

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

Form #3

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2013 JUL 24 AM 9:34

WEST VIRGINIA  
SECRETARY OF STATE

**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: §30-4-6

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: Continuing Education Requirements

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: Continuing Education Requirements

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

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

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

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

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received 1

- 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

304-252-8266

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FAX: 304-253-9454

wybde@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 11  
CONTINUING EDUCATION REQUIREMENTS**

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

Change of name from Dental Examiners to Dentistry and section reference.

**STATEMENT OF CIRCUMSTANCES**  
**CONCERNING A PROPOSED RULE**  
**TITLE 5**  
**LEGISLATIVE RULE**  
**WEST VIRGINIA BOARD OF DENTAL EXAMINERS**  
**SERIES 11**  
**CONTINUING EDUCATION REQUIREMENTS**

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 and section reference.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Continuing Education Requirements

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: wybde@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.

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

Continuing Education Requirements

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 not 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  
*Shawn M. Come*

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

SERIES 11  
CONTINUING EDUCATION REQUIREMENTS

**§5-11-1. General.**

1.1. Scope. This legislative rule establishes continuing education requirements for licensees or permittees regulated by the West Virginia Board of ~~Dental Examiners~~ Dentistry.

1.2. Authority. -- W. Va. Code §30-4-6.

1.3. Effective Date. --

1.4. Filing Date. --

**§5-11-2. Definitions.**

2.1. "Board" means the West Virginia Board of ~~Dental Examiners~~ Dentistry.

2.2. "Controlled Substances" means drugs that are classified by federal or state law in Schedules I, II, III, IV or V, as defined in W. Va. Code §60-2-204 through 212.

2.3. "Drug diversion training and best practice prescribing of controlled substances training" means training which includes all of the following:

(a) Drug diversion, including West Virginia statistics on prescription drug abuse and resulting deaths.

(b) Epidemiology of pain and misuse of opioids.

(c) Indication for opioids in pain treatment including general characteristics, toxicities and drug interactions.

(d) Identification of diversion and drug seeking tactics and behaviors.

(e) Best practice methods for working with patients suspected of drug seeking behavior and diversion.

(f) Compliance with controlled substances laws and rules.

(g) Registration with and use of the West Virginia Controlled Substances Monitoring Program established in West Virginia Code Chapter 60A, Article 9.

2.4. "Opioid" means natural and semi-synthetic derivatives of the opium poppy, as well as similar synthetic compounds that have analgesic or pain relieving properties because of their effects in the central nervous system. These include, but are not limited to, codeine, morphine, hydromorphone, hydrocodone, oxycodone, methadone, and fentanyl.

**§5-11-3. Continuing education requirements.**

3.1. Hours Required Biennially.

(a) Each licensed dentist shall complete biennially not less than 35 hours of continuing education.

(b) Each licensed dental hygienist shall complete biennially not less than 20 hours of continuing education.

3.2. Initial Licensees.

(a) Each applicant upon initial licensure shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training within one year of receiving his or her initial license from the Board.

3.3. Approved Providers.

(a) The Continuing Education course must be offered by a Board approved provider. The course or program must be designed to enhance the licensee's clinical knowledge and ability to treat dental patients.

(b) The Board approves any course or program sponsored by the following providers, or their constituent or component organizations for credit:

- (1) An accredited dental or dental hygiene school;
- (2) The American Dental Association;
- (3) A National Dental Association;
- (4) The American Dental Hygienists' Association;
- (5) The National Dental Hygiene Association;
- (6) The American Medical Association;
- (7) The American Hospital Association;
- (8) The American Red Cross;
- (9) The American Heart Association;

- (10) American Dental Association recognized specialty societies;
- (11) The Academy of General Dentistry;
- (12) The Veteran's Administration;
- (13) The United States Uniformed Services;
- (14) The U. S. Department of Health and Human Services;
- (15) The W. Va. Department of Health and Human Resources;
- (16) The W. Va. Bureau for Public Health;
- (17) The W. Va. Dental Association;
- (18) The W. Va Pharmacists Association;
- (19) The W. Va. Dental Hygienists' Association;
- (20) Agencies of the United States Department of Justice; and

(21) Study Clubs: "Study Club" means a group of at least 5 dentists or dental hygienists who do the following:

- (i) Organize for the purpose of scientific study;
- (ii) Operate under the direction of elected officers;
- (iii) Maintain written by-laws;
- (iv) Conduct regular meetings; and
- (v) Maintain written attendance records of all meetings.

(c) Providers not identified in subdivision (b) of this subsection may petition the Board for approval of continuing education that they offer. The Board may approve other sponsors of continuing education credits. The Board's approval expires after two consecutive years and must be renewed. The course or program must be designed to enhance the licensee's clinical knowledge and ability to treat dental patients.

(d) Courses or programs that are not approved for continuing education credit for license renewal include, but are not limited to, those on the subjects of estate planning, money management, personal finance, personal business matters, cultural subjects, personal health and recreation, politics, memory training, and speed reading.

(e) The board may excuse a licensee from all or any part of continuing education

requirements due to unusual circumstance, emergency or special hardship.

3.4. Record Keeping, Reporting, & Monitoring:

(a) It is the responsibility of each dentist and dental hygienist to maintain accurate records relating to continuing education courses he or she has successfully completed.

(b) The records and information pertaining to each year shall be maintained for a period of six (6) years.

(c) A licensee shall report all continuing education courses on the form provided by the Board.

(d) The Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

(1) A licensee who fails to successfully complete an audit of continuing education records may be subject to disciplinary action, which may include but is not limited to, an immediate cease and desist from practice notice, notice of formal hearing and/or monetary assessments or fines.

(e) Each dentist and dental hygienist shall submit to the Board by February 1, ~~1996~~ 2014, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

3.5. Criteria.

(a) The Board shall not give continuing education credit for identical courses taken during the same continuing education reporting period.

(b) The Board shall give one hour of credit for each hour of attendance and an hour of attendance is defined as 50 minutes.

(c) At least 2 hours of continuing education shall be related to any one or combination of the following subjects during each continuing education reporting period :

(1) infection control and/or occupational hazards;

(2) oral effects of tobacco use; or

(3) oral effects of substance abuse.

(d) Licensed dentists shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training and shall be reported beginning with the February 1, 2014 reporting deadline. These requirements may be waived for a licensed dentist who has not prescribed, administered, or dispensed a controlled substance during the reporting period.

(e) A current certification for a comprehensive basic life support course for a health care provider that includes: resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation. A CPR certificate shall be obtained through the American Heart Association health care provider course, the American Red Cross professional rescuer course, or an equivalent course. Certification shall be required each continuing education period, and such certification may be counted as continuing education credits.

(f) Courses or re-certifications completed on the Internet will not be accepted for basic life support courses unless the course includes a skills examination with a certified instructor.

(g) Continuing education hours or other education requirements required by board consent decrees or orders shall not be used to satisfy continuing education requirements for license renewal.

### 3.6. Continuing Education for Anesthesia certificate holders.

(a) Class 2 anesthesia certificate holders must complete at least 6 hours of continuing education credits and class 3 and class 4 anesthesia permit holders must complete 16 hours of credits in one or more of the following areas:

- (1) oral or nitrous oxide sedation;
- (2) conscious sedation;
- (3) general anesthesia;
- (4) physical evaluation;
- (5) medical emergencies;
- (6) monitors and use of monitoring equipment;
- (7) pharmacology;
- (8) advanced cardiac life support, (maximum of 8 hours credit);
- (9) pediatric advanced life support (maximum of 8 hours credit); and
- (10) advanced trauma life support (maximum of 8 hours credit).

(b) Courses or re-certifications completed on the Internet will not be accepted for basic life support courses unless the course includes a skills examination with a certified instructor.

Courses or re-certifications completed on the Internet will not be accepted for advanced cardiac life support, pediatric advanced life support or advanced trauma life support.

(c) These continuing education credits earned will count for part of the 35 hours required

for each biennial period. This requirement is effective for the biennial period beginning February 1, 2012 through January 31, 2014.

3.7. Categories of Credit. The licensee may select areas of study within the following categories, not to exceed the maximum number of hours in each category.

(a) Educational and scientific courses - 100% of the requirement may be obtained by Educational and scientific courses given by permanent or Board-approved biennial sponsors.

(b) Supervised self-instruction - 50% of the requirement may be obtained in this category. Supervised self-instruction shall include a testing mechanism supplied by a permanent or Board approved biennial sponsor. The licensee shall complete a test and demonstrate a level of comprehension before the Board will award credit. Tests shall be graded by the sponsor and results returned to the licensee. Supervised self-instruction includes, but is not limited to:

- (1) Graded audio/video courses;
- (2) Graded correspondence courses; and
- (3) Graded computer courses.

(c) Non-supervised self-instruction - A maximum of 10% of the requirement may be obtained in the category. Non-supervised self-instruction includes, but is not limited to:

- (1) Home study - journals and publications;
- (2) Correspondence programs;
- (3) Educational television;
- (4) Audio/video programs;
- (5) Scientific exhibits; and
- (6) Study clubs other than biennial sponsors.

(d) Scientific papers, publications, and scientific presentations - A maximum of ten percent of the requirement may be obtained in the category of papers, publications, and scientific presentations; A maximum of 10% may also be obtained for original scientific papers authored by the licensee and published in a scientific professional journal, and the original presentation of papers, essays, or formal lectures to recognized groups of fellow professionals.

(e) Teaching and research appointments - A maximum of 10% of the requirement may be obtained in this category. Licensees involved in teaching or research activities at an accredited dental or dental hygiene facility, dental assisting program, dental laboratory technology program, or a part time faculty or research appointment in such facility or program may also receive a maximum 10% of the requirement.

(f) Original table clinics and scientific exhibits - A maximum of 10% of the requirement may be obtained in the category of original table clinics and scientific exhibits.

(g) Course subjects on billing, office management, practice building, insurance reimbursement, communication skills, courses on how to use dental software, programs, and/or dental equipment are limited to a maximum of 10% of the requirement whether individually or in any combination.

(h) The Board recognizes successful completion of the following written examinations, as may be administered by the following agencies, as satisfying the number of required hours of continuing education in the applicable reporting period:

(1) North East Regional Board's (NERB) Dental Hygiene Comprehensive Examination (for hygienists only);

(2) NERB's Diagnostic Skills Examination;

(3) Academy of General Dentistry's Fellowship Examination;

(4) Examinations leading to recognized Specialty Boards' Diplomate status;

(5) National Board - All parts, successfully completed;

(6) Central Regional Dental Testing Agency's Written Examinations;

(7) Southern Regional Testing Agency's Written Examinations;

(8) Western Regional Examining Board's Written Examination; and

(9) any other written exam approved by the Board.

(i) Compliance: Compliance with this rule is required for all licensees seeking license renewal beginning February 1, 2014, and biennially thereafter.

### 3.8. Dental Committee and Indigent Care Participation.

(a) The Board recognizes those individuals that are serving, (as elected, or appointed members), on national, state and local dental, or dental hygiene boards, councils or committees and allows 1 hour of continuing education credit for every 4 hours of meeting time to those individuals. This amount cannot exceed more than 5 hours of the total biennial requirement for each classification of licensee.

(b) Dentists may earn up to 5 hours and Dental Hygienists may earn up to 3 hours of continuing education credit requirements, per biennial period, for providing dental care to indigent patients. One-half hour credit will be allowed for every hour of documented treatment.

### 3.9. Exemptions.

(a) A licensee is exempt from continuing education requirements and is considered in

compliance on the date of the end of the first continuing education reporting period following the licensee's initial licensure. Retired or disabled dentists or dental hygienists are not required to fulfill continuing education requirements.

(b) Continuing education will not be required for a dentist who is a graduate student in an approved dental specialty program, dental internship or residency program, or related dental or medical degree program offered by an approved organization, but must shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training pursuant to 3.5(d) and the healthcare provider/basic life support certification pursuant to 3.5(e) of this section.

(c) Continuing education will not be required for a dental hygienist who is enrolled in an approved dental program, but must complete the healthcare provider/basic life support certification pursuant to 3.5(e) of this section.

### 3.10. Penalties for Violation.

(a) The Board shall not renew the license of any licensee who fails to meet the requirements of this section.

(b) A licensee who has been found to have not fulfilled the continuing education requirements of the Board shall be required to pay a penalty as set by the Board's fee schedule 5CSR3 and has 6 months in which to satisfy the requirements.

(c) A false statement on a renewal form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code §30-4-20 19.

### §5-11-4. Special Volunteer License Continuing Education Requirements.

4.1. Each dentist or dental hygienist licensed as a volunteer shall complete continuing education biennially.

#### 4.2. Approved Providers.

(a) The Continuing Education course must be offered by a Board approved provider.

(b) The Board approves any course or program sponsored by the providers as set forth in section 5.11.3.23 (b) of this rule.

#### 4.3. Record Keeping, Reporting, & Monitoring:

(a) It is the responsibility of each dentist and dental hygienist to maintain accurate records relating to continuing education courses he or she has successfully completed.

(b) The records and information pertaining to each year shall be maintained for a period of six (6) years.

(c) A licensee shall report all continuing education courses on the form provided by the Board.

(d) The Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

(e) Each dentist and dental hygienist shall submit to the Board by February 1, 2014, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

#### 4.4. Criteria

(a) The Board may not give continuing education credit for identical courses taken during the same continuing education reporting period.

(b) A volunteer licensee shall have a minimum of 5 hours of continuing education, which shall include at least 2 hours related to infection control and 3 hours regarding drug diversion training and best practice prescribing of controlled substances training and shall be reported beginning with the February 1, 2014 reporting deadline. These requirements may be waived by the Board upon receipt of a board-developed certification form from a volunteer attesting that he or she has not prescribed, administered, or dispensed a controlled substance during the reporting period.

(c) A current certification for a comprehensive basic life support course for a health care provider that includes: resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation. A CPR certificate shall be obtained through the American Heart Association health care provider course, the American Red Cross professional rescuer course, or an equivalent course. Certification shall be required each continuing education period, and such certification may be counted as continuing education credits.

4.5. Categories of Credit. The licensee may select areas of study within the following categories, not to exceed the maximum number of hours in each category.

(a) Educational and scientific courses - 100% of the requirement may be obtained by Educational and scientific courses given by permanent or Board-approved biennial sponsors.

(b) Supervised self-instruction - 50% of the requirement may be obtained in this category. Supervised self-instruction shall include a testing mechanism supplied by a permanent or Board approved biennial sponsor. The licensee shall complete a test and demonstrate a level of comprehension before the Board will award credit. Tests shall be graded by the sponsor and results returned to the licensee. Supervised self-instruction includes, but is not limited to:

- (1) Graded audio/video courses;
- (2) Graded correspondence courses; and
- (3) Graded computer courses.

(c) Compliance: Compliance with this rule is required for all volunteer licensees seeking license renewal beginning February 1, 2014, and biennially thereafter.

4.6. Penalties for Violation.

(a) The Board may not renew the license of any licensee who fails to meet the requirements of this section within 6 months from the date the licensee is found to have not fulfilled the continuing education requirements of the Board.

(b) A false statement on a renewal form or continuing education reporting form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code §30-4-20 19.

RICHARD D. SMITH, DDS  
1501 7<sup>TH</sup> AVENUE  
CHARLESTON, WV 25312

July 12, 2013

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

RE: Proposed Rules - Series 11

Dear West Virginia Board of Dentistry Members:

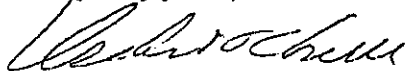
I make the following comment concerning the rules proposed regarding continuing education:

In §5-11-3.9(b) be changed to read as follows:

Continuing education will not be required for a dentist who is a graduate student in an approved dental specialty program, dental internship or residency program, or related dental or medical degree program offered by an approved organization, but must shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training pursuant to 3.5(d) and the healthcare provider/basic life support certification pursuant to 3.5.(e) of this section.

Thank you for your consideration of my comment.

Very truly yours,



Richard D. Smith, DDS

JUL 12 2013

## COMMENTS & BOARD RESPONSE

During the comment period, the Board received one written comment concerning this rule. The comment was received from Dr. Richard D. Smith (attached).

Dr. Smith commented that §5-11-3.9(b) be changed to read as follows:

Continuing education will not be required for a dentist who is a graduate student in an approved dental specialty program, dental internship or residency program, or related dental or medical degree program offered by an approved organization, but ~~must~~ shall complete at least 3 hours of continuing education regarding drug diversion training and best practice prescribing of controlled substances training pursuant to 3.5(d) and the healthcare provider/basic life support certification pursuant to 3.5.(e) of this section.

The West Virginia Board of Dentistry agreed this change is necessary to make it clear that graduate students are required to complete the drug diversion and best practice prescribing of controlled substances training.