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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2929

(By Mr. Speaker, Mr. Kiss (By Request))



Passed April 9, 2005

In Effect Ninety Days from Passage

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COMMITTEE SUBSTITUTE

FOR

H. B. 2929

(BY MR. SPEAKER, MR. KISS (BY REQUEST))

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §30-4A-1, §30-4A-2, §30-4A-3, §30-4A-4, §30-4A-5, §30-4A-6, §30-4A-7, §30-4A-8, §30-4A-9, §30-4A-10, §30-4A-11, §30-4A-12, §30-4A-13, §30-4A-14, §30-4A-15, §30-4A-16 and §30-4A-17 of the Code of West Virginia, 1931, as amended; and that said code be amended by adding thereto a new section §30-4A-18, all relating to the administration of anesthesia by dentists.

Be it enacted by the Legislature of West Virginia:

That §30-4A-1, §30-4A-2, §30-4A-3, §30-4A-4, §30-4A-5, §30-4A-6, §30-4A-7, §30-4A-8, §30-4A-9, §30-4A-10, §30-4A-11, §30-4A-12, §30-4A-13, §30-4A-14, §30-4A-15, §30-4A-16 and §30-4A-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §30-4A-18, all to read as follows:

ARTICLE 4A. ADMINISTRATION OF ANESTHESIA BY DENTISTS.

§30-4A-1. Legislative findings and declaration of purpose.

1 The Legislature hereby finds and declares that dentists are
2 increasingly administering anesthesia in their offices on an
3 out-patient basis; that the administration of anesthesia carries
4 with it an inherent risk and danger to the patient; that, however,
5 the administration of anesthesia on an out-patient basis by
6 dentists is necessary and for the good of the public; but that
7 because of the inherent dangers in the administration of, it is
8 necessary to insure that the persons administering and supervis-
9 ing such anesthesia are competent and trained in the techniques;
10 that it is in the best interests of the public and the dentists of
11 West Virginia to prohibit dentists from administering or
12 supervising the administration of anesthesia unless those
13 dentists meet certain minimal training and competency stan-
14 dards in the administration and supervision of anesthesia; and
15 that requiring a dentist to obtain a special certificate or permit
16 before he or she can administer or supervise anesthesia is the
17 best method to preserve the use of anesthesia by dentists on
18 out-patients and, at the same time, ensure that such administra-
19 tion and supervision is performed by competent dentists trained
20 in the use of such techniques.

§30-4A-2. Definitions.

1 (a) “General anesthesia” means an induced controlled state
2 of unconsciousness in which the patient experiences complete
3 loss of protective reflexes, as evidenced by the inability to
4 independently maintain an airway, the inability to respond
5 purposefully to physical stimulation, or the inability to respond
6 purposefully to verbal command. “Deep conscious seda-
7 tion/general anesthesia” includes partial loss of protective
8 reflexes and the patient retains the ability to independently and
9 continuously maintain an airway.

10 (b) "Relative Analgesia" means an induced controlled state
11 of minimally depressed consciousness, produced solely by the
12 inhalation of a combination of nitrous oxide and oxygen, or
13 single oral premedication without the addition of nitrous oxide
14 and oxygen in which the patient retains the ability to independ-
15 ently and continuously maintain an airway and to respond
16 purposefully to physical stimulation and to verbal command.
17 Dosage of oral premedication is not to exceed the recom-
18 mended dosage limits set by the manufacturer for the treatment
19 of anxiety, insomnia or pain.

20 (c) "Conscious Sedation" means an induced controlled state
21 of depressed consciousness, produced through the administra-
22 tion of nitrous oxide and oxygen and/or the administration of
23 other agents whether enteral or parenteral, in which the patient
24 retains the ability to independently and continuously maintain
25 an airway and to respond purposefully to physical stimulation
26 and to verbal command.

27 (d) "Anxiolysis" or premedication for anxiety - means
28 removing, eliminating or decreasing anxiety by the use of a
29 single anxiolytic or analgesia medication that is administered in
30 an amount consistent with the manufacturer's current recom-
31 mended dosage for the unsupervised treatment of anxiety,
32 insomnia or pain, in conjunction with nitrous oxide and oxygen.
33 This does not include multiple dosing or exceeding current
34 normal dosage limits set by the manufacturer for unsupervised
35 use by the patient (at home), for the treatment of anxiety.

36 (e) "Central Nervous System Anesthesia" means an induced
37 controlled state of unconsciousness or depressed consciousness
38 produced by a pharmacologic method.

39 (f) "ACLS" means Advanced Cardiac Life Support.

40 (g) "BLS" means Basic Life Support.

41 (h) "CPR" means Cardiopulmonary Resuscitation.

42 (i) "Health Care Provider BLS/CPR" means Health Care
43 Provider Basic Life Support/Cardiopulmonary Resuscitation.

44 (j) "PALS" means Pediatric Advanced Life Support.

45 (k) "Board" means West Virginia Board of Dental Examin-
46 ers,

47 (l) "ADA" means the American Dental Association.

48 (m) "AMA" means the American Medical Association.

49 (n) "Subcommittee" means West Virginia Board of Dental
50 Examiners Subcommittee on Anesthesia.

**§30-4A-3. Presumption of Degree of Central Nervous System
Depression.**

1 (1) In any hearing where a question exists as to the degree
2 of central nervous system depression a licensee has induced
3 (i.e., general anesthesia/deep conscious sedation, conscious
4 sedation, anxiolysis, or relative analgesia), the Board may base
5 its findings on, among other things, the types, dosages and
6 routes of administration of drugs administered to the patient and
7 what result can reasonably be expected from those drugs in
8 those dosages and routes administered in a patient of that
9 physical and psychological status.

10 (2) No permit holder may have more than one person under
11 conscious sedation and/or general anesthesia/deep conscious
12 sedation at the same time, exclusive of recovery.

§30-4A-4. Requirement for Anesthesia Certificate or Permit.

1 (1) No dentist may induce central nervous system anesthe-
2 sia without first having obtained an anesthesia permit under
3 these rules for the level of anesthesia being induced.

4 (2) The applicant for an anesthesia permit must pay the
5 appropriate permit fees and renewal fees, designated in section
6 six of this article, submit a completed Board-approved applica-
7 tion and consent to an office evaluation. The fees are to be set
8 in accordance with section eighteen of this article.

9 (3) Permits shall be issued to coincide with the applicant's
10 licensing period.

§30-4A-5. Classes of Anesthesia Certificates and Permits.

1 The Board shall issue the following certificates and/or
2 permits:

3 (1) Class 2 Certificate: A Class 2 Certificate authorizes a
4 dentist to induce anxiolysis.

5 (2) Class 3 Permit: A Class 3 Permit authorizes a dentist to
6 induce conscious sedation as limited enteral (3a) and/or
7 comprehensive parenteral (3b), and anxiolysis.

8 (3) Class 4 Permit: A Class 4 Permit authorizes a dentist to
9 induce general anesthesia/deep conscious sedation, conscious
10 sedation, and anxiolysis.

**§30-4A-6. Qualifications, Standards Applicable, and Continuing
Education Requirements for Anesthesia Certifi-
cate or Permit.**

1 (a) Relative Analgesia.

2 (1) The Board shall allow administration of relative
3 analgesia without a permit if the practitioner:

4 (A) Is a licensed dentist in the State of West Virginia;

5 (B) Holds valid and current documentation showing
6 successful completion of a Health Care Provider BLS/CPR
7 course; and

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

11 (2) A practitioner who administers relative analgesia shall
12 have the following facilities, equipment and drugs available
13 during the procedure and during recovery:

14 (A) An operating room large enough to adequately accom-
15 modate the patient on an operating table or in an operating chair
16 and to allow delivery of age appropriate care in an emergency
17 situation;

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

23 (C) A lighting system which permits evaluation of the
24 patient's skin and mucosal color and a backup lighting system
25 of sufficient intensity to permit completion of any operation
26 underway in the event of a general power failure;

27 (D) Suction equipment which permits aspiration of the oral
28 and pharyngeal cavities;

29 (E) An oxygen delivery system with adequate full face
30 masks and appropriate connectors that is capable of delivering
31 high flow oxygen to the patient under positive pressure,
32 together with an adequate backup system;

33 (F) A nitrous oxide delivery system with a fail-safe
34 mechanism that will insure appropriate continuous oxygen
35 delivery and a scavenger system.

36 (G) All equipment used must be appropriate for the height
37 and weight of the patient.

38 (3) Before inducing nitrous oxide sedation, a practitioner
39 shall:

40 (A) Evaluate the patient;

41 (B) Give instruction to the patient or, when appropriate due
42 to age or psychological status of the patient, the patient's
43 guardian;

44 (C) Certify that the patient is an appropriate candidate for
45 relative analgesia.

46 (4) A practitioner who administers relative analgesia shall
47 see that the patient's condition is visually monitored. At all
48 times the patient shall be observed by trained personnel until
49 discharge criteria have been met. Trained personnel shall be
50 certified in both adult and pediatric CPR. Documentation of
51 credentials and training must be maintained in the personnel
52 records of the trained personnel. The patient shall be monitored
53 as to response to verbal stimulation and oral mucosal color.

54 (5) The record must include documentation of all medica-
55 tions administered with dosages, time intervals and route of
56 administration.

57 (6) A discharge entry shall be made in the patient's record
58 indicating the patient's condition upon discharge.

59 (7) Hold valid and current documentation:

60 (A) Showing successful completion of a Health Care
61 Provider BLS/CPR course; and

62 (B) Have received training and be competent in the
63 recognition and treatment of medical emergencies, monitoring
64 vital signs, the operation of nitrous oxide delivery systems and
65 the use of the sphygmomanometer and stethoscope.

66 (8) The practitioner shall assess the patient's responsive-
67 ness using preoperative values as normal guidelines and
68 discharge the patient only when the following criteria are met:

69 (A) The patient is alert and oriented to person, place and
70 time as appropriate to age and preoperative neurological status;

71 (B) The patient can talk and respond coherently to verbal
72 questioning or to preoperative neurological status;

73 (C) The patient can sit up unaided or without assistance or
74 to preoperative neurological status;

75 (D) The patient can ambulate with minimal assistance or to
76 preoperative neurological status; and

77 (E) The patient does not have nausea, vomiting or dizzi-
78 ness.

79 (b) Class 2 Certificate.

80 Class 2 Certificate: Anxiolysis.

81 (1) The Board shall issue a Class 2 Certificate to an
82 applicant who:

83 (A) Is a licensed dentist in West Virginia;

84 (B) Holds valid and current documentation showing
85 successful completion of a Health Care Provider BLS/CPR; and

86 (C) Has completed a board approved course of at least 6
87 hours didactic and clinical of either predoctoral dental school or
88 postgraduate instruction.

89 (2) A dentist who induces anxiolysis shall have the follow-
90 ing facilities, properly maintained equipment and appropriate
91 drugs available during the procedures and during recovery:

92 (A) An operating room large enough to adequately accom-
93 modate the patient on an operating table or in an operating chair
94 and to allow an operating team of at least two individuals to
95 freely move about the patient;

96 (B) An operating table or chair which permits the patient to
97 be positioned so the operating team can maintain the patient's
98 airway, quickly alter the patient's position in an emergency, and
99 provide a firm platform for the administration of basic life
100 support;

101 (C) A lighting system which permits evaluation of the
102 patient's skin and mucosal color and a backup lighting system
103 of sufficient intensity to permit completion of any operation
104 underway in the event of a general power failure;

105 (D) Suction equipment which permits aspiration of the oral
106 and pharyngeal cavities;

107 (E) An oxygen delivery system with adequate full face
108 mask and appropriate connectors that is capable of delivering
109 high flow oxygen to the patient under positive pressure,
110 together with an adequate backup system;

111 (F) A nitrous oxide delivery system with a fail-safe
112 mechanism that will insure appropriate continuous oxygen
113 delivery and a scavenger system;

114 (G) A recovery area that has available oxygen, adequate
115 lighting, suction and electrical outlets. The recovery area can be
116 the operating room;

117 (H) Sphygmomanometer, stethoscope, and pulse oximeter;

118 (I) Emergency drugs; and

119 (J) A defibrillator device is recommended.

120 (K) All equipment and medication dosages must be in
121 accordance with the height and weight of the patient being
122 treated.

123 (3) Before inducing anxiolysis, a dentist shall:

124 (A) Evaluate the patient;

125 (B) Certify that the patient is an appropriate candidate for
126 anxiolysis sedation; and

127 (C) Obtain written informed consent from the patient or
128 patient's guardian for the anesthesia. The obtaining of the
129 informed consent shall be documented in the patient's record.

130 (4) The dentist shall monitor and record the patient's
131 condition or shall use trained personnel qualified as a monitor
132 to monitor and record the patient's condition. The trained
133 personnel must have a certificate showing successful comple-
134 tion in the last two years of BLS/CPR training. A Class 2
135 Certificate holder shall have no more than one person under
136 anxiolysis at the same time.

137 (5) The patient shall be monitored as follows:

138 (A) Patients must have continuous monitoring using pulse
139 oximetry. The patient's blood pressure, heart rate, and respira-
140 tion shall be recorded at least once before, during and after the

141 procedure, and these recordings shall be documented in the
142 patient record. At all times the patient shall be observed by
143 trained personnel until discharge criteria have been met. If the
144 dentist is unable to obtain this information, the reasons shall be
145 documented in the patient's record. The record must also
146 include documentation of all medications administered with
147 dosages, time intervals and route of administration.

148 (B) A discharge entry shall be made by the dentist in the
149 patient's record indicating the patient's condition upon dis-
150 charge.

151 (6) A permit holder who uses anxiolysis shall see that the
152 patient's condition is visually monitored. The patient shall be
153 monitored as to response to verbal stimulation, oral mucosal
154 color and preoperative and postoperative vital signs.

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

158 (A) Vital signs including blood pressure, pulse rate and
159 respiratory rate are stable;

160 (B) The patient is alert and oriented to person, place and
161 time as appropriate to age and preoperative neurological status;

162 (C) The patient can talk and respond coherently to verbal
163 questioning, or to preoperative neurological status;

164 (D) The patient can sit up unaided, or to preoperative
165 neurological status;

166 (E) The patient can ambulate with minimal assistance, or to
167 preoperative neurological status; and

168 (F) The patient does not have uncontrollable nausea or
169 vomiting and has minimal dizziness.

170 (G) A dentist shall not release a patient who has undergone
171 anxiolysis except to the care of a responsible adult third party.

172 (c) Class 3 Permit (includes a limited (enteral) and a
173 comprehensive (parenteral) permit);

174 Class 3 Permit: Conscious sedation and anxiolysis.

175 (1) The Board shall issue or renew a Class 3 Permit to an
176 applicant who:

177 (A) Is a licensed dentist in West Virginia;

178 (B) Holds valid and current documentation showing
179 successful completion of a Health Care Provider BLS/CPR
180 course, ACLS and/or a PALS course if treating pediatric
181 patients; and

182 (C) Satisfies one of the following criteria:

183 (i) Certificate of completion of a comprehensive training
184 program in conscious sedation that satisfies the requirements
185 described in Part III of the ADA *Guidelines for Teaching the*
186 *Comprehensive Control of Pain and Anxiety in Dentistry* at the
187 time training was commenced.

188 (ii) Certificate of completion of an ADA accredited
189 postdoctoral training program which affords comprehensive and
190 appropriate training necessary to administer and manage
191 conscious sedation, commensurate with these guidelines.

192 (iii) In lieu of these requirements, the Board may accept
193 documented evidence of equivalent training or experience in
194 conscious sedation anesthesia:

195 (I) Limited (Enteral) Permit (3(a)) must have a Board
196 approved course of at least eighteen hours didactic and twenty
197 mentored clinical cases (PALS or ACLS course).

198 (II) Comprehensive (Parenteral) Permit (3(b)) must have a
199 Board approved course of at least sixty hours didactic and
200 twenty-mentored clinical cases (ACLS course).

201 (2) A dentist who induces conscious sedation shall have the
202 following facilities, properly maintained age appropriate
203 equipment and age appropriate medications available during the
204 procedures and during recovery:

205 (A) An operating room large enough to adequately accom-
206 modate the patient on an operating table or in an operating chair
207 and to allow an operating team of at least two individuals to
208 freely move about the patient;

209 (B) An operating table or chair which permits the patient to
210 be positioned so the operating team can maintain the patient's
211 airway, quickly alter the patient's position in an emergency, and
212 provide a firm platform for the administration of basic life
213 support;

214 (C) A lighting system which permits evaluation of the
215 patient's skin and mucosal color and a backup lighting system
216 of sufficient intensity to permit completion of any operation
217 underway in the event of a general power failure;

218 (D) Suction equipment which permits aspiration of the oral
219 and pharyngeal cavities and a backup suction device which will
220 function in the event of a general power failure;

221 (E) An oxygen delivery system with adequate full face
222 mask and appropriate connectors that is capable of delivering
223 high flow oxygen to the patient under positive pressure,
224 together with an adequate backup system;

225 (F) A nitrous oxide delivery system with a fail-safe
226 mechanism that will insure appropriate continuous oxygen
227 delivery and a scavenger system;

228 (G) A recovery area that has available oxygen, adequate
229 lighting, suction and electrical outlets. The recovery area can be
230 the operating room;

231 (H) Sphygmomanometer, pulse oximeter, oral and nasopharyngeal
232 airways, intravenous fluid administration equipment;

233 (I) Emergency drugs including, but not limited to: pharmacologic
234 antagonists appropriate to the drugs used, vasopressors,
235 corticosteroids, bronchodilators, antihistamines,
236 antihypertensives and anticonvulsants; and

237 (J) A defibrillator device.

238 (3) Before inducing conscious sedation, a dentist shall:

239 (A) Evaluate the patient and document, using the *American*
240 *Society of Anesthesiologists Patient Physical Status Classifications*,
241 that the patient is an appropriate candidate for conscious
242 sedation;

243 (B) Give written preoperative and postoperative instructions
244 to the patient or, when appropriate due to age or neurological
245 status of the patient, the patient's guardian; and

246 (C) Obtain written informed consent from the patient or
247 patient's guardian for the anesthesia.

248 (4) The dentist shall monitor and record the patient's
249 condition or shall use an assistant qualified as a monitor to
250 monitor and record the patient's condition. A qualified monitor
251 shall be present to monitor the patient at all times.

252 (5) The patient shall be monitored as follows:

253 (A) Patients must have continuous monitoring using pulse
254 oximetry. At no time shall the patient be unobserved by trained
255 personnel until discharge criteria have been met. The trained
256 personnel must have a certificate showing successful comple-
257 tion in the last two years of BLS/CPR training and the Ameri-
258 can Association of Oral and Maxillofacial Surgeon Office
259 Anesthesia Assistant certification or an equivalent. The
260 patient's blood pressure, heart rate, and respiration shall be
261 recorded every 5 minutes, and these recordings shall be
262 documented in the patient record. The record must also include
263 documentation of preoperative and postoperative vital signs, all
264 medications administered with dosages, time intervals and route
265 of administration. If the dentist is unable to obtain this informa-
266 tion, the reasons shall be documented in the patient's record.

267 (B) During the recovery phase, the patient must be moni-
268 tored by a qualified monitor.

269 (C) A discharge entry shall be made by the dentist in the
270 patient's record indicating the patient's condition upon dis-
271 charge and the name of the responsible party to whom the
272 patient was discharged.

273 (6) A dentist shall not release a patient who has undergone
274 conscious sedation except to the care of a responsible adult
275 third party.

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

279 (A) Vital signs including blood pressure, pulse rate and
280 respiratory rate are stable;

281 (B) The patient is alert and oriented to person, place and
282 time as appropriate to age and preoperative neurological status;

283 (C) The patient can talk and respond coherently to verbal
284 questioning, or to preoperative neurological status;

285 (D) The patient can sit up unaided, or to preoperative
286 neurological status;

287 (E) The patient can ambulate with minimal assistance, or to
288 preoperative neurological status; and

289 (F) The patient does not have uncontrollable nausea or
290 vomiting and has minimal dizziness.

291 (8) A dentist who induces conscious sedation shall employ
292 the services of an assistant at all times who holds a valid
293 BLS/CPR certification and maintains such certification.

294 (9) A dentist granted a Class 3 Permit must hold a valid
295 Health Care Provider BLS/CPR and ACLS certification for
296 Comprehensive (3(a)) Permit and ACLS or PALS certification
297 for Limited (3(b)) Permit and maintain such certification.

298 (d) Class 4 Permit

299 Class 4 Permit: general anesthesia/deep conscious sedation,
300 conscious sedation, and anxiolysis.

301 (1) The Board shall issue a Class 4 Permit to an applicant
302 who:

303 (A) Is a licensed dentist in West Virginia;

304 (B) Has a current Advanced Cardiac Life Support (ACLS)
305 Certificate;

306 (C) Satisfies one of the following criteria:

307 (i) Completion of an advanced training program in anesthe-
308 sia and related subjects beyond the undergraduate dental
309 curriculum that satisfies the requirements described in Part II of
310 the ADA *Guidelines for Teaching the Comprehensive Control*
311 *of Pain and Anxiety in Dentistry* at the time training was
312 commenced;

313 (ii) Completion of an ADA or AMA accredited postdoctoral
314 training program which affords comprehensive and appropriate
315 training necessary to administer and manage general anesthesia,
316 commensurate with these Guidelines;

317 (iii) In lieu of these requirements, the Board may accept
318 documented evidence of equivalent training or experience in
319 general anesthesia.

320 (2) A dentist who induces general anesthesia/deep con-
321 scious sedation shall have the following facilities, properly
322 maintained age appropriate equipment and age appropriate
323 drugs available during the procedure and during recovery:

324 (A) An operating room large enough to adequately accom-
325 modate the patient on an operating table or in an operating chair
326 and to allow an operating team of at least three individuals to
327 freely move about the patient;

328 (B) An operating table or chair which permits the patient to
329 be positioned so the operating team can maintain the patient's
330 airway, quickly alter the patient's position in an emergency, and
331 provide a firm platform for the administration of basic life
332 support;

333 (C) A lighting system which permits evaluation of the
334 patient's skin and mucosal color and a backup lighting system
335 of sufficient intensity to permit completion of any operation
336 underway in the event of a general power failure;

337 (D) Suction equipment which permits aspiration of the oral
338 and pharyngeal cavities and a backup suction device which will
339 function in the event of a general power failure;

340 (E) An oxygen delivery system with adequate full face
341 mask and appropriate connectors that is capable of delivering
342 high flow oxygen to the patient under positive pressure,
343 together with an adequate backup system;

344 (F) A nitrous oxide delivery system with a fail-safe
345 mechanism that will insure appropriate continuous oxygen
346 delivery and a scavenger system;

347 (G) A recovery area that has available oxygen, adequate
348 lighting, suction and electrical outlets. The recovery area can be
349 the operating room;

350 (H) Sphygmomanometer, pulse oximeter, electrocardio-
351 graph monitor, defibrillator or automated external defibrillator,
352 laryngoscope with endotracheal tubes, oral and nasopharyngeal
353 airways, intravenous fluid administration equipment;

354 (I) Emergency drugs including, but not limited to: pharma-
355 cologic antagonists appropriate to the drugs used, vasopressors,
356 corticosteroids, bronchodilators, intravenous medications for
357 treatment of cardiac arrest, narcotic antagonist, antihistaminic,
358 antiarrhythmics, antihypertensives and anticonvulsants; and

359 (J) A defibrillator device.

360 (3) Before inducing general anesthesia/deep conscious
361 sedation the dentist shall:

362 (A) Evaluate the patient and document, using the *American*
363 *Society of Anesthesiologists Patient Physical Status Classifica-*
364 *tions*, that the patient is an appropriate candidate for general
365 anesthesia or deep conscious sedation;

366 (B) Shall give written preoperative and postoperative
367 instructions to the patient or, when appropriate due to age or
368 neurological status of the patient, the patient's guardian; and

369 (C) Shall obtain written informed consent from the patient
370 or patient's guardian for the anesthesia.

371 (4) A dentist who induces general anesthesia/deep con-
372 scious sedation shall monitor and record the patient's condition
373 on a contemporaneous record or shall use an assistant qualified
374 as a monitor to monitor and record the patient's condition on a
375 contemporaneous record. The trained personnel must have a
376 certificate showing successful completion in the last two years
377 of BLS/CPR training and the American Association of Oral and
378 Maxillofacial Surgeon Office Anesthesia Assistant certification
379 or an equivalent. No permit holder shall have more than one
380 patient under general anesthesia at the same time.

381 (5) The patient shall be monitored as follows:

382 (A) Patients must have continuous monitoring of their heart
383 rate, oxygen saturation levels and respiration. At no time shall
384 the patient be unobserved by trained personnel until discharge
385 criteria have been met. The patient's blood pressure, heart rate
386 and oxygen saturation shall be assessed every five minutes, and
387 shall be contemporaneously documented in the patient record.
388 The record must also include documentation of preoperative
389 and postoperative vital signs, all medications administered with
390 dosages, time intervals and route of administration. The person
391 administering the anesthesia may not leave the patient while the
392 patient is under general anesthesia;

393 (B) During the recovery phase, the patient must be moni-
394 tored, including the use of pulse oximetry, by a qualified
395 individual to monitor patients recovering from general anesthe-
396 sia.

397 (6) A dentist shall not release a patient who has undergone
398 general anesthesia/deep conscious sedation except to the care
399 of a responsible adult third party.

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

403 (A) Vital signs including blood pressure, pulse rate and
404 respiratory rate are stable;

405 (B) The patient is alert and oriented to person, place and
406 time as appropriate to age and preoperative neurological status;

407 (C) The patient can talk and respond coherently to verbal
408 questioning, or to preoperative neurological status;

409 (D) The patient can sit up unaided, or to preoperative
410 neurological status;

411 (E) The patient can ambulate with minimal assistance, or to
412 preoperative neurological status; and

413 (F) The patient does not have nausea or vomiting and has
414 minimal dizziness.

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

419 (9) A dentist who induces general anesthesia shall employ
420 the services of a qualified dental assistant who holds a valid
421 BLS/CPR certification and maintains such certification.

422 (10) A Class 4 permit holder must hold a valid Health Care
423 Provider BLS/CPR and ACLS certification and maintain such
424 certification.

**§30-4A-7. Authority of the West Virginia Board of Dental
Examiners to review, inspect and reinspect den-
tists for issuance of permits. On-site inspection by
West Virginia Board of Dental Examiners.**

1 By making application to the Board for an anesthesia
2 permit, said dentist consents and authorizes the Board to review
3 his or her credentials, inspect or reinspect his or her facilities,
4 and investigate any alleged anesthesia mortalities, misadven-
5 ture, or other adverse occurrences which the Board feels is
6 justified in the best interest of the public and the Board. The
7 Board shall have the authority and right to conduct an in-office
8 review or on-site inspection of any dentist applying for or
9 holding a permit to administer anesthesia at any time the Board
10 deems necessary.

11 Prior to issuing a permit, the Board has the right to conduct
12 an on-site inspection of facility, equipment, and auxiliary
13 personnel of the applicant to determine if, in fact, all the
14 requirements for such permit have been met. This inspection or
15 evaluation, if required, shall be carried out by at least two
16 members of the subcommittee directly appointed by the Board
17 as prescribed in section eight of this article. This evaluation is
18 to be carried out in a manner following the principles, but not
19 necessarily the procedures, set forth by the current edition of
20 the Office Anesthesia Evaluation Manual of the West Virginia
21 Board of Dental Examiners. On-site inspections are required
22 and shall be performed for all Class 3(a), 3(b) and 4 Permit
23 Holders. Thereafter, the Board may reinspect annually, at its
24 discretion, but must perform an on-site inspection for all permit
25 holders at least once every five years excepting Class 2 Certifi-
26 cate holders. The Board reserves the right to conduct an on-site

27 inspection whenever it deems necessary for all permit or
28 certificate holders. However, all on-site inspections shall be
29 held during regular business hours.

§30-4A-8. Office Evaluations.

1 (1) The in-office evaluation shall include:

2 (a) Observation of one or more cases of anesthesia to
3 determine the appropriateness of technique and adequacy of
4 patient evaluation and care;

5 (b) Inspection of facilities, equipment, drugs and records;
6 and

7 (2) The evaluation shall be performed by a team appointed
8 by the Board and shall include:

9 (a) A permit holder who has the same type of license as the
10 licensee to be evaluated and who holds a current anesthesia
11 permit in the same class or in a higher class than that held by
12 the licensee being evaluated;

13 (b) A member of the Board's Anesthesia Committee;

14 (c) Class 2 Certificate Holders may be audited periodically
15 as determined by the committee; and

16 (d) Class 3 and 4 Permit holders shall be evaluated once
17 every five years.

§30-4A-9. Reporting of Death, Serious Complications or Injury.

1 If a death, any serious complication or any injury occurs
2 which may have resulted from the administration of general
3 anesthesia/deep conscious sedation, conscious sedation,
4 anxiolysis, or relative analgesia, the licensee performing the
5 dental procedure must submit a written detailed report to the

6 Board within five days of the incident along with copies of the
7 patient's original complete dental records. If the anesthetic
8 agent was administered by a person other than the person
9 performing the dental procedure, that person must also submit
10 a detailed written report. The detailed report(s) must include:

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

12 (2) Name of the licensee and other persons present during
13 the incident;

14 (3) Address where the incident took place;

15 (4) Type of anesthesia and dosages of drugs administered
16 to the patient;

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

19 (6) The anesthesia record and the signed informed consent
20 form for the anesthesia when required.

§30-4A-10. Immunity from liability.

1 (a) Notwithstanding any other provision of law, no person
2 providing information to the Board of Dental Examiners or to
3 the Subcommittee may be held, by reason of having provided
4 such information, to be civilly liable under any law unless such
5 information was false and the person providing such informa-
6 tion knew or had reason to believe that such information was
7 false.

8 (b) No member or employee of the Board of Dental
9 Examiners or the Subcommittee may be held by reason of the
10 performance by him or her of any duty, function or activity
11 authorized or required of the Board or the Subcommittee to be
12 civilly liable. The foregoing provisions of this subsection shall

13 not apply with respect to any action taken by any individual if
14 such individual, in taking such action, was motivated by malice
15 toward any person affected by such action.

§30-4A-11. Effect on practicing dentists who are currently administering or supervising general anesthesia or parenteral conscious sedation.

1 Existing parenteral conscious sedation permits shall
2 become Class 3(b) Permits and general anesthesia permits shall
3 become Class 4 Permits.

§30-4A-12. New applicants.

1 On the effective date of this article and from that date
2 forward, any dentist not previously administering or supervising
3 Class 2, 3 or 4 anesthesia or techniques but wishing to do so,
4 shall make application to the Board as prescribed herein. The
5 Board and the Subcommittee shall then review the applicant's
6 credentials and further will require an on-site evaluation of the
7 dentist's facilities, equipment, techniques, and personnel prior
8 to issuing a regular annual permit or certification. After the
9 initial on-site inspection, the Board, at its discretion, will
10 conduct further on-site evaluations.

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

1 Upon the recommendation of the Subcommittee to the
2 Board of Dental Examiners, the Board shall issue regular
3 permits to applicable dentists. An anesthesia permit or certifica-
4 tion must be renewed annually as described in section fifteen of
5 this article.

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

1 A dentist whose application has been denied for failure to
2 satisfy the requirements in the application procedure or the
3 on-site evaluation must wait thirty days from the date of such
4 denial prior to reapplying and must submit to another on-site
5 evaluation prior to receiving a regular annual permit. It is the
6 responsibility of the Board and the Subcommittee to promptly
7 reinspect the applicant dentist's facilities, techniques, equip-
8 ment, and personnel within ninety days after said applicant has
9 made reapplication.

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

1 The Board of Dental Examiners shall require an initial
2 application fee and an annual renewal fee for Class 2 Certificate
3 and Class 3 and 4 Permits. Provided, however, that a person
4 currently holding a general anesthesia and/or parenteral
5 conscious sedation permit shall make application without an
6 application fee as set forth hereinabove. All permits shall expire
7 on June 30th of every year and renewal fees shall be due on or
8 before June 30th of every year. The Board shall renew permits
9 for the use of anesthesia after receiving the renewal fee unless
10 the permit holder has been informed in writing within sixty
11 days prior to such renewal date that a reevaluation of his or her
12 credentials is required. In determining whether such reevalua-
13 tion is necessary, the Board may consider such factors as it
14 deems appropriate, including, but not limited to patient, dentist
15 or physician complaints and reports of adverse occurrence or
16 misadventures. Reevaluation may also include a yearly on-site
17 inspection of the facility, equipment, personnel, licentiate and
18 procedures utilized by the holder of such permit. However, an
19 on-site inspection of the facility, equipment, personnel,
20 licentiate and procedures utilized by the holder of such a permit
21 will be required for all Class 3 and 4 Permit Holders within a
22 five-year period from the permit holder's last on-site inspection.

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

1 Violations of any of the provisions of this article, whether
2 intentional or unintentional, may result in the revocation or
3 suspension of the dentist's permit to administer anesthesia;
4 multiple or repeated violations or gross infractions, such as
5 practicing anesthesia without a valid permit may result in
6 suspension of the dentist's license to practice dentistry for up to
7 one year as well as other disciplinary measures as deemed
8 appropriate by the Board of Dental Examiners.

§30-4A-17. Appointment of Subcommittee by the West Virginia Board of Dental Examiners; credentials review; and on-site inspections.

1 (1) The West Virginia Board of Dental Examiners shall
2 appoint a minimum of a four member Subcommittee to carry
3 out the review and on-site inspection of any dentist applying for
4 or renewing a permit under this article. The Subcommittee shall
5 also make a recommendation for issuing or revoking a permit
6 under this article. This Subcommittee shall be known as the
7 "West Virginia Board of Dental Examiners Subcommittee on
8 Anesthesia," hereinafter referred to as the "Subcommittee." The
9 Subcommittee shall consist of one member of the Board of
10 Dental Examiners who shall act as chairman of the Subcommit-
11 tee, and two members holding a Class 4 permit and two
12 members holding a Class 3 permit. Further, the Board may
13 appoint additional members to this Subcommittee provided they
14 have the same credentials set forth hereinabove as necessary to
15 carry out the duties of the Subcommittee.

16 (2) The Subcommittee shall have the authority to adopt
17 policies and procedures related to the regulation of general
18 anesthesia/deep conscious sedation, conscious sedation,
19 anxiolysis, and relative analgesia with the same being approved

20 by the Board. Said subcommittee members shall be paid and
21 reimbursed expenses pursuant to article four of this chapter.

§30-4A-18. Rule-making authority.

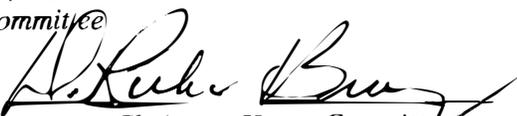
1 The board shall propose additional rules for legislative
2 approval in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code to implement the provisions
4 of this article including, but not limited to, the following:

- 5 (a) Fees;
- 6 (b) Evaluations;
- 7 (c) Equipment; and
- 8 (d) Education.

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



Chairman Senate Committee



Chairman House Committee

Originating in the House.

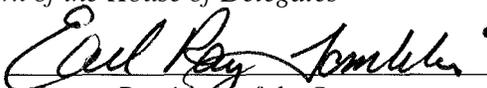
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

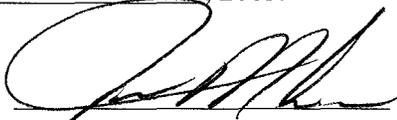


President of the Senate



Speaker of the House of Delegates

The within is approved this the 2nd
day of May, 2005.



Governor

PRESENTED TO THE
GOVERNOR

APR 26 2005

Time 11:05 AM