



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/26/2021 11:28:40 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: 5-12
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 5-12 Administration of Anesthesia by Dentists

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 in the practice act giving the Board authority 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 notice of proposed rule was placed on the Board's website. It was sent to the WV Dental and Hygiene Associations to share with their members as well as the State Dental Director for review and comment.

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 regulates the administration of dental anesthesia. The additions and changes to this rule include a section regarding time frames and steps to re-evaluate or re-inspect a permit holder who has failed an evaluation or inspection, whether initial or subsequent. The Board also added a time frame for scheduling and completing the re-evaluation or re-inspection in the agency approved rule.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The Board is of the opinion this time frame is necessary to fulfill it's duties when failures occur.

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)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

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

This rule should have no effect 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 12
ADMINISTRATION OF ANESTHESIA BY DENTISTS

§5-12-1. General.

1.1. Scope. -- This legislative rule regulates the administration of anesthesia by dentists.

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

1.3. Filing Date. -- ~~June 1, 2014~~

1.4. Effective Date. -- ~~April 1, 2014~~

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

§5-12-2. Definitions.

As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meanings ascribed in this section.

2.1. "AAOMS" means the American Association of Oral and Maxillofacial Surgeons.

2.2. "AAPD" means the American Academy of Pediatric Dentistry.

2.3. "ACLS" means Advanced Cardiac Life Support.

2.4. "ADA" means the American Dental Association.

2.5. "AMA" means the American Medical Association.

2.6. "Anxiolysis/minimal sedation" or premedication for anxiety - means removing, eliminating or decreasing anxiety by the use of a single anxiolytic or analgesia medication that is administered in an amount consistent with the manufacturer's current recommended dosage for the unsupervised treatment of anxiety, insomnia or pain, in conjunction with nitrous oxide and oxygen. This does not include multiple dosing or exceeding current normal dosage limits set by the manufacturer for unsupervised use by the patient (at home), for the treatment of anxiety.

2.7. "ASA" means American Society of Anesthesiologists

2.8. "BLS" means Basic Life Support.

2.9. "Board" means West Virginia Board of Dentistry.

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2.10. "Central Nervous System Anesthesia" means an induced controlled state of unconsciousness or depressed consciousness produced by a pharmacologic method.

2.11. Class 2 Permit means a licensed dentist is authorized to induce anxiolysis/minimal sedation.

2.12. Class 3 Permit means a licensed dentist is authorized to induce conscious sedation/moderate sedation as limited enteral (3a) and/or comprehensive parenteral (3b), and anxiolysis/minimal sedation.

2.13. Class 4 Permit means a licensed dentist is authorized to induce general anesthesia/deep conscious sedation, conscious sedation/moderate sedation, and anxiolysis/minimal sedation.

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

2.15. "CPR" means Cardiopulmonary Resuscitation.

2.16. "CRNA" means Certified Registered Nurse Anesthetist.

2.17. "Dentist Anesthesiologist" means a dentist who is trained in the practice of anesthesiology and has completed an additional approved anesthesia education course;

2.18. "Dental Assistant" means a personal qualified by education, training or experience who aids or assists a dentist in the delivery of patient care.

2.19. "Facility Permit" means a permit for a facility where sedation procedures are used that correspond with the level of anesthesia provided.

2.20. "General anesthesia/deep conscious sedation" means an induced controlled state of unconsciousness in which the patient experiences complete loss of protective reflexes, as evidenced by the inability to independently maintain an airway, the inability to respond purposefully to physical stimulation, or the inability to respond purposefully to verbal command. "Deep conscious sedation/general anesthesia" includes partial loss of protective reflexes and the patient retains the ability to independently and continuously maintain an airway.

2.21. "Health Care Provider BLS/CPR" means Health Care Provider Basic Life Support/Cardiopulmonary Resuscitation.

2.22. "Operating Team" means the dentists, physicians, certified registered nurse anesthetists, qualified monitors or dental assistants participating in a dental procedure wherein levels of sedation are being administered.

2.23. "PALS" means Pediatric Advanced Life Support.

2.24. "Pediatric Patient" means infants and children.

2.25. "Physician Anesthesiologist" means a physician, MD or DO, who is specialized in the practice of anesthesiology;

2.26. "Qualified Monitor" means an individual who by virtue of credentialing and/or training checks closely and documents the status of a patient undergoing anesthesia and observes utilized equipment;

2.27. "Qualified Monitor Certificate" certifies an individual is authorized to act as a qualified monitor during sedation procedures.

2.28. "Relative analgesia/minimal sedation" means an induced controlled state of minimally depressed consciousness, produced solely by the inhalation of a combination of nitrous oxide and oxygen, or single oral pre-medication without the addition of nitrous oxide and oxygen in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command. Dosage of oral pre-medication is not to exceed the recommended dosage limits set by the manufacturer for the treatment of anxiety, insomnia or pain.

2.29. "Subcommittee" means West Virginia Board of Dentistry Subcommittee on Anesthesia.

§5-12-3. General Rules for Administering Dentist.

3.1. Each dentist who wishes to administer anesthesia to patients must be licensed to practice in the State of W. Va.

3.2. The licensed dentist shall apply to the Board for an anesthesia permit, on a form provided by the Board, and consent to an ~~office~~ initial inspection and subsequent re-inspection. The application shall be accompanied by the appropriate permit fee, inspection fee, and/or renewal fee, no part of which is refundable.

3.3. The licensed dentist shall maintain a facility in compliance with the applicable provisions of the level of anesthesia being administered.

3.4. Permits to administer anesthesia shall be renewed annually.

§5-12-4. Education.

4.1. Licensed dentists may apply to the Board for an anesthesia permit if the licensed dentist can satisfactorily prove to the Board of Dentistry that the dentist possesses a valid and current Health Care Provider BLS/CPR certification; and

4.1.1. To administer relative analgesia/minimal sedation, the dentist must also have completed a training course of instruction in the administration of relative analgesia either in dental school, continuing education or as a postgraduate. No permit is required for this level of sedation.

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4.1.2. To induce anxiolysis/minimal sedation, the dentist must have completed a board approved course of at least six (6) hours didactic and clinical in either pre-doctoral dental school or postgraduate instruction.

4.1.3. To induce conscious sedation/moderate sedation, the dentist must hold a valid and current documentation showing successful completion of ACLS and/or PALS course if treating pediatric patients; as well as one of the following:

4.1.3.a. Certificate of completion of a comprehensive training program in conscious sedation/moderate sedation beyond the undergraduate dental curriculum that satisfies the requirements described in the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students and the ADA Guidelines for the Use of Sedation and General Anesthesia by Dentists at the time training was commenced;

4.1.3.b. Certificate of completion of an ADA accredited postdoctoral training program which affords comprehensive and appropriate training necessary to administer and manage conscious sedation/moderate sedation, commensurate with these guidelines; or

4.1.3.c.. In lieu of these requirements the board may accept evidence of equivalent training or experience in conscious sedation/moderate sedation anesthesia for Limited Enteral Permit as Class 3a or comprehensive Parenteral Permit as Class 3b.

4.1.4. To induce general anesthesia/deep conscious sedation, the dentist must hold valid and current documentation showing successful completion of ACLS and/or PALS course if treating pediatric patients; as well as one of the following:

4.1.4.a. Completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students and the ADA Guidelines for the Use of Sedation and General Anesthesia by Dentists at the time training was commenced;

4.1.4.b. Completion of an ADA or AMA accredited postdoctoral training program which affords comprehensive and appropriate training necessary to administer and manage general anesthesia/deep conscious sedation, commensurate with these guidelines;

4.1.4.c. In lieu of these requirements, the board may accept documented evidence of equivalent training or experience in general anesthesia/deep conscious sedation.

§5-12-5. Equipment and Emergency Drugs.

5.1. Equipment used for the purposes stated in this rule shall be inspected, calibrated and certified as safe to use according to the manufacturer's specifications and in compliance with applicable law.

5.2. The dentist's facilities shall contain the following during all levels of sedation procedures and during recovery.

5.2.1. An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow the operating team to freely move about the patient;

5.2.2. An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

5.2.3. A lighting system which permits evaluation of the patient's skin and mucosal color and backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a power failure.

5.2.4. Suction equipment which permits aspiration of the oral and pharyngeal cavities;

5.2.5. An oxygen delivery system that will insure appropriate continuous oxygen delivery;

5.2.6. A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system, if nitrous oxide is used;

5.2.7. A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

5.2.8. Appropriate blood pressure monitoring and pulse oximeter;

5.2.9. An emergency drug kit as developed, updated and published by the Board; and

5.2.10. An external defibrillator device for class 2, 3 and 4 levels of sedation.

5.2.11. All equipment and medication dosages must be in accordance with the age, height and weight of the patient being treated.

5.2.12. Monitoring of breathing, respiration and airway management as described by the ADA Guidelines for the Use of Sedation and General Anesthesia by Dentists, ASA Standards, Guidelines and Statements for the practice of Anesthesiology, the AAOMS Office Anesthesia Evaluation Manual, or the AAPD Guideline for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

§5-12-6. Qualified Monitors

6.1. All individuals acting as a qualified monitor during sedation procedures shall apply to the Board for a qualified monitor certificate, on a form provided by the Board. The application shall be accompanied by the appropriate application fees and/or renewal fees, no part of which are refundable. The certification shall be renewed annually. Qualified monitor certificates are to be posted in the facility and supporting documentation be available for inspection.

6.2. Qualified monitors shall complete the following educational or certification requirements:

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6.2.1. Relative analgesia/minimal sedation - the qualified monitor shall possess a current health care provider BLS/CPR certification, qualified monitor certification is not required for this level of sedation.

6.2.2. Anxiolysis/minimal sedation - the qualified monitor shall possess a current health care provider BLS/CPR certification.

6.2.3. Conscious sedation/moderate sedation as limited enteral (3a) or comprehensive parenteral (3b) - the qualified monitor shall possess a current health care provider BLS/CPR certification and successful completion of an AAOMS or AAPD anesthesia assistants certification program or an equivalent.

6.2.4. General anesthesia/deep conscious sedation - the qualified monitor shall possess a current health care provider BLS/CPR certification and successful completion of an AAOMS or AAPD anesthesia assistants certification program or an equivalent.

6.2.5. In addition to the above requirements for a qualified monitor, for all levels of sedation, including relative analgesia/minimal sedation, when monitoring a nitrous oxide unit, a certificate to monitor nitrous oxide must be obtained from the Board, on a form provided by the Board. The application shall be accompanied by the appropriate application fees, no part of which are refundable. Qualified monitors shall have received training and be competent in the recognition and treatment of medical emergencies, monitoring vital signs, the operation of nitrous oxide delivery systems and the use of the sphygmomanometer and stethoscope.

6.2.6. Registered Nurses, Licensed Practical Nurses, Paramedics, and Emergency Medical Technicians and those individuals qualified by ACLS or PALS must maintain current certification, registration or licensure.

6.3. A licensed dentist acting as a dentist anesthesiologist with a permit to induce any level of anesthesia, who is only administering anesthesia during a dental procedure, may act as the qualified monitor without a qualified monitor certificate.

6.4. A licensed physician anesthesiologist or certified registered nurse anesthetist, who is only administering anesthesia during a dental procedure, may act as the qualified monitor without a qualified monitor certificate.

6.5. A licensed dentist inducing relative analgesia/minimal sedation, may act as the qualified monitor without a qualified monitor certificate.

§5-12-7. Continuous Monitoring

7.1. A patient undergoing any level of sedation must be continually monitored until discharge criteria have been met.

§5-12-8. Inspection and/or Evaluation Failures

8.1. A dentist who fails an initial or subsequent inspection and/or evaluation for a Class 3 or 4 permit, shall be notified in writing of the failure.

8.2. A dentist who has been notified of a failure from the Board shall not administer any level of sedation requiring a permit until he or she successfully completes inspection and evaluation. A dentist who administers such sedation after being notified of a failure is subject to disciplinary action pursuant to W. Va. Code §§ 30-4-19 and 30-4A-16.

8.3. A dentist who has received a notification of failure from the Board may, after 30 days of receipt of the notification, request in writing a new inspection and/or evaluation. The request for a reevaluation must state specific grounds supporting it.

8.4. If the reevaluation is granted by the Board, it will be conducted by a different team of subcommittee members. The subcommittee team shall schedule the reevaluation within ninety days of receipt of the request and shall complete the evaluation within one hundred fifty days of receipt of the request.

8.5. A dentist who fails a reinspection and/or reevaluation for a Class 3 or 4 permit may not request another inspection and/or evaluation until after one year of receipt of the notification of the second failure. The dentist may not administer any level of sedation requiring a permit, as stated in section 8.2. above.

8.6. The Subcommittee may recommend remedial training or continuing education prior to any future inspections and/or evaluations on a case by case basis.

8.7. Nothing in this section prohibits the Board from issuing a cease and desist order to a dentist applying for or holding a Class 3 or 4 permit from administering any level of sedation, permitted or otherwise.

§5-12-~~89~~. Change of Employment or Address; Change of or additional facilities

~~89~~.1. Every qualified monitor certified by the Board shall report a change of employment to the Board office within twenty-four hours. A change of residence shall be reported within thirty days.

~~89~~.2. Every class 2 anesthesia permit holder who desires to change or add a facility where anesthesia services are to be rendered shall report the same to the Board office, complete any necessary requirements, and receive authorization from the Board before administering anesthesia services in the new or additional facility.

~~89~~.3. Every class 3 or 4 anesthesia permit holder who desires to change or add a facility where anesthesia services are to be rendered shall report to the Board office in writing sixty days prior to the anticipated start date to allow the Board to schedule a facility inspection and upon successful inspection shall receive authorization from the Board before administering anesthesia services in the new or additional facility.