

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3 ■

Do Not Mark In This Box

FILED

2004 AUG 25 P 4:19

OFFICE 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 Dental Examiners TITLE NUMBER: 5

CITE AUTHORITY: 30-4-6

AMENDMENT TO AN EXISTING RULE: YES X 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:

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

SCANNED

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: August 25, 2004

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

LEGISLATIVE RULE TITLE: Formation and Approval of Dental Corporations

1. Authorizing statute(s) citation 31B-13-1304

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

June 10, 2004

b. What other notice, including advertising, did you give of the hearing?

Comment Period Only - Noticed in the State Register, sent notification to all licensees by letter dated June 10, 2004, posted on our web site and notified the West Virginia Dental Association, West Virginia Dental Hygiene Association and West Virginia Dental Assistants Association by letter dated June 10, 2004.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 12, 2004 4:00 p.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached yes

No comments received

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

August 25, 2004

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

John E. Parkulo
West Virginia Board of Dental Examiners
207 South Heber Street
Beckley, WV 25801

- 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)

same as item "f"

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 Comment period only

- b. Date of hearing or comment period:

Comment period ended July 12, 2004 at 4:00 p.m.

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

August ~~25~~, 2004

- d. Attach findings and determinations and reasons:

Attached Yes

SUMMARY OF PROPOSED RULE

To change the language of the rules to allow a larger possible number of Corporate name possibilities, while insuring the continued use of surnames, and to remove the amount of fees and inserting fees as set forth by the Board's fee schedule.

STATEMENT OF CIRCUMSTANCES

To change the language of the rules to allow a larger possible number of Corporate name possibilities, while insuring the continued use of surnames, and to remove the amount of fees and inserting fees as set forth by the Board's fee schedule.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Formation And Approval Of Dental Corporations

Type of Rule: X Legislative Interpretive Procedural

Agency: West Virginia Board of Dental Examiners

Address: 207 South Heber Street
Beckley, WV 25801

1. Effect of Proposed rule:

	FISCAL YEAR				
	ANNUAL		CURRENT	NEXT	THEREAFTER
	INCREASE	DECREASE			
ESTIMATED TOTAL COST	none	none			
PERSONAL SERVICES	none	none			
CURRENT EXPENSE	none	none			
REPAIRS & ALTERATIONS	none	none			
EQUIPMENT	none	none			
OTHER	none	none			

2. Explanation of Above Estimates:

n/a

3. Objectives of These Rules:

see attachment

Rule Title: Formation And Approval Of Dental Corporations

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

none

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

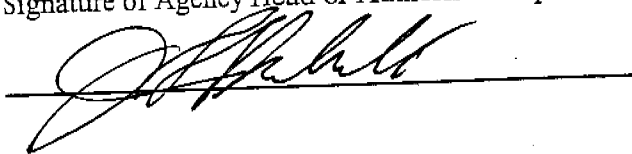
To change the language of the rules to allow a larger possible number of Corporate name possibilities, while insuring the continued use of surnames, and to remove the amount of fees and inserting fees as set forth by the Board's fee schedule.

C. Economic Impact on Citizens/Public at Large.

none

Date: June 9, 2004

Signature of Agency Head or Authorized Representative:



ATTACHMENT TO FISCAL NOTE

To change the language of the rules to allow a larger possible number of Corporate name possibilities, while insuring the continued use of surnames, and to remove the amount of fees and inserting fees as set forth by the Board's fee schedule.

TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

FILED

2004 AUG 25 P 4:19

SERIES 6
FORMATION AND APPROVAL OF DENTAL CORPORATIONS
OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

§5-6-1. General.

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

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 surname 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 of \$200.00 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 of \$150 as set forth in the Board's fee schedule.

3.5. Every dental corporation shall file with the Board a copy of the annual corporate license tax return required to be filed with the tax commissioner of the State of West Virginia under W. Va. Code §11-12C-3. Every dental corporation shall also file a copy of the annual report, and a copy of any corrected annual report

~~filed with the tax commissioner with the Board~~ on or before the thirtieth day of June 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.

COMMENTS RECEIVED

1. Dr. Christine L. Dearth

June, 22, 2004

To Whom It May Concern:

I am writing in response to proposed changes of Series 2, names of dental corporations. I feel that as long as the corporation name includes the names of every member of the firm, then the practice name should be what he/she chooses. For example, I am currently starting a practice and my corporation name is Christine L. Dearth, DDS, Inc., but I want to name the practice Kingwood Family Dental. However, under the current laws, I am not able to do so. I also know that several practices are doing it anyway. I would just like some consideration for the proposed changes.

Sincerely,

Christine L. Dearth, DDS

Christine L. Dearth, DDS

JUL 06 2004

FINDINGS, DETERMINATIONS AND REASONS

The Board received 1 written comment during the comment period.

1 Requested the Board change the language of the proposed rule to allow for the use of trade names.

The Board, after review and carefully considering this comment made no amendments to the rule whereas the use of a trade name is prohibited pursuant to the Rule for the West Virginia Board of Dental Examiners more specifically §5-1-11.