



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

7/26/2021 10:54:46 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Dentistry WV Board of TITLE-SERIES: 5-11  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 5-11 Continuing Education Requirements

**PRIMARY CONTACT**

NAME: WV Board of Dentistry  
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CITE STATUTORY AUTHORITY: §30-4-6

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§30-4-6 is the provision of the practice act allowing the Board to promulgate rules.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/18/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/21/2021

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

The proposed notice was placed on the Board's website. It was also sent to the WV Dental and Hygiene Associations to pass along to their members as well as the State Dental Director for review and comments.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This legislative rule addresses continuing education requirements for licensees. The changes in this rule corrects the letting and number formatting. It clarifies the process for licensees who have not completed CEs timely, strikes through language concerning retired licensees as the Board does not issue retired licenses, only active and sets forth CE requirements for teledentistry registrants.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The Board is of the opinion the changes proposed are necessary to keep the rule updated and give guidance when it comes to CE audits and remove language concerning retired licensees as the Board does not issue retired license renewals.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

none expected

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

none expected

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

none expected

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
<b>Personal Services</b>	0	0	0
<b>Current Expenses</b>	0	0	0
<b>Repairs and Alterations</b>	0	0	0
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

This rule should not have an affect on revenues or expenditures.

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 11  
CONTINUING EDUCATION REQUIREMENTS

**§5-11-1. General.**

1.1. Scope. This legislative rule establishes continuing education requirements for licensees or permittees regulated by the West Virginia Board of Dentistry.

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

1.3. Effective Date. -- ~~July 27, 2016~~

1.4. Filing Date. -- ~~September 1, 2016~~

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

**§5-11-2. Definitions.**

2.1. "Board" means the West Virginia Board of Dentistry.

2.2. "Controlled Substances" means drugs that are classified by federal or state law in Schedules I, II, III, IV or V, as defined in W. Va. Code §60A-2-204 through 212.

2.3. "Drug diversion training and best practice prescribing of controlled substances training" means training which includes all of the following:

2.3.1.~~(a)~~ Drug diversion, including statistical information on prescription drug abuse and resulting deaths. Dentists practicing within West Virginia shall take a course that includes West Virginia statistics. Dentists practicing in other states may take a course that includes statistical information relative to the state they are practicing in.

2.3.2.~~(b)~~ Epidemiology of pain and misuse of opioids.

2.3.3.~~(c)~~ Indication for opioids in pain treatment including general characteristics, toxicities and drug interactions.

2.3.4.~~(d)~~ Identification of diversion and drug seeking tactics and behaviors.

2.3.5.~~(e)~~ Best practice methods for working with patients suspected of drug seeking behavior and diversion.

2.3.6.~~(f)~~ Compliance with controlled substances laws and rules.

2.3.7.~~(g)~~ Registration with and use of the West Virginia Controlled Substances Monitoring Program established in West Virginia Code Chapter 60A, Article 9.

2.4. "Opioid" means natural and semi-synthetic derivatives of the opium poppy, as well as similar synthetic compounds that have analgesic or pain relieving properties because of their effects in the central nervous system. These include, but are not limited to, codeine, morphine, hydromorphone, hydrocodone, oxycodone, methadone, and fentanyl.

2.5. "Study Club" means a group of at least 5 dentists or dental hygienists who do the following:

~~2.5.1.(1)~~ Organize for the purpose of scientific study;

~~2.5.2.(2)~~ Operate under the direction of elected officers;

~~2.5.3.(3)~~ Maintain written by-laws;

~~2.5.4.(4)~~ Conduct regular meetings; and

~~2.5.5.(5)~~ Maintain written attendance records of all meetings.

**§5-11-3. Continuing education requirements.**

3.1. Hours Required Biennially.

~~3.1.1.(a)~~ Each licensed dentist shall complete biennially not less than 35 hours of continuing education.

~~3.1.2.(b)~~ Each licensed dental hygienist shall complete biennially not less than 20 hours of continuing education.

3.2. Initial Dental Licensees.

~~3.2.1.(a)~~ Each dental applicant upon initial licensure shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training and training on prescribing and administration of an opioid antagonist within one year of receiving his or her initial dental license from the Board.

3.3. Approved Providers.

~~3.3.1.(a)~~ The Continuing Education course must be offered by a Board approved provider. The course or program must be designed to enhance the licensee's clinical knowledge and ability to treat dental patients.

~~3.3.2.(b)~~ The Board approves any course or program sponsored by the following providers, or their constituent or component organizations for credit:

~~3.3.2.a.(1)~~ An accredited dental or dental hygiene school;

~~3.3.2.b.(2)~~ The American Dental Association;

~~3.3.2.c.(3)~~ A National Dental Association;

~~3.3.2.d.(4)~~ The American Dental Hygienists' Association;

- ~~3.3.2.e.(5)~~ The National Dental Hygiene Association;
- ~~3.3.2.f.(6)~~ The American Medical Association;
- ~~3.3.2.g.(7)~~ The American Hospital Association;
- ~~3.3.2.h.(8)~~ The American Red Cross;
- ~~3.3.2.i.(9)~~ The American Heart Association;
- ~~3.3.2.j.(10)~~ American Dental Association recognized specialty societies;
- ~~3.3.2.k.(11)~~ The Academy of General Dentistry;
- ~~3.3.2.l.(12)~~ The Veteran's Administration;
- ~~3.3.2.m.(13)~~ The United States Uniformed Services;
- ~~3.3.2.n.(14)~~ The U. S. Department of Health and Human Services;
- ~~3.3.2.o.(15)~~ The W. Va. Department of Health and Human Resources;
- ~~3.3.2.p.(16)~~ The W. Va. Bureau for Public Health;
- ~~3.3.2.q.(17)~~ The W. Va. Dental Association;
- ~~3.3.2.r.(18)~~ The W. Va Pharmacists Association;
- ~~3.3.2.s.(19)~~ The W. Va. Dental Hygienists' Association;
- ~~3.3.2.t.(20)~~ The W. Va. Dental Assistants' Association;
- ~~3.3.2.u.(21)~~ Agencies of the United States Department of Justice; and
- ~~3.3.2.v.(22)~~ Study Clubs.

~~3.3.3.(e)~~ Providers not identified in subdivision (b) of this subsection may petition the Board for approval of continuing education. 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.

~~3.3.4.(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.

~~3.3.5.(e)~~ The board may excuse a licensee from all or any part of continuing education requirements due to unusual circumstance, emergency or special hardship.

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

3.4.1.(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.

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

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

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

3.4.4.a.(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.

3.4.4.b. A licensee who does not provide proof of completion of the appropriate number and type of continuing education courses may be allowed to make up for the deficiency and be assessed a late fee at the discretion of the Board.

3.4.5.(e) Each dentist and dental hygienist shall submit to the Board by February 1, 2018~~24~~, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

### 3.5. Criteria.

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

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

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

3.5.3.a.(1) infection control and/or occupational hazards;

3.5.3.b.(2) oral effects of tobacco use; or

3.5.3.c.(3) oral effects of substance abuse.

3.5.4.(d) Licensed dentists shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training and training on prescribing and administration of an opioid antagonist and shall be reported beginning with the February 1, 2018 reporting deadline. These requirements may be waived for a licensed dentist who has not prescribed, administered, or dispensed a controlled substance during the reporting period.

3.5.5.(e) 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.

3.5.6.(f) 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.

3.5.7.(g) 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.

3.6. Continuing Education for Anesthesia Certificate Holders.

3.6.1.(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:

3.6.1.a.(1) oral or nitrous oxide sedation;

3.6.1.b.(2) conscious sedation;

3.6.1.c.(3) general anesthesia;

3.6.1.d.(4) physical evaluation;

3.6.1.e.(5) medical emergencies;

3.6.1.f.(6) monitors and use of monitoring equipment;

3.6.1.g.(7) pharmacology;

3.6.1.h.(8) advanced cardiac life support, (maximum of 8 hours credit);

3.6.1.i.(9) pediatric advanced life support (maximum of 8 hours credit); and

3.6.1.j.(10) advanced trauma life support (maximum of 8 hours credit).

3.6.2.(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.

3.6.3.(c) 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.

3.6.4.(d) 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, 2016~~22~~ through January 31, 2018~~24~~.

3.7. 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.

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

3.7.2.(b) Supervised self-instruction - 80% 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:

3.7.2.a.(1) Graded audio/video courses;

3.7.2.b.(2) Graded correspondence courses; and

3.7.2.c.(3) Graded computer courses.

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

3.7.3.a.(1) Home study - journals and publications;

3.7.3.b.(2) Correspondence programs;

3.7.3.c.(3) Educational television;

3.7.3.d.(4) Audio/video programs;

3.7.3.e.(5) Scientific exhibits; and

3.7.3.f.(6) Study clubs other than biennial sponsors.

3.7.4.(d) Scientific papers, publications, and scientific presentations - A maximum of 10% of the requirement may be obtained in the category of papers, publications, and scientific presentations; A maximum of 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.

3.7.5.(e) Teaching and research appointments - A maximum of 10% of the requirement may be obtained in this category. Licensees involved in teaching or research activities at an accredited dental or dental hygiene 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 10% of the requirement.

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

3.7.7.(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 10% of the requirement whether individually or in any combination.

3.7.8.(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:

3.7.8.a.(1) The Commission on Dental Competency Assessments Dental Hygiene Examination (for hygienists only);

3.7.8.b.(2) The Commission on Dental Competency Assessments Dental Examination;

3.7.8.c.(3) Academy of General Dentistry's Fellowship Examination;

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

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

3.7.8.f.(6) Central Regional Dental Testing Service's Written Examinations;

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

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

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

3.7.9.(f) Compliance: Compliance with this rule is required for all licensees seeking license renewal beginning February 1, ~~2018~~24, and biennially thereafter.

### 3.8. Dental Committee and Indigent Care Participation.

3.8.1.(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 1 hour of continuing education credit for every 4 hours of meeting time to those individuals. This amount cannot exceed more than 5 hours of the total biennial requirement for each classification of licensee.

3.8.2.(b) Dentists may earn up to 8 hours and Dental Hygienists may earn up to 5 hours of continuing education credit requirements, per biennial period, for providing dental care to indigent patients. One-half hour credit will be allowed for every hour of documented treatment.

### 3.9. Exemptions.

3.9.1.(a) 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.~~

3.9.2.(b) 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 shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training and training on prescribing and administration of an opioid antagonist pursuant to 3.5.4.(d) and the healthcare provider/basic life support certification pursuant to 3.5.5.(e) of this section.

3.9.3.(e) Continuing education will not be required for a dental hygienist who is enrolled in an approved dental program, but must complete the healthcare provider/basic life support certification pursuant to 3.5.5.(e) of this section.

3.10. Penalties for Violation.

~~3.10.1.(a)~~ 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 3 months in which to satisfy the requirements. A licensee who fails to satisfy the requirements 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.

~~3.10.2.(b)~~ A false statement on a renewal form or continuing education report form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code §30-4-19.

**§5-11-4. Special Volunteer License Continuing Education Requirements.**

4.1. A dentist or dental hygienist licensed as a volunteer shall complete continuing education biennially.

4.2. Approved Providers.

~~4.2.1.(a)~~ The Continuing Education course must be offered by a Board approved provider.

~~4.2.2.(b)~~ The Board approves any course or program sponsored by the providers as set forth in section ~~5.11.3.3.2.(b)~~ of this rule.

4.3. Record Keeping, Reporting, & Monitoring:

~~4.3.1.(a)~~ It is the responsibility of a volunteer licensee to maintain accurate records relating to continuing education courses he or she has successfully completed.

~~4.3.2.(b)~~ The records and information pertaining to each year shall be maintained for a period of six (6) years.

~~4.3.3.(c)~~ A volunteer licensee shall report all continuing education courses on the form provided by the Board.

~~4.3.4.(d)~~ The Board shall randomly audit the continuing education records maintained by a volunteer licensee.

~~4.3.5.(e)~~ A volunteer licensee shall submit to the Board by February 1, 2018~~24~~, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

4.4. Criteria

~~4.4.1.(a)~~ The Board may not give continuing education credit for identical courses taken during the same continuing education reporting period.

~~4.4.2.(b)~~ A volunteer licensee shall have a minimum of 5 hours of continuing education, which shall include at least 2 hours related to infection control. A volunteer dentist shall complete 3 hours regarding drug diversion training and best practice prescribing of controlled substances training and training on

prescribing and administration of an opioid antagonist and shall be reported beginning with the February 1, 2018 reporting deadline. These requirements may be waived by the Board upon receipt of a board-developed certification form from a volunteer attesting that he or she has not prescribed, administered, or dispensed a controlled substance during the reporting period.

~~4.4.3.(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.

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

~~4.5.1.(a)~~ Educational and scientific courses - 100% of the requirement may be obtained by Educational and scientific courses given by permanent or Board-approved biennial sponsors.

~~4.5.2.(b)~~ Supervised self-instruction - 80% 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:

~~4.5.2.a.(1)~~ Graded audio/video courses;

~~4.5.2.b.(2)~~ Graded correspondence courses; and

~~4.5.2.c.(3)~~ Graded computer courses.

~~4.5.3.(c)~~ Compliance: Compliance with this rule is required for all volunteer licensees seeking license renewal beginning February 1, ~~2018~~2024, and biennially thereafter.

4.6. Penalties for Violation.

~~4.6.1.(a)~~ A volunteer licensee who has been found to have not fulfilled the continuing education requirements of the Board has 3 months in which to satisfy the requirement. A volunteer licensee who fails to satisfy the requirements 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.

~~4.6.2.(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 §30-4-19.

#### **§5-11-5. Teledentistry Registrant Continuing Education Requirements.**

5.1. A dentist registered to provide teledentistry services shall complete continuing education as required by the State they are licensed in, but shall complete 3 hours of drug diversion as set forth in section 3.5.4. of this rule every two years.

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5.2. A dental hygienist registered to provide teledentistry services shall complete continuing education as required by the State they are licensed in.

5.3. The Board may randomly audit the continuing education records maintained by a teledentistry registrant.

5.4. A false statement on a renewal form or continuing education reporting form constitutes unprofessional conduct and may result in disciplinary action against the registrant as set forth in W. Va. Code §30-4-19.