

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

Form #2

Do Not Mark In This Box

2013 JUN -6 AM 11:55

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Dental Examiners TITLE NUMBER: 5

RULE TYPE: Legislative CITE AUTHORITY: SB 580 - §30-4-6

AMENDMENT TO AN EXISTING RULE: YES NO

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 Dental Units

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 12, 2013 AT 12:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Board of Dental Examiners

PO Box 1447
Crab Orchard, WV 25827

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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

FISCAL NOTE FOR PROPOSED RULES

MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS

Rule Title: _____
 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 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

MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS

Rule Title: _____

Rule Title: _____

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 unit permit. The Board is unsure of the number of mobile dental facility or portable dental unit operators that would fall under the proposed rules and can only estimate the increase in revenue until implementation of the rule. Estimation for the first year is \$2,000.

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 permit to operate a mobile dental facility or portable dental unit.

Date: 6/5/2013

Signature of Agency Head or Authorized Representative

Susan M. Owen

**TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTISTRY**

2013 JUN -6 AM 11:55

**SERIES 14
MOBILE DENTAL FACILITIES & PORTABLE DENTAL UNITS**

STATE OF WEST VIRGINIA

§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, flammability, construction standards, including required or suitable access for disabled individuals, sanitation, and zoning.

(h) A statement that the applicant possesses 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;
- (j) 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

(j) 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 previous 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 may 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.

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.

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.