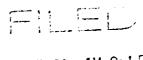
WEST VIRGINIA SECRETARY OF STATE NATALIE E. TENNANT ADMINISTRATIVE LAW DIVISION

Do Not Mark In This Box



2013 JUL 24 MM 9: 45

Form #3

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

AGENCY: West Virginia Board of Dentistry	_TITLE NUMBER:	
CITE AUTHORITY: \$30-4-6		
AMENDMENT TO AN EXISTING RULE: YES NO_x_		
IF YES, SERIES NUMBER OF RULE BEING AMENDED:		
TITLE OF RULE BEING AMENDED:		
	-	
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 14		
TITLE OF RULE BEING PROPOSED: Mobile Dental Facilities & Portable D	ental Units	

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

OUESTIONNAIRE

(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	: <u>7/</u>	23/2013
TO:	LE	GISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM	I:(Age	ency Name, Address & Phone No.) West Virginia Board of Dentistry PO Box 1447
		Crab Orchard, WV 25827
		304-252-8266
LEGIS	 SLAT	TVE RULE TITLE: Mobile Dental Facilities and Portable Dental Units
	_	
1.	Ant	horizing statute(s) citation §30-4-6
1.	1140	Total Suita Control Sub-
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 Hygienists' Association, WV Dental Assistants' 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 received11

	Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)
7	Vednesday, July 24, 2013
E 1	Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive
2	ll written correspondence regarding this rule: (Please type)
	Richard D. Smith, DDS
	Executive Secretary VV Board of Dentistry
1	O Box 1447
	Crab Orchard, WV 25827 04-252-8266
3	04-253-9454
	vbde@suddenlinkmail.com; duff@duffsmithdds.com
	F 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
Ī	ule: (Please type)
-	
-	
-	
-	
the	statute under which you promulgated the submitted rules requires certain findings and
erm	inations to be made as a condition precedent to their promulgation:
	Give the date upon which you filed in the State Register a notice of the time and place
č	of a hearing for the taking of evidence and a general description of the issues to be
	decided.
	-n/a
	

3.

b.	Date of hearing or comment period:
	<u>n/a</u>
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 14 MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS

This rule is being proposed to regulate the following due passage of Senate Bill 580:

Mobile Dental Facilities and Portable Dental Units.

STATEMENT OF CIRCUMSTANCES

CONCERNING A PROPOSED RULE

TITLE 5

LEGISLATIVE RULE

WEST VIRGINIA BOARD OF DENTAL EXAMINERS

SERIES 14

MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS

Due to the passage of Senate Bill 580, with major revisions to the Dental Practice Act, it is necessary to promulgate this rule to regulate mobile dental facilities and portable dental units for the protection of the public.

APPENDIX B

<u>FISCAL NOTE FOR PROPOSED RULES</u>					
Rule Title:	MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS				
Type of Rule:	X Legislative	X Legislative Interpretive Procedural			
Agency: West Virginia Board of Dental Examiners					
Address:	PO Box 1447 Crab Orchard, WV 2582	27			
Phone Number:	304-252-8266	Email: wvbde@suddenlinkmail.com			
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.					
Show o		Note Detail			

Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues		2,000.00	1,000.00

2. Estimated Total Revenues		2,000.00	1,000.00
Rule Title:	MOBILE DENTAL FACILITIES & PO	ORTABLE DENTAL UNITS	

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 an application and renewal fee for a mobile dental facility or portable dental upermit. The Board is unsure of the number of mobile dental facility or portable dental unit operators the would fall under the proposed rules and can only estimate the inrease in revenue until implementation the rule. Estimation for the first year is \$2,000.
MEMORANDUM
Please identify any areas of vagueness, technical defects, reasons the proposed rule wor 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 permit to operate a mobile dental facility or portable dental unit.
Date: 6/5/2013
17
Signature of Agency Head or Authorized Representative
Duran M. apren

MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS

Rule Title:

TITLE 5 LEGISLATIVE RULE WEST VIRGINIA BOARD OF DENTISTRY

2013 JUL 24 - MM 9: 45

FILEL

SERIES 14 MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS

§5-14-1. General.

- 1.1. Scope. This legislative rule regulates mobile dental facilities.
- 1.2. Authority. -- W. Va. Code §30-4-6.
- 1.3. Effective Date. --
- 1.4. Filing Date. --

§5-14-2. 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. Board means West Virginia Board of Dentistry.
- 2.2. Dental Home means a licensed primary dental care provider who has an ongoing relationship with a patient where comprehensive oral health care is continuously accessible, coordinated, family-centered and provided in compliance with the policies of the American Dental Association beginning not later than one year of age.
- 2.3. Mobile Dental Facility means any self-contained facility in which dentistry or dental hygiene will be practiced which may be moved, towed, or transported from one location to another;
- 2.4. Operator means a licensed dentist or an organization authorized by the Dental Practice Act to employ licensed dentists to whom the permit is issued as provided by this rule.
- 2.5. Permit means an authorization granted by the Board to operate a mobile dental facility in the State of West Virginia.
- 2.6. Portable Dental Unit means any non-facility in which dental equipment, utilized in the practice of dentistry, is transported to and utilized on a temporary basis an out of office location, including but not limited to, patient's homes, schools, nursing homes or other institutions
- 2.7. Session means a period of time during which personnel associated with a permitted facility or unit are available to provide dental services at a location.

§5-14-3. General Rules for Mobile Dental Facilities.

3.1. In order to operate a mobile dental facility or portable dental unit, an operator shall first obtain a permit issued by the Board, except that mobile dental facilities operated by federal, state or local government agencies or other entities identified by the Board shall be exempt from such registration requirements.

§5-14-4. Application Requirement and Issuance of Permit.

- 4.1. Before a person operates a mobile dental facility or portable dental unit, the West Virginia Board of Dentistry shall issue a permit to a licensed dentist to operate a mobile facility or portable unit.
- 4.2. An application for a mobile dental facility or portable dental unit shall be submitted to the Board along with the appropriate fee as set forth by the Board's fee schedule 5CSR3.
- 4.3. Before issuing a permit to operate a mobile dental facility or portable dental unit, the Board shall determine that an operator meets all qualifications under this rule.
- 4.4. The initial application for a mobile dental facility or portable dental unit permit shall include:
- (a) The full name, an address of record that is not a PO Box, and telephone number of each dentist and dental hygienist who will work in a mobile dental facility;
- (b) Proof of insurance from a licensed insurance carrier that the operator has in force at least one million dollars/three million dollars of general liability insurance, malpractice insurance or bond. An operator shall maintain the insurance coverage at all times during which the operator holds a mobile dental facility permit issued by the Board.
- (c) The physical address, mailing address, and official telephone number of record of the operator.
- (d) Copy of a written agreement for the emergency follow-up care for patients treated in the mobile dental facility and such agreement must include identification of and arrangements for treatment in a dental office which is permanently established within a reasonable geographic area;
- (e) A statement that the mobile dental facility has access to communication facilities which will enable dental personnel to contact assistance as needed in the event of an emergency;
- (f) A statement that the mobile dental facility conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, storage and use of flammable materials, acceptable sanitation and zoning standards along with the facility construction standards, including required or suitable access for disabled individuals.
- (h) A statement that the applicant posses all applicable county and city licenses or permits to operate the facility or unit;
 - (i) A copy of a written policy concerning infection control procedures and how instruments

are to be sterilized and transported, which must comply with the Centers for Disease Control's recommendations for infection control practices for dentistry.

§5-14-5. Required Equipment.

- 5.1. A mobile dental facility must include:
 - (a) Dental treatment chair;
 - (b) A dental treatment light;
- (c) When radiographs are to be made by the mobile dental facility a radiographic unit that is properly monitored by the proper authorized agency of the State of West Virginia.
- (d) When radiographs are to be made by the mobile dental facility a lead apron including a thyroid collar;
 - (e) A portable delivery system, or an integrated system if used in a mobile dental facility;
 - (f) An evacuation unit suitable for dental surgical use;
- (g) A list of appropriate and sufficient dental instruments including explorers and mouth mirrors, and infection control supplies, such as gloves, face masks, etc. that are on hand;
 - (h) Ready access by a ramp or lift;
- (i) Covered, non-corrosive container for deposit of waste materials including biohazardous materials;
 - (i) Automated external defibrillator; and
 - (k) Smoke and carbon dioxide detectors.
 - 5.2. A portable dental unit must include:
 - (a) Dental treatment chair;
 - (b) A dental treatment light;
- (c) When radiographs are to be made by the mobile dental facility a radiographic unit that is properly monitored by the proper authorized agency of the State of West Virginia.
- (d) When radiographs are to be made by the mobile dental facility a lead apron including a thyroid collar;
 - (e) A portable delivery system, or an integrated system if used in a mobile dental facility;

- (f) An evacuation unit suitable for dental surgical use;
- (g) A list of appropriate and sufficient dental instruments including explorers and mouth mirrors, and infection control supplies, such as gloves, face masks, etc. that are on hand;
 - (h) Ready access by a ramp or lift;
- (i) Covered, non-corrosive container for deposit of waste materials including biohazardous materials; and
 - (i) Automated external defibrillator.

§5-14-6. Operational Requirements.

- 6.1. A permit holder is required to operate a permitted mobile dental facility or portable dental unit in compliance with all state laws and regulations. Further, all permit holders shall;
- (a) Notify the Board in writing within 30 days of a change of address, whether a physical or mailing address.
- (b) Prominently display all dental and dental hygienists licenses and/or current renewal certificates, mobile dental facility permit, portable dental unit permit or a duplicate.
- (c) Maintain, in full compliance with all record-keeping requirements contained in these rules, all dental records and official records at the official address of record for the facility.
 - 6.2. All permit holders except for exempted agencies shall:
- (a) Notify the Board of a change in personnel listed as required by this rule within 30 days of any such change.
 - (b) Before patient treatment at any location, arrange for:
 - (1) access to a properly functioning sterilization system;
 - (2) ready access to an adequate supply of potable water; and
 - (3) ready access to toilet facilities.
- 6.3. All written or printed materials available from or issued by the mobile dental facility contain the official address and phone number of record for the facility or unit.
- 6.4. Operate a mobile dental facility or portable dental unit only when all requirements described in these rules are being met.
 - 6.5. All permits to operate a mobile dental facility or portable dental unit shall expire September

1 each year, or on the date when the permit holder is no longer associated with the facility or unit which ever is first.

- 6.6. Upon cessation of operations by the mobile dental facility or portable dental unit, the permit holder shall notify the Board of the final disposition of patient records and charts.
 - 6.7. A permit to operate a mobile dental facility or portable dental unit is not transferable.
- 6.8. The Board may inspect a mobile dental facility or portable dental unit prior to issuance of a permit or at anytime the Board deems necessary for protection of the public.
- 6.9. The Board may suspend or revoke a permit if upon investigation and after opportunity for a hearing, a determination is made of non-compliance with State, Federal laws, the Dental Practice Act or rules of the Board.

§5-14-7 Informed Consent; Post Care Information;

- 7.1. The operator of a mobile dental facility or portable dental unit shall not perform services on a minor or incapacitated person without the signed informed consent of a parent or guardian. The consent must be obtained prior to any dental service in a mobile dental facility or through a portable dental unit. The form is required for the initial visit for diagnostic and preventative services. Consent for subsequent treatment may be written or verbal provided that the verbal consent is documented in the patient record.
 - 7.2. The signed informed consent form must be obtained by a West Virginia licensed dentist and shall include:
 - (a) Name of dentist providing the service;
 - (b) Permanent office address that is not a PO Box;
 - (c) Telephone number that is available 24 hours per day for emergency calls;
 - (d) Services to be provided;
- (e) Inquire whether the prospective minor or incapacitated patient received dental care from a licensed dentist during the pervious twelve months; and
- (f) If the dental care was from a mobile dental facility or through a portable dental unit, request the name, address, and telephone number of the dental home.
- (g) If the signed informed consent form provided to the operator identifies a dental home, the operator shall contact the designated dental home to notify the dental home of the minor or incapacitated person's interest in receiving dental care from the operator.
- (h) If the dental home confirms that an appointment for the minor or incapacitated person is scheduled with the dental home, the operator shall encourage the minor or his or her parent or guardian to seek care from the dental home.

- (i) The signed informed consent form shall document that the parent or legal guardian understands that the prospective patient my choose at any time to receive care from their dental home rather than from the mobile dental facility.
- (j) An operator of a mobile dental facility or portable dental unit shall not perform services on an adult without a signed informed consent from the prospective patient.
- (k) The signed informed consent form shall document that the patient understands that the patient may choose at any time to receive care from his or her dental home rather than from the mobile dental facility or through a portable dental unit, but if the patient elects to be treated by the mobile dental facility or their agent, now is their dental home and will be responsible for post-op complications and general dental care.
- 7.3. Each person receiving dental care in a mobile dental facility or through a portable dental unit shall receive an information sheet at the end of the visit. The information sheet shall contain:
 - (a) Name of dentist and/or dental hygienist who provided the service;
 - (b) Telephone number and/or other emergency 24 hour contact number;
- (c) Listing of treatment rendered including, when applicable, billing codes, fees and tooth numbers;
 - (d) Description of treatment that is needed or recommended;
- (e) Referrals to specialists or other dentist if mobile facility is unable to provide the necessary treatment; and
- (f) Consent form or a documented, verbal consent for additional treatment or altered treatment plan when applicable.
- 7.4. Any operator of a mobile dental facility or portable dental unit that accepts or treats a patient but does not refer patients for follow-up care when such follow-up care is clearly necessary, shall be considered to have abandoned the patient and will subject the operator any dentist or dental hygienist, or both, who fails to provide the referenced follow-up care to disciplinary action by the Board.

§5-14-8. Permit to be Renewed Annually; Annual Report to be filed.

- 8.1. On or before the first day of September of each year permits to operate mobile dental facilities shall submit a renewal application along with a renewal fee as set forth by the Board's fee schedule 5CSR3. The Board, at its discretion, may alter or eliminate the required fee based on a demonstration of hardship by the applicant.
- 8.2. On or before the first day of September of each year permits to operate a portable dental unit facilities shall submit a renewal application along with a renewal fee as set forth by the Board's fee schedule 5CSR3. The Board, at its discretion, may alter or eliminate the required fee based on a demonstration of

hardship by the applicant.

8.3. An annual report shall be filed with the Board at the time of renewal each year, a written report for the proceeding year ending July 31, detailing the location, including a street address, the dates of each session, and the number of patients served and the types of dental procedures and quantity of each service provided.

§5-14-9. Sale of Mobile Dental Facility or Portable Dental Unit.

9.1. If a mobile dental facility or portable dental unit is sold, the current permit operator shall inform the Board by certified mail within ten days after the date of the sale is final.

§5-14-10. Cessation of Operation of a Mobile Dental Facility or Portable Dental Unit.

- 10.1. An operator of a mobile dental facility or portable dental unit shall notify the Board at least thirty days before cessation of operations. Notification shall include without limitation:
 - (a) The final day of operation of the mobile dental facility; and
- (b) A description of the manner and procedure by which patients may obtain their records or transfer the records to another dentist.
 - 10.2. A copy of the notification shall be sent to all patients.
- 10.3. The operator shall take all necessary action to ensure that the patient records are available to the patient, a representative of the patient, or a subsequent treating dentist.

§5-14-11. Applicability.

11.1. An operator, dentist or dental hygienist working or performing services at a mobile dental facility or through a portable dental unit is subject to this chapter.

§5-14-12. Penalties.

12.1. An operator, dentist or dental hygienist who violates this rule is subject to disciplinary actions as set forth in Chapter 30, Article 4, of the West Virginia Code.

5-14-4 — The initial application for a mobile dental facility or portable dental unit permit shall include:

4.4 – f A statement that the mobile dental facility conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, storage and use of flammable materials, acceptable sanitation and zoning standards along with facility construction standards including required or suitable access for disabled individuals,

DGE

-http://mail.aol.com/37776-1-11/aol-6/en-us/Suite.aspx

6/10/2013



June 21, 2013

Dear WV Board of Dental Examiners,

We are writing to ask for changes in the mobile dentistry policy rules as they are currently written. Over the past five years, WV has made great strides in addressing the oral health needs around the state and in particular those must at-risk populations and areas. We don't want to put those strides at risk.

We are in total support of requiring reporting from and regulation of mobile dentistry but these regulations and requirements go beyond that. We support excluding public health entities from the fee requirements. We oppose the remaining sections.

One reason we have risen above our grade of F was due in part to the presence of School-Based Oral Health Programs and the successful change in scope for dental hygienists allowing sealants prior to an exam. All of these program utilize what is referred to as mobile dental units and facilities. Such rules would hinder these programs from reaching WV's most vulnerable populations.

The required equipments list present a number of problems: 1) they will be a financial hardship on non-profit agencies who are providing a majority of the care using such mobile units. Currently, we are only aware of one for profit organization that operates in WV. This for-profit corporation will easily absorb these additional cost, but for community programs it will not be feasible to purchase approximately \$3,000 with of equipment that they may never use, 2) is not required of traditional dental offices so it seems unfair that it would be required of portable ones and 3) the equipment listed is deemed unnecessary in most cases (surgical grade suction).

The required policies and procedures section is most questionable. It appears to be a laundry list that is dictating to licensed health care professionals how to manage care and practice dentistry. No other dental specialty or location is required to adhere to such specific guidelines and regulations. Standard care should be followed in every setting, and if the WVBDE feels that settings where mobile dental units are used is an exception, then maybe a further explanation is needed to expose these risks to myself and others.

It would be better stated that mobile dental practices are to adhere to standard practices. Standard care practices regarding OSHA, HIPPA, referrals, recall and patient care are followed everyday within schools, FQHC's, School Based Health Centers, Health Departments, Senior Centers and other public health settings using these types of units. Not because they are in some written "rule" but because those providing the care are top-quality clinicians in their fields. Dental services rendered outside of the traditional setting are of no less quality or should they be held to a different standard.

And as all of you know access to oral health care in WV is an issue. And many programs and projects have addressed this issue by taking those services to the patients, and with great success. Let's make sure that we do not end up killing valuable programs with over-regulation.

Sincerely

Stephen/Smith

WV Healthy Kids and Families Coalition

Merinda Birkett, RDH Wirt County Health Services Association 606 Washington Street Ravenswood, WV 26164

July 1, 2013

West Virginia Board of Dental Examiners PO Box 1447 Crab Orchard, WV 25827

Dear West Virginia Board of Dental Examiners,

Ever since I received an e-mail last week I have been very upset about the fact that you want to charge fees and make mobile dental units buy extra equipment. Over the last few years the dental professionals of this state have been working very hard to get the word out about the importance of dental health. A few years ago our state had a Pew report card grade of an F and now it has the grade of a C, and we are continuing to improve the oral health conditions of West Virginians. If you impose these new rules and fees I am afraid that we are going to be back to the grade of an F.

I am a dental hygienist for the Jackson County and Wirt County mobile dental units. We are funded by grants and Medicaid. If you require us to buy the extra equipment it is going to cost us thousands of dollars. We are already on a tight budget; this is going to make our budget ever tighter. We are currently able to provide dental care for free with insurance or \$20 for those children without dental insurance. We only see those children who have not been to the dentist within 6 months. We are only trying to help the children of West Virginia; we are not taking business from dentists in the area. We are trying to find these children a dental home, so therefore we are bringing business to local dentists. I hope that you will realize that mobile dental units are good for this state and will not impose these unnecessary fees. We are able to bring dental care to West Virginian's that are not otherwise able to receive it.

All of the public health dental professionals including myself have done a lot of hard work to make West Virginian's have better oral health care. I hope that you will listen to all of us in the public health sector and let us continue to help the less fortunate have the healthy mouths that they deserve. Please do not impose these unnecessary fees and rules, so we can all continue to do our job.

Sincerely,

MUMAL BWILH, PDH Merinda Birkett, RDH

JUL 3 _ 2013



Mid-Ohio Valley Health Department

West Virginia Board of Dental Examiners P. O. Box 1447 Crab Orchard, WV 25827-1447

June 21, 2013

Dear Board Members,

We are writing to comment on the proposed rules concerning Title 5, Series 3, and Fees Established by the Board, Series 14 Mobile Dental Facilities and Portable Dental Units.

The Mid-Ohio Valley Health Department (MOVHD) is a non-profit government agency serving a six county region in West Virginia. The Oral Health Program has been providing preventive dental treatment utilizing portable equipment in the Wood County Schools for five years since the inception of the Public Health Practice Permit for Dental Hygienists. MOVHD works closely with the Blennerhassett Dental Society and local dental providers to aid in establishing a dental home for school program participants. The Smiles for Life Adult Screening and Referral Program is an additional partnership to address the unmet dental needs of adults in the MOVHD region. Smiles for Life involves 23 area dentists who volunteer time and services from their private practice following a screening process at MOVHD. All MOVHD oral health programs are grant funded and minimal reimbursement is obtained for services through Medicaid or client fees. We are here to serve unmet needs in the community, to collaborate and not compete with the private sector.

Standard of care practices regarding OSHA, referrals, recall and care are followed in all MOVHD Oral Health Programs.

Standards of care for the portable/mobile setting have been established by the Centers for Disease Control (CDC) and Prevention and The Association of State and Territorial Dental Directors (ASTDD) and should serve as guidelines to new and existing programs.

The proposed fees pertaining to mobile or portable dental programs, including the requirement of an automated external defibrillator (AED) and surgical grade evacuation are not applicable to the many public health programs established to address prevention and access to care. AED's are not required in the private dental office, nor is a listing of equipment. Surgical grade evacuation is not needed to provide preventive treatment of prophylaxis, fluoride varnish or dental sealants.

It is our request that the rules be more definitive and considers the financial constraints of non-profits. Recent proposed rules by the Board are restrictive to this agency. It is also requested the Board consider the access to care issues that need to be addressed through public health programs in WV. The proposed fees will have a detrimental effect on public health and be a step backward for the children and underserved of West Virginia.

Respectfully submitted,

Richard. A Wittberg, PhD

Executive Director

Mary Beth Shea, RDH BA Oral Health Coordinator

Mid-Ohio Valley Health Department 211 Sixth Street Parkersburg, WV 26101 www.movhd.com

JUM 2 8 2013



West Virginia Board of Dental Examiners P. O. Box 1447 Crab Orchard, WV 25827-1447

June 27, 2013

Dear Board Members,

This letter is in reference to the proposed rules concerning Title 5, Series 3, and Fees Established by the Board, Series 14 Mobile Dental Facilities and Portable Dental Units.

Wood County Schools has a long-term relationship with the Mid-Ohio Valley Health Department (MOVHD) and community dentists who provide dental health education to our students. In addition, Wood County Schools has a partnership with the (MOVHD) to provide oral health assessment, cleaning, fluoride treatment and dental sealants to students who do not have a dentist or have not seen a dentist in the past twelve months. This is an important program that not only provides needed care but helps to link parents to a dental home. Parents receive assessment results, referral information as indicated and are encouraged to develop a relationship with a local dentist.

Please reconsider the potential negative impact the proposed fees and regulations established by the dental board could have on the implementation of the program and on the children who benefit from this important dental health relationship.

Sincerely,

Teresa Morehead, RN MS NCSN

Marcheod Ru

Coordinator of Health Services

WT 1 - 5013



West Virginia Board of Dentistry PO Box 1447 Crab Orchard, WV 25827-1447

June 24, 2013

Dear Board Members,

We are writing to comment on the proposed rules concerning Title 5, Series 3, Fees Established by the Board.

As you are well aware, public health practice was put in place by the legislature to address access to care issues. To date, there are a select few organizations that are working to meet this charge by the legislature and to address the vast disparities of oral health care in West Virginia. Proposed fee increases along with altering regulations of the current policies and procedures and required equipment will surely be a deterrent for organizations, many of which that are non-profit and grant funded, that supply care to those with already limited or no access to dental services. We would hope, as a dental community we would collectively aim to decrease barriers instead of creating barriers to those organizations that are diligently working to address oral health disparities.

Multiple members of our West Virginia Dental Hygienists Association have been active in several new initiatives such as statewide oral health surveillance and various other population-based educational/preventive and are proud of the progress to date. All of these initiatives and programs utilize public health practice dental hygienists and are working strategically to grow these programs with the goal of bringing much needed dental care to underserved children. It is the primary goal of these programs and the dental public health professionals they employ to serve unmet needs in the community through collaboration with the private sector.

Standards of care for the portable/mobile setting have been established by the Centers for Disease Control (CDC) and Prevention and The Association of State and Territorial Dental Directors (ASTDD) and should serve as guidelines to new and existing programs. Dental Hygienists are highly trained in standard of care practices regarding OSHA, referrals, recall and care.

The proposed fees pertaining to mobile or portable dental programs, including the requirement of an automated external defibrillator (AED) and surgical grade evacuation are not applicable to the many public health programs established to address prevention and access to care. AED's are not required in the private dental office, nor is a listing of equipment. Surgical grade evacuation is not needed to provide preventive treatment of prophylaxis, fluoride varnish or dental sealants.

It is our request that the rules be more definitive and considers the financial constraints of non-profits. Recent proposed rules by the Board are restrictive to members of this association and the multiple programs in which they represent. It is also requested the Board consider the access to care issues that need to be addressed through public health programs in WV. The proposed fees will have a detrimental effect on public health and be a step backward for the children and underserved of West Virginia.

We urge you to reconsider the proposed increases with the above issues in mind.

Sincerely.

Sine Sharps - Freday Elect WVDHA
The West Virginia Dental Hygienists' Association

JUL 9 -2013



July 3, 2013

West Virginia Board of Dentistry 1319 Robert C. Byrd Drive P.O. Box 1447 Crab Orchard, WV 25827

Re: "Mobile Dental Facilities & Portable Dental Units" Rule

To Whom It May Concern:

On behalf of the West Virginia Primary Care Association ("WVPCA") and its 30 community health center organizational members in West Virginia, which provide medical and dental care at over 160 clinical sites, we respectfully oppose the passage of 5CSR3 – "Fees Established by the Board" and 5CSR14 – "Mobile Dental Facilities & Portable Dental Units" as written. WVPCA members are often the only medical and/or dental providers in West Virginia communities, and these members are dedicated to improving access to quality dental care in West Virginia. Further, WVPCA members are available to all West Virginians, regardless of ability to pay.

The WVPCA Opposes 5CSR3 and 5CSR14 as Written

The WVPCA firmly believes that the application, permit, and fee requirements, as well as the required equipment, operational requirements, informed consent requirements, and post care information requirements for Mobile Dental Facilities and Portable Dental Units will result in barriers to providing dental care to thousands of West Virginians. These requirements will be especially prohibitive to WVPCA dental providers, as they continue to provide high-quality dental care and consider potential expansions of dental services in the future, in a variety of settings, including, but not limited to school-based health centers and other Mobile Dental Facilities and Portable Dental Units. The WVPCA also firmly believes that these rules, as written, reach unreasonably far beyond what is necessary to protect the public in West Virginia.

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In the alternative, and should the West Virginia Board of Dentistry decide to proceed with these rules in a similar form, the WVPCA respectfully proposes several changes to 5CSR3 - "Fees Established by the Board" and 5CSR14 - "Mobile Dental Facilities & Portable Dental Units." These changes are listed below:

In the Alternative, WVPCA's Proposed Changes to 5CSR3

The WVPCA respectfully requests that the new fees found in "§5-3-9. Schedule of fees for Mobile Dental Facilities and Portable Dental Units." be eliminated, or at least reduced, as these fees will result in restricted access to quality dental care in West Virginia. These new fees appear to be excessive when compared to other fees relating to the practice of dentistry. Many dental services offered are already not profitable to Federally Qualified Health Centers ("FQHCs") and FQHC Look-Alikes, yet these currently remain available to West Virginia's most impoverished citizens. However, the addition of these new fees could ultimately lead to a discontinuation of this much needed dental care in FQHC and FQHC Look-Alike settings.

The WVPCA respectfully requests that FQHCs and FQHC Look-Alikes be explicitly excluded from these fees, as is suggested below in our comment regarding §5-14-3, as these FQHCs and FQHC Look-Alikes provide quality dental care in a variety of settings, often in underserved areas of West Virginia. These fees will be burdensome to continued dental services and expanded dental services to those West Virginians who can least afford them, and will result in diminished access to quality dental care in West Virginia, especially in the geographical areas of greatest need.

In the Alternative, WVPCA's Proposed Changes to 5CSR14

According to "§5-14-3. General Rules for Mobile Dental Facilities." section 3.1 states, "In order to operate a mobile dental facility or portable dental unit, an operator shall first obtain a permit issued by the Board, except that mobile dental facilities operated by federal, state, or local

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government agencies or other entities identified by the Board shall be exempt from such registration requirements."

The WVPCA has been informed by representatives from the West Virginia Board of Dentistry that FQHCs and FQHC Look-Alikes were never intended to be affected by these rules and that FQHCs and FQHC Look-Alikes are intended to fall either within the group of "federal, state or local government agencies" or within the group of "other entities identified by the Board" as exempt from such registration requirements." However, this language appears to be vague and somewhat confusing. Therefore, the WVPCA respectfully requests an explicit exemption from the application, permit, and fee requirements, as well as the required equipment, operational requirements, informed consent, and post care information requirements. This could be accomplished with the following language:

"§5-14-3. General Rules for Mobile Dental Facilities.

3.1. In order to operate a mobile dental facility or portable dental unit, an operator shall first obtain a permit issued by the Board, except that mobile dental facilities operated by federal, state, or local government agencies, mobile dental facilities or portable dental units operated by West Virginia based Federally Qualified Health Centers (FQHC) or FQHC Look-Alikes, or other entities identified by the Board shall be exempt from such registration all requirements for mobile dental facilities or portable dental units as set forth in these rules."

Further, it is unclear whether the language "exempt from such registration requirements" means an entity is exempt from all new requirements, such as the application, permit, and fee requirements, as well as the required equipment, operational requirements, informed consent, and post care information requirements, only the application, permit, and fee requirements, or

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any other combination of new requirement. For this reason, explicit exemptions and more detailed language may be necessary to avoid interpretation which may conflict with the purpose of the rule.

Thank you for the opportunity to provide comments on these important legislative rules.

Respectfully Submitted,

Louise Reese, CEO

West Virginia Primary Care Association



West Virginia Board of Dentistry PO Box 1447 Crab Orchard, WV 25827-1447

July 2, 2013

Dear Board Members,

We are writing to comment on the proposed rules concerning Title 5, Series 3, Fees Established by the Board.

As you are well aware, public health practice was put in place by the legislature to address access to care issues. To date, there are a select few organizations that are working to meet this charge by the legislature and to address the vast disparities of oral health care in West Virginia. Proposed fee increases along with altering regulations of the current policies and procedures and required equipment will surely be a deterrent for organizations, many of which that are non-profit and grant funded, that supply care to those with already limited or no access to dental services. I would hope, as a dental community we would collectively aim to decrease barriers instead of creating barriers to those organizations that are diligently working to address oral health disparities.

Multiple members of our West Virginia Public Health Association- Dental Section, have been working with the Dr. Jason Roush, the State Oral Health Program, the Benedum Foundation, the Appalachian Regional Commission, and Marshall University's School of Public Health on several new initiatives such as statewide oral health surveillance and various other population-based educational/preventive programs. We are proud of our progress to date which has brought West Virginia from receiving a grade of F to a C on the Pew Report. All of these initiatives and programs utilize public health practice and are working strategically to grow these programs with the goal of bringing much needed dental care to underserved children.

For example, the WVU Children's Dental Program, which is operated out of the WVU's Health Sciences Center, Eastern Division, has been providing preventive dental care utilizing portable equipment in the Berkeley, Jefferson, and Morgan County Schools for over seven years. The program works in direct collaboration with local dental providers to aid in establishing a dental home for school program participants and providing preventive dental care in the interim.

Furthermore, all school-based sealant programs funded through the Appalachian Regional Commission (endorsed by the governor) are solely funded through grants and minimal reimbursement obtained for services through Medicaid or client fees. It is the primary goal of these programs and the dental public health professionals they employ to serve unmet needs in the community through collaboration with the private sector and are non-profit. The before mentioned programs in no way compete with private practice entities for patients and/or money.

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Standard of care practices regarding OSHA, referrals, recall, and care are followed in all school-based sealant programs just as they would be in a private practice setting. Standards of care for the portable/mobile setting have been established by the Centers for Disease Control (CDC) and Prevention and The Association of State and Territorial Dental Directors (ASTDD) and should serve as guidelines to new and existing programs.

The proposed fees and new requirements pertaining to mobile or portable dental programs, including the requirement of an automated external defibrillator (AED) and surgical grade evacuation are not applicable to the many public health programs established to address prevention and access to care. AED's, a listing of equipment, and numerous other items required by the proposed rules are not required in the private dental office. These regulations are an extra monetary burden and unnecessary when most schools in West Virginia already have AED machines in their buildings. Furthermore, surgical grade evacuation is unnecessary to provide preventive treatment of prophylaxis, fluoride varnish or dental sealants.

It is our request that the rules be aligned with regular dental practice requirements, not more restrictive, and consider the financial constraints of non-profits. Recent proposed rules by the Board are restrictive to members of this association and the multiple programs in which they represent. In fact, it will only deter more "public health" entities from providing the services that we are doing in order to bridge the gap of access to care. It would not, however, impede private, for-profit entities which is more-likely the reason for these proposed regulations.

The proposed fees will have a detrimental effect on public health and be a step backward for the children and underserved of West Virginia. It is requested that the Board consider the access to care issues that need to be addressed through public health programs in WV and suggests that a better route would be to work Dr. Roush and the already established Department of Oral Health to regulate public health and/or school based programs.

We urge you to reconsider the proposed increases and additional requirements with the above issues in mind.

Sincerely,

Lisa D. Poland, DMD, President

WVPHA Dental Section

Cc: Gina Sharps, RDH, MPH, Immediate Past President Bobbi Jo Muto, RDH, MPH, Past President Ashley Logan, RDH, Vice-President Terra Basham, RDH, Secretary Nancy LaBrosse, RDH, Treasurer Mary Beth Shea, RDH, Past Secretary

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West Virginia Board of Dentistry PO Box 1447 Crab Orchard, WV 25827-1447

Dear Board Members,

I am writing to comment on the proposed rules concerning Title 5, Series 3, Fees established by the Board. It is my request that you completely revise or drop this regulation completely.

In 2007, I was hired by West Virginia University to create a public health dental program for children in the Eastern Panhandle who had Medicaid or WV CHIP insurance. EPSDT statistics showed that over 10,000 children in this area did not have a dental home. Further research by my department showed that there was a shortage of dentists in this area and the majority of the existing practices did not take the WV Medical Card.

These deficiencies in access to care were made light by our RESA Head Start offices and school nurses in the area. Head Start was in jeopardy of losing their federal funding because they were unable to meet the requirement of every child having a dental screening and follow-up care. School nurses were having daily visits by students with pain from decayed and/or abscessed teeth and had nowhere to send them.

I have worked very hard to build a program through the public school system utilizing portable dental equipment to increase the availability of preventive care to children while they are at school. I am one of four founders and a major monetary contributor of Healthy Smiles Community Oral Health Center, the dental component of our local FQHC. This facility was established so that the children we see have a permanent dental home. Additionally, I have worked with several private-practice dentists in the area in order to establish other referral options for the children I see in the schools.

Our program which utilizes my services and also hygienists with public health practice licensures has accomplished the following over the past school year:

Children screened	3353
Children receiving fluoride varnish treatment	1699
Children receiving sealants	367
Percentage with untreated decay	38.5%

Additionally, our records indicate that between 2012 and 2013, over 400 of our patients found a permanent dental home and were no longer requesting services at school. We hope to continue this trend in the following years.

I am asking that you reconsider the proposed rules and regulations for mobile/portable dentistry for the following reasons:

- Additional fees will negatively affect our program which is solely funded by Medicaid and WV CHIP reimbursement. As you know, the fees they pay are a fraction of what is standard in a private practice.
- 2. Requirements for an AED machine are unnecessary because all of the schools where we practice have AED machines and all of my staff are trained to use them.
- 3. The requirement for surgical-grade suction is unnecessary for preventive dentistry (i.e. screening exams, prophy, fluoride, and sealants). We do not do restorative dentistry or extractions.
- 4. A majority of the requirements in the proposal do not align with current private practice requirements by the Board. For example, why do mobile/portable units have to provide a phone number that is accessible 24-hours per day? This is totally unnecessary for preventive dentistry, many times where the patient is simply screened with a light and a disposable mirror. This is just an additional cost to us to hire an answering service since WVU does not have operators 24/7.
- 5. There are "for-profit" mobile dental companies that have popped up in WV and I have observed some questionable practices. I agree that they need to be held accountable to standards of care but public health entities such as the WVU Children's Dental Program should not be punished because of them.

In the past several years, the public health/school initiative, which operates under the guidance of the WV Bureau for Public Health, Office of Oral Health, has made great strides in improving access to care. Additionally, because of these programs, West Virginia has gone from a grade of "F" to a "C" in the Pew Report. We continue to work together to help the children of this state thrive.

Therefore, I respectfully request that the Board drop the current proposed fees and requirements for mobile/portable dental units. Instead, I urge the Board to work with Dr. Jason Roush and the Office of Oral Health to regulate these operations.

Sincerely,

Lisa D. Poland, DMD

President, WV Public Health Association, Dental Section

Director of Dental Health Programs, WV Health Sciences Center, Eastern Division

Assistant Clinical Professor, WVU School of Dentistry

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Co-Founder, Healthy Smiles Community Oral Health Clinic

West Virginia Dental Association 2016 ½ Kanawha Blvd., East, Charleston, WV 25311 Tel 304.344.5246 FAX: 304.344.5316 Email: wvrds@aol.com

July 11, 2013

WV Board of Dentistry PO Box 1447 Crab Orchard, WV 25827

Dear Board Members:

Via Email and FAX

WVDA commends your Board for its efforts in promulgating rules following passage of Senate Bill 580 by the Legislature revising the Dental Practice Act. WVDA submits the following comments as permitted in your June 6 Notice of a Comment Period on a Proposed Rule.

In regard to Title 5, Series 12 "Administration of Anesthesia by Dentists" WVDA respectfully recommends your proposed 5.2. on Page 5 be amended to read as follows:

"The dentist's facilities shall contain the following during sedation procedures and during recovery when the level of sedation administered is in accordance with Class 2, Class 3 and Class 4 permits identified in Chapter 30-4A-3."

WVDA suggests this will identify the levels of sedation intended to be subject to your well-intended rule, as well as complying your rule with Senate Bill 580. It will also eliminate any ambiguities as to what levels of sedation are covered under your rule. For example, your proposed language could be interrupted to include the administration of only nitrous oxide

In regard to Title 5, Series 8 "Dental Advertising" your proposed 4.3. on Page 2 creates an uncertainty as to whether dentists can continue to advertise or announce "nitrous oxide" services, as they are currently permitted to do. WVDA supports this announcement or advertising because many members of the public seek dentists who provide nitrous oxide services. If your proposal does not intend to restrict advertising or announcing nitrous oxide services, please exempt this service from the limited provisions of the anesthesia law, Article 4A.

In regard to Title 5, Series 14 "Mobile Dental Facilities and Portable Dental Units" WVDA supports your Board for promulgating this rule because it will implement much-needed oversight of these entities to protect the public.

WVDA appreciates the opportunity to comment on your proposed rules.

Very truly yours,

Richard D. Stevens Executive Director



July 10, 2013

West Virginia Board of Dentistry 1319 Robert C. Byrd Drive P.O. Box 1447 Crab Orchard, WV 25827 cc: wvbde@suddenlinkmail.com.

Subject: Series 14 Proposed Rules, Mobile Dental Facilities- Portable Dental Units

To whom it may concern:

On behalf of the West Virginia School-Based Health Assembly (WVSBHA), we are submitting this letter in opposition to the passage of the Series 14 rules as written, due to the financial hardship that school-based health centers (SBHCs) could incur, and the potential of these rules to prevent the expansion of oral health services in other SBHCs around our state.

Currently, our state has 88 SBHCs serving 107 schools in 32 counties. All of these centers provide services to students, regardless of their family's ability to pay. They create an important safety net to ensure that all children receive access to health care, and it is WVSBHA's mission to expand these services to all of West Virginia's children. This includes the expansion of oral health services in these centers.

All of the SBHCs in our state are sponsored by parent organizations, mostly federally qualified health centers, and it is commonly understood that SBHCs are not financially profitable centers. They are satellites of nonprofit organizations, and they are mission driven, not profit driven,

To impose an annual fee on mobile dental units will make it difficult for the over 30 SBHCs currently providing dental services to maintain or expand their programs, and it will financially restrict other SBHCs from expanding their services to include oral health and include new schools in their service area.

Similarly, the required equipment that these mobile facilities would need to acquire would be quite costly to purchase and maintain.

For many years, WVSBHA has shared the goal of eliminating disparities in oral health with its many partners, including the State Oral Health Program, the West Virginia Primary Care Association, the Benedum Foundation, and the Appalachian Regional Commission. Providing oral health services in schools is not only recommended by the Centers for Disease Control, it has been a priority championed by both our state Bureau for Public Health and Department of Education.

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Kelli Caseman Executive Director

Bill Snider President



To impose these proposed rules, we risk taking significant steps backward in the progress we have made in our state to expanding access to this important care. With fifty-one million school hours lost each year to tooth decay, it's Imperative for all of us to ensure that dental services for all children become and remain affordable and available.

Thank you for the opportunity to comment on these proposed rules. If you have any questions, please let me know.

Sincerely,

Kelli Caseman, MA Executive Director

COMMENTS & BOARD RESPONSE

During the comment period, the Board received eleven written comments concerning this rule. The comments were received from Dr. David G. Edwards, the West Virginia Healthy Kids and Family Coalition, Merinda Birkett, RDH, the Mid-Ohio Valley Health Department, Wood County Schools, the West Virginia Dental Hygienists' Association, WV Primary Care Association, West Virginia Public Health Association, Dr. Lisa Poland, West Virginia Dental Association, the West Virginia School-Based Health Assembly. (attached).

Dr. David G. Edwards made comments concerning §5-14-4(f) and suggests it read as follows:

A statement that the mobile dental facility conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, storage and use of flammable materials, acceptable sanitation and zoning standards along with the facility construction standards, including required or suitable access for disabled individuals.

The Board agrees with the comments of Dr. Edwards and amends the language in that section accordingly.

The comments received from the following individuals and entities cover the same concerns regarding these rules:

The West Virginia Healthy Kids and Family Coalition, Merinda Birkett, RDH, the Mid-Ohio Valley Health Department, Wood County Schools, the West Virginia Dental Hygienists' Association, WV Primary Care Association, West Virginia Public Health Association, Dr. Lisa Poland, and the West Virginia School-Based Health Assembly.

The financial constraints on non-profits with regards to the application fees and required equipment that would possibly interfere with access to care.

The Board has amended the rule to include language that would give the Board the ability to alter or eliminate fees upon demonstration of hardship on a case by case basis. The President of the Board has appointed three Board members to a committee or a task force to work with the State Dental Director, West Virginia Dental Association, and West Virginia Dental Hygienists' Association to review, discuss and try to come up with some agreed parameters for the regulation of Mobile Dental Facilities and Portable Dental Units.

The comments from the West Virginia Dental Association are supportive of the rule because it will implement much-needed oversight of these entities to protect the public.