

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 400

SENATORS ROMANO AND TAKUBO, *original sponsors*

[Originating in the Committee on Government

Organization; Reported on February 21, 2019]

1 A BILL to amend and reenact §30-4-3, §30-4-8, and §30-4-10 of the Code of West Virginia, 1931,
2 as amended; and to amend said code by adding thereto a new section, designated §30-
3 4-8a, all relating generally to dentistry; permitting the West Virginia Board of Dentistry to
4 create specialty licenses; setting forth those specialty licenses; changing the specific
5 examination an applicant must pass before being issued a license to practice dentistry;
6 changing the type of exam an applicant must pass before being issued a license to
7 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.

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

3 ~~(1)~~ “AAOMS” means the American Association of Oral and Maxillofacial Surgeons;

4 ~~(2)~~ “AAPD” means the American Academy of Pediatric Dentistry;

5 ~~(3)~~ “ACLS” means advanced cardiac life support;

6 ~~(4)~~ “ADA” means the American Dental Association;

7 ~~(5)~~ “AMA” means the American Medical Association;

8 ~~(6)~~ “ASA” means American Society of Anesthesiologists;

9 ~~(7)~~ “Anxiolysis/minimal sedation” means removing, eliminating, or decreasing anxiety by
10 the use of a single anxiety or analgesia medication that is administered in an amount consistent
11 with the manufacturer’s current recommended dosage for the unsupervised treatment of anxiety,
12 insomnia, or pain, in conjunction with nitrous oxide and oxygen. This does not include multiple
13 dosing or exceeding current normal dosage limits set by the manufacturer for unsupervised use
14 by the patient at home for the treatment of anxiety;

15 ~~(8)~~ “Approved dental hygiene program” means a program that is approved by the board
16 and is accredited or its educational standards are deemed by the board to be substantially

17 equivalent to those required by the Commission on Dental Accreditation of the American Dental
18 Association;

19 ~~(9)~~ "Approved dental school, college, or dental department of a university" means a dental
20 school, college, or dental department of a university that is approved by the board and is
21 accredited or its educational standards are deemed by the board to be substantially equivalent to
22 those required by the Commission on Dental Accreditation of the American Dental Association;

23 ~~(10)~~ "Authorize" means that the dentist is giving permission or approval to dental auxiliary
24 personnel to perform delegated procedures in accordance with the dentist's diagnosis and
25 treatment plan;

26 ~~(11)~~ "BLS" means basic life support;

27 ~~(12)~~ "Board" means the West Virginia Board of Dentistry;

28 ~~(13)~~ "Business entity" means any firm, partnership, association, company, corporation,
29 limited partnership, limited liability company, or other entity;

30 ~~(14)~~ "Central nervous system anesthesia" means an induced, controlled state of
31 unconsciousness or depressed consciousness produced by a pharmacologic method;

32 ~~(15)~~ "Certificate of qualification" means a certificate authorizing a dentist to practice a
33 specialty;

34 ~~(16)~~ "CPR" means cardiopulmonary resuscitation;

35 ~~(17)~~ "Conscious sedation/moderate sedation" means an induced, controlled state of
36 depressed consciousness, produced through the administration of nitrous oxide and oxygen
37 and/or the administration of other agents whether enteral or parenteral, in which the patient retains
38 the ability to independently and continuously maintain an airway and to respond purposefully to
39 physical stimulation and to verbal command;

40 ~~(18)~~ "CRNA" means certified registered nurse anesthetist;

41 ~~(19)~~ "Defibrillator" means a device used to sustain asthmatic heartbeat in an emergency
42 and includes an automatic electronic defibrillator (AED);

43 ~~(20)~~ “Delegated procedures” means those procedures specified by law or by rule of the
44 board and performed by dental auxiliary personnel under the supervision of a licensed dentist;

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

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

50 ~~(23)~~ “Dental auxiliary personnel” or “auxiliary” means dental hygienists and dental
51 assistants who assist the dentist in the practice of dentistry;

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

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

57 ~~(26)~~ “Dental laboratory” means a business performing dental laboratory services;

58 ~~(27)~~ “Dental laboratory services” means the fabricating, repairing, or altering of a dental
59 prosthesis;

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

63 ~~(29)~~ “Dental office” means the place where the licensed dentist and dental auxiliary
64 personnel are practicing dentistry;

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

67 “Dental public health” is the science and art of preventing and controlling dental diseases
68 and promoting dental health through organized community efforts. It is that form of dental practice

69 which considers the community to be the patient rather than any individual. It is concerned with
70 the dental health education of the public, with applied dental research, and with the administration
71 of group dental care programs as well as the prevention and control of dental diseases on a
72 community basis;

73 ~~(31)~~ “Dentist” means an individual licensed by the board to practice dentistry;

74 ~~(32)~~ “Dentistry” means the evaluation, diagnosis, prevention, and treatment of diseases,
75 disorders, and conditions of the oral cavity, maxillofacial area, and the adjacent and associated
76 structures provided by a dentist;

77 ~~(33)~~ “Direct supervision” means supervision of dental auxiliary personnel provided by a
78 licensed dentist who is physically present in the dental office or treatment facility when procedures
79 are being performed;

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

85 ~~(34)~~ “Facility permit” means a permit for a facility where sedation procedures are used that
86 correspond with the level of anesthesia provided;

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

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

93 ~~(37)~~ “General supervision” means a dentist is not required to be in the office or treatment
94 facility when procedures are being performed by the auxiliary dental personnel, but has personally

95 diagnosed the condition to be treated, has personally authorized the procedures, and will evaluate
96 the treatment provided by the dental auxiliary personnel;

97 ~~(38)~~ “Good moral character” means a lack of history of dishonesty;

98 ~~(39)~~ “Health care provider BLS/CPR” means health care provider basic life
99 support/cardiopulmonary resuscitation;

100 ~~(40)~~ “License” means a license to practice dentistry or dental hygiene;

101 ~~(41)~~ “Licensee” means a person holding a license;

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

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

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

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

116 “Oral and maxillofacial surgery” is the specialty of dentistry which includes the diagnosis,
117 surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional
118 and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;

119 “Orthodontics and dentofacial orthopedics” is the dental specialty that includes the
120 diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and

121 skeletal abnormalities of the developing or mature orofacial structures;

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

126 ~~(45)~~ “PALS” means pediatric advanced life support;

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

130 ~~(46)~~ “Pediatric patient” means infants and children;

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

135 ~~(47)~~ “Physician anesthesiologist” means a physician, medical doctor, or doctor of
136 osteopathy who is specialized in the practice of anesthesiology;

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

141 ~~(48)~~ “Public health practice” means treatment or procedures in a public health setting
142 which shall be designated by a rule promulgated by the board to require direct, general, or no
143 supervision of a dental hygienist by a dentist;

144 ~~(49)~~ “Public health setting” means hospitals, schools, correctional facilities, jails,
145 community clinics, long-term care facilities, nursing homes, home health agencies, group homes,
146 state institutions under the West Virginia Department of Health and Human Resources, public

147 health facilities, homebound settings, accredited dental hygiene education programs, and any
148 other place designated by the board by rule;

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

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

157 ~~(52)~~ “Specialty” means the practice of a certain branch of dentistry;

158 ~~(53)~~ “Subcommittee” means West Virginia Board of Dentistry Subcommittee on
159 Anesthesia; and

160 ~~(54)~~ “Work authorization” means a written order for dental laboratory services which has
161 been issued by a licensed dentist or other dental practitioner.

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

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

3 (1) Is at least 18 years of age;

4 (2) Is of good moral character;

5 (3) Is a graduate of and has a diploma from a school accredited by the Commission on
6 Dental Accreditation or equivalently approved dental college, school, or dental department of a
7 university as determined by the board;

8 ~~(4) Has passed the National Board examination as given by the Joint Commission on
9 National Dental Examinations and a clinical examination as specified by the board by rule;~~

10 (4) Has passed a national board examination as given by the Joint Commission on

11 National Dental Examinations and a clinical examination administered by the Commission on
12 Dental Competency Assessments, the Central Regional Dental Testing Service, the Council of
13 Interstate Testing Agencies, the Southern Regional Testing Agency, or the Western Regional
14 Examining Board, or the successor to any of those entities, which demonstrates competency, and
15 passed each individual component with no compensatory scoring in:

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

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

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

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

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

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

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

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

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

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

§30-4-8a Dental specialties.

1 (a) The Board of Dentistry may issue a dental specialty license authorizing a dentist to
2 represent himself or herself to the public as a specialist, and to practice as a specialist, in a dental
3 specialty.

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

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

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

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

11 (c) Specialties recognized by the board shall include:

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

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

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

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

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

27 addition, any applicant for an orthodontic and dentofacial orthopedic specialty certificate
28 commencing on July 1, 2019, shall submit verification of successful completion of the American
29 Board of Orthodontics written examination;

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

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

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

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

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

44 (e) The licensee shall limit his or her listing in the telephone directory to the specialties in
45 which he or she has an office or offices.

46 (f) The limitation of practice is removed for purposes of volunteering services in organized
47 health clinics and at charitable events.

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

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

3 (1) Is at least 18 years of age;

4 (2) Is of good moral character;

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

7 ~~(4) Has passed the national board dental hygiene examination, a regional or state clinical~~
8 ~~examination and a state law examination that tests the applicant's knowledge of subjects specified~~
9 ~~by the board by rule~~

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

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

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

16 (7) ~~Not be~~ is not an alcohol or drug abuser, as ~~these~~ those terms are defined in §27-1A-
17 11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the
18 discretion of the board, be evidenced by participation in a 12-step program or other similar group
19 or process, may be considered.

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

NOTE: The purpose of this bill is to permit the West Virginia Board of Dentistry to create specialty licenses. The bill sets forth those specialty licenses. The bill changes the specific examination an applicant must pass before being issued a license to practice dentistry. The bill changes the specific exam an applicant must pass before being issued a license to practice dental hygiene. The bill defines terms.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.