

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

House Bill 3141

BY DELEGATES SUMMERS AND TULLY

[Passed March 6, 2023; in effect ninety days from passage.]

1 AN ACT to amend and reenact §30-4-3 and §30-4-8a of the Code of West Virginia, 1931, as
2 amended; and to amend said code by adding thereto a new section, designated §30-4-
3 25; all relating to the practice of dentistry; providing for updated definitions; modifying the
4 requirements of dental specialists; and specifying duties during declared public health
5 emergencies.

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 "AAOMS" means the American Association of Oral and Maxillofacial Surgeons;

4 "AAPD" means the American Academy of Pediatric Dentistry;

5 "ACLS" means advanced cardiac life support;

6 "ADA" means the American Dental Association;

7 "AMA" means the American Medical Association;

8 "ASA" means American Society of Anesthesiologists;

9 "Anxiolysis/minimal sedation" means removing, eliminating, or decreasing anxiety by the
10 use of a single anxiety or analgesia medication that is administered in an amount consistent with
11 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 "Approved dental hygiene program" means a program that is approved by the board and
16 is accredited, or its educational standards are deemed by the board to be substantially equivalent
17 to those required by the Commission on Dental Accreditation of the American Dental Association;

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

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

25 "BLS" means basic life support;

26 "Board" means the West Virginia Board of Dentistry;

27 "Business entity" means any firm, partnership, association, company, corporation, limited
28 partnership, limited liability company, or other entity;

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

31 "Certificate of qualification" means a certificate authorizing a dentist to practice a specialty;

32 "CPR" means cardiopulmonary resuscitation;

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

38 "CRNA" means certified registered nurse anesthetist;

39 "Defibrillator" means an electronic device that applies an electric shock to the heart to
40 restore the normal functional rhythm of a fibrillating, nonfunctional heart and includes an
41 Automatic Electronic Defibrillator (AED);

42 "Delegated procedures" means those procedures specified by law or by rule of the board
43 and performed by dental auxiliary personnel under the supervision of a licensed dentist;

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

46 "Dental anesthesiology" is the specialty of dentistry and discipline of anesthesiology
47 encompassing the art and science of managing pain, anxiety, and overall patient health during
48 dental, oral, maxillofacial, and adjunctive surgical or diagnostic procedures throughout the entire
49 perioperative period. The specialty is dedicated to promoting patient safety as well as access to
50 care for all dental patients, including the very young and patients with special health care needs;

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

54 "Dental auxiliary personnel" or "auxiliary" means dental hygienists and dental assistants
55 who assist the dentist in the practice of dentistry;

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

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

61 "Dental laboratory" means a business performing dental laboratory services;

62 "Dental laboratory services" means the fabricating, repairing, or altering of a dental
63 prosthesis;

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

67 "Dental office" means the place where the licensed dentist and dental auxiliary personnel
68 are practicing dentistry;

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

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

77 "Dentist" means an individual licensed by the board to practice dentistry;

78 "Dentistry" means the evaluation, diagnosis, prevention, and treatment, of diseases,
79 disorders, and conditions of the oral cavity and the maxillofacial, adjacent, and associated
80 structures and their impact on the human body;

81 "Direct supervision" means supervision provided by a licensed dentist who is physically
82 present in the dental office or treatment facility when procedures are being performed;

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

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

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

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

96 "General supervision" means a dentist is not required to be in the office or treatment facility
97 when procedures are being performed, has personally authorized the procedures to be
98 completed, and will evaluate the treatment provided at a future appointment, by the dental
99 auxiliary personnel;

100 "Health care provider BLS/CPR" means health care provider basic life
101 support/cardiopulmonary resuscitation;

102 "License" means a license to practice dentistry or dental hygiene;

103 "Licensee" means a person holding a license;

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

106 "Portable dental unit" means any non-facility in which dental equipment, utilized in the
107 practice of dentistry, is transported to and utilized on a temporary basis in an out-of-office location,
108 including, but not limited to, patients' homes, schools, nursing homes, or other institutions;

109 "Oral medicine" is the specialty of dentistry responsible for the oral health care of medically
110 complex patients and for the diagnosis and management of medically related disorders or
111 conditions affecting the oral and maxillofacial region;

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

117 "Oral and maxillofacial radiology" is the specialty of dentistry and discipline of radiology
118 concerned with the production and interpretation of images and data produced by all modalities

119 of radiant energy that are used for the diagnosis and management of diseases, disorders, and
120 conditions of the oral and maxillofacial region;

121 "Oral and maxillofacial surgery" is the specialty of dentistry which includes the diagnosis,
122 surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional
123 and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region;

124 "Orofacial pain" is the specialty of dentistry that encompasses the diagnosis, management
125 and treatment of pain disorders of the jaw, mouth, face and associated regions, which specialty
126 is dedicated to the evidenced-based understanding of the underlying pathophysiology, etiology,
127 prevention, and treatment of these disorders and improving access to interdisciplinary patient
128 care. These disorders as they relate to orofacial pain include but are not limited to
129 temporomandibular muscle and joint (TMJ) disorders, jaw movement disorders, neuropathic and
130 neurovascular pain disorders, headache, and sleep disorders;

131 "Orthodontics and dentofacial orthopedics" is the dental specialty that includes the
132 diagnosis, prevention, interception, and correction of malocclusion, as well as neuromuscular and
133 skeletal abnormalities of the developing or mature orofacial structures;

134 "PALS" means pediatric advanced life support;

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

138 "Pediatric patient" means infants and children;

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

143 "Physician anesthesiologist" means a physician, medical doctor, or doctor of osteopathy
144 who is specialized in the practice of anesthesiology;

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

149 "Public health practice" means treatment or procedures in a public health setting which
150 shall be designated by a rule promulgated by the board to require direct, general, or no
151 supervision of a dental hygienist by a dentist;

152 "Public health setting" means hospitals, schools, correctional facilities, jails, community
153 clinics, long-term care facilities, nursing homes, home health agencies, group homes, state
154 institutions under the West Virginia Department of Health and Human Resources, public health
155 facilities, homebound settings, accredited dental hygiene education programs, and any other
156 place designated by the board by rule;

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

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

165 "Specialty" means the practice of a certain branch of dentistry;

166 "Subcommittee" means West Virginia Board of Dentistry Subcommittee on Anesthesia;

167 and

168 "Work authorization" means a written order for dental laboratory services which has been
169 issued by a licensed dentist.

§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, upon
3 proper application and fee for each specialty and as provided pursuant to the provisions of this
4 article.

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

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

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

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

12 (c) Specialties recognized by the board and the educational requirements for obtaining a
13 specialty license shall include:

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

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

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

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

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

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

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

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

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

44 (10) Dental anesthesiology. — In order to qualify for this specialty, the licensee shall have
45 successfully completed a minimum of two full-time academic years, accredited by the
46 Commission on Dental Accreditation of the American Dental Association, through (1) a graduate
47 or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year
48 must have consisted of at least eight calendar months.

49 (11) Oral medicine. — In order to qualify for this specialty, the licensee shall have
50 successfully completed a minimum of two full-time academic years, accredited by the
51 Commission on Dental Accreditation of the American Dental Association, through (1) a graduate

52 or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year
53 must have consisted of at least eight calendar months.

54 (12) Orofacial pain. – In order to qualify for this specialty, the licensee shall have
55 successfully completed a minimum of two full-time academic years, accredited by the
56 Commission on Dental Accreditation of the American Dental Association, through (1) a graduate
57 or post-graduation education; (2) an internship; or (3) a residency. Each full-time academic year
58 must have consisted of at least eight calendar months.

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

62 (e) If a licensee lists his or her services in a telephone directory or on the internet, then
63 the licensee shall only list those specialties in which he or she practices in his or her office or
64 offices.

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

§30-4-25. Declared public health emergencies.

1 During a declared public health emergency, dentists and dental hygienists with a local
2 anesthesia certificate, may administer vaccines, perform FDA-authorized diagnostic tests to
3 screen patients for infectious diseases, triage medical patients, and perform other ancillary
4 medical procedures and activities as requested by medical personnel.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor