

**Do Not Mark In This Box**

Form #3

AGENCY: West Virginia Board of Dentistry TITLE NUMBER: 5

CITE AUTHORITY: §30-4-6

AMENDMENT TO AN EXISTING RULE: YES   x   NO       


IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Formation and Approval of Dental Corporations; and Dental Practice Ownership

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:\_\_\_\_\_

TITLE OF RULE BEING PROPOSED:\_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
Authorized Signature

## QUESTIONNAIRE

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: 7/19/2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Dentistry  
PO Box 1447  
Crab Orchard, WV 25827  
304-252-8266

LEGISLATIVE RULE TITLE: Formation and Approval of Dental Corporations; and Dental  
Practice Ownership

1. Authorizing statute(s) citation §30-4-6

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 6, 2013

b. What other notice, including advertising, did you give of the hearing?

Rules were sent to the WV Dental Association, WV Dental Hygienist's Association, WV Dental  
Assistant's Association. All rules were placed on the Board's website.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 12, 2013 at 12:00 pm

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received 0

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

Monday July 22, 2013

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Richard D. Smith, DDS

Executive Secretary

WV Board of Dentistry

PO Box 1447

Crab Orchard, WV 25827

304-252-8266

FAX: 304-253-9454

wvbde@suddenlinkmail.com; duff@duffsmithdds.com

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

n/a

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Date of hearing or comment period:

n/a

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

n/a

d. Attach findings and determinations and reasons:

Attached n/a

**SUMMARY OF PROPOSED RULE**

**TITLE 5**

**LEGISLATIVE RULE**

**WEST VIRGINIA BOARD OF DENTAL EXAMINERS**

**SERIES 6**

**FORMATION AND APPROVAL OF DENTAL CORPORATIONS;  
AND DENTAL PRACTICE OWNERSHIP**

**This rule is being amended to update the following due passage of Senate Bill 580:**

Change of name from Dental Examiners to Dentistry.

Also, the Board proposes language concerning the approval and authorization of name changes.

**STATEMENT OF CIRCUMSTANCES  
CONCERNING A PROPOSED RULE**

**TITLE 5**

**LEGISLATIVE RULE**

**WEST VIRGINIA BOARD OF DENTAL EXAMINERS**

**SERIES 6**

**FORMATION AND APPROVAL OF DENTAL CORPORATIONS;  
AND DENTAL PRACTICE OWNERSHIP**

Due to the passage of Senate Bill 580, with major revisions to the Dental Practice Act, it is necessary to promulgate this rule to update the name of the Board and add language concerning the approval and authorization of name changes.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: FORMATION AND APPROVAL OF DENTAL CORPORATIONS;  
AND DENTAL PRACTICE OWNERSHIP

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Board of Dental Examiners

Address: PO Box 1447  
Crab Orchard, WV 25827

Phone Number: 304-252-8266 Email: wvbde@suddenlinkmail.com

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure  
will have on costs and revenues of state government.

This rule will not have any impact on the general revenue of the state, any fees allowed by this rule will only effect the special revenue account of the Board of Dental Examiners.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of  
Breakdown by fiscal year, including long-range effect.

| FISCAL YEAR                 |   |  |   |
|-----------------------------|---|--|---|
| Effect of Proposal          | Current<br>Increase/Decrease<br>(use "-") | Next<br>Increase/Decrease<br>(use "-") | Fiscal Year<br>(Upon Full Implementation) |
| 1. Estimated Total Cost     |   |  |   |
| Personal Services           |   |  |   |
| Current Expenses            |   |  |   |
| Repairs & Alterations       |   |  |   |
| Assets                      |   |  |   |
| Other                       |   |  |   |
| 2. Estimated Total Revenues |   | 100.00                                 | 100.00                                    |

Rule Title: FORMATION AND APPROVAL OF DENTAL CORPORATIONS;  
AND DENTAL PRACTICE OWNERSHIP

Rule Title:

FORMATION AND APPROVAL OF DENTAL CORPORATIONS;  
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**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

This rule would allow for a fee to process a request for name change of a dental corporation, which is proposed in Series 3, the Board's fee rules, at \$25.00 each request. The estimated amount of revenue for a fiscal year would be approximately \$100.00 of revenue.

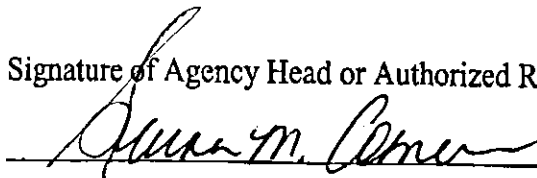
**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The fiscal impact will only affect those individuals seeking a name change for a dental corporation.

Date: 6/5/2013

Signature of Agency Head or Authorized Representative





**TITLE 5  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF ~~DENTAL EXAMINERS~~ 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. --

1.4. Effective Date. --

**§5-6-2. Definitions.**

2.1. Dental Corporation - a company organized under W. Va. Code §30-4-~~28~~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 corporation may have as a shareholder anyone other than a person who is duly licensed 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," "company," "incorporated," or "limited" or an abbreviation of one of those words.

3.3. The name of a dental corporation shall contain nothing but the name, which must include surnames of one, some or every shareholder of the corporation, except in a case where a city, town or municipality may be used when necessary to make a name unique with the Secretary of State's Office.

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.

**§5-6-45. Notification of Non-compliance, Cessation of Rendering Dental Services.**

45.1. 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.

**§5-6-56. Dentist - Patient Relationship.**

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

**§5-6-67. Dental Practice Ownership.**

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

- (a) Health departments or clinics of the State or local government agencies;
- (b) Non-profit or charitable organizations;
- (c) Community health centers;
- (d) Hospitals; and

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

**§5-6-78. Deceased or Incapacitated Dentists.**

78.1. 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.