



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia  
Secretary Of State

## NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Dentistry WV Board of

RULE TYPE: Legislative

TITLE-SERIES: 5-06

RULE NAME: Formation and Approval of Dental  
Corporation and Dental Practice  
Ownership

CITE AUTHORITY: §30-4-6

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Susan Combs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 5  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF DENTISTRY

SERIES 6  
FORMATION AND APPROVAL OF DENTAL CORPORATIONS;  
AND DENTAL PRACTICE OWNERSHIP

**§5-6-1. General.**

1.1. Scope. -- This legislative rule addresses procedures for the formation and approval of dental corporations for dentists and ownership of dental practices.

1.2. Authority. -- W. Va. Code §30-4-6.

1.3. Filing Date. -- ~~April 21, 2015.~~

1.4. Effective Date. -- ~~June 1, 2015.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2032.

**§5-6-2. Definitions.**

2.1. Dental Corporation - a company organized under W. Va. Code §30-4-16 for the purpose of rendering dental services.

2.2. Dental services. - The services rendered under W. Va. Code §30-4-1 et seq., by dentists.

2.3. Dentist - a person licensed to practice dentistry under this article.

**§5-6-3. Procedures for Formation and Approval of Dental Corporations for Dentists; Fees.**

3.1. Dentists who desire to render dental services as a corporation shall comply with the provisions of W. Va. Code §30-4-1 et seq and apply to the Board for a certificate of authorization. ~~No~~ A dental corporation may not have as a shareholder anyone other than a person who is duly licensed by the Board or otherwise legally authorized to render the dental services for which the corporation was organized.

3.2. The name of a dental corporation shall contain the words “corporation,” “professional corporation,” “company,” “incorporated,” or “limited” or an abbreviation of one of those words.

3.3. The name of a dental corporation shall comply with the rules concerning the practice of dentistry under a trade name.

3.4. Every corporation shall file with the Board, at the time of formation, the names of every shareholder of the corporation together with an initial filing fee as set forth in the Board’s ~~fee schedule rule, Fees Established by the Board, 5CSR3,~~ and on an annual basis thereafter on or before the thirtieth day of June, every corporation shall file with the Board the names of every shareholder of the corporation together with an annual renewal fee as set forth in the Board’s ~~fee schedule rule, Fees Established by the Board, 5CSR3.~~

3.5. Every dental corporation shall file with the Board a copy of the annual report required to be filed with the Secretary of State under W. Va. Code §59-1-2a on or before the thirtieth day of June on an annual basis.

3.6. Every dental corporation in compliance with all the provisions of this rule shall be approved by the Board.

3.7. If any person ceases to be a shareholder of any dental corporation, that person shall notify the Board in writing within twenty days from the date that he or she ceased to be a shareholder of the corporation. The fact that a person ceases to be a shareholder of a corporation may not affect the approval of the dental corporation by the Board, if the Board determines that the corporation remains in compliance with all the provision of this rule.

**§5-6-4. Approval and Authorization of Change of Name.**

4.1. Any dental corporation seeking a name change shall submit a written request to the Board, along with the appropriate amending documents for approval, and appropriate fee as set forth by the Board's ~~fee schedule rule, Fees Established by the Board,~~ 5CSR3. Once approved the Board shall send an authorization for the name change ~~will be sent~~ to the Secretary of State.

**§5-6-5. Notification of Non-compliance, Cessation of Rendering Dental Services.**

5.1. If the Board determines that a dental corporation is not in compliance with all the provisions of W. Va. Code §30-4-1 et. seq., and this rule, the Board shall notify the corporation in writing, and upon receipt of the written notice, the corporation shall cease rendering dental services in the State.

5.2. Once the Board determines a dental corporation is not in compliance and/or that its certificate of authorization is expired 60 days or more, the Board shall notify the Secretary of State that the corporation's certificate of authorization is no longer valid.

5.3. A dental corporation whose certificate is expired for 60 days or more may submit an application to reinstate its certificate of authorization on an application prescribed by the Board. The fee shall be in the amount of the renewal fee plus any applicable late fees as set forth in the Board's rule, Fees Established by the Board, 5CSR3.

5.4. The Board may approve an application to reinstate a certificate of authorization if the corporation comes into compliance with the Board's statutes and rules and with the Secretary of State's Office. The Board shall notify the Secretary of State of the reinstatement of a certificate of authorization.

5.5. If the dental corporation fails to adhere to the Board's statutes and rules concerning dental corporations the Board may file a complaint and take possible disciplinary actions against the corporation and/or its licensee shareholders.

**§5-6-6. Dentist - Patient Relationship.**

~~6~~5.1. The provisions of this rule may not be construed to alter or affect the dentist - patient relationship.

**§5-6-7. Dental Practice Ownership.**

7.1. Except for the following entities, only a dentist may own a dental practice in the State:

7.1.a. Health departments or clinics of the State or local government agencies;

7.1.b. Non-profit or charitable organizations;

7.1.c. Community health centers;

7.1.d. Hospitals; and

7.1.e. Institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

**§5-6-8. Deceased or Incapacitated Dentists.**

8.1. In the event that a dentist is deceased or becomes incapacitated, the estate or agent of ~~such~~ the dentist may employ another dentist or dentists, for a period not to exceed ~~twelve~~ twenty-four months, to provide services to patients until the practice can be sold or otherwise disposed of or closed.