

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

Form #7

Do Not Mark In This Box
Filing Date

FILED

2013 JUL 23 AM 10:28

WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Board of Dentistry TITLE NUMBER: 5

CITE AUTHORITY: §30-4-6; SB580 (in response to passage of)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

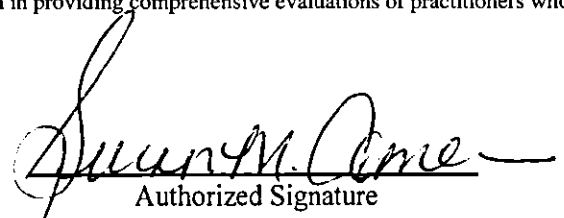
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 12

TITLE OF RULE BEING PROPOSED: Administration of Anesthesia by Dentists

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

There are currently no rules associated with the dental anesthesia law. The passage of Senate Bill 580 during the 2013 Legislative Session, effective July 12, 2013, provides the framework for safe administration and enforcement of dental anesthesia laws, but is not detailed enough to provide direction for dentists who provide the different levels of anesthesia, depending on training. New regulations need to be provided for qualified monitors, integral members of the dental team to ensure patient safety. Emergency equipment and medications need to be available for practitioners. The anesthesia committee will need direction in providing comprehensive evaluations of practitioners who provide conscious sedation and general anesthesia services.


Authorized Signature

Use additional sheets if necessary

EMERGENCY RULE QUESTIONNAIRE

DATE: 7/22/2013

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

EMERGENCY RULE TITLE: Administration of Anesthesia by Dentists

1. Date of filing 7/23/2013

2. Statutory authority for promulgating emergency rule:

~~§30-4-6; Filed in response to passage of SB 580~~

3. Date of filing of proposed legislative rule: 6/6/2013

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? New language, language is the same as a currently filed Agency Approved Rule and is a new series of rules.

5. Has the same or similar emergency rule previously been filed and expired?

no

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

~~The passage of SB 580 during the 2013 Legislative Session, effective 7/12/13, provides the framework for safe administration and enforcement of dental anesthesia laws, but is not detailed enough to provide direction for dentists who provide the different levels of anesthesia. Regulations need to be provided for qualified monitors, integral members of the dental team to ensure patient safety. Emergency equipment and medications need to be available for practitioners. The anesthesia committee will need direction in providing comprehensive evaluations of permit holders.~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

Emergency Rule filed in response to SB580 during the West Virginia Legislature of 2013.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~The passage of SB 580 during the 2013 Legislative Session, effective 7/12/13, provides the framework for safe administration and enforcement of dental anesthesia laws, but is not detailed enough to provide direction for dentists who provide the different levels of anesthesia. Regulations need to be provided for qualified monitors, integral members of the dental team to ensure patient safety. Emergency equipment and medications need to be available for practitioners. The anesthesia committee will need direction in providing comprehensive evaluations of permit holders.~~

SUMMARY OF EMERGENCY RULE

**TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS**

**SERIES 12
ADMINISTRATION OF ANESTHESIA BY DENTISTS**

This rule is being filed as an emergency due to passage of Senate Bill 580 and includes the following:

Definitions;

General rules for the administering dentist;

Education;

Equipment and emergency drugs;

Qualified monitors;

Continuous monitoring;

Change of employment or residence for qualified monitors; and

Change of or additional facilities for permit holders.

STATEMENT OF CIRCUMSTANCES
CONCERNING AN EMERGENCY RULE
TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS
SERIES 12
ADMINISTRATION OF ANESTHESIA BY DENTISTS

Due to the passage of Senate Bill 580, it is necessary to promulgate this rule which includes definitions, general rules for the administering dentist, education, equipment and emergency drugs, qualified monitors, continuous monitoring and change of employment or addresses for qualified monitors, and change of or additional facilities for permit holders.

There are currently no rules associated with the dental anesthesia law. The passage of Senate Bill 580 during the 2013 Legislative Session, effective July 12, 2013, provides the framework for safe administration and enforcement of dental anesthesia laws, but is not detailed enough to provide direction for dentists who provide the different levels of anesthesia, depending on training. New regulations need to be provided for qualified monitors, integral members of the dental team to ensure patient safety. Emergency equipment and medications need to be available for practitioners. The anesthesia committee will need direction in providing comprehensive evaluations of practitioners who provide conscious sedation and general anesthesia services.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Administration of Anesthesia by Dentists

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 costs and revenues of state government.

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			

Administration of Anesthesia by Dentists

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.

There are no fee increases/decreases associated with this rule.

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.

none

Date: 6/5/2013

Signature of Agency Head or Authorized Representative

Sharon M. Carter

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

**SERIES 12
ADMINISTRATION OF ANESTHESIA BY DENTISTS**

FILED

2013 JUL 23 AM 10:28

CLERK OF COURTS
WEST VIRGINIA
SERIES 12
STATE

§5-12-1. General.

- 1.1. Scope. This legislative rule regulates the administration of anesthesia by dentists.
- 1.2. Authority. -- W. Va. Code §30-4-6.
- 1.3. Effective Date. --
- 1.4. Filing Date. --

§5-12-2. Definitions.

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

- 2.1. "AAOMS" means the American Association of Oral and Maxillofacial Surgeons.
- 2.2. "AAPD" means the American Academy of Pediatric Dentistry.
- 2.3. "ACLS" means Advanced Cardiac Life Support.
- 2.4. "ADA" means the American Dental Association.
- 2.5. "AMA" means the American Medical Association.
- 2.6. "Anxiolysis/minimal sedation" or premedication for anxiety - means removing, eliminating or decreasing anxiety by the use of a single anxiolytic or analgesia medication that is administered in an amount consistent with the manufacturer's current recommended dosage for the unsupervised treatment of anxiety, insomnia or pain, in conjunction with nitrous oxide and oxygen. This does not include multiple dosing or exceeding current normal dosage limits set by the manufacturer for unsupervised use by the patient (at home), for the treatment of anxiety.
- 2.7. "ASA" means American Society of Anesthesiologists.
- 2.8. "BLS" means Basic Life Support.

- 2.9. "Board" means West Virginia Board of Dentistry.
- 2.10. "Central Nervous System Anesthesia" means an induced controlled state of unconsciousness or depressed consciousness produced by a pharmacologic method.
- 2.11. Class 2 Permit means a licensed dentist is authorized to induce anxiolysis/minimal sedation.
- 2.12. Class 3 Permit means a licensed dentist is authorized to induce conscious sedation/moderate sedation as limited enteral (3a) and/or comprehensive parenteral (3b), and anxiolysis/minimal sedation.
- 2.13. Class 4 Permit means a licensed dentist is authorized to induce general anesthesia/deep conscious sedation, conscious sedation/moderate sedation, and anxiolysis/minimal sedation.
- 2.14. "Conscious sedation/moderate sedation" means an induced controlled state of depressed consciousness, produced through the administration of nitrous oxide and oxygen and/or the administration of other agents whether enteral or parenteral, in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command.
- 2.15. "CPR" means Cardiopulmonary Resuscitation.
- 2.16. "CRNA" means Certified Registered Nurse Anesthetist.
- 2.17. "Dentist Anesthesiologist" means a dentist who is trained in the practice of anesthesiology and has completed an additional approved anesthesia education course;
- 2.18. "Dental Assistant" means a personal qualified by education, training or experience who aids or assists a dentist in the delivery of patient care.
- 2.19. "Facility Permit" means a permit for a facility where sedation procedures are used that correspond with the level of anesthesia provided.
- 2.20. "General anesthesia/deep conscious sedation" means an induced controlled state of unconsciousness in which the patient experiences complete loss of protective reflexes, as evidenced by the inability to independently maintain an airway, the inability to respond purposefully to physical stimulation, or the inability to respond purposefully to verbal command. "Deep conscious sedation/general anesthesia" includes partial loss of protective reflexes and the patient retains the ability to independently and continuously maintain an airway.

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

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

2.23. "PALS" means Pediatric Advanced Life Support.

2.24. "Pediatric Patient" means infants and children.

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

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

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

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

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

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

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

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

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

§5-12-4. Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities;

(e) An oxygen delivery system that will insure appropriate continuous oxygen delivery;

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

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

(h) Appropriate blood pressure monitoring and pulse oximeter;

(i) An emergency drug kit as developed, updated and published by the Board; and

(j) An external defibrillator device for class 2, 3 and 4 levels of sedation.

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

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

§5-12-6. Qualified Monitors

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

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

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

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

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

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

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

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

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

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

6.5. A licensed dentist inducing relative analgesia/minimal sedation, may act as the qualified

monitor without a qualified monitor certificate.

§5-12-7. Continuous Monitoring

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

§5-12-8. Change of Employment or Address; Change of or additional facilities

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

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

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