene in this State, or who uses any title, word, or abbreviation to indicate to or induce others to believe he or she is licensed to practice dentistry or dental hygiene in this State, and (1) has never been licensed by the board under this article, (2) holds a license that has been classified by the board as expired or lapsed, or (3) holds a license that has been inactive, revoked, or suspended as a result of disciplinary action, or surrendered to the board, is guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or confined in jail not more than twelve months, or both fined and confined.

WV Legislature

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

In any action brought under this article, or under §30-4A-1 *et seq*. or §30-4B-1 *et seq*. of this code evidence of the commission of a single act prohibited by said article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

WV Legislature

§30-4-24. Inapplicability of article.

The provisions of this article do not apply to:

(1) A licensed physician or surgeon in the practice of his or her profession when rendering dental relief in emergency cases, unless he or she undertakes to reproduce or reproduces lost parts of the human teeth or to restore or replace lost or missing teeth in the human mouth;

(2) A dental laboratory in the performance of dental laboratory services, while the dental laboratory, in the performance of the work, conforms in all respects to the requirements of article four-b of this chapter, and further does not apply to persons performing dental laboratory services under the direct supervision of a licensed dentist;

(3) A student enrolled in an accredited D.D.S. or D.M.D. degree program or an accredited dental hygiene program practicing under the direct supervision of an instructor licensed by the board and (A) within a school, college, or university in this State; (B) in a dental clinic operated by a nonprofit organization providing indigent care; (C) in governmental or indigent care clinics in which the student is assigned to practice during his or her final academic year rotations; or (D) in a private dental office for a limited time during the student's final academic year: *Provided*, That the supervising dentist holds appointment on the faculty of the school in which the student is enrolled;

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

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

WV Legislature

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

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

WV Legislature

§30-4-26.

Repealed.

Acts, 2013 Reg. Sess., Ch. 150.

WV Legislature

§30-4-27.

Repealed.

Acts, 2013 Reg. Sess., Ch. 150.

WV Legislature

§30-4-28.

Repealed.

Acts, 2013 Reg. Sess., Ch. 150.

WV Legislature

§30-4-29.

Repealed.

Acts, 2013 Reg. Sess., Ch. 150.

WV Legislature

§30-4-30.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature