

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

Form #2

Do Not Mark In This Box

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE 7/28/08
ADMINISTRATIVE LAW DIVISION

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative CITE AUTHORITY: §30-4-6

AMENDMENT TO AN EXISTING RULE: YES ☒ NO ☐

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Formation and Approval of Dental Corporations

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

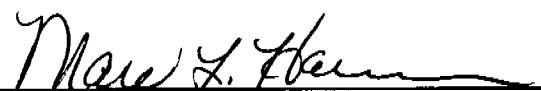
TITLE OF RULE BEING PROPOSED: _____

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 August 27, 2008 AT 12:00 Noon 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

During the 2008 Legislative Session, the corporate license tax return was repealed. A copy of this form was required to be filed with the Board of Dental Examiners with corporation renewals. The Board is proposing changes to require a copy of the annual report, which is now required to be filed with the Secretary of State. The Board is proposing a change in the due date of corporate renewals to the Board to allow an additional 30 days from the time this form is due to the Secretary of State.

Also, this rule will protect the public in limiting ownership and thereby control of dental practices. It will allow heirs of deceased or incapacitated dentists to keep a practice going by employing other dentists, for the oral health of their patients, for a period of time, until the practice can be sold or properly closed.

STATEMENT OF CIRCUMSTANCES

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Formation and Approval of Dental Corporation

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 should have no 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	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title: Formation and Approval of Dental Corporation

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

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

There should be no increase or decrease in fees.

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.

We do not anticipate a fiscal impact.

Date: 7-25-08

Signature of Agency Head or Authorized Representative

Mary S. Hanna

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

**SERIES 6
FORMATION AND APPROVAL OF DENTAL CORPORATIONS;
AND DENTAL PRACTICE OWNERSHIP**

§5-6-1. General.

1.1. Scope. -- This legislative rule addresses procedures for the formation and approval of dental corporations for dentists and ownership of dental practices.

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

1.3. Filing Date. --

1.4. Effective Date. --

§5-6-2. Definitions.

2.1. Dental Corporation - a company organized under W. Va. Code §30-4-28 for the purpose of rendering dental services.

2.2. Dental services. - The services rendered under W. Va. Code §30-4-1 et seq., by dentists.

§5-6-3. Procedures for Formation and Approval of Dental Corporations for Dentists; Fees.

3.1. Dentists licensed to practice dentistry in an active status in this State who desire to render dental services as a corporation shall comply with the provisions of W. Va. Code §30-4-1 et seq and apply to the Board for a certificate of authorization. No corporation shall have as a shareholder anyone other than a person who is duly licensed or otherwise legally authorized to render the dental services for which the corporation was organized.

3.2. The name of a dental corporation shall contain the words "corporation," "company," "incorporated," or "limited" or shall contain an

abbreviation of one of those words.

3.3. The name of a dental corporation shall contain nothing but the name, which must include surnames of one, some or every shareholder of the corporation, except in a case where a city, town or municipality may be used when necessary to make a name unique with the Secretary of State's Office.

3.4. Every corporation shall file with the Board, at the time of formation, the names of every shareholder of the corporation together with an initial filing fee as set forth in the Board's fee schedule. Also, on an annual basis thereafter on or before the thirtieth day of June, every corporation shall file with the Board the names of every shareholder of the corporation together with an annual renewal fee as set forth in the Board's fee schedule 5CSR3.

3.5. Every dental corporation shall file with the Board a copy of the annual report ~~corporate license tax return~~ required to be filed with the ~~tax commissioner of the~~ Secretary of State of West Virginia under W. Va. Code ~~§11-12C-3~~ 59-1-2a on or before the ~~thirtieth~~ thirty first day of July on an annual basis.

3.6. Every dental corporation in compliance with all the provisions of this rule shall be approved by and remain approved by the Board.

3.7. If any person ceases to be a shareholder of any dental corporation, that person shall notify the Board in writing within twenty days from the date that he or she ceased to be a shareholder of the corporation. The fact that a person ceases to be a shareholder of a corporation shall not affect the approval of the dental corporation by the

Board, if the Board determines that the corporation remains in compliance with all the provision of this rule.

§5-6-4. Notification of Non-compliance, Cessation of Rendering Dental Services.

4.1. If the Board determines that a dental corporation is not in compliance with all the provisions of W. Va. Code §30-4-1 et. seq., and this rule and should cease rendering dental services in the State, the Board shall notify the corporation in writing, and upon receipt of the written notice, the corporation shall cease rendering dental services in the State.

§5-6-5. Dentist - Patient Relationship.

5.1. The provisions of this rule shall not be construed to alter or affect the dentist - patient relationship.

§5-6-6. Dental Practice Ownership.

6.1. Only duly licensed dentists may own a dental practice in this state with the following exceptions:

(a) Health departments or clinics of the State or local government agencies;

(b) Non-profit or charitable organizations;

(c) Community health centers;

(d) Hospitals; and

(e) Institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

§5-6-7. Deceased or Incapacitated Dentists.

7.1. In the case of a deceased or incapacitated dentist, in order to protect the interests and the oral health of the patients in that practice, the dentist's non-dentist surviving spouse, heir(s), or

legal representative(s), as appropriate, will be allowed to maintain ownership of the dental practice for two years to allow for continuity of care during the orderly transition to a new owner or proper closure of the practice.

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July 25, 2008

Mrs. Judy Cooper
Office of the Secretary of State
Administrative Law Division
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

RE: 5CSR6

Dear Mrs. Cooper:

It would be appreciated if the Secretary of State's office would file the enclosed Notice of Comment Period on a Proposed Rule with attachments and place the same on the State Register. Please return to us a copy of the same with the filing date shown for our records. If additional information is needed please do not hesitate to contact this office.

I wish to thank you for your help and cooperation. The Board greatly appreciates it.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Marc L. Harman".

MARC L. HARMAN
Executive Secretary

MLH/smc
Enclosure