Enrolled

Committee Substitute for

Senate Bill 400

SENATORS ROMANO AND TAKUBO, original sponsors

[Passed March 8, 2019; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE
2019 REGULAR SESSION

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[Passed March 8, 2019; in effect 90 days from passage]
AN ACT to amend and reenact §30-4-3, §30-4-8, and §30-4-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-4-8a, all relating generally to dentistry; permitting the West Virginia Board of Dentistry to create specialty licenses; setting forth those specialty licenses; changing the specific examination an applicant must pass before being issued a license to practice dentistry; changing the type of exam an applicant must pass before being issued a license to practice dental hygiene; and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-3. Definitions.

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

“AAOMS” means the American Association of Oral and Maxillofacial Surgeons;

“AAPD” means the American Academy of Pediatric Dentistry;

“ACLS” means advanced cardiac life support;

“ADA” means the American Dental Association;

“AMA” means the American Medical Association;

“ASA” means American Society of Anesthesiologists;

“Anxiolysis/minimal sedation” means removing, eliminating, or decreasing anxiety by the use of a single anxiety or analgesia medication that is administered in an amount consistent with the manufacturer’s current recommended dosage for the unsupervised treatment of anxiety, insomnia, or pain, in conjunction with nitrous oxide and oxygen. This does not include multiple dosing or exceeding current normal dosage limits set by the manufacturer for unsupervised use by the patient at home for the treatment of anxiety;
“Approved dental hygiene program” means a program that is approved by the board and is accredited or its educational standards are deemed by the board to be substantially equivalent to those required by the Commission on Dental Accreditation of the American Dental Association;

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

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

“BLS” means basic life support;

“Board” means the West Virginia Board of Dentistry;

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

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

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

“CPR” means cardiopulmonary resuscitation;

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

“CRNA” means certified registered nurse anesthetist;

“Defibrillator” means a device used to sustain asthmatic heartbeat in an emergency and includes an Automatic Electronic Defibrillator (AED);
“Delegated procedures” means those procedures specified by law or by rule of the board and performed by dental auxiliary personnel under the supervision of a licensed dentist;

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

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

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

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

“Dental hygienist” means a person licensed by the board to practice and who provides dental hygiene and other services as specified by the board by rule to patients in the dental office and in a public health setting;

“Dental laboratory” means a business performing dental laboratory services;

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

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

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

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

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

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

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

“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;

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

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

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

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

“General supervision” means a dentist is not required to be in the office or treatment facility
when procedures are being performed 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;

“Good moral character” means a lack of history of dishonesty;

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

“License” means a license to practice dentistry or dental hygiene;

“Licensee” means a person holding a license;

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

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

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

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

“Oral and maxillofacial surgery” is the specialty of dentistry which includes the diagnosis,
surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional
and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;
“Orthodontics and dentofacial orthopedics” is the dental specialty that includes the diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orofacial structures;

“Other dental practitioner” means those persons excluded from the definition of the practice of dentistry under the provisions of §30-4-24(3), §30-4-24(4), and §30-4-24(5) of this code and also those persons who hold teaching permits which have been issued to them under the provisions of §30-4-14 of this code;

“PALS” means pediatric advanced life support;

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

“Pediatric patient” means infants and children;

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

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

“Prosthodontics” is the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial tissues using biocompatible substitutes;

“Public health practice” means treatment or procedures in a public health setting which shall be designated by a rule promulgated by the board to require direct, general, or no supervision of a dental hygienist by a dentist;
“Public health setting” means hospitals, schools, correctional facilities, jails, community clinics, long-term care facilities, nursing homes, home health agencies, group homes, state institutions under the 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;

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

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

“Specialty” means the practice of a certain branch of dentistry;

“Subcommittee” means West Virginia Board of Dentistry Subcommittee on Anesthesia; and

“Work authorization” means a written order for dental laboratory services which has been issued by a licensed dentist or other dental practitioner.

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

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

(1) Is at least 18 years of age;

(2) Is of good moral character;

(3) Is a graduate of and has a diploma from a school accredited by the Commission on Dental Accreditation or equivalently approved dental college, school, or dental department of a university as determined by the board;
(4) Has passed a national board examination as given by the Joint Commission on National Dental Examinations and a clinical examination administered by the Commission on Dental Competency Assessments, the Central Regional Dental Testing Service, the Council of Interstate Testing Agencies, the Southern Regional Testing Agency, or the Western Regional Examining Board, or the successor to any of those entities, which demonstrates competency, and passed each individual component with no compensatory scoring in:

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

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

(C) Periodontics, including scaling and root planing in a patient-based clinical setting;

(D) Restorative, including a class II amalgam or composite preparation and restoration and a class III composite preparation and restoration in a patient-based clinical setting; and

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

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

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

(7) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code:

Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered.

(b) A dentist may not represent to the public that he or she is a specialist in any branch of dentistry or limit his or her practice to any branch of dentistry unless first issued a certificate of qualification in that branch of dentistry by the board.
Enr CS for SB 400

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

§30-4-8a. Dental specialties.

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

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

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

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

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

(c) Specialties recognized by the board shall include:

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

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

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

(5) **Orthodontics and dentofacial orthopedics.** — In order to qualify for this specialty, the licensee shall have successfully completed a minimum of two full-time academic years of at least eight calendar months each of graduate or post-graduate education, internship, or residency. In addition, any applicant for an orthodontic and dentofacial orthopedic specialty certificate commencing on July 1, 2019, shall submit verification of successful completion of the American Board of Orthodontics written examination.

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

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

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

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

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

(e) The licensee shall limit his or her listing in the telephone directory to the specialties in which he or she has an office or offices.
(f) The limitation of practice is removed for purposes of volunteering services in organized health clinics and at charitable events.

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

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

(1) Is at least 18 years of age;

(2) Is of good moral character;

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

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

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

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

(7) Is not an alcohol or drug abuser, as those terms are defined in §27-1A-11 of this code:

Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered.

(b) A dental hygienist license issued by the board and in good standing on the effective date of the amendments to this section shall for all purposes be considered a dental hygienist license issued under this section: Provided, That a person holding a dental hygienist license shall renew the license.
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 90 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 22nd Day of March, 2019.

Governor
PRESENTED TO THE GOVERNOR

Time 11:16am