WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2479

(By Delegates Morgan, Stephens, Hartman, Hatfield, D. Poling, Martin, Staggers, Swartzmiller and Rowan)

Passed March 10, 2011
In Effect Ninety Days From Passage
AN ACT to repeal §30-4A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-4A-4, §30-4A-5 and §30-4A-8 of said code; and to amend said code by adding thereto four new sections, designated §30-4A-6a, §30-4A-6b, §30-4A-6c and §30-4A-6d, all relating to the administration of anesthesia by dentists and in dental offices; permit requirements; classes of permits; qualifications and certifications required for the respective classes of permits; standards of care; patient monitoring requirements; education and certification requirements for monitors and assistants; and related office evaluations.

Be it enacted by the Legislature of West Virginia:
That §30-4A-6 of the Code of West Virginia, 1931, as amended, be repealed; that §30-4A-4, §30-4A-5 and §30-4A-8 of said code be amended and reenacted; and that said code be amended by adding thereto four new sections, designated §30-4A-6a, §30-4A-6b, §30-4A-6c and §30-4A-6d, all to read as follows:

ARTICLE 4A. ADMINISTRATION OF ANESTHESIA BY DENTISTS.

§30-4A-4. Requirement for anesthesia permit.

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

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

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

4 (4) Permit holders shall report the names and qualifications of each qualified monitor. A monitor qualified by PALS or ACLS shall maintain that certification to act as a qualified monitor.

5 (5) A dentist shall hold a class permit equivalent to or exceeding the anesthesia level being provided, unless the provider of anesthesia is a physician anesthesiologist or licensed dentist who holds a current anesthesia permit issued by the Board.

(a) The Board shall issue the following permits:

(1) Class 2 Permit: A Class 2 Permit authorizes a dentist to induce anxiolysis.

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

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

(b) When anesthesia services are provided in dental facilities by a physician anesthesiologist, the dental facility shall be inspected and approved for a Class IV permit.

§30-4A-6a. Qualifications, standards applicable, and continuing education requirements for relative analgesia use.

(a) The board shall allow administration of relative analgesia if the practitioner:

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

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

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

(b) A practitioner who administers relative analgesia shall have the following facilities, equipment and drugs available during the procedure and during recovery:
An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow delivery of age appropriate care in an emergency situation;

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

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

Suction equipment which permits aspiration of the oral and pharyngeal cavities;

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

A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system.

All equipment used must be appropriate for the height and weight of the patient.

Before inducing nitrous oxide sedation, a practitioner shall:

(1) Evaluate the patient;
(2) Give instruction to the patient or, when appropriate due to age or psychological status of the patient, the patient’s guardian; and

(3) Certify that the patient is an appropriate candidate for relative analgesia.

(d) A practitioner who administers relative analgesia shall see that the patient’s condition is visually monitored. At all times the patient shall be observed by a Qualified Monitor until discharge criteria have been met. The Qualified Monitor shall hold valid and current documentation showing successful completion of a Health Care Provider BLS/CPR certification. Documentation of credentials and training must be maintained in the personnel records of the Qualified Monitor. The patient shall be monitored as to response to verbal stimulation and oral mucosal color.

(e) The record must include documentation of all medications administered with dosages, time intervals and route of administration.

(f) A discharge entry shall be made in the patient’s record indicating the patient’s condition upon discharge.

(g) Hold valid and current documentation:

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

(2) Have received training and be competent in the recognition and treatment of medical emergencies, monitoring vital signs, the operation of nitrous oxide delivery systems and the use of the sphygmomanometer and stethoscope.
(h) The practitioner shall assess the patient’s responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

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

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

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

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

(5) The patient does not have nausea, vomiting or dizziness.

§30-4A-6b. Qualifications, standards applicable, and continuing education requirements for a Class II Permit.

(a) The board shall issue a Class II Permit to an applicant who:

(1) Is a licensed dentist in West Virginia;

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

(3) Has completed a board approved course of at least six hours didactic and clinical of either predoctoral dental school or postgraduate instruction.
(b) A dentist who induces anxiolysis shall have the following facilities, properly maintained equipment and appropriate drugs available during the procedures and during recovery:

(1) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

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

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

(4) Suction equipment which permits aspiration of the oral and pharyngeal cavities;

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

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

(7) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;
(8) Sphygmomanometer, stethoscope, and pulse oximeter;

(9) Emergency drugs; and

(10) A defibrillator device is recommended.

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

(c) Before inducing anxiolysis, a dentist shall:

(1) Evaluate the patient;

(2) Certify that the patient is an appropriate candidate for anxiolysis sedation; and

(3) Obtain written informed consent from the patient or patient’s guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient’s record.

(d) The dentist shall monitor and record the patient’s condition or shall use a Qualified Monitor to monitor and record the patient’s condition. The Qualified Monitor shall have a current Health Care Provider BLS/CPR certification. A Class II Permit holder shall have no more than one person under anxiolysis at the same time.

(e) The patient shall be monitored as follows:

(1) Patients must have continuous monitoring using pulse oximetry. The patient’s blood pressure, heart rate and respiration shall be recorded at least once before, during and after the procedure, and these recordings shall be documented in the patient record. At all times the patient shall be
observed by a Qualified Monitor until discharge criteria have
been met. If the dentist is unable to obtain this information,
the reasons shall be documented in the patient’s record. The
record must also include documentation of all medications
administered with dosages, time intervals and route of
administration.

(2) A discharge entry shall be made by the dentist in the
patient’s record indicating the patient’s condition upon
discharge.

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

(g) The dentist shall assess the patient’s responsiveness
using preoperative values as normal guidelines and discharge
the patient only when the following criteria are met:

(1) Vital signs including blood pressure, pulse rate and
respiratory rate are stable;

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

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

(4) The patient can sit up unaided, or to preoperative
neurological status;

(5) The patient can ambulate with minimal assistance, or
to preoperative neurological status; and
(6) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(7) A dentist may not release a patient who has undergone anxiolysis except to the care of a responsible adult third party.

§30-4A-6c. Qualifications, standards applicable, and continuing education requirements for Class III Anesthesia Permit.

(a) The board shall issue or renew a Class 3 Permit to an applicant who:

(1) Is a licensed dentist in West Virginia;

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

(3) Satisfies one of the following criteria:

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

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

(C) In lieu of these requirements, the board may accept documented evidence of equivalent training or experience in conscious sedation anesthesia:
(i) Limited (Enteral) Permit (3(a)) must have a board approved course of at least eighteen hours didactic and twenty mentored clinical cases.

(ii) Comprehensive (Parenteral) Permit (3(b)) must have a board approved course of at least sixty hours didactic and twenty mentored clinical cases.

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

(1) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

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

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

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

(5) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;
(6) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

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

(8) Sphygmomanometer, pulse oximeter, oral and nasopharyngeal airways, intravenous fluid administration equipment;

(9) Emergency drugs including, but not limited to: Pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants; and

(10) A defibrillator device.

(c) Before inducing conscious sedation, a dentist shall:

(1) Evaluate the patient and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for conscious sedation;

(2) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or neurological status of the patient, the patient’s guardian; and

(3) Obtain written informed consent from the patient or patient’s guardian for the anesthesia.

(d) The dentist shall ensure that the patient’s condition is monitored and recorded on a contemporaneous record. The dentist shall use a Qualified Monitor to monitor and record
the patient's condition in addition to the chair side dental
assistant. A Qualified Monitor shall be present to monitor
the patient at all times.

(e) The patient shall be monitored as follows:

(1) Patients must have continuous monitoring using pulse
oximetry. At no time shall the patient be unobserved by a
Qualified Monitor until discharge criteria have been met.
The Qualified Monitor shall have a current Health Care
provider BLS/CPR certification and certification from the
American Association of Oral and Maxillofacial Surgeon’s
certification program for Anesthesia Assistants or an
equivalent. The patient’s blood pressure, heart rate, and
respiration shall be recorded every five minutes, and these
recordings shall be documented in the patient record. The
record must also include documentation of preoperative and
postoperative vital signs, all medications administered with
dosages, time intervals and route of administration. If the
dentist is unable to obtain this information, the reasons shall
be documented in the patient’s record.

(2) During the recovery phase, the patient must be
monitored by a Qualified Monitor.

(3) A discharge entry shall be made by the dentist in the
patient’s record indicating the patient’s condition upon
discharge and the name of the responsible party to whom the
patient was discharged.

(f) A dentist may not release a patient who has undergone
conscious sedation except to the care of a responsible adult
third party.

(g) The dentist shall assess the patient’s responsiveness
using preoperative values as normal guidelines and discharge
the patient only when the following criteria are met:
(1) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

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

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

(4) The patient can sit up unaided, or to preoperative neurological status;

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

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

(h) A dentist who induces conscious sedation shall employ the services of a Qualified Monitor and a chair side dental assistant at all times who each shall hold a valid BLS/CPR certification and maintains such certification.

§30-4A-6d. Qualifications, standards applicable, and continuing education requirements for Class IV Anesthesia Permit.

(a) A Class IV Permit permits the use of general anesthesia/deep conscious sedation, conscious sedation, and anxiolysis.

(b) The board shall issue or renew a Class IV Permit to an applicant who:

(1) Is a licensed dentist in West Virginia;
(2) Has a current Advanced Cardiac Life Support (ACLS) Certificate;

(3) Satisfies one of the following criteria:

(A) Completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in Part II of the ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry at the time training was commenced;

(B) Completion of an ADA or AMA accredited postdoctoral training program which affords comprehensive and appropriate training necessary to administer and manage general anesthesia, commensurate with these guidelines;

(C) In lieu of these requirements, the board may accept documented evidence of equivalent training or experience in general anesthesia.

c) A dentist who induces general anesthesia/deep conscious sedation shall have the following facilities, properly maintained age appropriate equipment and age appropriate drugs available during the procedure and during recovery:

(1) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least three individuals to freely move about the patient;

(2) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient’s airway, quickly alter the patient’s position in an emergency, and provide a firm platform for the administration of basic life support;
(3) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

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

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

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

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

(8) Sphygmomanometer, pulse oximeter, electrocardiograph monitor, defibrillator or automated external defibrillator, laryngoscope with endotracheal tubes, oral and nasopharyngeal airways, intravenous fluid administration equipment;

(9) Emergency drugs including, but not limited to: Pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, intravenous medications for treatment of cardiac arrest, narcotic antagonist, antihistaminic, antiarrhythmics, antihypertensives and anticonvulsants; and

(10) A defibrillator device.
(d) Before inducing general anesthesia/deep conscious sedation the dentist shall:

1. Evaluate the patient and document, using the *American Society of Anesthesiologists Patient Physical Status Classifications*, that the patient is an appropriate candidate for general anesthesia or deep conscious sedation;

2. Shall give written preoperative and postoperative instructions to the patient or, when appropriate due to age or neurological status of the patient, the patient’s guardian; and

3. Shall obtain written informed consent from the patient or patient’s guardian for the anesthesia.

(e) A dentist who induces general anesthesia/deep conscious sedation shall ensure that the patient’s condition is monitored and recorded on a contemporaneous record. The dentist shall use a Qualified Monitor to monitor and record the patient’s condition on a contemporaneous record and a chair side dental assistant. The Qualified Monitor shall hold current Health Care provider BLS/CPR certification and hold certification as an Anesthesia Assistant from the American Association of Oral and Maxillofacial Surgeon Office Anesthesia Assistant certification program for Anesthesia Assistants or an equivalent. No permit holder shall have more than one patient under general anesthesia at the same time.

(f) The patient shall be monitored as follows:

1. Patients must have continuous monitoring of their heart rate, oxygen saturation levels and respiration. At no time shall the patient be unobserved by a Qualified Monitor until discharge criteria have been met. The patient’s blood pressure, heart rate and oxygen saturation shall be assessed
every five minutes, and shall be contemporaneously documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. The person administering the anesthesia may not leave the patient while the patient is under general anesthesia;

(2) During the recovery phase, the patient must be monitored, including the use of pulse oximetry, by a Qualified Monitor; and

(3) A dentist may not release a patient who has undergone general anesthesia/deep conscious sedation except to the care of a responsible adult third party.

(g) The dentist shall assess the patient’s responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(1) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

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

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

(4) The patient can sit up unaided, or to preoperative neurological status;

(5) The patient can ambulate with minimal assistance, or to preoperative neurological status; and
(6) The patient does not have nausea or vomiting and has minimal dizziness.

(7) A discharge entry shall be made in the patient’s record by the dentist indicating the patient’s condition upon discharge and the name of the responsible party to whom the patient was discharged.

(h) A dentist who induces general anesthesia shall employ the services of a Qualified Monitor and a chair side dental assistant at all times, who each shall hold a valid BLS/CPR certification and maintains such certification.

§30-4A-8. Office evaluations.

(a) The in-office evaluation shall include:

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

(2) Inspection of facilities, which shall include but not be limited to, the inspection of equipment, drugs and records and Qualified Monitor’s certifications and documentation;

(3) The evaluation shall be performed by a team appointed by the board and shall include:

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

(B) A member of the board’s Anesthesia Committee;
(C) Class II permit holders may be audited periodically as determined by the committee; and

(D) Class III and IV permit holders shall be evaluated once every five years.

(b) A dentist utilizing a licensed dentist who holds a current anesthesia permit issued by the Board shall have his or her office inspected to the level of the permit held by the anesthesia permit holder. The office is only approved at that level when the anesthesia permit holder is present and shall have the number of qualified monitors present as required by this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

Acting President of the Senate

The within was approved this the 29th day of March, 2011.

Governor