WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE
FOR
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FOR
ENROLLED
Senate Bill No. 13

(Senator Bailey, original sponsor)

[Passed March 6, 2008; in effect ninety days from passage.]
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(SENATOR BAILEY, original sponsor)

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AN ACT to amend and reenact §30-4-3, §30-4-5, §30-4-6, §30-4-13, §30-4-14, §30-4-15 and §30-4-21 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Dental Practice Act; clarifying definitions, powers of the board, rulemaking and temporary permits;

authorizing Board of Dental Examiners to promulgate rules allowing dental hygienists to practice in public health settings under different degrees of supervision; providing method of service that a copy of a complaint against a dentist or dental hygienist to a dentist or dental hygienist be established by board rule; establishing a special volunteer dental license; and providing civil immunity.

Be it enacted by the Legislature of West Virginia:

That §30-4-3, §30-4-5, §30-4-6, §30-4-13, §30-4-14, §30-4-15 and §30-4-21 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-3. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(1) “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.

(2) “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
(3) “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.

(4) “Board” means the West Virginia Board of Dental Examiners;

(5) “Certificate of qualification” means a certificate authorizing a dentist to practice a specialty.

(6) “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.

(7) “Dental assistant” means a person qualified by education, training and experience who aids or assists a dentist in the delivery of patient care in accordance with delegated procedures or who may perform nonclinical duties in the dental office: Provided, That no occupational title other than dental assistant shall be used to describe this auxiliary.

(8) “Dental auxiliary personnel” or “auxiliary” means dental hygienists and dental assistants who assist the dentist in the provision of oral health care services to patients.

(9) “Dental hygienist” means a person licensed by the board who provides preventative oral health care services to patients in the dental office and in a public
Provided, That no occupational title other than dental hygienist may be used to describe this auxiliary.

(10) “Dental laboratory” means a dental laboratory as defined in section one, article four-b of this chapter.

(11) “Dental office” means the place where the licensed dentist and dental auxiliary personnel are practicing dentistry.

(12) “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.

(13) “Dentist” means an individual licensed by the board to practice dentistry.

(14) “Dentistry” means the evaluation, diagnosis, prevention and treatment of diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures provided by a dentist.

(15) “Direct supervision” means supervision of dental auxiliary personnel provided by a licensed dentist who is physically present in the dental office or treatment facility when procedures are being performed.

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

(17) “Good moral character” means a lack of history of dishonesty.

(18) “License” means a license to practice dentistry or dental hygiene.

(19) “Licensee” means a person holding a license.

(20) “Public health practice” means treatment or procedures in a public health setting which shall be designated by a rule promulgated by the Board of Dental Examiners to require direct, general or no supervision of a dental hygienist by a licensed dentist.

(21) “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 West Virginia Department of Health and Human Resources, public health facilities, homebound settings, accredited dental hygiene education programs and any other place designated by the board by rule.

(22) “Specialty” means the practice of a certain branch of dentistry.

§30-4-5. Powers of the board.

The board has all the powers set forth in article one of this chapter and in addition may:

(1) Sue and be sued in its official name as an agency of

4 this state;

5 (2) Hire, fix the compensation of and discharge the
6 employees necessary to enforce the provisions of this
7 article;

8 (3) Examine and determine the qualifications of any
9 applicant for a license;

10 (4) Examine and determine the qualifications of any
11 applicant for a certificate of qualification;

12 (5) Issue, renew, deny, suspend, revoke, limit or
13 reinstate licenses and discipline licensees;

14 (6) Issue, renew, deny, suspend, revoke, limit or
15 reinstate certificates of qualification and discipline
16 holders of a certificate of qualification;

17 (7) Investigate alleged violations of the provisions of
18 this article and article four-b of this chapter reasonable
19 regulations promulgated hereunder and orders and final
20 decisions of the board;

21 (8) Conduct hearings upon charges calling for
22 discipline of a licensee or revocation or suspension of a
23 license;

24 (9) Propose rules in accordance with the provisions of
25 article three, chapter twenty-nine-a of this code to
26 implement the provisions of this article; and

27 (10) Take all other actions necessary and proper to
28 effectuate the purposes of this article.
§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 including, but not limited to, the following:

(1) The examinations administered under this article;

(2) Issuing and renewing a license;

(3) Issuing temporary permits, teaching permits and dental intern or resident permits;

(4) Specialities that a dentist may practice;

(5) Issuing and renewing a certificate of qualification;

(6) Denying, suspending, revoking, reinstating or limiting the practice of a licensee or certificate of qualification;

(7) Continuing education requirements for licensees;

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

(9) Designating the services and procedures requiring or allowing direct supervision, general supervision and public health practice to be completed and filed as an emergency rule no later than the first day of July, two thousand eight;

(10) Delegated procedures to be performed by a dental

assistant;

(11) Use of firm or trade names;

(12) Dental corporations; and

(13) Professional conduct requirements.

(b) All rules in effect on the effective date of this article shall remain in effect until they are withdrawn, revoked or amended.

§30-4-13. Temporary permits; dental intern or resident permit; teaching permit; dentist.

(a) The board may issue a temporary permit to practice dentistry to an applicant who:

(1) Has graduated from an approved dental college, school or dental department of a university with a degree in dentistry;

(2) Has been offered employment under the direct supervision of a licensed dentist;

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

(4) Meets the other qualifications specified by rule by the board in accordance with the provisions of this article.

(b) A temporary permit to practice dentistry may not be renewed and expires on the earlier of:

(1) The date the dentist ceases to be under the direct
(2) Sixty days after issuance.

(c) The board shall issue a dental intern or dental resident permit to an applicant who meets the qualifications set forth in subdivisions (1), (3) and (4), subsection (a) of this section and 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.

(d) 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.

(e) The board shall issue a teaching permit to an applicant who meets the qualifications set forth in subdivisions (1), (3) and (4), subsection (a) of this section and who has been certified by the dean of a dental school located in this state to be a member of the teaching staff of the dental school.

(f) A teaching permit is valid for one year from the date of issue and may be renewed.

(g) While in effect, a temporary permit to practice dentistry, a permit to practice as a dental intern or dental resident and a teaching permit are subject to the restrictions and requirements imposed by this article.
In addition, the holder of a permit to practice as a dental intern or dental resident may not receive any fee for service other than a salary paid by the hospital or dental school and the holder of a teaching permit may only practice dentistry within the facilities of the dental school.

§30-4-14. Temporary permits; teaching permit; dental hygienist.

(a) The board may issue a temporary permit to practice dental hygiene to an applicant who:

1. Has graduated from an approved dental hygiene program of a college, school or dental department of a university with a degree in dental hygiene;

2. Has been offered employment as a dental hygienist;

3. Has paid the application fee specified by rule; and

4. Meets the other qualifications specified by rule by the board, in accordance with the provisions of this article.

(b) A temporary permit to practice dental hygiene shall not be renewed and expires on the earlier of:

1. The date the dental hygienist ceases to be employed; or

2. Sixty days after issuance.

(c) The board may issue a teaching permit to an applicant who meets the qualifications set forth in
subdivisions (1), (3) and (4), subsection (a) of this section and who has been certified by the dean of a dental school located in this state to be a member of the teaching staff of the dental school.

(d) A teaching permit is valid for one year from the date of issue and may be renewed.

(e) While in effect, a temporary permit to practice dental hygiene and a teaching permit are subject to the restrictions and requirements imposed by this article. In addition, the holder of a teaching permit may only practice dental hygiene within the facilities of the dental school.

§30-4-15. Scope of practice; dentist.

The practice of dentistry includes the following:

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

(2) Examining, evaluating and diagnosing diseases, disorders and conditions of the oral cavity, maxillofacial area and adjacent and associated structures;

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

(4) Providing services to prevent diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures;
(5) Fabricating, repairing or altering a dental prosthesis;

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

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

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

(9) Employing and supervising dental auxiliary personnel;

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

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

§30-4-21. Complaints; investigations.

(a) Upon receipt of a written complaint filed against any dentist or dental hygienist, the board shall provide a copy of the complaint to the dentist or dental hygienist as specified by legislative rule promulgated by the board.

(b) The board may investigate the complaint. If the board finds upon investigation that probable cause exists that the dentist or dental hygienist has violated any provision of this article or the rules, the board shall serve the dentist or dental hygienist with a written
statement of charges and a notice specifying the date, time and place of hearing. The hearing shall be held in accordance with section twenty-two of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 20th. Day of March, 2008.

Governor
PRESENTED TO THE GOVERNOR

MAR 14 2008

Time 11:25 AM