

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

Form #3

Do Not Mark In This Box

FILED

2013 JUL 24 AM 9:41

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

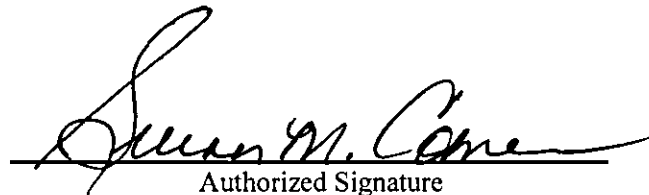
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: <sup>12</sup> \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: Administration of Anesthesia by Dentists

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: Administration of Anesthesia by Dentists

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 5

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

Tuesday July 23, 2013

---

- 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

---

Executive Secretary

WV Board of Dentistry

---

PO Box 1447

Crab Orchard, WV 25827

---

304-252-8266

FAX: 304-253-9454

wvbde@suddenlinkmail.com; duff@duffsmithdds.com

---

- 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)

---

---

---

---

---

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

---

---

---

---

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 12  
ADMINISTRATION OF ANESTHESIA BY DENTISTS**

This rule is being proposed 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 A PROPOSED 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.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Administration of Anesthesia by Dentists

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			

Rule Title: Administration of Anesthesia by Dentists

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  
*Steven M. Comer*

FILED

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

2013 JUL 24 AM 9:42

**SERIES 12  
ADMINISTRATION OF ANESTHESIA BY DENTISTS**

OFFICE OF THE CLERK  
WEST VIRGINIA  
LEGISLATURE  
STATE HOUSE  
CHARLESTON, WEST VIRGINIA

**§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.

Members

Diane M. Paletta, DDS  
President

Craig L. Meadows, DDS  
Secretary

David G. Edwards, DDS

C. Richard Gerber, DDS

L. Edward Eckley, DDS

George D. Conard, Jr., DDS

Mrs. Beverly L. Stevens, COMSA

Camille A. Arceneaux, RDH, MS

Mr. William E. Ford, III

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



WEST VIRGINIA BOARD OF DENTAL EXAMINERS

1319 Robert C. Byrd Drive  
PO Box 1447  
Crab Orchard, WV 25827-1447  
(304)252-8266  
FAX (304)253-9454  
Toll Free (877)914-8266  
www.wvdentalboard.org  
wvbd@suddenlinkmail.com

June 28, 2013

Staff

Richard D. Smith, DDS  
Executive Secretary

Susan M. Combs  
Assistant Executive Secretary

Carolyn A. Brewer  
Office Manager

John C. Dixon, DDS  
Investigator

Dina A. Vaughan, BSDH, MS  
Investigator

James M. Casey  
Assistant Attorney General

RE: Proposed Rules Series 12

Dear Board Members:

The Anesthesia Committee submits the following comments concerning the above rule:

Page 3, Section 3, it is noted there are two subsections listed as 3.2, one should be corrected to 3.3;

Page 5, Section 5.1, the word purposed should be purposes;

Page 5, Section 5.2 (j), remove the word automatic;

Page 5, Section 5.2 (k), add the word age to this section;

Page 6, Section 6.1, add a requirement that qualified monitor certificates be posted in the facility and supporting documentation be available for inspection;

Page 6, Section 6.2 (c), remove the word and from this section;

Page 7, Section 8.2, remove in a timely manner from this section; and

Page 7, Section 8.3, add the word office after Board in the second line of this section.

Thank your for your consideration of these comments.

Very truly yours,

A handwritten signature in cursive script, appearing to read "C. Meadows".

CRAIG L. MEADOWS  
Chairman

CLM/smc

# Mountain State Oral & Maxillofacial Surgeons

Byron H. Black, D.D.S. Lee F. Allen, D.M.D., M.D. Jack I. Krajekian, D.M.D. John E. Brock, D.D.S. Raj Gutta, D.D.S.  
Kent E. Jackfert, D.D.S. Emeritus: (1950-2003)

July 10, 2013

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

Dear West Virginia Board of Dentistry Members:

I would respectfully like to comment on the legislative rule titled "Administration of Anesthesia by Dentists". I would first like to thank the Board of Dentistry Members and the Anesthesia Committee for all of the time and effort put into these rules which will hopefully help dentists to continue safely practicing anesthesia in West Virginia. As a private practicing Oral and Maxillofacial Surgeon I am well aware of the possible risks involved with all levels of anesthesia usage and am constantly humbled with regards to anesthesia care. My concern involves the wording utilized on page 5 (Section 5-12-5) under section 5.2. "The dentist's facilities shall contain the following during all levels of sedation procedures and during recovery". I consider giving a patient nitrous oxide a "level" of sedation (minimal sedation/anxiolysis) therefore according to this every dentist using nitrous oxide would need a defibrillator device and would have to follow more stringent monitoring requirements in subsection (l). This is contradictory to the language in Senate Bill 580. I would respectfully suggest adding "for all Class II, III, and IV permit holders" to the end of sentence 5.2. This would align the rule to the language in Senate Bill 580.

Thank you for your consideration. I hope to see each of you at the West Virginia Dental Association meeting next week at the Greenbrier. Please do not hesitate to call me if you have any questions or concerns regarding these comments.

Sincerely,



Lee F. Allen DMD, MD  
Diplomate American Board of Oral and Maxillofacial Surgeons

JUL 11 2013

**Charleston Office**  
1215 Virginia Street East  
Charleston, WV 25301  
Phone: (304) 345-1092  
Fax: (304) 345-1095

**Hurricane Office**  
100-A Prestige Park  
Hurricane, WV 25526  
Phone: (304) 757-0272  
Fax: (304) 757-0273

**Huntington Office**  
3135 16th Street Rd., Suite 20  
Huntington, WV 25701  
Phone: (304) 399-1092  
Fax: (304) 399-1078

Board Certified Oral &  
Maxillofacial Surgeons  
[www.mtstateoms.com](http://www.mtstateoms.com)

## Susan Combs

---

**From:** Richard Duff Smith <duff@duffsmithdds.com>  
**Sent:** Thursday, July 11, 2013 12:21 PM  
**To:** wvde@suddenlinkmail.com; James Casey Esq. (jmc@wvago.gov); David Edwards; ldg0300@aol.com; donskaff@hotmail.com  
**Subject:** Recommended change to Anesthesia Rule, Series 12

After discussion with Dr. Don Skaff today, I am proposing the addition of the following language for completeness sake to §5-12-5.2(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.....

This will make the rule applicable to all levels of sedation, as nitrous oxide analgesia/ minimal sedation is regulated by §30-4A(1) et seq but does not require a permit.

Richard Duff Smith

JUL 11 2013

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

July 11, 2013

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

Via Email and FAX

Dear Board Members:

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

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

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

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

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

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

WVDA appreciates the opportunity to comment on your proposed rules.

Very truly yours,

Richard D. Stevens  
Executive Director

**JUL 11 2013**

## Susan Combs

---

**From:** Weaver, Bryan <bweaver@hsc.wvu.edu>  
**Sent:** Thursday, July 11, 2013 6:50 AM  
**To:** Susan Combs  
**Subject:** FW: WV comments  
**Attachments:** WV comments 7.10.13.pdf; ATT00002.htm

Susan, I was contacted by AAOMS and asked to send the attached comments on the proposed changes to the Dental board. Will you share it with them. Thanks Bryan

---

**From:** Scott Weaver [<mailto:gsweaver@suddenlink.net>]  
**Sent:** Wednesday, July 10, 2013 4:48 PM  
**To:** Weaver, Bryan  
**Subject:** Fwd: WV comments

Begin forwarded message:

**From:** Randi Andresen <[randresen@aaoms.org](mailto:randresen@aaoms.org)>  
**Date:** July 10, 2013, 2:31:19 PM EDT  
**To:** "[gsweaver@suddenlink.net](mailto:gsweaver@suddenlink.net)" <[gsweaver@suddenlink.net](mailto:gsweaver@suddenlink.net)>  
**Cc:** Katie Small <[katies@aaoms.org](mailto:katies@aaoms.org)>  
**Subject:** FW: WV comments

Dr. Weaver, thank you for returning my call. There are various suggestions and also questions that we have relative to the proposed anesthesia regulations. The suggestions are marked on the document and are being forwarded for your review and consideration of transmitting them to the WV Dental Board. Following the document are the definitions which are accepted nationally by the American Society of Anesthesiologists, The Joint Commission (formerly JCAHO) and also by AAOMS both in the Office Anesthesia Evaluation (OAE) Manual and the current AAOMS Parameters of Care for Anesthesia. Both of the AAOMS documents are reviewed by the ASA and comments provided to us. The guidelines which were stated as AAPD I believe may be the ADSA as they started a program a few years later than AAOMS. I also tried to build in capnography which was suggested by the ASA to the AAOMS for moderate and deep sedation and general anesthesia (also cited in the OAE and ParCare). The Monitor we suggest consideration of using Anesthesia Assistant. As you will note in the definitions, "deep sedation" and "general anesthesia" have separate definitions. At the front 5-12-2 add 2.\_\_\_\_ I suggest that you also define "CODA" means Commission on Dental Accreditation and "ACGME" means Accreditation Council on Graduate Medical Education.

I had left a message for Dr. Rusiecki which he returned. He was familiar with the anesthesia rules/regulations review but indicated that you would be the person to communicate with. I told him, that if needed, our Governmental Division has close contact with Richard Stevens, the Executive Director of the West Virginia Dental Association, and if you felt it would be needed, they could communicate with him.

If you have any questions, please let me know. You can get me on the direct line, 847.233.4337. Please keep us informed about the review and updates.

Randi

Randi V. Andresen  
Associate Executive Director  
Advanced Education and Professional Affairs  
American Association of Oral and Maxillofacial Surgeons  
1.800.822.6637; 1.847.233.4337; [randresen@aaoms.org](mailto:randresen@aaoms.org)

---

This message may contain confidential and/or privileged information. This information is intended to be read only by the individual or entity to whom it is addressed. If you are not the intended recipient, you are on notice that any review, disclosure, copying, distribution or use of the contents of this message is strictly prohibited. If you have received this message in error, please notify the sender immediately and delete or destroy any copy of this message.

Update to, nalie recognized definitions.

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

Form #2

Do Not Mark In This Box

2013 JUN -5 AM 11:54

**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 - 430-4-6

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: 12

TITLE OF RULE BEING PROPOSED: Administration of Anesthesia by Dentists

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 12  
ADMINISTRATION OF ANESTHESIA BY DENTISTS**

This rule is being proposed 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; *dental anesthesia assistant*

Continuous monitoring;

Change of employment or residence for qualified monitors; and

Change of or additional facilities for permit holders.

**STATEMENT OF CIRCUMSTANCES**

**CONCERNING A PROPOSED 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.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Administration of Anesthesia by Dentists

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: wvbdex@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)
<b>1. Estimated Total Cost</b>			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>			

Rule Title: Administration of Anesthesia by Dentists

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

2013 JUN -6 AM 11:54

SERIES 12  
ADMINISTRATION OF ANESTHESIA BY DENTISTS

DEPT. OF STATE

**§5-13-1. 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.

- Joint Commission  
- ASA  
- AAOMS definition provided  
OAE + Parameters of Care

- 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 <sup>dental</sup> dentist who is trained in the practice of <sup>dental</sup> anesthesiology and has completed an additional approved ~~anesthesia education course; program~~ <sub>a CODA accredited</sub>
- 2.18. "Dental Assistant" means <sup>an allied staff</sup> a ~~personal~~ qualified by education, training or experience who aids or assists a dentist in the delivery of patient care. (e.g. <sup>anesthesia</sup> OMS anesthesia assistant program, DAANCE)
- 2.19. "Facility Permit" means a permit for a facility where <sup>anesthesia</sup> 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;

*Dental Anesthesia Assistant (DAA)*

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;

*DAA*

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

*Never heard this before.*

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.

3.2. 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~~ <sup>in</sup> ~~program~~ <sup>program</sup>. 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~~ <sup>program</sup>.

(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~~ <sup>provides</sup> ~~conscious sedation/moderate sedation commensurate with these guidelines; or~~ <sup>Commission on Dental Accreditation (CODA)</sup> <sup>to competence</sup>

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

*You may want to replace "or" with "and"*

(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 <sup>CODA ACCME</sup> ~~ADA or AHA~~ 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 <sup>of equivalent training or experience in general anesthesia/deep conscious sedation.</sup> ) ?

*Probably should be reserved only for those who have documented postgraduate training. Could this create a liability for your Board?*

*You may want to use this terminology throughout in an effort to transition to contemporary definitions*

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

5.1. Equipment used for the purposes<sup>S</sup> 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<sup>sedation</sup> procedures and during recovery.

(a) An operating room large enough<sup>anesthesia</sup> 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;

<sup>anesthesia</sup> (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. <sup>ACLS, PALS</sup>

(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<sup>oximeter</sup> 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 automatic external defibrillator device.

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

(l) Monitoring of breathing, respiration and airway management as described by the 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<sup>Qualified Dental Anesthesia Assistants</sup> Monitors

6.1. All individuals acting as a qualified<sup>DAA</sup> monitor<sup>anesthesia</sup> during sedation procedures shall apply to the Board for a qualified<sup>DAA</sup> monitor certificate, on a form provided by the Board. The application shall be

Capnography to measure end-tidal CO<sub>2</sub> is required by Jan 2014 in the AAOMS OAE and PacCare.

accompanied by the appropriate application fees and/or renewal fees, no part of which are refundable. The certification shall be renewed annually.

6.2. Qualified <sup>DAA</sup>monitors shall complete the following educational or certification requirements:

(a) Relative analgesia/minimal sedation - the qualified <sup>anesthesia assistant</sup>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 <sup>AA</sup>monitor shall possess a current health care provider BLS/CPR certification.

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

(d) General anesthesia/deep conscious sedation - the qualified <sup>AA</sup>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. <sup>(ADSA) has DAANCE ? ADSA</sup>

(e) In addition to the above requirements for a qualified <sup>AA</sup>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 <sup>AA's</sup>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 <sup>the anesthesia provider</sup>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 <sup>AA</sup>without a qualified <sup>AA</sup>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 <sup>AA</sup>monitor without a qualified <sup>AA</sup>monitor certificate.

6.5. A licensed dentist inducing ~~relative~~ analgesia/minimal sedation, may act as the qualified <sup>AA</sup>monitor without a qualified <sup>AA</sup>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 <sup>AA</sup>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 in writing in a timely manner, 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 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.

**Definitions for Anesthesia as published in ParCare 2012 and accepted by ASA and TJC**

**Minimal Sedation (Anxiolysis)** is a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes and ventilatory and cardiovascular functions are unaffected.

**Moderate Sedation/Analgesia (Conscious Sedation)** is a drug-induced depression of consciousness during which patients respond purposefully\*\* to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

**Deep Sedation/Analgesia** is a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully\*\* following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

**General Anesthesia** is a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

## COMMENTS & BOARD RESPONSE

During the comment period, the Board received five written comments concerning this rule. The comments were received from the Anesthesia Committee, Dr. Lee Allen, Dr. Richard D. Smith, the West Virginia Dental Association, and Dr. Bryan Weaver. (attached).

The Anesthesia Committee commented as follows:

Page 3, Section 3, it is noted there are two subsections listed as 3.2, one should be corrected to 3.3;

Page 5, Section 5.1, the word purposed should be purposes;

Page 5, Section 5.2 (j), remove the word automatic;

Page 5, Section 5.2 (k), add the word age to this section;

Page 6, Section 6.1, add a requirement that qualified monitor certificates be posted in the facility and supporting documentation be available for inspection;

Page 6, Section 6.2 (c), remove the word and from this section;

Page 7, Section 8.2, remove in a timely manner from this section; and

Page 7, Section 8.3, add the word office after Board in the second line of this section.

**The Board agrees with the comments of the Anesthesia Committee and made the amendments to the rule accordingly.**

Dr. Lee Allen's concern involved the wording in §5-12-5.2. "The dentist's facilities shall contain the following during all levels of sedation procedures and during recovery" A defibrillator device is part of the requirements in this section, which is not required in the new law for dentists using nitrous oxide only. Also, those using nitrous oxide only would have to follow more stringent monitoring requirements in §5-12-5.2(l). Dr. Allen requests adding "for all class II, III, and IV permit holders" to the end of the sentence in 5.2.

**The Board agrees with the fact that the new law does not require a defibrillator device for dentists using nitrous oxide only, the Board amended 5.2(j) to read as follows:**

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

**The Board responds to Dr. Allen's concern in §5-12-5.2(l) by adding the ADA Guidelines for the Use of Sedation and General Anesthesia by Dentists which will make the more applicable to all levels of sedation including nitrous oxide analgesia.**

Dr. Richard D. Smith commented that §5-12-2(l) be changed to read as follows:

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.

This will make the rule applicable to all levels of sedation as nitrous oxide analgesia/minimal sedation is regulated by §30-4-1 et. seq, but does not require a permit.

**The Board agreed this change is necessary to make the rule applicable to all levels of sedation.**

The West Virginia Dental Association had the same concerns as Dr. Allen in Section 5.2 and requested the Board to change the language to read as follows:

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

**The Board agrees that the classes of level of sedation should be identified as it relates to a defibrillator device and makes the amendment to 5.2(j) to accomplish this.**

Dr. Bryan Weaver sent in comments which appear to have been forwarded to him from the American Association of Oral & Maxillofacial Surgeons (see attached).

The comments received from Dr. Weaver were, for the most part, concerning changing defined words such as Qualified Monitor to Qualified Dental Anesthesia Assistant, or Relative analgesia/minimal sedation to analgesia/minimal sedation.

**The Board cannot make the changes suggested in these comments as the defined words and the language used in these proposed rules correlate with the definitions and language used in the new law.**