



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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: 5-06
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 5-06 Formation and Approval of Dental Corporation and Dental Practice Ownership

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 section 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 rule notice was placed on the Board's website. A copy was sent to the WV Dental and Hygiene Associations to pass along to 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 addresses procedures for the formation and approval of dental corporations and ownership of dental practices. The proposed changes set forth a time frame and guidance for those corporations that do not renew in a timely manner and describes the process to renew an expired authorization.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The Board is of the opinion more guidance is needed in order to handle expired authorizations for a dental corporation.

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):

The proposed changes in this rule should not increase or decrease the revenue of the Board.

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 dental corporation may 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 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, 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 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 5CSR3. Once approved 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 will notify the Secretary of State that the corporation's certificate of authorization is no longer valid.

5.3. A dental corporation that 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 5CSR3 of the Board's rules.

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.

5.5. Failure to adhere to the Board's statutes and rules concerning dental corporations may result in a complaint being filed and 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 dentist may employ another dentist or dentists, for a period not to exceed twelve months, to provide services to patients until the practice can be sold or otherwise disposed of or closed.