



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Dentistry WV Board of TITLE-SERIES: 5-08
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 5-08 Dental Advertising

PRIMARY CONTACT

NAME: WV Board of Dentistry
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CITE STATUTORY AUTHORITY: 30-4-6

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

30-4-6 is the section of the dental practice act giving the Board of Dentistry authority to propose rules necessary to implement it's statutes.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 5/31/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/1/2019

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Notice was placed on the Board's website as well as sent to the WV Dental & Dental Hygienist's associations for their review and comment.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

These rules deal with advertising. The Board wishes to reduce these rules to a minimum. There are provisions in the dental practice act sufficient to regulate advertising.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The Board wishes to reduce the rules in regards to dental advertising since the provisions in the dental practice act are sufficient to regulate advertising.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

This rule should have no impact on revenues of state government.

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

This rule should not have any impact on the state or its residents economically.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

This rule should not have an economic impact nor a impact of state revenue.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes
 Susan Combs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTISTRY

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. -- ~~April 1, 2014~~

1.4. Effective Date. -- ~~June 1, 2014~~

1.5. Sunset Date. -- This legislative rule shall terminate ten years from the effective date unless renewed prior to that 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:

2.1.a. "Board" means the West Virginia Board of Dentistry;

2.1.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

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be in compliance with the provisions set forth herein and WVC§30-4-1 et seq.

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 sedation services, may only be allowed by a licensed dentist in compliance with the provisions of WVC§30-4A-1 et seq.

~~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~~

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~~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 patient 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.~~

§5-8-65. Compliance.

~~65.1. 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.~~