

**NEWSLETTER CONCERNING  
EMERGENCY RULES 5CSR1  
& COMMENT PERIOD FOR  
PROPOSED RULES 5CSR1**



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of Dental Examiners  
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The Board will accept comments concerning the proposed rules until July 9<sup>th</sup>, 2008, at 12:00 PM. Comments received after the stated date and time will not be accepted. Please mail your comments to the Board's address as follows:

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All changes to these rules are included in this newsletter. You may review a complete copy of the Board's filings of these rules on the Board's website [www.wvdentalboard.org](http://www.wvdentalboard.org) or you may contact our office to request a copy.

**EMERGENCY RULES 5CSR1**

The following new sections (8.4 and 8.5) of Series 1 of the Board's rules have been filed as an Emergency Rule as mandated by Senate Bill 13, which became effective June 4<sup>th</sup>, 2008. This bill mandated these rules be filed as an emergency no later than July 1, 2008. These new sections implements rules for the general supervision of dental hygienists in private practice who have completed a specific amount of time in practice and rules for public health practice by dental hygienists, sponsored by a licensed dentist, who have completed a specific amount of time in practice.

8.4. General Supervision of Dental Hygienists. A dental hygienist may provide, for not more than fifteen (15) consecutive business days or not more than three (3) consecutive weeks, preventive dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all of the following requirements are met:

(a) The dental hygienist shall apply to the Board of Dental Examiners for a general supervision permit. The application will be submitted on a form to be supplied by the Board and signed by the supervising dentist.

(b) The dental hygienist shall have at least one year and a minimum of one thousand (1,000) hours of clinical experience in the practice of dental hygiene.

(c) The dental hygienist shall provide proof of successful completion of a three (3) hour course in the identification and prevention of medical emergencies as part of continuing education credits for licensure every two years.

(d) The supervising dentist shall have examined the patient, including medical history review, diagnosis and treatment planning, not more than twelve months prior to the date the dental hygienist provides the dental hygiene services to the patient. No patient may be treated two (2) consecutive times by a dental hygienist under general supervision without a licensed

dentist conducting an examination.

(e) The dental hygienist shall comply with written protocols or written standing orders established by the supervising dentist, including an updated medical history, informs the patient or parent or guardian of a child and documents in the patient record that dental hygiene services were provided under general supervision.

(f) The dental hygienist shall consult with the supervising dentist or an attending physician if a significant change has occurred in the patient's medical history to determine that the patient is in a medically stable condition prior to receiving dental hygiene services.

(g) The supervising dentist shall not have more than three (3) dental hygienists treating patients under general supervision in dental offices or treatment facilities at any one time when the dentist is not physically present.

(h) The following procedures may be performed by a dental hygienist without supervision of a licensed dentist:

- (1) Dental health education;
- (2) Nutritional counseling;
- (3) Taking intra- and extra-oral photographs;
- (4) Preparing a generalized oral screening with subsequent referral to a dentist; and
- (5) Applying fluoride.

(i) The following procedures may be performed by a dental hygienist when practicing under general supervision:

- (1) Placing,

exposing, developing, and mounting dental radiographs;

(2) Charting existing restorations and missing teeth;

(3) Taking impressions for study cast and pouring models;

(4) Recording medical and dental histories;

(5) Applying topical anesthetic agents;

(6) Applying topical anticariogenic agents;

(7) Applying pit and fissure sealants following diagnosis within 4 months by the supervising dentist;

(8) Checking for and removal of loose orthodontic bands and loose brackets;

(9) Taking intra- and extra-oral photographs;

(10) Complete dental prophylaxis, which may include supra- and subgingival scaling of teeth and polishing of coronal and/or exposed surfaces of teeth;

(11) Dental health education;

(12) Nutritional counseling;

(13) Examining and recording periodontal findings;

(14) Scaling excessive cement from the surfaces of teeth and restorations

(15) Performing clinical examinations and diagnostic tests of teeth and surrounding tissues, including but not limited to restorative chartings, caries activity test,

cytology smears, salivary analysis and smears, endodontic cultures, vitality tests, and recording findings for interpretation by a supervising dentist;

(16) Placing of subgingival medicaments, fibers, chips, etc.;

(17) Finishing and polishing restorations with a slow speed hand piece;

(18) Debridement and/or root planing of teeth; and

(19) Applying bleaching agents after successful completion of a board-approved course.

(j) The dental hygienist may practice under general supervision, consistent with conditions outlined above, in the following settings: private dental offices, hospitals, schools, correctional facilities, jails, community clinics, long term care facilities, nursing homes, home health agencies, group homes, state institutions under the Department of Health and Human Resources, public health facilities, homebound settings and Accredited Dental Hygiene Education programs.

(k) Facilities utilized for oral prophylaxis, sealant placement, or both, other than a private practice setting, must be approved by the West Virginia Board of Dental Examiners.

(l) The dental hygienist shall submit an annual report to the West Virginia Board of Dental Examiners of services rendered while practicing under general supervision in all settings other than a private dental office or Accredited Dental Hygiene Education program. The supervising dentist shall review and sign this report.

(m) All applications and reporting forms shall be provided by the West Virginia Board of Dental Examiners

(n) No person shall do any of the

following:

(1) Practice dental hygiene in a manner that is separate or otherwise independent from a supervising dentist;

(2) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services; and

(3) Administer local anesthesia under general supervision.

8.5. Public Health Practice of Dental Hygienists. A dental hygienist may engage in public health practice rendering all services provided in subsection 8.4. (i) of this section allowed under General Supervision and as further defined below:

(a) The dental hygienist shall submit application to the West Virginia Board of Dental Examiners for Public Health Practice.

(b) The dental hygienist shall have two years and three thousand (3,000) hours of clinical dental hygiene experience.

(c) The dental hygienist shall, in addition to the twenty (20) hours required for dental hygiene licensure, complete six (6) hours of continuing education during each continuing education cycle which must include three (3) hours in medical emergencies and three (3) hours in general public health content.

(d) The dental hygienist shall have a written agreement with a sponsoring dentist who shall authorize and monitor the delivery of hygiene services. The Dental Director of to the West Virginia Bureau of Public Health, if a West Virginia licensed dentist, may serve as sponsoring dentist. All sponsorship agreements shall be filed with the West Virginia Board of Dental Examiners.

(e) The dental hygienist shall submit an annual report to the West Virginia

Board of Dental Examiners and sponsoring dentist of services rendered.

(f) The dental hygienist in cooperation with the sponsoring dentist shall have a written plan for referral, recording conditions that should be called to the attention of a dentist.

(g) Facilities utilized for oral prophylaxis, sealant placement, or both, must be approved by the West Virginia Board of Dental Examiners.

(h) A licensed dentist may not sponsor more than four (4) dental hygienists engaged in public health practice. This restriction shall not apply to hygienists supervised by the Dental Director of the West Virginia Bureau of Public Health, if a West Virginia licensed dentist.

(i) Sealant services may be rendered one time if authorized by the sponsoring dentist. To perform repeat services, the patient must be examined by a licensed dentist. To perform a repeat assessment, screening, prophylaxis, or fluoride, the hygienist must counsel the patient to seek examination by a licensed dentist.

(j) The dental hygienist may engage in public health practice, consistent with conditions outlined above, in the following settings: hospitals, schools, correctional facilities, jails, community clinics, long term care facilities, nursing homes, home health agencies, group homes, state institutions under the Department of Health and Human Resources, public health facilities, homebound settings and Accredited Dental Hygiene Education programs.

(k) All applications and reporting forms will be provided by the West Virginia Board of Dental Examiners.

(l) No person shall do any of the following:

(1) Practice dental hygiene in a manner that is separate or otherwise independent from a supervising dentist;

(2) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services; and

(3) Administer local anesthesia under a public health practice permit.

## **PROPOSED RULES 5CSR1**

Text that has been struck through is proposed to be deleted.

Text that has been underlined is proposed as new language.

#1. This rule updates the definitions of specialty fields of dentistry including Endodontics; Oral Pathology; Orthodontics and Dentofacial Orthopedics; Pediatric Dentistry; Periodontics and Prosthodontics. These new proposed definitions are as follows:

2.2. "Endodontics" is that area of dentistry dealing with the morphology physiology and pathology of the human etiology; histopathology, diagnosis, preventions, and treatment of the diseases of the dental pulp and their sequelae 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.

2.4. "Oral pathology" is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management embraces both morphologic and clinical study 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 An oral pathologist pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations. is a person who, through special study and training, is qualified to diagnose and otherwise study tumors and lesions, both local and

systemic, of the oral regions.

2.5. "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, dental and oral anomalies by changing positions of teeth and jaw relationship by the use of appliances; correction of causative habits; or corrective muscular exercises, in order to establish normal function of the masticating mechanism and to encourage a normal development of the jaws and associated tissues.

2.6. "Pediatric dentistry" is an age defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and the prevention, control and treatment of the oral and dental diseases of children through adolescence, also including persons with special health care needs.

2.7. "Periodontics" is that specialty of dentistry which encompasses the prevention, control 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 esthetics of these structures and tissues.

2.8. "Prosthodontics" is that dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral restoration of masticatory function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient in part or as a whole through the designing and construction of removable dental prosthetic appliances known as artificial dentures, which are supported wholly or in part by the soft tissues of the mouth and not permanently attached to the natural teeth and/or oral and maxillofacial tissues using biocompatible substitutes.

#2. Proposes that dental assistants who have completed a specific amount of time in practice, perform supragingival and coronal polishing on

children under 21 years of age. This proposed new duty is included under 8.2 and reads as follows:

(gg) A dental assistant who has completed two (2) years and at least three thousand (3,000) hours of clinical experience in a dental office, as attested to by the supervising dentist, and who has successfully completed either the restorative expanded duties course or orthodontic expanded duties course required by the West Virginia Board of Dental Examiners, may perform supragingival and coronal polishing on children under age 21 years of age using a slow speed hand piece with a rubber cup after successfully completing a course approved by the Board.

#3. Proposes rules for the general supervision of dental hygienists in private practice who have completed a specific amount of time in practice. The language for the proposed new section 8.4 can be reviewed on pages 1 through 3 of this newsletter.

#4. Proposes rules for public health practice by dental hygienists, sponsored by a licensed dentist, who have completed a specific amount of time in practice. The language for the proposed new section 8.5 can be reviewed on pages 3 and 4 of this newsletter.

#5. Proposes changes to the current continuing education requirements for dentists and dental hygienists in Section 10, which is proposed as follows:

#### **§5-1-10. Continuing education requirements.**

10.1. Hours Required Biennially. Each licensed dentist shall complete biennially not less than thirty five (35) hours of continuing education. Each licensed dental hygienist shall complete biennially not less than twenty (20) hours of continuing education.

#### 10.2. Approved Providers.

(a) The Continuing Education course must be offered by a Board approved

provider.

(b) The Board approves any course or program sponsored by the following providers, or their constituent or component organizations for credit:

- (1) An accredited dental or dental hygiene school;
- (2) The American Dental Association;
- (3) A National Dental Association;
- (4) The American Dental Hygienists' Association;
- (5) The National Dental Hygiene Association;
- (6) The American Medical Association;
- (7) The American Hospital Association;
- (8) The American Red Cross;
- (9) The American Heart Association;
- (10) American Dental Association recognized specialty societies;
- (11) The Academy of General Dentistry;
- (12) The Veteran's Administration;
- (13) The United States Uniformed Services;
- (14) The U. S. Department of Health and Human Services;
- (15) The W. Va.

Department of Health and Human Resources;

- (16) The W. Va. Dental Association;
- (17) The W. Va. Dental Hygienists' Association; and
- (18) Agencies of the United States Department of Justice; and
- (18) (19) Study Clubs:  
"Study Club" means a group of at least five (5) dentists or dental hygienists who do the following:
  - (i) Organize for the purpose of scientific study;
  - (ii) Operate under the direction of elected officers;
  - (iii) Maintain written by-laws;
  - (iv) Conduct regular meetings; and
  - (v) Maintain written attendance records of all meetings.
- (c) Providers not identified in subdivision (b) of this subsection may petition the Board for approval of continuing education that they offer. The Board may approve other sponsors of continuing education credits. The Board's approval expires after two consecutive years and must be renewed. The course or program must be designed to enhance the licensee's clinical knowledge and ability to treat dental patients.
- (d) Courses or programs that are not approved for continuing education credit for license renewal include, but are not limited to, those on the subjects of estate planning, money management, personal finance, personal business matters, cultural subjects, personal health and recreation, politics, memory training, and speed reading.

(e) The board may excuse a licensee from all or any part of continuing education requirements due to unusual circumstance, emergency or special hardship.

10.3. Record Keeping, Reporting, & Monitoring:

(a) It is the responsibility of each dentist and dental hygienist to maintain and ~~compite~~ accurate records relating to all continuing education courses he or she has successfully completed.

(b) The records and information pertaining to each year shall be maintained for a period of six (6) years.

(c) A licensee shall report all continuing education courses on the form provided by the Board. ~~The licensee shall submit records relating to continuing education courses to the Board at the time of license renewal.~~

(d) The Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

(1) A licensee who fails to successfully complete an audit of continuing education records may be subject to disciplinary action, which may include but is not limited to, an immediate cease and desist from practice notice, notice of formal hearing and/or monetary assessments or fines.

(e) Each dentist and dental hygienist shall submit to the Board by February 1, 1996, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

10.4. Criteria.

(a) The Board shall not give continuing education credit for identical courses taken during the same continuing education reporting period.

(b) The Board shall give one hour of credit for each hour of attendance and an hour of attendance is defined as fifty (50) minutes.

(c) At least two (2) hours of continuing education shall be related to any one or combination of the following subjects during each continuing education reporting period :

(1) infection control and/or occupational hazards;

(2) oral effects of tobacco use; or

(3) oral effects of substance abuse.

(d) A current certification for a ~~Health Care Provider/Basic Life Support comprehensive basic life support course for a health care provider that includes: resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation.~~ A CPR certificate shall be obtained through recognized by the American Heart Association health care provider course, or the American Red Cross professional rescuer course, or an equivalent course. Certification shall be required each continuing education period, and such certification will may be counted as continuing education credits.

(e) Courses or re-certifications completed on the Internet will not be accepted for basic life support courses unless the course includes a skills examination with a certified instructor.

(f) Continuing education hours or other education requirements required by board consent decrees or orders shall not be used to satisfy continuing education requirements for license renewal.

10.5. Continuing Education for

Anesthesia certificate and permit holders.

(a.) Class 2 anesthesia certificate holders must complete at least 6 hours of continuing education credits and class 3 and class 4 anesthesia permit holders must complete 16 hours of credits in one or more of the following areas:

- (1.) oral or nitrous oxide sedation;
- (2.) conscious sedation;
- (3.) general anesthesia;
- (4.) physical evaluation;
- (5.) medical emergencies;
- (6.) monitors and use of monitoring equipment;
- (7.) pharmacology; or
- (8.) advanced cardiac life support, pediatric advanced life support or advanced trauma life support (maximum of 8 hours credit)

(b.) Courses or re-certifications completed on the Internet will not be accepted for basic life support courses unless the course includes a skills examination with a certified instructor.

No courses or re-certifications completed on the Internet will not be accepted for advanced cardiac life support, pediatric advanced life support or advanced trauma life support.

(c.) These continuing education credits earned will count for part of the 35 hours required for each biennial period. This requirement is effective for the biennial period beginning February 1, 2008 through January 31, 2010.

10.6. Categories of Credit. The licensee may select areas of study within the following categories, not to exceed the maximum number of hours in each category.

(a) Educational and scientific courses - One hundred percent (100%) of the requirement may be obtained by Educational and scientific courses given by permanent or

Board-approved biennial sponsors:

(b) Supervised self-instruction - Fifty percent (50%) of the requirement may be obtained in this category. Supervised self-instruction shall include a testing mechanism supplied by a permanent or Board approved biennial sponsor. The licensee shall complete a test and demonstrate a level of comprehension before the Board will award credit. Tests shall be graded by the sponsor and results returned to the licensee. Supervised self-instruction includes, but is not limited to:

- (1) Graded audio/video courses;
- (2) Graded correspondence courses; and
- (3) Graded computer courses.

(c) Non-supervised self-instruction - A maximum of ten percent (10%) of the requirement may be obtained in the category. Non-supervised self-instruction includes, but is not limited to:

- (1) Home study - journals and publications;
- (2) Correspondence programs;
- (3) Educational television;
- (4) Audio/video programs;
- (5) Scientific exhibits; and
- (6) Study clubs other than biennial sponsors.

(d) Scientific papers, publications, and scientific presentations - A maximum of ten percent of the requirement may



be obtained in the category of papers, publications, and scientific presentations; A maximum of ten percent (10%) may also be obtained for original scientific papers authored by the licensee and published in a scientific professional journal, and the original presentation of papers, essays, or formal lectures to recognized groups of fellow professionals.

(e) Teaching and research appointments - A maximum of ten percent (10%) of the requirement may be obtained in this category. Licensees involved in teaching or research activities at an accredited dental or dental hygiene institution facility, dental assisting program, dental laboratory technology program, or a part time faculty or research appointment in such facility or program may also receive a maximum ten percent (10%) of the requirement.

(f) Original table clinics and scientific exhibits - A maximum of ten percent (10%) of the requirement may be obtained in the category of original table clinics and scientific exhibits.

(g) Course subjects on billing, office management, practice building, insurance reimbursement, communication skills, courses on how to use dental software, programs, and/or dental equipment are limited to a maximum of ten percent (10%) of the requirement whether individually or in any combination.

(g)(h) The Board recognizes successful completion of the following written examinations, as may be administered by the following agencies, as satisfying the number of required hours of continuing education in the applicable reporting period:

(1) North East Regional Board's (NERB) Dental Hygiene Comprehensive Examination (for hygienists only);

(2) NERB's Diagnosis and Oral Radiology plus Comprehensive Treatment Planning Examinations;

(3) Academy of General

Dentistry's Fellowship Examination;

(4) Examinations leading to recognized Specialty Boards' Diplomate status;

(5) National Board - All parts, successfully completed;

(6) Central Regional Dental Testing Agency's Written Examinations;

(7) Southern Regional Testing Agency's Written Examinations;

(8) Western Regional Examining Board's Written Examination; and

(9) any other written exam approved by the Board.

(h) Compliance: Compliance with this rule is required for all licensees seeking license renewal beginning February 1, 1994, and biennially thereafter.

10.7. Dental Committee and Indigent Care Participation.

(a) The Board recognizes those individuals that are serving, (as elected, or appointed members), on national, state and local dental, or dental hygiene boards, councils or committees and allows one (1) hour of continuing education credit for every four (4) hours of meeting time to those individuals. This amount cannot exceed more than Five (5) hours of the total biennial requirement for each classification of licensee.

(b) Dentists may earn up to five (5) hours and Dental Hygienists may earn up to three (3) hours of continuing education credit requirements, per biennial period, for providing dental care to indigent patients. One-half (.5) hour credit will be allowed for every hour of documented treatment.

10.8. ~~Recent graduates licensed within one (1) year of a continuing education reporting period are not required to fulfill continuing education requirements for~~ A licensee is exempt

from continuing education requirements and is considered in compliance on the date of the end of the first continuing education reporting period following the licensee's initial licensure. Retired or disabled dentists or dental hygienists are not required to fulfill continuing education requirements.

(a) Continuing education will not be required for a dentist who is a graduate student in an approved dental specialty program, dental internship or residency program, or related dental or medical degree program offered by an approved organization, but must complete the healthcare provider/basic life support certification pursuant to 10.4.(d) of this section.

#### 10.9. Penalties for Violation.

(a) The Board shall not renew the license of any licensee who fails to meet the requirements of this section.

(b) A licensee who has been found to have not fulfilled the continuing education requirements of the Board shall be required to pay a penalty as set by the Board's fee schedule 5CSR3 and has six (6) months in which to satisfy the requirements.

(c) A false statement on a renewal form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code §30-4-20.

#6 Proposes continuing education requirements for special volunteer licensees. This is proposed as a new section 13 that reads as follows:

#### **§5-1-13. Special Volunteer License Continuing Education Requirements.**

13.1. Each dentist or dental hygienist licensed as a volunteer shall complete continuing education biennially.

#### 13.2. Approved Providers.

(a) The Continuing Education course must be offered by a Board approved provider.

(b) The Board approves any course or program sponsored by the providers as set forth in section 5.1.10.2 (b) of this rule.

#### 13.3. Record Keeping, Reporting, & Monitoring:

(a) It is the responsibility of each dentist and dental hygienist to maintain accurate records relating to continuing education courses he or she has successfully completed.

(b) The records and information pertaining to each year shall be maintained for a period of six (6) years.

(c) A licensee shall report all continuing education courses on the form provided by the Board.

(d) The Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

(e) Each dentist and dental hygienist shall submit to the Board by February 1, 2010, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

#### 13.4. Criteria

(a) The Board shall not give continuing education credit for identical courses taken during the same continuing education reporting period.

(b) At least two (2) hours of continuing education shall be related to infection control.

(c) A current certification for a comprehensive basic life support course for a health care provider that includes: resuscitation

on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation. A CPR certificate shall be obtained through the American Heart Association health care provider course, the American Red Cross professional rescuer course, or an equivalent course. Certification shall be required each continuing education period, and such certification may be counted as continuing education credits.

13.5. Categories of Credit. The licensee may select areas of study within the following categories, not to exceed the maximum number of hours in each category.

(a) Educational and scientific courses - One hundred percent (100%) of the requirement may be obtained by Educational and scientific courses given by permanent or Board-approved biennial sponsors.

(b) Supervised self-instruction - Fifty percent (50%) of the requirement may be obtained in this category. Supervised self-instruction shall include a testing mechanism supplied by a permanent or Board approved biennial sponsor. The licensee shall complete a test and demonstrate a level of comprehension before the Board will award credit. Tests shall be graded by the sponsor and results returned to the licensee. Supervised self-instruction includes, but is not limited to:

(1) Graded audio/video courses;

(2) Graded correspondence courses; and

(3) Graded computer courses.

(c) Compliance: Compliance with this rule is required for all volunteer licensees seeking license renewal beginning

February 1, 2010, and biennially thereafter.

### 13.6. Penalties for Violation.

(a) The Board shall not renew the license of any licensee who fails to meet the requirements of this section within six (6) months from the date the licensee is found to have not fulfilled the continuing education requirements of the Board.

(b) A false statement on a renewal form or continuing education reporting form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code

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