

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #7

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Filing Date

FILED

2005 JUN 16 A 10:37

OFFICE WEST VIRGINIA
SECRETARY OF STATE
Effective Date

NOTICE OF AN EMERGENCY RULE

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

CITE AUTHORITY: §30-41-6; §30-4-6; §30-4A-15 of HB2929 and §30-4A-18 of HB2929

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

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The emergency rule relates to section §5-3-7 which results from the passage of HB2929, a complete re-write of the laws concerning Dental Anesthesia. Pursuant to §30-4A-15 of HB2929 the Board is required to set the fees necessary for collections of application and renewal fees by rules. HB2929 goes into effect on or about the 8th of July, 2005. There are over 100 new applicants expected to be regulated by this new law, which necessitates this emergency filing to enable the Board to effectively protect the public.

Use additional sheets if necessary


Authorized Signature

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June 15, 2005

The Honorable Betty Ireland
Secretary of State
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

Dear Secretary Ireland:

The West Virginia Board of Dental Examiners in session June 10, 2005, approved for filing, the proposed emergency rule CSR §5-3 titled Fees Established by the Board, to establish fees for the regulation of dental anesthesia. **The rules are not to become effective earlier than July 8, 2005.**

A brief summary of the rule follows:

The legislative rule has one section of emergency portion. The emergency portion relates to section §5-3-7, which results from the passage of HB2929, a complete re-write of the laws concerning dental anesthesia. The establishment of said fees are necessary to provide the Board with funds to accomplish their legislative mandate to protect the citizens of the Great State of West Virginia in regulating dental anesthesia.

A statement of circumstances requiring the rule follows:

Pursuant to §30-4A-15 in HB2929 the Board will be required to set the fees necessary for collections of application and renewal fees for Dental Anesthesia by rules. HB 2929 goes into effect on or about the 8th of July, 2005. There are over 100 new applicants expected to be regulated by this new law, which necessitates this emergency filing whereas the fees were in the prior statute.

According to §30-4A-18 in HB2929, the Board has the authority to promulgate rules

to establish fees to support the business of the Board.

WV Code §§30-1-6 and 30-4-6 also give the Board authority to promulgate rules.

May I thank you in advance for your prompt attention in this matter. If you have any questions or further information is needed, please do not hesitate to contact me at your earliest convenience.

Very truly yours,



JOHN F. PARKULO
Executive Secretary

JFP/smc
Enclosures

EMERGENCY RULE QUESTIONNAIRE

DATE: 6/15/05

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Dental Examiners
207 South Heber Street
Beckley, WV 25801
304-252-8266

EMERGENCY RULE TITLE: Fees Established by the Board

1. Date of filing June 16, 2005 - not to become effective earlier than July 8, 2005

2. Statutory authority for promulgating emergency rule:
§30-1-6; §30-4-6; §30-4A-15 of HB2929; §30-4A-18 of HB2929

3. Date of filing of proposed legislative rule: June 16, 2005

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? yes

5. Has the same or similar emergency rule previously been filed and expired?
no

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.
~~As a result of HB2929, new classes of anesthesia permits were created which will necessitate the need for regulation of possibly over 100 new permittees. It also necessitates the need for additional committee members to the Subcommittee on Anesthesia to effectively regulate the current permittees as well as the new permittees. The new Anesthesia Law directs the Board to establish fees by rule. The prior law established fees by statute. Thus, the fees are necessary to effectuate the new law and continue to protect the public health safety and welfare in the area of Dental Anesthesia.~~

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

~~To comply with the effective date of HB2929.~~

Note: There is no time limit established within the code as it relates to setting fees by rule. However, the effective date of HB2929 is 90 days from passage and the fees are necessary to implement the new law.

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

~~The use of oral sedation and enteral sedation (oral sedation with the use of nitrous oxide) needs to be properly regulated by the Board for the protection of the public in light of several deaths across the country due to the improper training of individual dentists wherein these deaths occurred. In order to ensure proper training of the Dentists of the State of West Virginia the Board and it's Subcommittee on Anesthesia need these funds to effectively carry out the duties as set forth in HB2929.~~

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: 207 South Heber Street
Beckley, WV 25801

Phone Number: 304-252-8266 Email: wbde@charterinternet.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 budgetarily support the Board in it's efforts to effectively carry out it's Legislative mandated duties as set forth in the West Virginia Code, more specifically as set forth in the newly passed §30-4A et seq. or HB2929 of the 2005 Legislative Session which comes into effect July 2005. It will support the increased number of members on it's Subcommittee on Anesthesia necessary to implement HB2929 in regards to the new permit classes. This is necessary to regulate and promote the safe use of oral sedation and enteral sedation to protect the health, safety and welfare of the Citizens of the State of West Virginia.

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	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues	16,000.00	10,000.00	10,000.00

Rule Title: Fees Establish by the Board

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Estimates are based on projections of the addition of new applications and renewal fees. The Board estimates an increase of approximately \$10,000 per year upon full implementation of this rule. The Board estimates an increase of \$16,000 for the first year because of an influx of initial application fees for new permit classes. Such increases will enable the Board to engage additional committee members to the Board's Subcommittee on Anesthesia for the regulation of dental anesthesia for the protection of the residents of the State of West Virginia.

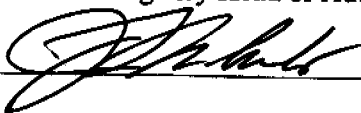
MEMORANDUM

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 of this rules is expected to be on those individuals regulated by the Board who will be paying an application and/or renewal fee pertaining to the regulation of dental anesthesia. These emergency rules are not to become effective earlier than July 8, 2005.

Date: 6/15/05

Signature of Agency Head or Authorized Representative



FILED

TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

JUN 16 A 10 37

SERIES 3
FEES ESTABLISHED BY THE BOARD

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§5-3-1. General.

- 1.1. Scope. -- This legislative rule establishes fees for the Board of Dental Examiners.
- 1.2. Authority. -- W. Va. Code §§30-1-6 and 30-4-4A6.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

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

2.1. Dental Licensure Application	\$50.00
2.2. Out of State Dentist - Dental Licensure Application	\$100.00
2.3. Temporary Permit	\$100.00
2.4. Dental Intern/Dental Residency Permit	\$50.00
2.5. Teaching Permit	\$100.00
2.6. Investigation of Qualification for Temporary, Dental Intern/Dental Residency or Teaching Permits	\$50.00
2.7. Annual Information & Renewal fee for a Dentist	\$125.00

§5-3-3. Schedule of Fees for Hygienists.

3.1. Dental Hygiene Licensure Application	\$35.00
3.2. Re-examination fee for Dental Hygienists	\$10.00
3.3. Out of State Dental Hygienist - Dental Hygienist Licensure Application	\$50.00
3.4. Temporary Permit	\$100.00

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3.5. Teaching Permit	\$100.00
3.6. Investigation of Qualification for Temporary, Dental Intern/Dental Residency or Teaching Permits	\$50.00
3.7. Annual Information &Renewal fee for a Dental Hygienist	\$50.00
§5-3-4. Schedule of Fees for Dental Corporations.	
4.1. Application to Form a Dental Corporation	\$200.00
4.2. Annual Registration fee for a Dental Corporation	\$150.00
§5-3-5. Schedule of fees for Specialty Licensure for Dentists.	
5.1. Dental Specialty Licensure Application	\$300.00
§5-3-6. Schedule for Miscellaneous Fees.	
6.1. Verification of Licensure to another State	\$10.00
§5-3-7. <u>Schedule of fees for Anesthesia.</u>	
<u>7.1. Class Two Certification Application Fee</u>	<u>\$50.00</u>
<u>7.2. Class Two Certification Renewal Fee</u>	<u>\$25.00</u>
<u>7.3. Class Three or Four Permit Application Fee</u>	<u>\$300.00</u>
<u>7.4. Class Three or Four Permit Renewal Fee</u>	<u>\$100.00</u>

5-3

Jeanette Gryskovich RDH
179 Marilyn Lane
New Cumberland WV 26047

FILED

2005 JUL 25 P 4: 04

OFFICE WEST VIRGINIA
SECRETARY OF STATE

West Virginia Board of Dental Examiners
207 South Heber Street
Beckley, WV 25801

7/16/05

Dear Board Members;

This letter is in regards to the increase in the dental hygienists' licensure fee, particularly the proposed fee for anesthesia and bleaching.

It seems unfair that the board is seeking additional revenues from the hygienists who obtain the required, proper training for anesthesia and bleaching. The board, itself along with the legislators, passed the law for hygienists to administer anesthesia who successfully pass a "board-approved" 29-hour course from a school of dental hygiene and a written board exam.

Since there has not been a final decision on HCR63 due to an investigation, a fee increase is inappropriate.

Also, how can the board properly monitor the dental assistants, performing expanded duties, when there is no yearly registry of their names with the board? Since a dental assistant is a member of the board to represent the dental assistants, would it not be advantageous to require assistants to be registered, or to take an exam to be certified to work in the state of West Virginia?

Why does the burden lie with the dentists and the hygienists to financially support the board, when the dental assistants are also an important component of the dental team?

I am not totally against the additional licensure fee for hygienists, as long as the dental assistants are required to send in their fair share.

Respectfully yours,

Jeanette Gryskovich, RDH

Jeanette Gryskovich, RDH

Cc: Secretary of State, the Honorable Betty Ireland