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of Dental Examiners  
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## MONITORING OF PATIENTS UNDER ANESTHESIA

It has come to the attention of the Board that WV Dentists are, in some instances, misinterpreting the intent of the laws regarding dental anesthesia.

The dentist shall monitor and record the patient's condition or shall use an assistant qualified to monitor and record the patient's condition. A qualified monitor shall be present to monitor the patient at all times.

1. Class 3a/3b permit holders - It is acceptable, but not preferred, for the dentist to act as the qualified monitor. However, the dentist must do all of the necessary recordings of time and amount of medications given, along with the recordings of the patient's vital signs, as well as complete the dental procedures. The Board knows this is difficult to do and perform the necessary procedures on the patient at the same time. This is why the proper guidelines have been set up to encourage the dentist to have additional qualified monitor personnel to help care for the patient and to assist in the event of an anesthesia emergency. **Class 4 permit holders must always utilize qualified monitor personnel.**

2. Class 3a/3b permit holders - It must also be stressed that if the dentist is not utilizing a qualified monitor in the care of the patient, then at no time from the start of sedation until discharge of the patient, including complete recovery and into the care of an adult that will transport the patient from their office, is the dentist permitted to physically leave this patient unattended. **(The dentist cannot leave the patient) Class 4 permit holders must always utilize qualified monitor personnel.**

It has been found and noted that there are many 3a and 3b permit holders who do not utilize qualified anesthesia monitors within their staff to aid in the care of their sedation patients.

All permit holders are expected to practice the standard of care through the guidelines that have been established in accordance with the true intent of the dental anesthesia law. If an emergency would occur, having a qualified monitor along with the dentist makes good sense.

If you do have a 3a/3b or 4 permit herein described, please review the dental anesthesia law, §30-4A-1 et seq. of the West Virginia Code. The Board encourages all 3a/3b permit holders to employ a qualified monitor person for the safety of your patients and peace of mind for you and your staff.

**See Page 4 for Important Late Fee Information**

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### MEMBERS OF THE BOARD

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Bernard J. Grubler, DDS  
Mrs. Dina Angone Vaughan, BSDH, MS  
H. Richard Marshall, Jr., DDS  
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Mrs. Debra D. Dent, CDA  
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### STAFF

Marc L. Harman, Executive Secretary  
Susan M. Combs, Administrative Secretary  
Carolyn A. Brewer, Office Assistant II

## CORPORATION & PLLC RENEWALS

Corporation and PLLC renewals require copies of certain forms to be attached to the renewal form in order to continue authorization for the Corporation or PLLC. The Board has several Corporations and PLLCs that are in continued default status in violation of the Board's rules. Currently the Board is following complaint procedures to resolve these matters which could result in **disciplinary actions against the licensees.**

### PLLC OR CORPORATION NAMES AND NAME CHANGES

Only actively practicing dentists may be incorporators of a Dental PLLC or Dental Corporation. The PLLC or 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.

**All PLLC or Corporation name changes must be approved by the Board and will be forwarded to the Secretary of State directly by the Board.**

### REPORTING OF IMPAIRED PRACTITIONERS

As a licensed professional in the State of West Virginia, if you work for or with or have knowledge of a person who is licensed by the Board and is a danger to the public due to impairment or any other means, you are legally obligated to report that licensee to the Board. Disciplinary actions may be taken against any licensee that fails to do so.

### PRESCRIBING AND CHRONIC PAIN ISSUES

The Board has noted a growing number of dentists who are over-prescribing narcotics for dental procedures and chronic pain cases. The Board is conducting numerous investigations and has issued formal complaints concerning over-prescribing and the treatment of chronic pain. The Board will be taking a firm stand regarding these issues in order to protect the health, safety, and welfare of the public.



## DEFAULTED EMPLOYERS

During the past licensure renewal period, the Board denied the issuance of renewal certificates to fourteen (14) licensees listed as in default with WV Worker's Compensation Division, now Brick Street, or the Unemployment Compensation Division. All licensees corrected the default status, and licenses were issued before the May 1<sup>st</sup> suspension deadline.

New Corporations or PLLCs will not be authorized if a dentist is listed as being in default with Worker's Compensation Division or Unemployment Compensation Division.

Should a licensee be in a continued default status without resolution, the Insurance Commission will request revocation of the professional license and the Board will act upon that request.

## CONTINUING EDUCATION REQUIREMENTS

The required amount of continuing education credits for dentists and hygienists has increased. Dentists are required to obtain thirty-five (35) hours and hygienists twenty (20) hours within a continuing education period, with at least two (2) of those hours relating to infection control and/or occupational hazards, oral effects of tobacco use, or the oral effects of substance abuse.

The CE reporting form has been altered to make your reporting of specific hours simpler. There are now sections for lecture courses, home-study courses, and your infection control, drug abuse, and/or substance abuse courses. Please record your hours accordingly.

Monitor your courses carefully. Do not have more home-study courses than is allowed.

Your documentation must have your name, the name of the course, and the number of credit hours allowed for the course.

Courses that pertain to **money management and/or personal business matters** are not approved for continuing education credit according to the Board's Rules.

A copy of the CE requirements is attached. Please familiarize yourself with its content, and maintain the copy for future reference.

## INFECTION CONTROL STANDARDS

The Board is seeing an increasing number of complaints regarding infection control. All dentists & hygienists should strictly follow the American Dental Association Policy Statement on Bloodborne Pathogens, Infection Control and the Practice of Dentistry. The Board will not tolerate anything less.

## REPORTING OF DEATH, SERIOUS COMPLICATIONS OR INJURY

If a death, complication or injury occurs from the administration of general anesthesia/deep conscious sedation, conscious sedation, anxiolysis or relative analgesia, the licensee performing the dental procedure must submit a written detailed report to the Board within five (5) days of the incident, along with copies of the patient's original dental records. If the anesthetic agent was administered by a person other than the person performing the dental procedure, that person must also submit a detailed written report. The report(s) must include:

- (1) Name, age and address of patient;
- (2) Name of the licensee and other persons present during the incident;
- (3) Address where the incident took place;
- (4) Type of anesthesia and dosages of drugs administered to the patient;
- (5) A narrative description of the incident including approximate times and evolution of symptoms; and
- (6) The anesthesia record and the signed informed consent form for the anesthesia when required.

### LICENSURE STATISTICS

	DENTAL	HYGIENE
Total Active Licenses	1,248	1,201
Total Retired Licenses	175	132
Total Practicing In State	859	782

### EXPANDED DUTIES CERTIFICATE STATISTICS

Local Anesthesia 114	Bleaching 225
Nitrous (Hygiene) 168	Nitrous (Assistants) 581

Restorative & Ortho Expanded Duties total 625

#### Breakdown of Restorative & Ortho Certificates

Ortho 166	Restorative 447
Ortho & Restorative 12	

## DISCIPLINARY ACTIONS

**Dr. Michael J. Clair** - Revocation per revocation in the State of Maryland and the State of Florida. Assessed costs of \$742.51.

**Dr. Matthew M. Riffie** - Voluntary Surrender per revocation in the State of Maryland.

**Dr. Michael A. Hazey, II** - Consent Decree and Order. License Suspended for one year with all but ninety days stayed for violation of the Dental Practice Act. Assessed costs of \$1,400.00.

## ANXIOLYSIS & ENTERAL SEDATION CERTIFICATE OR PERMIT REQUIRED

Effective July 8, 2005, the new anesthesia law took effect in the State of West Virginia. The law requires dentists who prescribe a single pre-med for anxiety, **combined** with nitrous oxide, obtain a certificate to do so. This certificate is known as a Class 2 certificate for anxiolysis.

The law also requires those using multiple dosing beyond the recommendations of the manufacturer, with or without the use of nitrous oxide, to obtain conscious sedation obtain a permit to do so. This permit is known as a Class 3a permit for enteral sedation.

Should you be inducing these types of sedation without a certificate or permit, you are in violation of the law and will be disciplined accordingly.

Should you need to obtain a certificate or permit, you may contact the Board office for an application.

A single pre-med, within the recommended dose of the manufacturer, does not require a permit.

The use of nitrous oxide alone does not require a permit.

### ANESTHESIA PERMIT STATISTICS

Class 2 (anxiolysis)	22
Class 3A (enteral)	23
Class 3B (parenteral)	10
Class 4 (general)	36

## WE HAVE MOVED!!!!

The Board has moved its office to a new location in Crab Orchard, West Virginia. Please send all correspondence to the Board's new mailing address as follows:

PO Box 1447  
Crab Orchard, WV 25827-1447

### NEW FEE SCHEDULE/LATE FEES

The Board office advises all licenses to review the rules regarding fees and late fees.

Any Dental, Dental Specialty, Hygiene, Anesthesia licensee or Dental Corporation, PLLC, etc. that fails to renew by the specified renewal date, **shall be assessed a penalty fee equal to the renewal fee** as required by statute or rule, in addition to other conditions of renewal.

Any Licensee that fails to report his/her continuing education requirements by the required reporting date **shall be assessed a penalty fee equal the annual renewal fee of said licensee.**

Dental annual renewal fees are \$150. A penalty of \$150, as well as \$150 late fee for the CE form, will be assessed if renewals are not received by February 1, 2008.

Hygiene annual renewal fees are \$65. A penalty fee of \$65, as well as \$65 late fee for the CE form, will be assessed if renewals are not received by February 1, 2008.

The Board's fee schedule, which includes miscellaneous fees not previously charged, is available for review at the Board's web site [www.wvdentalboard.org](http://www.wvdentalboard.org)

### NOTE CONCERNING RENEWALS

The Board's staff urges licensees to renew their licenses in a timely manner to avoid late fees and to help prevent the loss of applications. This is a CE reporting year. If your renewal and CE forms are not received by Feb. 1, 2008, a late fee shall be assessed for each reporting form equal to the annual renewal fee of said licensee.



### *Before you perform those Duties...*

The Board reminds all dental auxiliary and employer dentists to secure the necessary certificates to do expanded duties that require a board-approved course and/or testing.

Completion of a board-approved course and/or testing does not authorize you to practice these privileges until your application is completed and a certificate is issued.

Performing such duties without a certificate issued by the Board of Dental Examiners is a violation.

**ALSO**, when applying for an expanded-duties certificate (restorative and orthodontic assistant, nitrous monitoring, bleaching and/or local anesthesia), a fee of \$25 per application will be charged.

### NEXT SCHEDULED BOARD MEETINGS

January 4 & 5, 2008

Board Office

Crab Orchard, West Virginia

March 28 & 29, 2008

Location To Be Announced

### RELEASE OF PATIENT RECORDS

Make available to patients copies of their records when requested. **(Do not release original records - only copies)**. Charges are not to exceed .75¢ per page and search fee not to exceed \$10.00, per West Virginia Code §16-29-1 and 2.

The Board continues to see quite a few complaints every year on this subject. **RECORDS CANNOT BE HELD HOSTAGE FOR UNPAID ACCOUNT BALANCES.**

### TRADE NAMES

The rules of the Board prohibit the use of trade or firm names for the practice of dentistry and allow only the use of a dentist and/or dentists own true name(s). The Board will be taking a more aggressive approach in enforcing these rules.

## DENTAL ADVERTISING

On March 11, 2006, the Legislature passed the Board's rule concerning dental advertising. This rule went into effect May 1, 2006, and regulates the advertising of the practice of dentistry in the State of West Virginia. You may visit the Board's web site at [www.wvdentalboard.org](http://www.wvdentalboard.org) to print a copy of these rules.

In addition to reviewing these new rules, please review the Dental Practice Act, which is also on our web site. The Board has received complaints concerning advertisements being placed by dentists in phone directories, magazines, newspapers, etc.

A person may not present themselves as a specialist of an area of dentistry unless actually licensed in that specialty area.

Do not advertise as a specialist in an area of dentistry that is not a recognized specialty, **i.e. cosmetic dentistry or laser dentistry.**

You may not claim or give the impression of professional superiority or the performance of professional services in a superior manner.

Do not guarantee any dental services.

Do not advertise pain-free dental treatment.

Do not advertise in any manner that is false or misleading in any material respect.

If you are a general dentist, state in your ads that you are a general dentist and not a specialist. For Example:

### **General Dentistry**

#### **We Are Not Licensed Specialists**

The use of titles such as DDS, DMD and MD are allowed. Use of specialty diplomates and degrees are allowed only if it is a recognized specialty of the ADA and the individual(s) have obtained a specialty certificate from the Board allowing him or her to engage in a specialty practice.

Claims made in ads must be truthful and substantiated by competent and reliable evidence. Please pay close attention when approving ads concerning your practice. You are responsible to ensure the ads are not in violation of the Dental Practice Act or the Board's rules.

**All ads should be approved by the licensee(s) and not office staff!**

The Board has sent several educational and/or cease and desist letters concerning advertisements and will be reviewing particular dentists' ads in the future to ensure compliance with the rules. Should a dentist be found guilty of violating the laws and/or rules, a fine may be assessed up to \$1,000 per day per violation.

## THE BOARD'S WEBSITE

[www.wvdentalboard.org](http://www.wvdentalboard.org)

The following information is available on the Board's website:

Board member's names and term expirations;

Staff members names;

The Board's address, telephone & fax number;

The Board's Calendar;

The Board's past newsletters;

NERB Consultant Examiner information;

Statement concerning use of lasers;

Statement concerning use of Oraqix;

Meeting notices and Agendas;

Dental application for licensure;

Dental Hygiene application for licensure;

Anesthesia application for permit;

Approved Anesthesia permit courses;

Approved Anesthesia monitor courses;

Specialty application for specialty licensure;

CE Course Approval application;

Dental Corporation application;

PLLC application;

Complaint form;

Dental Laws 30-4, 30-4A & 30-4B; and

Dental regulations Series 1 through 9.

**“MONTANI SEMPER LIBERI”**



**Mountaineers Are Always Free!!!**

## CONTINUING EDUCATION AUDITS

The Board is currently conducting an audit of CE credits for the period of February 1, 2004 through January 31, 2006. A total of 100 licensees have been audited with 97 successfully completing the audit thus far.

Common areas of concern seen during this audit are as follows:

Homestudy exceeding the number of hours allowed;

Documentation does not match courses reported on the Board form;

Documentation not being retained or lost by the licensee;

Courses on Investments and Estate Planning that are not allowed for credit; and

Duplicate courses taken during a CE period.

Below are the requirements for continuing education.

## PLEASE RETAIN THIS INFORMATION FOR FUTURE REFERENCE.

### CONTINUING EDUCATION REQUIREMENTS

10.1. Hours Required Biennially. Each licensed dentist shall complete biennially not less than thirty five (35) hours of continuing education. Each licensed dental hygienist shall complete biennially not less than twenty (20) hours of continuing education.

#### 10.2. Approved Providers.

(a) The Continuing Education course must be offered by a Board approved provider.

(b) The Board approves any course or program sponsored by the following providers, or their constituent or component organizations for credit:

(1) An accredited dental or dental hygiene school;

- (2) The American Dental Association;
- (3) A National Dental Association;
- (4) The American Dental Hygienists' Association;
- (5) The National Dental Hygiene Association;
- (6) The American Medical Association;
- (7) The American Hospital Association;
- (8) The American Red Cross;
- (9) The American Heart Association;
- (10) American Dental Association recognized specialty societies;
- (11) The Academy of General Dentistry;
- (12) The Veteran's Administration;
- (13) The United States Uniformed Services;
- (14) The U. S. Department of Health and Human Services;
- (15) The W. Va. Department of Health and Human Resources;
- (16) The W. Va. Dental Association;
- (17) The W. Va. Dental Hygienists' Association; and
- (18) Study Clubs: "Study Club" means a group of at least five (5) dentists or dental hygienists who do the following:
  - (i) Organize for the purpose of scientific study;
  - (ii) Operate under the direction of elected officers;
  - (iii) Maintain written by-laws;
  - (iv) Conduct regular meetings; and
  - (v) Maintain written attendance records of all meetings.

(c) Providers not identified in subdivision (b) of this subsection may petition the Board for approval of continuing education that they offer. The Board may approve other sponsors of continuing education credits. The Board's approval expires after two consecutive years and must be renewed. The course or program must be designed to enhance the licensee's clinical knowledge and ability to treat dental patients.

(d) Courses or programs that are not approved for continuing education credit for license renewal include, but are not limited to, those on the subjects of money management, personal finance, personal business matters, cultural subjects, personal health and recreation, politics, memory training, and speed reading.

#### 10.3. Record Keeping, Reporting, & Monitoring:

(a) It is the responsibility of each dentist and dental hygienist to maintain and compile accurate records relating to all continuing education courses he or she has successfully completed.

(b) The records and information pertaining to each year shall be maintained for a period of six (6) years.

(c) A licensee shall report all continuing education courses on the form provided by the Board. The licensee shall submit records relating to continuing education courses to the Board at the time of license renewal.

(d) The Board shall randomly audit the continuing education records maintained by each dentist and dental hygienist.

(e) Each dentist and dental hygienist shall submit to the Board by February 1, 1996, and every two years thereafter documentation of satisfactory completion of the required hours of continuing education during the previous two years.

#### 10.4. Criteria.

(a) The Board shall not give continuing education credit for identical courses taken during the same continuing education reporting period.

(b) The Board shall give one hour of credit for each hour of attendance and an hour of attendance is defined as fifty (50) minutes.

(c) At least two (2) hours of continuing education shall be related to any one or combination of the following subjects during each continuing education reporting period :

- (1) infection control and/or occupational hazards;
- (2) oral effects of tobacco use; or
- (3) oral effects of substance abuse.

(d) A current certification for a Health Care Provider/Basic Life Support course recognized by the American Heart Association or American Red Cross shall be required each continuing education period, and such certification will count as continuing education credits.

10.5. Categories of Credit. The licensee may select areas of study within the following categories, not to exceed the maximum number of hours in each category.

(a) Educational and scientific courses - One hundred percent (100%) of the requirement may be obtained by Educational and scientific courses given by permanent or Board-approved biennial sponsors.

(b) Supervised self-instruction - Fifty percent (50%) of the requirement may be obtained in this category. Supervised self-instruction shall include a testing mechanism supplied by a permanent or Board approved biennial sponsor. The licensee shall complete a test and demonstrate a level of comprehension before the Board will award credit. Tests shall be graded by the sponsor and results returned to the licensee. Supervised self-instruction includes, but is not limited to:

- (1) Graded audio/video courses;
- (2) Graded correspondence courses; and
- (3) Graded computer courses.

(c) Non-supervised self-instruction - A maximum of ten percent (10%) of the requirement may be obtained in the category. Non-supervised self-instruction includes, but is not limited to:

- (1) Home study - journals and publications;
- (2) Correspondence programs;
- (3) Educational television;
- (4) Audio/video programs;
- (5) Scientific exhibits; and
- (6) Study clubs other than biennial sponsors.

(d) Scientific papers, publications, and scientific presentations - A maximum of ten percent of the

requirement may be obtained in the category of papers, publications, and scientific presentations; A maximum of ten percent (10%) may also be obtained for original scientific papers authored by the licensee and published in a scientific professional journal, and the original presentation of papers, essays, or formal lectures to recognized groups of fellow professionals.

(e) Teaching and research appointments - A maximum of ten percent (10%) of the requirement may be obtained in this category. Licensees involved in teaching or research activities at an accredited institution, or a part time faculty or research appointment may also receive a maximum ten percent (10%) of the requirement.

(f) Original table clinics and scientific exhibits - A maximum of ten percent (10%) of the requirement may be obtained in the category of original table clinics and scientific exhibits.

(g) The Board recognizes successful completion of the following written examinations as satisfying the number of required hours of continuing education in the applicable reporting period:

(1) North East Regional Board's (NERB) Dental Hygiene Comprehensive Examination (for hygienists only);

(2) NERB's Diagnosis and Oral Radiology plus Comprehensive Treatment Planning Examinations;

(3) Academy of General Dentistry's Fellowship Examination;

(4) Examinations leading to recognized Specialty Boards' Diplomate status;

(5) National Board - All parts, successfully completed;

(6) Central Regional Dental Testing Agency's Written Examinations;

(7) Southern Regional Testing Agency's Written Examinations;

(8) Western Regional Examining Board's Written Examination; and

(9) any other written exam approved by the Board.

(h) Compliance: Compliance with this rule is required for all licensees seeking license renewal beginning February 1, 1994, and biennially thereafter.

#### 10.6. Dental Committee and Indigent Care Participation.

(a) The Board recognizes those individuals that are serving, (as elected, or appointed members), on national, state and local dental, or dental hygiene boards, councils or committees and allows one (1) hour of continuing education credit for every four (4) hours of meeting time to those individuals. This amount cannot exceed more than Five (5) hours of the total biennial requirement for each classification of licensee.

(b) Dentists may earn up to five (5) hours and Dental Hygienists may earn up to three (3) hours of continuing education credit requirements, per biennial period, for providing dental care to indigent patients.

One-half (.5) hour credit will be allowed for every hour of documented treatment.

10.7. Recent graduates licensed within one (1) year of a continuing education reporting period are not required to fulfill continuing education requirements for the first continuing education reporting period. Retired or disabled dentists or dental hygienists are not required to fulfill continuing education requirements.

#### 10.8. Penalties for Violation.

(a) The Board shall not renew the license of any licensee who fails to meet the requirements of this section.

(b) A licensee who has been found to have not fulfilled the continuing education requirements of the Board shall be required to pay a penalty as set by the Board's fee schedule 5CSR3 and has six (6) months in which to satisfy the requirements.

(c) A false statement on a renewal form constitutes unprofessional conduct and may result in disciplinary action against the licensee as set forth in W. Va. Code §30-4-20.

