

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969

ENROLLED

SENATE BILL NO. 204

(By Mr. Merton and Mr. Rogers)

PASSED March 6, 1969

In Effect July 1, 1969 Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-17-69

#204

ENROLLED
Senate Bill No. 204
(By MR. MARTIN and MR. ROGERS)

[Passed March 6, 1969; in effect July 1, 1969.]

AN ACT to amend and reenact section three, article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections four, four-a, six, seven, sixteen, seventeen-a and seventeen-b, article four of said chapter; and to further amend said article four by adding thereto a new section, designated section nineteen, all relating to the regulation of the practice of dentistry and dental hygiene.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections four, four-a,

six, seven, sixteen, seventeen-a and seventeen-b, article four of said chapter be amended and reenacted; and that said article four be further amended by adding thereto a new section, designated section nineteen, all to read as follows:

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE
BOARDS OF EXAMINATION OR REGISTRATION
REFERRED TO IN CHAPTER.**

§30-1-3. Officers; bond of secretary.

1 Every such board shall elect annually from its mem-
2 bers a president and a secretary who shall hold their
3 offices for one year and until their successors are elected:
4 *Provided*, That the state board of law examiners, the
5 state board of examiners for nurses and the state board
6 of dental examiners may each elect a secretary from
7 outside its membership. The secretary shall execute a
8 surety bond conditioned as required by law, which bond
9 shall be approved by the attorney general as to form and
10 by the auditor as to sufficiency, and, when so approved,
11 shall be filed and recorded in the office of the secretary
12 of state. The premium on said bond shall be regarded
13 a proper and necessary expense of the board.

**ARTICLE 4. DENTISTS, DENTAL HYGIENISTS AND DENTAL
CORPORATIONS.**

§30-4-4. Board of dental examiners.

1 There shall be a state board of dental examiners,
2 known as the "West Virginia board of dental examiners,"
3 which shall consist of five practicing dentists, who shall
4 be appointed by the governor, by and with the advice
5 and consent of the Senate. Each member of the board
6 at the time of his appointment, and during his term as
7 such member, shall be both a resident and licensed den-
8 tist of this state, and shall have been both such resident
9 and licensed dentist for a period of not less than five
10 years immediately preceding his appointment: *Pro-*
11 *vided, however,* That no person shall be eligible for
12 appointment to said board who is in any way connected
13 with or interested in any dental college or dental de-
14 partment of any institution of learning or in a dental
15 supply business.

16 The members of the board in office on the date this
17 section takes effect shall, unless sooner removed, con-
18 tinue to serve until their respective terms expire and

19 until their successors have been appointed and have
20 qualified. On or before the first day of July, after this
21 section takes effect, and on or before the first day of
22 July in each year thereafter, the governor shall appoint
23 one member to serve a term of five years commencing
24 on the said first day of July: *Provided*, That during the
25 five-year period immediately following the effective date
26 of this section, the governor shall make appointments to
27 the board at such times as shall be necessary to replace
28 members whose terms expire during such period: *And*
29 *provided further*, That during such five-year period, the
30 governor shall appoint members to the board for terms
31 of such respective lengths as shall thereafter permit the
32 term of one member to expire at midnight on the thirtieth
33 day of June of each year. Any member shall be eligible
34 for reappointment for one additional consecutive term.

35 Each appointment under this section, whether for a
36 full term or to fill a vacancy, shall be made by the
37 governor from among three nominees therefor selected
38 by the West Virginia dental society. In the case of an
39 appointment for a full term such nominations shall be

40 submitted to the governor not later than eight months
41 prior to the date on which the appointment shall become
42 effective. In the case of an appointment to fill a vacancy,
43 such nominations shall be submitted to the governor
44 within thirty days after a request for such nominations
45 shall have been made by the governor to the president
46 of such society. In the event of the failure of the society
47 to submit to the governor nominations for an appoint-
48 ment in accordance with the requirements of this section,
49 the governor may make the appointment without such
50 nominations.

51 Each member of the board shall receive forty dollars
52 for each day actually spent in attending meetings of the
53 board, or of its committees, and shall also be reimbursed
54 for all reasonable and necessary expenses actually in-
55 curred in the discharge of his duties under the provisions
56 of this article.

§30-4-4a. Powers and duties of board.

1 The West Virginia board of dental examiners shall
2 examine all qualified applicants for license to practice
3 dentistry or dental hygiene, and it shall license all such

4 applicants who are qualified under applicable statutes
5 and who pass the examinations that may be required by
6 statute or by any legally adopted rule or regulation. The
7 board shall examine all applications filed in accordance
8 with the provisions of section four-b of this article and
9 shall issue certificates of authorization to all applicants
10 legally entitled to receive the same, such certificates to
11 be signed by the chairman and secretary of the board.

12 The said board shall have the power to make such ex-
13 amination of all applicants appearing before it for any
14 type of license as may be necessary to determine that the
15 applicant is qualified. The board shall also have authority
16 to license dental corporations authorized under the pro-
17 visions of and subject to the limitations of this article, to
18 practice dentistry through duly licensed dentists. The
19 said board shall also have the power to revoke or suspend
20 any license issued by it, for cause, after having given the
21 person whose license is sought to be revoked or sus-
22 pended, an opportunity to be heard in the manner pro-
23 vided by section eight, article one, chapter thirty of this
24 code. It shall have the power to reinstate any license
25 revoked or suspended by it.

26 The said board is authorized and empowered to hold
27 and conduct hearings and investigations on the issuance,
28 suspension, revocation, or reinstatement of licenses and
29 on charges of unauthorized practice of dentistry or dental
30 hygiene.

31 The board, acting by and through its members, em-
32 ployees, and agents, is further authorized and empowered,
33 at any time during customary office hours, to enter into
34 the office or place of business of any dental laboratory,
35 licensed dentist, dental corporation or other dental prac-
36 titioner of this state, and to obtain access to, make inspec-
37 tion of, and request information regarding any work
38 authorization which such dental laboratory, licensed
39 dentist, dental corporation or other dental practitioner
40 is required under the provisions of section two-a of this
41 article, to retain therein, and is further authorized and
42 empowered to inspect any items of dental technological
43 work then in the course of performance by such dental
44 laboratory or person employed by it, and to inspect any
45 dental prothesis then in the place of business of, or upon
46 the premises occupied by, such dental laboratory for

47 making, production, reproduction, construction, repair,
48 alteration, or restoration, and to request any information
49 which it, its members, employees, or agents deem to be
50 pertinent relating to any such dental technological work
51 and any such dental prosthesis. For the purpose of this
52 paragraph the definition of terms contained in subsection
53 a of section two-a of this article is made expressly ap-
54 plicable.

55 The said board shall have the power to hire, fix the
56 compensation of, and discharge such employees as are
57 necessary for the performance of the powers and duties
58 vested in the said board by law and to expend such sums
59 as said board may deem necessary to maintain an office
60 and to carry out and enforce the provisions of this article.

61 All fees and other moneys collected by the board pur-
62 suant to the provisions of this article shall be kept in a
63 separate fund and expended solely for the purpose of
64 carrying out the provisions of this article. The compen-
65 sation provided for in this article and all expenses in-
66 curred under this article shall be paid from this special
67 fund. No compensation or expense incurred under this

68 article shall be a charge against or payable out of the
69 general revenue fund of this state.

**§30-4-6. Qualifications of applicant for license; examinations;
examination fee; licensing.**

1 An applicant for a dental license shall be of good moral
2 character, a citizen of the United States or an individual
3 who has declared his intention to become and who shows
4 progress toward becoming a citizen of the United States,
5 at least twenty-one years of age at the time of making
6 application, and be a graduate of, and possess an accept-
7 able dental diploma from the faculty of a dental school
8 approved by the board. The board may require the ap-
9 plication to be accompanied by sufficient evidence of
10 these qualifications.

11 The applicant shall transmit with his application an
12 examination fee of thirty-five dollars, which sum the
13 board is authorized to expend in an investigation of the
14 applicant's qualifications.

15 An applicant whose application has been accepted by
16 the board shall be given an examination on subjects
17 selected by the board from among those currently being

18 taught in approved dental schools which shall test the
19 qualifications of the applicant to practice dentistry. Such
20 examinations shall be given by the board under rules and
21 regulations promulgated by it.

22 The board may recognize a certificate granted by the
23 national board of dental examiners in lieu of the written
24 portion of the required examination.

25 An applicant obtaining a satisfactory grade on such
26 examination and otherwise fulfilling the requirements of
27 the board shall be granted a license by the board to prac-
28 tice dentistry, which license shall bear a serial number,
29 the full name of the licensee, the date of issuance of the
30 license, the seal of the board and the signatures of a
31 majority of the members of the board.

32 The board shall not issue a license to any person found
33 guilty of cheating, deception or fraud in the examination
34 or on any part of the application. All manuscripts used
35 in any examination and all applications for licensure
36 shall be filed for a period of two years by the secretary
37 of the board for the purpose of reference and inspection.

**§30-4-7. Refusal to issue, suspension or revocation of license;
grounds.**

1 The state board of dental examiners may refuse to
2 issue a license to practice dentistry or dental hygiene
3 in this state, or after issuance may suspend or revoke
4 the same, for any of the following causes:

5 (1) The presentation to the board of any diploma,
6 license or certificate illegally or fraudulently obtained,
7 or one obtained from an institution which is not reputable,
8 or one obtained from an unrecognized or irregular in-
9 stitution or state board.

10 (2) Be guilty of gross ignorance or gross inefficiency
11 in his profession.

12 (3) Conviction of a felony; and a certified copy of the
13 record of the court of conviction shall be sufficient proof
14 of such conviction.

15 (4) Announcing or otherwise holding himself out to
16 the public as a specialist or as being specially qualified in
17 any particular branch of dentistry or as giving special
18 attention to any branch of dentistry or as limiting his
19 practice to any branch of dentistry without first comply-

20 ing with the requirements established by the board of
21 dental examiners for such specialty and having been is-
22 sued a certificate of qualification in such specialty by the
23 board.

24 (5) Be guilty of unprofessional conduct. The following
25 acts or any of them shall be conclusively presumed to be
26 unprofessional conduct:

27 (a) Be guilty of any fraud or deception.

28 (b) The commission of a criminal operation or convic-
29 tion of a crime involving moral turpitude.

30 (c) Chronic or persistent inebriety or addiction to nar-
31 cotics or drugs.

32 (d) Be guilty of the violation of any professional con-
33 fidence or be guilty of disclosing any professional secret.

34 (e) Be grossly immoral.

35 (f) Be guilty of employing what are known as "cap-
36 pers" or "steerers" to obtain business.

37 (g) The obtaining of any fee by fraud or misrepresen-
38 tation.

39 (h) Employ directly or indirectly, or direct or permit
40 any suspended or unlicensed person so employed, to per-

41 form operations of any kind or to treat lesions of the
42 human teeth or jaws or correct malimposed formations
43 thereof.

44 (i) Practice, or offer or undertake to practice, dentistry
45 under any firm name or trade name or under any name
46 other than his own true name: *Provided*, That any licensee
47 may practice under a firm name or partnership name con-
48 taining nothing but the surname of every member of
49 such firm or partnership.

50 (j) Professional connection or association with, or lend-
51 ing his name to another, for the illegal practice of dentist-
52 ry, or professional connection or association with any
53 person, firm, or corporation holding himself, themselves,
54 or itself out in any manner contrary to this article.

55 (k) Make use of any advertising relating to the use of
56 any drug or medicine of unknown formula.

57 (l) Advertise to practice dentistry or perform any op-
58 eration thereunder without causing pain.

59 (m) Advertise professional superiority or the perform-
60 ance of professional services in a superior manner.

61 (n) Advertise prices charged for professional service.

62 (o) Advertise by means of large display, flickering, or
63 glaring light signs, or contain as a part thereof the repre-
64 sentation of a tooth, teeth, or bridgework, or any portion
65 of the human head.

66 (p) Employ or make use of advertising solicitors or
67 free publicity press agents.

68 (q) Advertise to guarantee any dental service.

69 (r) Advertise in any manner calculated to, or tending
70 to, deceive or mislead the public: *Provided*, That such
71 licensee may announce, by way of a professional card
72 containing not more than his name, title, degree, office
73 location, office hours, business telephone number, and
74 residence address and telephone number, if desired, and
75 if he limits his practice to a specialty he may announce it,
76 but such card shall not be greater in any case than five
77 inches by six inches in size and such information may be
78 inserted in public print when not more than two news-
79 paper columns in width and two inches in depth; and he
80 may announce his change of place of business, absence
81 from, or return to, business in the same manner, and is-
82 sue appointment cards to his patients, when the informa-

83 tion thereon is limited to matter pertaining to the time
84 and place of appointment and that permitted on the pro-
85 fessional card, and he may display his name, title, and
86 degree upon the windows or doors of his office and by a
87 doorplate or nameplate or office directory when the in-
88 formation is limited to not more than that contained on
89 the professional card, but the name, title and degree of
90 the licensee shall not be displayed on said doors, windows,
91 doorplates, and nameplates or office directory in letter-
92 ing greater in height than seven inches.

93 (s) To solicit subscriptions from individuals within or
94 without the state for, or advertise or offer to individuals
95 within or without the state, a course of instruction or
96 course materials in any phase, part or branch of dentistry
97 or dental hygiene in any journal, newspaper, magazine
98 or dental publication, or by means of radio, television,
99 or United States mail, or in or by any other means of
100 contacting individuals: *Provided*, That the foregoing
101 provisions of this subparagraph (s) shall not be con-
102 strued so as to prohibit (i) an individual dentist or dental
103 hygienist from presenting articles pertaining to pro-

104 cedures or technique to state or national journals or
105 accepted dental publications, or (ii) educational insti-
106 tutions approved by the board from offering courses
107 or instruction or course materials to individual den-
108 tists and dental hygienists from within or without the
109 state.

110 The term advertising, as used in this section, shall be
111 construed to include the use of radio or any loud speaking
112 device or any other similar method or agency.

113 This entire section is passed in the interest of the public
114 health, safety and welfare, and its provisions shall be liber-
115 ally construed to carry out its object and purpose.

**§30-4-16. Dental hygienists from other states who desire to
practice in this state; qualifications.**

1 The board of dental examiners may, at its discretion,
2 without the examination herein provided, issue a license
3 to practice dental hygiene to any applicant therefor, who
4 shall furnish proof satisfactory to the board that he has
5 been duly licensed to practice as a dental hygienist in an-
6 other state after full compliance with the requirements
7 of its dental laws: *Provided, however,* That his profession-

8 al and preliminary education shall not be less than that
9 required in this state, and that he shall have been in
10 active practice at least two years previous to his applica-
11 tion for a license. The fee for issuing a license to a legal
12 practitioner of dental hygiene from another state shall
13 be twenty-five dollars, which shall be paid before the
14 license is issued.

**§30-4-17a. Specialties; qualifications; application for certifi-
cate; fee; limitation of practice.**

1 No licensee shall announce or otherwise hold himself
2 out to the public as a specialist or as being specially quali-
3 fied in any particular branch of dentistry, or as giving
4 special attention to any branch of dentistry, or as limiting
5 his practice to any branch of dentistry, unless he has
6 first complied with the requirements established by the
7 board of dental examiners for such specialty and has been
8 issued a certificate of qualification authorizing him so to
9 do.

10 The board of dental examiners may establish higher
11 standards and additional requirements for any licensee
12 who desires to announce or otherwise hold himself out

13 to the public as being specially qualified in a branch or
14 specialty of dentistry recognized by the board. The board
15 may give such examinations and secure such assistance
16 as it may deem necessary in determining the qualifica-
17 tions of applicants.

18 The state board of dental examiners may appoint not
19 more than three specialists to examine the credentials of
20 applicants, and each specialist so appointed shall receive
21 ten dollars for each day actually spent in examining the
22 credentials of applicants and shall be entitled to be reim-
23 bursed for all reasonable and necessary expenses actually
24 incurred in discharging such duties. The state board of
25 dental examiners may appoint not more than three
26 specialists to administer and grade the specialty examina-
27 tion given to applicants, and each specialist so appointed
28 shall receive forty dollars for each day actually spent in
29 administering and grading such examinations.

30 Application to the board for a certificate of qualification
31 in a specialty of dentistry shall be upon such form and
32 contain such information as the board may require and
33 shall be accompanied by a fee of seventy-five dollars. A

34 licensee found by the board to be qualified under the
35 standards and other requirements promulgated by the
36 board in the specialty indicated in his application shall be
37 issued a certificate of qualification authorizing the licensee
38 to announce or otherwise hold himself out to the public as
39 specially qualified in the indicated specialty under such
40 terms and in a manner approved by the board.

**§30-4-17b. Annual information and renewal fee; notice; rein-
statement; penalty fee; waiver of payment of fee
on retirement or disability; change of address.**

1 On or before the first day of February of each year,
2 every dentist licensed to practice dentistry in this state,
3 and every dental hygienist licensed to practice dental
4 hygiene in this state, shall transmit to the secretary of
5 the board upon a form prescribed by the board, his sig-
6 nature, post-office address, office address, the serial num-
7 ber of his license certificate, whether he had been engaged
8 during the preceding year in the active and continuous
9 practice of dentistry or dental hygiene, as the case may
10 be, whether within or without this state, and such other
11 information as may be required by the board, together

12 with an information and renewal fee herein provided for.

13 The annual information and renewal fee for a dentist
14 shall be twenty dollars and for a dental hygienist shall
15 be ten dollars.

16 Upon receipt of the required information and the pay-
17 ment of the proper renewal fee, the licensee shall be issued
18 a renewal certificate authorizing him to continue the
19 practice of dentistry or the practice of dental hygiene in
20 this state for a period of one year from the first day of
21 February.

22 A license to practice dentistry or dental hygiene granted
23 under the authority of this article shall be cancelled on
24 the first day of May if the holder thereof fails to secure
25 a current renewal certificate by that date. Any licensee
26 whose license is thus cancelled by reason of the failure,
27 neglect or refusal to secure the proper renewal certificate
28 may be reinstated by the board at any time within six
29 months from the date of the cancellation of said license
30 upon the payment of the proper renewal fee and an ad-
31 ditional fee of fifteen dollars. If the licensee shall not
32 apply for renewal of his license as herein required within

33 the said six months, that person shall, at the discretion
34 of said board, be required to file an application for and
35 take the examination provided in this article should he
36 desire to practice dentistry or dental hygiene in this state.

37 Upon failure of any licensee to submit the required
38 information and pay the annual renewal fee as herein
39 required by the statutory date, the board shall attempt
40 to notify such licensee in writing by mailing to his last
41 registered address a notice of the requirements of this
42 section appraising him of the fact that his license to
43 practice will be cancelled on the statutory date: *Provided,*
44 *however,* That failure to mail or receive such notice shall
45 not affect the cancellation of his license.

46 The board may waive the annual payment of the re-
47 newal fee herein required, and issue a renewal certificate
48 to any West Virginia licensee who has held a West Vir-
49 ginia license for at least twenty-five years and is presently
50 retired from active practice, or to any West Virginia
51 licensee who has retired for reasons of physical disability,
52 so long as such retirement continues: *Provided,* That
53 the licensee provides the board with the information re-
54 quired by this section.

55 Every licensed dentist within thirty days of changing
56 his place of practice or establishing additional offices shall
57 furnish the secretary of the board with his new profes-
58 sional address.

59 Every licensed dental hygienist within thirty days of
60 changing his place of employment shall furnish the secre-
61 tary of the board with his new professional address and
62 the name of his employer.

§30-4-19. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance shall be held invalid,
3 the remainder of the article and the application of such
4 provision to other persons or circumstances shall not be
5 affected thereby.

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

William Tompau
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1969.

Thomas M. Kye
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Laurel E. Jackson
President of the Senate

Don F. Brinsby
Speaker House of Delegates

The within *approved* this the *17th*
day of *March*, 1969.

Arch A. Shaare Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/12/69
Time 2:45 p.m.