

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

Form #3

Do Not Mark In This Box

FILED

2013 JUL 24 AM 9:29

SECRETARY OF STATE  
WEST VIRGINIA

**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: 5

CITE AUTHORITY: §30-1-6 and §30-4-6

AMENDMENT TO AN EXISTING RULE: YES  NO

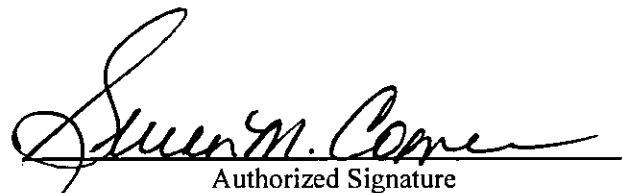
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Fees Established by the Board

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

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

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

  
Authorized Signature

**QUESTIONNAIRE**

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

DATE: 7/22/2013

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

LEGISLATIVE RULE TITLE: Fees Established by the Board

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 6, 2013

b. What other notice, including advertising, did you give of the hearing?  
Rules were sent to the WV Dental Association, WV Dental Hygienist's Association, WV Dental Assistant's Association. All rules were placed on the Board's website.

c. Date of Public Hearing(s) or Public Comment Period ended:  
July 12, 2013 at 12:00 pm

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received 6

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

Tuesday July 23, 2013

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

Richard D. Smith, DDS

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Executive Secretary

WV Board of Dentistry

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PO Box 1447

Crab Orchard, WV 25827

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304-252-8266

FAX: 304-253-9454

wvbde@suddenlinkmail.com; duff@duffsmithdds.com

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

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

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

n/a

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b. Date of hearing or comment period:

n/a

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

n/a

d. Attach findings and determinations and reasons:

Attached n/a

**SUMMARY OF PROPOSED RULE**

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

**SERIES 3  
FEES ESTABLISHED BY THE BOARD**

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

Change of name from Dental Examiners to Dentistry; and

Add fees for the following:

Application fee and renewal fee for Mobile Dental Facility Permit; and

Application fee and renewal fee for Portable Dental Unit Permit.

The Board is requesting additional fees as follows:

Name change request for a Professional Limited Liability Company;

Name change request for a Dental Corporation;

**STATEMENT OF CIRCUMSTANCES**  
**CONCERNING A PROPOSED RULE**  
**TITLE 5**  
**LEGISLATIVE RULE**  
**WEST VIRGINIA BOARD OF DENTAL EXAMINERS**  
**SERIES 3**  
**FEES ESTABLISHED BY THE BOARD**

Due to the passage of Senate Bill 580, which changed the Board's name, it is necessary to promulgate this rule to update the name of the Board. Also, due to proposed changes in other series of rules (2 & 6) and a proposed new rule (14) new fees are proposed for name changes of a PLLC or Corporation, and Mobile Dental Facility and portable dental unit permit application and renewal fee.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: \_\_\_\_\_ Fees Established by the Board

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 proposed 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	0.00	2,200.00	1,400.00

Rule Title: \_\_\_\_\_ Fees Established by the Board

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 proposes a fee to process a request for name change of a limited liability company or a dental corporation, which is proposed in their respective rules (5CSR2 & 6). The estimated amount of revenue for a fiscal year for these fees would be approximately \$200 of revenue.

Also, this rule proposes fees for initial application and renewal fees for a mobile dental facility or portable dental unit permit, which are proposed to be regulated under a new series of rules (5CSR14). The Board was given authority to regulate these facilities and units in SB580 which passed during the 2013 session. 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.

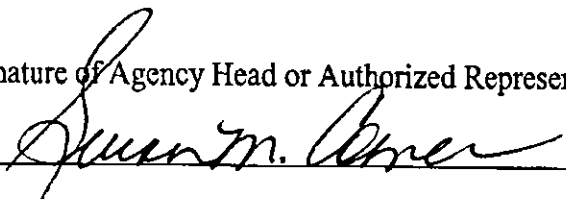
**MEMORANDUM**

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



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

**SERIES 3  
FEES ESTABLISHED BY THE BOARD**

**§5-3-1. General.**

- 1.1. Scope. -- This legislative rule establishes fees for the Board of ~~Dental Examiners~~ Dentistry.
- 1.2. Authority. -- W. Va. Code §§30-1-6 and 30-4-6.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

**§5-3-2. Schedule of Fees for Dentists.**

2.1. Dental Licensure Application	\$185.00
2.2. Re-examination fee for Dentists (Law Exam)	\$20.00
2.3. Out of State Dentist - Dental Licensure Application	\$200.00
2.4. Temporary Permit	\$200.00
2.5. Dental Intern/Dental Residency Permit	\$200.00
2.6. Teaching Permit	\$200.00
2.7. Investigation of Qualification for Temporary, Dental Intern/Dental Residency or Teaching Permits	\$50.00
2.8. Annual Information & Renewal fee for a Dentist	\$185.00

**§5-3-3. Schedule of fees for Specialty Licensure for Dentists.**

3.1. Dental Specialty Licensure Application	\$300.00
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**§5-3-4 Schedule of Fees for Hygienists.**

4.1. Dental Hygiene Licensure Application	\$75.00
4.2. Re-examination fee for Dental Hygienists (Law Exam)	\$20.00
4.3. Out of State Dental Hygienist - Dental Hygienist Licensure Application	\$100.00
4.4. Temporary Permit	\$100.00

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4.5. Teaching Permit	\$100.00
4.6. Investigation of Qualification for Temporary, or Teaching Permits	\$50.00
4.7. Annual Information & Renewal fee for a Dental Hygienist	\$75.00
4.8 Annual Information & Renewal fee for a Dental Hygienists employed by a public health agency	\$65.00
4.9. Local Anesthesia Certificate Application fee	\$50.00
4.10. Nitrous Oxide Monitoring Certificate Application fee	\$50.00
4.11. Bleaching Certificate Application fee	\$25.00
4.12. General Supervision Application fee	\$100.00
4.13. Public Health Practice Application fee	\$25.00
4.14. Annual Renewal fee of Local Anesthesia Certificate	\$25.00
4.15. Annual Renewal fee of General Supervision Certificate	\$50.00
4.16. Annual Renewal fee of Public Health Practice Certificate	\$25.00

**§5-3-5. Schedule of Fees for Dental Assistants.**

5.1. Nitrous Oxide Monitoring Certificate Application fee	\$25.00
5.2. Orthodontic and/or Restorative Expanded Duties Certificate Application fee	\$25.00

**§5-3-6. Schedule of Fees for Dental Corporations.**

6.1. Application to Form a Dental Corporation	\$250.00
6.2. Annual renewal fee for a Dental Corporation	\$150.00
<u>6.3. Authorization of a Name Change</u>	<u>\$25.00</u>

**§5-3-7. Schedule of fees for Anesthesia.**

7.1. Class Two Certification Application Fee	\$50.00
7.2. Class Two Certification Renewal Fee	\$15.00
7.3. Class Three or Four Permit Application Fee	\$900.00
7.4. Class Three or Four Permit Renewal Fee	\$300.00

7.5. Qualified Monitor Application Fee	\$50.00
7.6. Qualified Monitor Annual Renewal Fee	\$25.00
7.7. Facility Inspection	\$200.00

**§5-3-8. Schedule of fees for Professional Limited Liability Companies.**

8.1 Application to Form a Dental Professional Limited Liability Company	\$250.00
8.2. Annual Renewal fee for a Professional Limited Liability Company	\$175.00
8.3. <u>Authorization of a Name Change</u>	<u>\$25.00</u>

**§5-3-9. Schedule of fees for Mobile Dental Facilities and Portable Dental Units.**

<u>9.1. Mobile Dental Facility Permit Application fee</u>	<u>\$1,500.00</u>
<u>9.2. Mobile Dental Facility Permit Renewal fee</u>	<u>\$1,000.00</u>
<u>9.3. Portable Dental Unit Permit Application fee</u>	<u>\$500.00</u>
<u>9.4. Portable Dental Unit Permit Renewal fee</u>	<u>\$250.00</u>

**§5-3-910. Schedule for Miscellaneous Fees.**

910.1. Verification of Licensure to another State (Charge for licensee)	\$25.00
910.2. Verification of Licensure (other entities)	\$25.00 per name
910.3. Course approval application fee	\$100.00
910.4. Duplicate renewal license	\$5.00
910.5. Duplicate wall certificate	\$10.00
910.6. Roster of Active Dental or Hygiene Licensees or Hygiene or Assistant Expanded Duties Certificate Holders (paper, email or cd)	\$100.00 per list
910.7. Roster of Active Dental or Hygiene Licensees or Hygiene or Assistant Expanded Duties Certificate Holders(labels)	\$200.00 per list
910.8. Roster of Active Dental or Hygiene Licensees or Hygiene or Assistant Expanded Duties Certificate Holders (one county, one dental specialty, etc.) (paper, email or labels)	\$10.00 per list
910.9. Miscellaneous Copies (first page)	\$3.00

additional pages

\$0.25

910.10. Retrieval Fee

\$25.00

**§5-3-~~10~~11. Late Renewal and Late Continuing Education Fees**

~~10~~11.1. Any Dental, Dental Specialty, Hygiene, Anesthesia, Corporation, PLLC, etc. that fail to renew by the specified renewal date, shall be assessed a penalty fee equal to the renewal fee, in addition to other conditions of renewal as set forth by statute or rule.

~~10~~11.2. Any Licensee that fails to report their continuing education requirements as set forth by statute or rule by the required reporting date shall be assessed a penalty fee equal the annual renewal fee of the licensee.

**§5-3-~~11~~12. Returned Checks.**

~~11~~12.1. Returned Check Charge

\$25.00

~~11~~12.2. Failure to replace renewal or application fees due to a returned check and pay the returned check charge shall constitute grounds for denial, revocation or suspension of a license.

**§5-3-~~12~~13. Non Refundable.**

~~12~~13.1. All fees are non-refundable.



# 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](http://www.movhd.com)

JUN 28 2013

Serving: City of Parkersburg, Calhoun, Pleasants, Ritchie, Roane, Wirt & Wood Counties

WOOD COUNTY SCHOOLS  
**WOOD COUNTY SCHOOLS**

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*

Teresa Morehead, RN MS NCSN  
Coordinator of Health Services

JUL 1 2013



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,

*Lino Sharp - President Elect WVDHA*  
The West Virginia Dental Hygienists' Association

JUL 9 - 2013

WV   
**Primary Care Association**

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.

JUL 5 - 2013

Letter to WV Board of Dentistry  
July 3, 2013  
Page Two

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

Letter to WV Board of Dentistry  
July 3, 2013  
Page Three

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.”

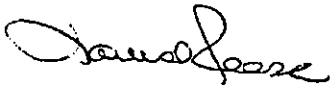
Further, it is unclear whether the language “exempt from such registration requirements” means an entity is exempt from all new requirements, such as the application, permit, and fee requirements, as well as the required equipment, operational requirements, informed consent, and post care information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

Letter to WV Board of Dentistry  
July 3, 2013  
Page Four

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,

A handwritten signature in cursive script, appearing to read "Louise Reese".

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.

JUL 5 - 2013

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

July 2, 2013

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%

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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:

1. 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, prophylaxis, 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

**Co-Founder, Healthy Smiles Community Oral Health Clinic**

## COMMENTS & BOARD RESPONSE

During the comment period, the Board received six written comments concerning this rule. The comments were received from the Mid-Ohio Valley Health Department, Wood County Schools, The West Virginia Dental Hygienists' Association, WV Primary Care Association, West Virginia Public Health Association, and Dr. Lisa Poland (attached).

Dr. Richard Wittberg with the Mid-Ohio Valley Health Department, in regards to fees, request the rules consider financial constraints of non-profits.

Teresa Morehead, RN, MS, NCSN, with Wood County Schools, in regards to fees, request the Board to reconsider the potential negative impact the proposed fees could have on the implementation of a dental program partnered with the Mid-Ohio Valley Health Department.

Gina Sharps, President Elect of the West Virginia Dental Hygienists' Association, in regards to fees, request the rules consider financial constraints of non-profits.

Louise Reese, CEO of the WV Primary Care Association, in regards to fees, requests the new fees in §5-3-9 concerning Mobile Dental Facilities and Portable Dental Units be eliminated or at least reduced.

Lisa D. Poland, President of the West Virginia Public Health Association, in regards to fees, requests the Board reconsider the proposed fees.

Dr. Lisa D. Poland, in regards to fees, requests the Board to drop the proposed fees for Mobile Dental Facilities and Portable Dental Units.

**The West Virginia Board of Dentistry has considered the comments and requests to reduce or eliminate the fees proposed for Mobile Dental Facilities and Portable Dental Units and does not make any change to the proposed fee rule. However, the Board amended the language in Series 14 for relief due to financial hardship.**