

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

Form #3

Do Not Mark In This Box

FILED

2005 JUL 28 P 3:43

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 NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 8

TITLE OF RULE BEING PROPOSED: Dental Advertising

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

Richard D. Smith, DDS
President
1501 Seventh Avenue
Charleston, WV 25312

Mrs. Dina Agnone Vaughan, BSDH, MS
Secretary
10 Francis Way
Lewisburg, WV 24901

John C. Dixon, DDS
1961 Parkwood Road
Charleston, WV 25314

Bernard J. Grubler, DDS
154 Leewood Farms Road
Wheeling, WV 26003

James W. Vargo, DDS
92 Brookshire Lane
Beckley, WV 25801

David G. Edwards, DDS
1512 Commerce Street
Wellsburg, WV 26070



WEST VIRGINIA BOARD OF DENTAL EXAMINERS
207 S. HEBER STREET
BECKLEY, WV 25801
(304)252-8266
Toll Free (877)914-8266
FAX (304)253-9454
www.wvdentalboard.org
wvbde@charterinternet.com

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6353 East Pea Ridge Road
Huntington, WV 25705

Mrs. Debra D. Dent, CDA
56 Silver Maple Lane
Union, WV 24983

Mrs. Dolores L. Gribble
11 Davis Place
Clarksburg, WV 26301

Staff

John F. Parkulo
Executive Secretary

Susan M. Combs
Office Manager

Carolyn A. Brewer
Office Assistant

July 27, 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 July 25, 2005, approved for filing the enclosed Notice of Agency Approval of a Proposed Rule concerning a proposed legislative rule CSR §5-8 titled Dental Advertising.

Please return to us one copy of the enclosed filing with the filing date shown for our records.

If further information is needed, please do not hesitate to contact me at your earliest convenience.

Very truly yours,

Handwritten signature of John F. Parkulo in black ink.
JOHN F. PARKULO
Executive Secretary

JFP/smc
Enclosures

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: July 26, 2005

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

LEGISLATIVE RULE TITLE: Dental Advertising

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 16, 2005

b. What other notice, including advertising, did you give of the hearing?
The following people were notified directly by letter:
All licensed Dentists and Hygienists (see attached); WV Dental Association; WV Dental Hygiene Association; WV Dental Assistants Association; Governor Manchin; Senate President Tomblin; Senators Bowman, Kessler, and Minard; House Speaker Kiss; Delegates Amores, Beane, and Mahan. This information was also posted on the Board's website.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 20, 2005 at 4:00 pm

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

Attached _____ No comments received _____ None _____

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

July 28 2005

- 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 F. Parkulo
WV Board of Dental Examiners
207 South Heber Street
Beckley, WV 25801
304-252-8266
~~304-253-9454 (fax)~~
wvbde@charterinternet.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)

same

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.

comment period only

b. Date of hearing or comment period:

Comment period ended July 20, 2005 at 4:00 pm

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

July 28, 2005

d. Attach findings and determinations and reasons:

Attached yes

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6353 East Pea Ridge Road
Huntington, WV 25705

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John F. Parkulo
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Beckley, WV 25801



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11 Davis Place
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Susan M. Combs
Office Manager
207 S. Heber Street
Beckley, WV 25801

June 15, 2005

RE: Emergency Rules - 5CSR3; Proposed Rules - 5CSR3; 5CSR7; 5CSR8 & 5CSR9

Dear Licensee:

Please find enclosed a copy of an Emergency Rule for fees as a result of HB2929, a complete re-write of the Dental Anesthesia Law.

Also, find enclosed a copy of proposed rules concerning the Board's fee schedule. This proposed rule is scheduled for a comment period to end on July 20, 2005 at 4:00 pm. Comments are to be mailed to the Board's address, 207 South Heber Street, Beckley, West Virginia 25801. *Any comments received after 4:00 pm July 20, 2005 will not be considered.*

Also, please be advised the Board has also set a comment period for new proposed rules Series 7, Meeting Procedures; Series 8, Dental Advertising; and Series 9, Application Procedures for Licensure or Certificate.

All of the Board's proposed rules may be viewed on the Board's website at www.wvdentalboard.org or you may call the Board's office or the Secretary of State's Office for a copy of these proposed rules. The comment period for these proposed rules ends on July 20, 2005 at 4:00 pm. Comments are to be mailed to the Board's address, 207 South Heber Street, Beckley, West Virginia 25801. *Any comments received after 4:00 pm July 20, 2005 will not be considered.*

As always, if you have any questions please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in black ink that reads "John F. Parkulo".

JOHN F. PARKULO
Executive Secretary

JFP/smc
Enclosures

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

Do Not Mark In This Box
Filing Date

Effective Date

NOTICE OF AN EMERGENCY RULE

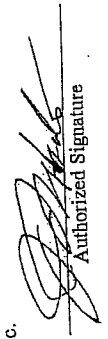
AGENCY: West Virginia Board of Dental Examiners TITLE NUMBER: 5
 CITE AUTHORITY: §30-4-6, §30-4A-15 of HB2929 and §30-4A-18 of HB2929
 EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO 3
 IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

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.


Authorized Signature

Use additional sheets if necessary



WEST VIRGINIA BOARD OF DENTAL EXAMINERS
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 Janet W. Vargo, DDS
92 Bronshite Lane
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 John F. Parkalb
Executive Secretary
267 S. Heber Street
Beckley, WV 25801

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.

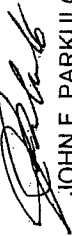
According to §30-4A-18 in HB2929, the Board has the authority to promulgate rules

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. PARKJULO
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.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Fees Established by the Board

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Dental Examiners

Address: 207 South Heber Street
Beckley, WV 25801

Phone Number: _____ Email: wvdbde@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 its efforts to effectively carry out its 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 its 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.

Effect of Proposal	FISCAL YEAR		Fiscal Year (Upon Full Implementation)
	2005 Increase/Decrease (use "+,-")	2006 Increase/Decrease (use "+,-")	
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

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.~~

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 its Subcommittee on Anesthesia need these funds to effectively carry out the duties as set forth in HB2929.~~

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



TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS
SERIES 3
FEES ESTABLISHED BY THE BOARD

§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

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. Schedule of fees for Anesthesia.	
7.1. <u>Class Two Certification Application Fee</u>	<u>\$50.00</u>
7.2. <u>Class Two Certification Renewal Fee</u>	<u>\$25.00</u>
7.3. <u>Class Three or Four Permit Application Fee</u>	<u>\$300.00</u>
7.4. <u>Class Three or Four Permit Renewal Fee</u>	<u>\$100.00</u>

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

Form #2

Do Not Mark in This Box

George D. Conard, Jr., DDS
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6353 East Pea Ridge Road
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207 S. Heber S
Beckley, WV 2



WEST VIRGINIA BOARD OF DENTAL EXAMINERS

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wvbe@charternet.net

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative CITE AUTHORITY: 30-1-6, 30-4-6, 30-4A-15 of HB2929, 30-4A-18 of HB2929

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: _____

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 20, 2005 AT 4:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

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

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

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 rule CSR \$5-3 titled Fees Established by the Board.

Enclosed is a Notice of a Comment Period on a Proposed Rule with attachments for filing. Please return to us one copy of the proposed rule with the filing date shown for our records.

If 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

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: 304-252-9266 Email: wvbcde@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.

The fiscal impact of this rule is expected to be on those individuals regulated by the Board whom pay application, renewal, permit and miscellaneous fees.

SUMMARY OF RULE

All proposed additional fees or fee increases are proposed to provide additional revenue for the Board of Dental Examiners to continue to effectively carry out its duties by Legislative mandate. The fees are necessary to add 2 additional Board Meetings per year, allow for revenue to contract (2) Hearing Examiners, and or contract (1-2) investigators, increase employee salaries and restructure employee responsibilities, offset operating expenses that have increased with no corresponding revenue source. Some fees are included herein to effectively carry out duties of the Board and its Subcommittee on Anesthesia in accordance with HB2929 of the 2005 Legislative Session to regulate different types of dental anesthesia while protecting the health, safety and welfare of the Citizens of the State of West Virginia.

This rule will budgetarily support the Board in its efforts to effectively carry out its Legislative mandated duties as set forth in the West Virginia Code, more specifically as set forth in §30-1 et seq.; §30-4 et seq.; §30-4B et seq.; and the newly passed §30-4A et seq. or HB2929 of the 2005 Legislative Session which comes into effect July 2005. This rule will allow the Board to recoup administrative costs of services the Board has always rendered and not charged for. The Board expects increased costs for rent at the end of their current lease which expires 6/30/2006. The Board needs the funds to implement a hearing examiner process, to increase the number of regularly scheduled meetings per year, increase salaries of their employees, and support the increased number of members on its subcommittee on anesthesia necessary to implement HB2929 in regards to the new permit classes. It will also support the Board in the ever increasing costs of employee benefits and other typical business increases that occur every year.

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.

Effect of Proposal	FISCAL YEAR		Fiscal Year (Upon Full Implementation)
	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues	21,000.00	83,000.00	83,000.00

STATEMENT OF CIRCUMSTANCES

These rules will budgetarily support the Board in its efforts to carry out its duties as prescribed in West Virginia Code. This rule will allow the Board to recoup administrative costs of services the Board has always rendered and not charged for. The Board expects to pay an increased rental fee beginning July 1, 2006. The Board needs funding to implement a hearing examiner process and establish funds for contracting hearing examiners and/or investigators, increase the number of regularly scheduled meetings per year, increase salaries of their employees and restructure employee responsibilities, and support the increased number of members on its Subcommittee on Anesthesia necessary to implement HB2929 in regards to new permit classes. It will also support the Board in the ever increasing costs of employee benefits and other typical business increases that occur every year.

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 increase in application, renewal and permit fees. The Board estimates an increase of at least \$83,000 per year upon full implementation of these rules. With such increases the Board will add at least two regularly scheduled meetings per year, consider salary increases for it's employees, pay increased rental costs, implement a hearing examiner process and establish funds for contracting hearing examiners and/or investigators, and use increases to help support the additional committee members to the Board's Subcommittee on Anesthesia.

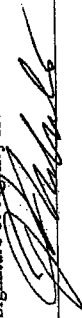
MEMORANDUM

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 whom pay application, renewal, permit and miscellaneous fees.

Date: 6/15/05

Signature of Agency Head or Authorized Representative



TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS
SERIES 3
FEES ESTABLISHED BY THE BOARD

§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 \$150.00
- 2.2. Re-examination fee for Dentists (Law Exam) \$20.00
- 2.3. Out of State Dentist - Dental Licensure Application \$100-00 \$250.00
- 2.4. Temporary Permit \$100-00 \$150.00
- 2.5. Dental Intern/Dental Residency Permit \$50-00 \$100.00
- 2.6. Teaching Permit \$100-00 \$150.00
- 2.7. Investigation of Qualification for Temporary, Dental Intern/Dental Residency or Teaching Permits \$50.00
- 2.8. Annual Information & Renewal fee for a Dentist -\$125-00 \$150.00

§5-3-53. Schedule of fees for Specialty Licensure for Dentists.

- 53.1. Dental Specialty Licensure Application \$300-00 \$450.00

§5-3-54 Schedule of Fees for Hygienists.

- 54.1. Dental Hygiene Licensure Application \$35-00 \$60.00
- 54.2. Re-examination fee for Dental Hygienists (Law Exam) \$10-00 \$20.00

34.3. Out of State Dental Hygienist - Dental Hygienist Licensure Application	\$50.00	\$100.00
34.4. Temporary Permit	\$100.00	
34.5. Teaching Permit	\$100.00	
34.6. Investigation of Qualification for Temporary, Dental Intern/Dental-Residency or Teaching Permits	\$50.00	
34.7. Annual Information & Renewal fee for a Dental Hygienist	\$50.00	\$55.00
4.8. Local Anesthesia Permit Application fee	\$25.00	
4.9. Nitrous Oxide Monitoring Permit Application fee	\$25.00	
4.10. Bleaching Permit Application fee	\$25.00	
§5-3-5. Schedule of Fees for Dental Assistants.		
5.1. Nitrous Oxide Monitoring Permit Application fee	\$25.00	
5.2. Orthodontic and/or Restorative Expanded Duties Permit Application fee	\$25.00	\$25.00
§5-3-46. Schedule of Fees for Dental Corporations.		
46.1. Application to Form a Dental Corporation	\$200.00	
46.2. Annual Registration renewal fee for a Dental Corporation	\$150.00	
§5-3-7. Schedule of fees for Anesthesia.		
7.1. Class Two Certification Application Fee	\$50.00	
7.2. Class Two Certification Renewal Fee	\$25.00	
7.3. Class Three or Four Permit Application Fee	\$600.00	
7.4. Class Three or Four Permit Renewal Fee	\$200.00	
§5-3-8. Schedule of fees for Professional Limited Liability Companies.		
8.1. Application to Form a Dental Professional Limited Liability Company	\$200.00	
8.2. Annual Renewal fee for a Professional Limited Liability Company	\$150.00	

§5-3-62. Schedule for Miscellaneous Fees.

69.1. Verification of Licensure to another State (Charge for licensee)	\$10.00	\$25.00
9.2. Verification of Licensure (other entities)	\$25.00	per name
9.3. Course approval application fee	\$100.00	
9.4. Duplicate renewal license	\$5.00	
9.5. Duplicate wall certificate	\$10.00	
9.6. Roster of Active Dental/Hygiene Licensees (paper, email or cd)	\$50.00	per list
9.7. Roster of Active Dental/Hygiene Licensees (labels)	\$100.00	per list
9.8. Roster of Active Dental/Hygiene Licensees (one county) (paper, email or labels)	\$10.00	per list
9.9. Miscellaneous Copies (first page) additional pages	\$3.00	\$0.25
9.10. Retrieval Fee	\$25.00	
§5-3-10. Late Renewal and Late Continuing Education Fees		
10.1. Any Dental, Dental Specialty, Hygiene, Anesthesia, Corporation, PLLC, etc. that fail to renew by the specified renewal date, either by statute or rule, shall be assessed a penalty fee equal to the renewal fee as required by statute or rule, in addition to other conditions of renewal as set forth by statute or rule.		
10.2. Any Licensee that fails to report their continuing education requirements as set forth by statute or rule by the required reporting date shall be assessed a penalty fee equal the annual renewal fee of said licensee.		
§5-3-11. Returned Checks.		
11.1. Returned Check Charge	\$25.00	
11.2. Failure to replace renewal or application fees due to a returned check and pay the returned check charge shall constitute grounds for denial, revocation or suspension of a license.		
§5-3-12. Non Refundable.		
12.1. All fees are non-refundable.		

SUMMARY OF RULE

This rule is proposed to regulate dental advertising and the protection of the public against misleading or deceptive advertising in the practice of dentistry in the State of West Virginia. While the Dental Practice Act of the State of West Virginia contains language for disciplinary measures for fraudulent or deceptive advertising, there is no advertising statute and/or rule currently setting forth advertising standards.

This rule will regulate the manner in which a dentist may advertise which includes but is not limited to: business cards, signs, insignias, letterheads, web pages, internet communications, radio, television, newspaper and magazine ads, and display or group ads or listings in telephone directories. This rule is intended for the protection of the public through regulation of advertising by Dentists in the State of West Virginia.

STATEMENT OF CIRCUMSTANCES

This rule is proposed to regulate dental advertising and the protection of the public against misleading or deceptive advertising in the practice of dentistry in the State of West Virginia. While the Dental Practice Act of the State of West Virginia contains language for disciplinary measures for fraudulent or deceptive advertising, there is no advertising statute and/or rule currently setting forth advertising standards.

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Dental Advertising

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 regulate the manner in which a dentist may advertise which includes but is not limited to: business cards, signs, insignias, letterheads, web pages, internet communications, radio, television, newspaper and magazine ads, and display or group ads or listings in telephone directories. This rule is intended for the protection of the public through regulation of advertising by Dentists in the State of West Virginia. This should not impact costs or revenues of the Board.

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	0.00	0.00	0.00

Rule Title: Dental Advertising

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

There will be no financial gain of the Board of Dental Examiners to regulate dental advertising.

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, if any, is expected to be on those individuals regulated by the Board.

Date: 6/15/05

Signature of Agency Head or Authorized Representative



TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

FILED
2005 JUL 28 P 3:43
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 8
DENTAL ADVERTISING

§5-8-1. General.

- 1.1. Scope. -- This rule regulates the advertising of the practice of dentistry.
- 1.2. Authority. -- W. Va. Code §30-4-6
- 1.3. Filing Date. --
- 1.4. Effective Date. --

§5-8-2. Definitions.

2.1. As used in this rule, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) "Board" means the West Virginia Board of Dental Examiners;

(b) "Advertising" means any communication, whether oral or written, between a dentist or other entity acting on behalf of one or more dentists and the public. It includes, but is not limited to: business cards, signs, insignias, letterheads, web pages, internet communications, radio, television, newspaper and magazine ads, and display or group ads or listings in telephone directories.

§5-8-3. Dentists may advertise.

3.1. Any advertising engaged in by a duly registered and currently licensed dentist in West Virginia shall be in compliance with the provisions set forth herein and as set forth in article four of this chapter.

3.2. A duly registered and currently licensed dentist may not use or participate in the use of any advertising containing a false, fraudulent, misleading, deceptive or unfair statement or claim.

3.3. Any advertisement must contain the name of or names of all of the duly registered and currently licensed dentists providing patient care and who are regularly employed in or responsible for the management, supervision and operation of each office location listed in the advertisement.

3.4. A duly registered and currently licensed dentist may:

(a) Use the titles or degrees, such as doctor, dentist, D.D.S. or D.M.D. if the dentist holds a degree or degrees from an accredited dental school. A dentist who has a medical degree may also use that degree;

(b) Use the title diplomate in connection with his or her specialty if he or she has been conveyed that status by the Specialty Board recognized by the American Dental Association and has

a current license to practice his or her specialty issued by the Board entitling him or her to engage in a specialty practice; and

(c) Use the words specialist, specializing in, limited to the specialty of, or practice limited to if the dentist has a current license to practice his or her specialty issued by the board entitling him or her to engage in a specialty practice.

§5-8-4. Announcement of Services.

4.1. Any announcement of services by a general practitioner shall state in a prominent manner that the dental practice is one of general dentistry.

4.2. The announcement of services of the general practice of dentistry shall be clearly legible, with print equal to or larger than the announcement of services, and clearly audible, with speech volume and pace equal to the announcement of services.

4.3. Any announcement or advertisement of general anesthesia or parenteral conscious sedation services, which includes but is not limited to sleep dentistry and twilight sleep, may only be allowed by a licensed dentist in compliance with the provisions of article four-a of this chapter.

4.4. Any duly registered and currently licensed dentist who directly or indirectly advertises the availability and price of goods, appliances or services shall do so in a clear and nondeceptive manner and include all material information necessary to fully inform members of the general public about the nature of the goods, appliances or services offered at the announced price. Any listed prices shall be extended for a reasonable period of time. Any advertised price for a routine service shall be a fixed price, with no range of fees, and no patient can be charged a fee in excess of that advertised price for that particular service.

4.5. Any consumer who receives any free services, examination or treatment, in response to an advertisement, from any duly registered and licensed dentist in West Virginia shall have the right to refuse to pay, cancel payment or be reimbursed for payment for any other service, examination or treatment which is performed as a result of and within seventy-two hours of receiving the free service, examination or treatment, unless the other service, examination or treatment is requested by the patient at the time she or he seeks the free offer. The dentist shall inform patients in writing of their rights under this section prior to the patient receiving the free service, examination or treatment.

4.6. Any advertising engaged in by a duly registered or licensed dentist in West Virginia containing an offer of a discount or a credit toward a fee, whether expressed in terms of a particular dollar amount or a particular percentage shall contain a statement of the highest fee normally charged by the advertising dentist for the services which the discount or credit applies and a statement of exactly what services are included in the offer. If the offer of a discount or credit applies to the full range of dental services offered by the dentist, then a fee schedule stating all fees for the dental services shall be made available to any person requesting it and its availability shall be noted in the advertisement.

§5-8-5. Articles, messages or newsletters.

5.1. Any dental health article, message or newsletter published under a dentist's byline to the public without making truthful disclosure of the source and authorship, or designed to give

rise to questionable expectations for the purpose of inducing the public to utilize the services of the sponsoring dentist, or designed to imply specialization or unusual expertise in a recognized specialty area unless the sponsoring dentist is currently licensed in the particular specialty area discussed in the article is a false, misleading or deceptive representation to the public.

§5-8-6. Compliance.

6.1. Any registered and currently licensed dentist in West Virginia failing to comply with the provisions of this article is subject to disciplinary action as provided in section twenty, article four of this chapter.

A notice was disseminated to the entire roster of licensed dentists and dental hygienists concerning the comment period for these proposed rules. There were no comments received regarding the content of these proposed rules. Therefore, no changes were made to the rules.