

**WEST VIRGINIA CODE CHAPTER 30. PROFESSIONS AND OCCUPATIONS.
ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.**

§30-4-1. License required to practice.

In order to protect public health and safety, any person practicing or offering to practice as a dentist or dental hygienist must submit evidence that he or she is qualified to practice and is licensed as provided in this article.

§30-4-2. Short title.

This article shall be known and may be cited as the "West Virginia Dental Practice Act".

§30-4-3. Definitions.

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

(1) "Approved dental hygiene program" means a program that is approved by the board and is accredited or its educational standards are deemed by the board to be substantially equivalent to those required by the Commission on Dental Accreditation of the American Dental Association.

(2) "Approved dental school, college or dental department of a university" means a dental school, college or dental department of a university that is approved by the board and is accredited or its educational standards are deemed by the board to be substantially equivalent to those required by the Commission on Dental Accreditation of the American Dental Association.

(3) "Authorize" means that the dentist is giving permission or approval to dental auxiliary personnel to perform delegated procedures in accordance with the dentist's diagnosis and treatment plan.

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

(5) "Certificate of qualification" means a certificate authorizing a dentist to practice a specialty.

(6) "Delegated procedures" means those procedures specified by law or by rule of the board and performed by dental auxiliary personnel under the supervision of a licensed dentist.

(7) "Dental assistant" means a person qualified by education, training and experience who aids or assists a dentist in the delivery of patient care in accordance with delegated procedures or who may perform nonclinical duties in the dental office: *Provided*, That no occupational title other than dental assistant shall be used to describe this auxiliary.

(8) “Dental auxiliary personnel” or “auxiliary” means dental hygienists and dental assistants who assist the dentist in the provision of oral health care services to patients.

(9) “Dental hygienist” means a person licensed by the board who provides preventative oral health care services to patients in the dental office and in a public health setting: *Provided*, That no occupational title other than dental hygienist may be used to describe this auxiliary.

(10) “Dental laboratory” means a dental laboratory as defined in section one, article four-b of this chapter.

(11) “Dental office” means the place where the licensed dentist and dental auxiliary personnel are practicing dentistry.

(12) “Dental prosthesis” means an artificial appliance fabricated to replace one or more teeth or other oral or peri-oral structure in order to restore or alter function or aesthetics.

(13) “Dentist” means an individual licensed by the board to practice dentistry.

(14) “Dentistry” means the evaluation, diagnosis, prevention and treatment of diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures provided by a dentist.

(15) “Direct supervision” means supervision of dental auxiliary personnel provided by a licensed dentist who is physically present in the dental office or treatment facility when procedures are being performed.

(16) “General supervision” means a dentist is not required to be in the office or treatment facility when procedures are being performed by the auxiliary dental personnel, but has personally diagnosed the condition to be treated, has personally authorized the procedures and will evaluate the treatment provided by the dental auxiliary personnel.

(17) “Good moral character” means a lack of history of dishonesty.

(18) “License” means a license to practice dentistry or dental hygiene.

(19) “Licensee” means a person holding a license.

(20) “Public health practice” means treatment or procedures in a public health setting which shall be designated by a rule promulgated by the Board of Dental Examiners to require direct, general or no supervision of a dental hygienist by a licensed dentist.

(21) “Public health setting” means hospitals, schools, correctional facilities, jails, community clinics, long-term care facilities, nursing homes, home health agencies, group homes, state

institutions under the West Virginia Department of Health and Human Resources, public health facilities, homebound settings, accredited dental hygiene education programs and any other place designated by the board by rule.

(22) "Specialty" means the practice of a certain branch of dentistry.

§30-4-4. Board of dental examiners.

(a) The "West Virginia Board of Dental Examiners" is hereby continued. The members of the board in office on the date this section takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(b)(1) Commencing with the board terms beginning the first day of July, two thousand one, the board shall consist of nine members appointed for terms of five years by the governor with the advice and consent of the Senate. Six members must be licensed dentists, one member must be a licensed dental hygienist, one member must be a nationally certified dental assistant and one member must be a citizen member who is not licensed under the provisions of this article and who is not a dental assistant or a person who performs any services related to the practice of dentistry.

(2) Each licensed or certified member of the board, at the time of his or her appointment, must have held a license in this state or have been nationally certified for a period of not less than five years immediately preceding the appointment and each member must be a resident of this state during the appointment term.

(3) No person connected with a commercial entity that may derive financial gain from the profession of dentistry and no person connected with a dental college, school or dental department of a university is eligible for appointment to the board.

(4) Each appointment of a licensed dentist, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees selected by the West Virginia dental association; each appointment of a licensed dental hygienist, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees selected by the West Virginia dental hygienists' association; and each appointment of a dental assistant, whether for a full term or to fill a vacancy, shall be made by the governor from among three nominees selected by the West Virginia dental assistants' association. If the appointment is for a full term, the nominations must be submitted to the governor not later than eight months prior to the date on which the appointment becomes effective. If the appointment is to fill a vacancy, the nominations must be submitted to the governor within thirty days after a request for the nominations have been made by the governor to the president of the West Virginia dental association, president of the West Virginia dental hygienists' association or president of the West Virginia dental assistants' association. If the association fails to submit to the governor nominations for an appointment in accordance with the requirements of this section, the governor may make the appointment without the nominations.

(c) No member may serve more than two consecutive full terms and any member having served two full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified.

(d) The governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(e) Any member of the board immediately and automatically forfeits his or her membership if he or she has his or her license to practice dentistry or dental hygiene suspended or revoked by the board, is convicted of a felony under the laws of any state or the United States or becomes a nonresident of this state.

(f) Each member of the board shall receive compensation and expense reimbursement in accordance with section eleven, article one of this chapter.

§30-4-5. Powers of the board.

The board has all the powers set forth in article one of this chapter and in addition may:

- (1) Sue and be sued in its official name as an agency of this state;
- (2) Hire, fix the compensation of and discharge the employees necessary to enforce the provisions of this article;
- (3) Examine and determine the qualifications of any applicant for a license;
- (4) Examine and determine the qualifications of any applicant for a certificate of qualification;
- (5) Issue, renew, deny, suspend, revoke, limit or reinstate licenses and discipline licensees;
- (6) Issue, renew, deny, suspend, revoke, limit or reinstate certificates of qualification and discipline holders of a certificate of qualification;
- (7) Investigate alleged violations of the provisions of this article and article four-b of this chapter reasonable regulations promulgated hereunder and orders and final decisions of the board;
- (8) Conduct hearings upon charges calling for discipline of a licensee or revocation or suspension of a license;
- (9) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and

(10) Take all other actions necessary and proper to effectuate the purposes of this article.

§30-4-6. Rule-making authority.

(a) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article including, but not limited to, the following:

(1) The examinations administered under this article;

(2) Issuing and renewing a license;

(3) Issuing temporary permits, teaching permits and dental intern or resident permits;

(4) Specialities that a dentist may practice;

(5) Issuing and renewing a certificate of qualification;

(6) Denying, suspending, revoking, reinstating or limiting the practice of a licensee or certificate of qualification;

(7) Continuing education requirements for licensees;

(8) Delegated procedures to be performed by a dental hygienist;

(9) Designating the services and procedures requiring or allowing direct supervision, general supervision and public health practice to be completed and filed as an emergency rule no later than the first day of July, two thousand eight;

(10) Delegated procedures to be performed by a dental assistant;

(11) Use of firm or trade names;

(12) Dental corporations; and

(13) Professional conduct requirements.

(b) All rules in effect on the effective date of this article shall remain in effect until they are withdrawn, revoked or amended.

§30-4-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be

deposited in a separate special revenue fund in the state treasury and be used for the administration of this article. Except as may be provided in section eleven, article one of this chapter, the board shall retain the amounts in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the general revenue fund.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the general revenue fund of the state treasury.

§30-4-8. License requirements; dentists.

(a) The board shall issue a license to practice dentistry to an applicant who meets the following requirements:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Is a graduate of and has a diploma from an approved dental college, school or dental department of a university;

(4) Has passed an examination that tests the applicant's knowledge of subjects specified by the board by rule: *Provided*, That the board may recognize a certificate granted by the national board of dental examiners in lieu of the examination or part of the examination that the board requires;

(5) Has not been found guilty of cheating, deception or fraud in the examination or any part of the application; and

(6) Has paid the application fee specified by rule.

(b) A license to practice dentistry issued by the board prior to the first day of February, two thousand one, shall for all purposes be considered a license issued under this section: *Provided*, That a person holding a license issued prior to the first day of February, two thousand one, must renew the license pursuant to section twelve of this article.

§30-4-8a. Special volunteer dental license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer dental license for dentists retired or retiring from the active practice of dentistry who wish to donate their expertise for the dental care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the

delivery of health care services without charge. The special volunteer dental license shall be issued by the West Virginia Board of Dental Examiners to dentists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the board's other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the dentist's acknowledgment that:

(1) The dentist's practice under the special volunteer dental license will be exclusively devoted to providing dental care to needy and indigent persons in West Virginia;

(2) The dentist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any dental services rendered under the special volunteer dental license;

(3) The dentist will supply any supporting documentation that the board may reasonably require; and

(4) The dentist agrees to continue to participate in continuing dental education as required by the board for a special volunteer dental license.

(b) Any dentist who renders any dental service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer dental license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the dental service at the clinic unless the act or omission was the result of the dentist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the dentist and the clinic pursuant to which the dentist will provide voluntary uncompensated dental services under the control of the clinic to patients of the clinic before the rendering of any services by the dentist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a dentist rendering voluntary dental services at or for the clinic under a special volunteer dental license authorized under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, except the fee requirements of subdivision (6) of that section and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer dental license to any dentist whose dental license is or has been subject to any disciplinary action or to any dentist who has surrendered a dental license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her dental license, or who has elected to place a dental license in inactive status in lieu of having a complaint initiated or other action taken against his or her dental license, or who has been denied a dental license.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any dentist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a dentist who holds a special volunteer dental license.

§30-4-9. Dentist from another state; license to practice dentistry in this state.

The board may issue a license to practice dentistry to an applicant of good moral character who holds a valid license to practice dentistry from another state if the applicant demonstrates that:

(1) He or she holds a license to practice dentistry in another state which was granted after completion of educational requirements substantially equivalent to those required in this state;

(2) He or she holds a license to practice dentistry in another state which was granted after passing, in that or another state, an examination that is substantially equivalent to the examination required in this state;

(3) He or she is not currently being investigated by a disciplinary authority of another state, does not have charges pending against his or her license to practice dentistry and has never had a license to practice dentistry revoked;

(4) He or she has not previously failed an examination for licensure as a dentist in this state;
and

(5) He or she has paid the application fee specified by rule.

§30-4-10. License requirements; dental hygienist.

(a) The board shall issue a dental hygienist license to an applicant who meets the following requirements:

- (1) Is at least eighteen years of age;
- (2) Is of good moral character;
- (3) Is a graduate with a degree in dental hygiene from an approved dental hygiene program of a college, school or dental department of a university;
- (4) Has passed the national board dental hygiene examination, a regional or state clinical examination and a state law examination that tests the applicant's knowledge of subjects specified by the board by rule;
- (5) Has not been found guilty of cheating, deception or fraud in the examination or any part of the application; and
- (6) Has paid the application fee specified by rule.

(b) A dental hygienist license issued by the board prior to the first day of February, two thousand one, shall for all purposes be considered a dental hygienist license issued under this section: *Provided*, That a person holding a dental hygienist license issued prior to the first day of February, two thousand one, must renew the license pursuant to section twelve of this article.

§30-4-10a. Special volunteer dental hygienist license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer dental hygienist license for dental hygienists retired or retiring from the active practice of dental hygiene who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer dental hygienist license shall be issued by the West Virginia board of dental examiners to dental hygienists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the dental hygienist's acknowledgment that:

- (1) The dental hygienist's practice under the special volunteer dental hygienist license will be exclusively devoted to providing dental hygiene care to needy and indigent persons in West Virginia;
- (2) The dental hygienist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any dental hygiene services

rendered under the special volunteer dental hygienist license;

(3) The dental hygienist will supply any supporting documentation that the board may reasonably require; and

(4) The dental hygienist agrees to continue to participate in continuing professional education as required by the board for the special volunteer dental hygienist.

(b) Any dental hygienist who renders any dental hygiene service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer dental hygienist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the dental hygiene service at the clinic unless the act or omission was the result of the dental hygienist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the dental hygienist and the clinic pursuant to which the dental hygienist will provide voluntary uncompensated dental hygiene services under the control of the clinic to patients of the clinic before the rendering of any services by the dental hygienist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a dental hygienist rendering voluntary dental hygiene services at or for the clinic under a special volunteer dental hygienist license authorized under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section ten of this article and in the legislative rules promulgated thereunder, except the fee requirements of subdivision six of that section and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer dental hygienist license to any dental hygienist whose license is or has been subject to any disciplinary action or to any dental hygienist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her dental hygienist license, or who has elected to place a dental hygienist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a dental hygienist license.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any dental hygienist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives

or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a dental hygienist who holds a special volunteer dental hygienist license.

§30-4-11. Dental hygienist from another state; license to practice dental hygiene in this state.

The board may issue a dental hygiene license to an applicant who holds a valid dental hygiene license from another state if the applicant demonstrates that:

(1) He or she holds a dental hygiene license in another state which was granted after completion of educational requirements substantially equivalent to those required in this state;

(2) He or she holds a dental hygiene license in another state which was granted after passing, in that or another state, an examination that is substantially equivalent to the examination required in this state;

(3) He or she is not currently being investigated by a disciplinary authority of another state, does not have charges pending against his or her dental hygiene license and has never had a dental hygiene license revoked;

(4) He or she has not previously failed an examination for licensure as a dental hygienist in this state; and

(5) He or she has paid the application fee specified by rule.

§30-4-12. License renewal; conditions of renewal.

(a) The board shall renew a license to practice dentistry or dental hygiene for a one-year period after its issue in accordance with procedures specified by rule.

(b) The board shall charge a fee for each renewal of a license to practice dentistry or dental hygiene in amounts specified by rule.

(c) The board shall require as a condition for the renewal of a license to practice dentistry or dental hygiene that each dentist and dental hygienist participate in continuing professional education in accordance with the requirements specified by rule.

§30-4-13. Temporary permits; dental intern or resident permit; teaching permit; dentist.

(a) The board may issue a temporary permit to practice dentistry to an applicant who:

(1) Has graduated from an approved dental college, school or dental department of a university with a degree in dentistry;

(2) Has been offered employment under the direct supervision of a licensed dentist;

(3) Has paid the application fee specified by rule; and

(4) Meets the other qualifications specified by rule by the board in accordance with the provisions of this article.

(b) A temporary permit to practice dentistry may not be renewed and expires on the earlier of:

(1) The date the dentist ceases to be under the direct supervision of a licensed dentist; or

(2) Sixty days after issuance.

(c) The board shall issue a dental intern or dental resident permit to an applicant who meets the qualifications set forth in subdivisions (1), (3) and (4), subsection (a) of this section and who has been accepted as a dental intern or dental resident by a licensed hospital or dental school in this state which maintains an established dental department under the supervision of a licensed dentist.

(d) The dental intern or dental resident permit may be renewed and expires on the earlier of:

(1) The date the permit holder ceases to be a dental intern or dental resident; or

(2) One year after the date of issue.

(e) The board shall issue a teaching permit to an applicant who meets the qualifications set forth in subdivisions (1), (3) and (4), subsection (a) of this section and who has been certified by the dean of a dental school located in this state to be a member of the teaching staff of the dental school.

(f) A teaching permit is valid for one year from the date of issue and may be renewed.

(g) While in effect, a temporary permit to practice dentistry, a permit to practice as a dental intern or dental resident and a teaching permit are subject to the restrictions and requirements imposed by this article. In addition, the holder of a permit to practice as a dental intern or dental resident may not receive any fee for service other than a salary paid by the hospital or dental school and the holder of a teaching permit may only practice dentistry within the facilities of the dental school.

§30-4-14. Temporary permits; teaching permit; dental hygienist.

(a) The board may issue a temporary permit to practice dental hygiene to an applicant who:

(1) Has graduated from an approved dental hygiene program of a college, school or dental department of a university with a degree in dental hygiene;

(2) Has been offered employment as a dental hygienist;

(3) Has paid the application fee specified by rule; and

(4) Meets the other qualifications specified by rule by the board, in accordance with the provisions of this article.

(b) A temporary permit to practice dental hygiene shall not be renewed and expires on the earlier of:

(i) The date the dental hygienist ceases to be employed; or

(ii) Sixty days after issuance.

(c) The board may issue a teaching permit to an applicant who meets the qualifications set forth in subdivisions (1), (3) and (4), subsection (a) of this section and who has been certified by the dean of a dental school located in this state to be a member of the teaching staff of the dental school.

(d) A teaching permit is valid for one year from the date of issue and may be renewed.

(e) While in effect, a temporary permit to practice dental hygiene and a teaching permit are subject to the restrictions and requirements imposed by this article. In addition, the holder of a teaching permit may only practice dental hygiene within the facilities of the dental school.

§30-4-15. Scope of practice; dentist.

The practice of dentistry includes the following:

(1) Coordinating dental services to meet the oral health needs of the patient;

(2) Examining, evaluating and diagnosing diseases, disorders and conditions of the oral cavity, maxillofacial area and adjacent and associated structures;

(3) Treating diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures;

- (4) Providing services to prevent diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures;
- (5) Fabricating, repairing or altering a dental prosthesis;
- (6) Administering anesthesia in accordance with the provisions of article four-a of this chapter;
- (7) Prescribing drugs necessary for the practice of dentistry;
- (8) Executing and signing a death certificate when it is required in the practice of dentistry;
- (9) Employing and supervising dental auxiliary personnel;
- (10) Authorizing delegated procedures to be performed by dental auxiliary personnel; and
- (11) Performing any other work included in the curriculum of an approved dental school, college or dental department of a university.

§30-4-16. Specialties; dentist.

- (a) The board shall by rule define specialties in which a dentist may practice.
- (b) A dentist may not represent to the public that he or she is a specialist in any branch of dentistry or limit his or her practice to any branch of dentistry unless first issued a certificate of qualification in that branch of dentistry by the board.
- (c) The board shall by rule establish the qualifications and examination requirements for a dentist who desires to practice a specialty.
 - (1) The board may appoint not more than three specialists to examine the credentials of applicants for a certificate of qualification and each appointed specialist shall be paid a fee set by rule by the board.
 - (2) The board may appoint not more than three specialists to administer and grade the examination given to applicants for a certificate of qualification and each appointed specialist shall be paid a fee set by rule by the board.
- (d) The board shall by rule establish the application procedure and fee for issuance of a certificate of qualification.

§30-4-17. Scope of practice; dental hygienist.

The practice of dental hygiene includes the following:

- (1) Performing a complete prophylaxis, including the removal of any deposit, accretion or stain from the surface of a tooth or a restoration;
 - (2) Applying a medicinal agent to a tooth for a prophylactic purpose;
 - (3) Taking a dental X-ray;
 - (4) Instructing a patient on proper oral hygiene practice;
 - (5) Performing all delegated procedures of a dental hygienist specified by rule by the board;
- and
- (6) Performing all delegated procedures of a dental assistant specified by rule by the board.

§30-4-18. Scope of practice; dental assistant.

A dental assistant may perform only those delegated procedures specified by rule by the board.

§30-4-19. Notification; changing dental office; adding dental office.

(a) Every licensed dentist within thirty days of changing his or her place of practice or establishing a practice at an additional dental office shall furnish the board with the address of the new or additional dental office.

(b) Every licensed dental hygienist within thirty days of changing his or her place of employment or establishing employment at additional dental office shall furnish the board with the name and address of the new or additional employers.

§30-4-20. Refusal to issue or renew, suspension or revocation of license; disciplinary action.

(a) The board may refuse to issue, refuse to renew, suspend, revoke or limit any license or practice privilege of a licensee and may take disciplinary action against a licensee who, after hearing, has been adjudged by the board as unqualified for any of the following reasons:

- (1) The presentation to the board of any diploma, license or certificate illegally or

fraudulently obtained, or one obtained from an institution which is not reputable, or one obtained from an unrecognized or irregular institution or state board;

(2) Suspension or revocation of a license issued by another state or territory on grounds which would be the basis of discipline in this state;

(3) Incompetent, negligent or willful misconduct in the practice of dentistry or dental hygiene, which shall include the departure from, or the failure to conform to, the minimal standards of acceptable and prevailing dental or dental hygiene practice in their area of expertise as shall be determined by the board. The board need not establish actual injury to the patient in order to adjudge a licensee guilty of this conduct;

(4) Engaging in conduct that indicates a lack of knowledge of, an inability to apply or the negligent application of principles or skills of dentistry or dental hygiene;

(5) Being guilty of gross ignorance or gross inefficiency in his or her profession;

(6) Being convicted of a felony; and a certified copy of the record of the court of conviction shall be sufficient proof of conviction;

(7) Announcing or otherwise holding himself or herself out to the public as a specialist or as being specially qualified in any particular branch of dentistry or as giving special attention to any branch of dentistry or as limiting his or her practice to any branch of dentistry without first complying with the requirements established by the board for the specialty and having been issued a certificate of qualification in the specialty by the board; or

(8) Being guilty of unprofessional conduct as contained in the American dental association principles of ethics and code of professional conduct. The following acts or any of them are conclusively presumed to be unprofessional conduct:

(A) Being guilty of any fraud or deception;

(B) Committing a criminal operation or being convicted of a crime involving moral turpitude;

(C) Abusing alcohol or drugs;

(D) Violating any professional confidence or disclosing any professional secret;

(E) Being grossly immoral;

(F) Employing what are known as "cappers" or "steerers" to obtain business;

(G) Obtaining any fee by fraud or misrepresentation;

(H) Employing directly or indirectly, or directing or permitting any suspended or unlicensed person so employed, to perform operations of any kind or to treat lesions of the human teeth or jaws or correct malimposed formations thereof;

(I) Practicing, or offering, or undertaking to practice dentistry under any firm name or trade name not approved by the board;

(J) Having a professional connection or association with, or lending his or her name to another, for the illegal practice of dentistry, or professional connection or association with any person, firm or corporation holding himself, themselves or itself out in any manner contrary to this article;

(K) Making use of any advertising relating to the use of any drug or medicine of unknown formula;

(L) Advertising to practice dentistry or perform any operation thereunder without causing pain;

(M) Advertising professional superiority or the performance of professional services in a superior manner;

(N) Advertising to guarantee any dental service;

(O) Advertising in any manner that is false or misleading in any material respect;

(P) Soliciting subscriptions from individuals within or without the state for, or advertising or offering to individuals within or without the state, a course or instruction or course materials in any phase, part or branch of dentistry or dental hygiene in any journal, newspaper, magazine or dental publication, or by means of radio, television or United States mail, or in or by any other means of contacting individuals: *Provided*, That the provisions of this paragraph may not be construed so as to prohibit: (i) An individual dentist or dental hygienist from presenting articles pertaining to procedures or technique to state or national journals or accepted dental publications; or (ii) educational institutions approved by the board from offering courses or instruction or course materials to individual dentists and dental hygienists from within or without the state; or

(Q) Engaging in any action or conduct which would have warranted the denial of the license.

(b) The term advertising, as used in this section, shall be construed to include any type of public media.

(c) Disciplinary action includes, but is not limited to, a reprimand, censure, probation, administrative fine not to exceed one thousand dollars per day per violation and mandatory attendance at continuing professional education seminars.

(d) This entire section is passed in the interest of the public health, safety and welfare and its provisions must be liberally construed to carry out its object and purpose.

§30-4-21. Complaints; investigations.

(a) Upon receipt of a written complaint filed against any dentist or dental hygienist, the board shall provide a copy of the complaint to the dentist or dental hygienist as specified by legislative rule promulgated by the board.

(b) The board may investigate the complaint. If the board finds upon investigation that probable cause exists that the dentist or dental hygienist has violated any provision of this article or the rules, the board shall serve the dentist or dental hygienist with a written statement of charges and a notice specifying the date, time and place of hearing. The hearing shall be held in accordance with section twenty-two of this article.

§30-4-22. Hearing and judicial review.

(a) A hearing on a statement of charges shall be held in accordance with the provisions for hearing set forth in section eight, article one of this chapter and procedures specified by rule by the board by rule.

(b) Any dentist or dental hygienist adversely affected by any decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code and may appeal any ruling resulting from judicial review in accordance with article five, chapter twenty-nine-a of this code.

§30-4-23. Reinstatement.

Any dentist or dental hygienist against whom disciplinary action has been taken under the provisions of this article shall be afforded an opportunity to demonstrate the qualifications to resume practice. The application for reinstatement shall be in writing and subject to the procedures specified by the board by rule.

§30-4-24. Unlawful acts.

It is unlawful for any person not licensed under the provisions of this article to practice dentistry or dental hygiene in this state.

§30-4-25. Injunctions.

When, as a result of an investigation under section twenty-one of this article or otherwise, the board or any other interested person believes that any person has engaged, is engaging or is about to engage in the practice of dentistry or dental hygiene without a license, the board or any other interested person may make application to any court of competent jurisdiction for an order enjoining the acts or practices and upon a showing that the person has engaged or is about to engage in any act or practice, an injunction, restraining order or another appropriate order may be granted by the court without bond.

§30-4-26. Criminal proceedings; penalties.

(a) When, by reason of an investigation under section twenty-one of this article or otherwise, the board has reason to believe that any person has knowingly violated section twenty-four of this article, the board may bring its information to the attention of the attorney general or other appropriate law-enforcement officer who may cause appropriate criminal proceedings to be brought.

(b) Any person who knowingly violates any provision of section twenty-four of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two thousand five hundred dollars or confined in the county or regional jail not more than one year, or both fined and imprisoned.

§30-4-27. Single act evidence of practice.

In any action brought under section twenty-five of this article or any proceeding initiated under section twenty-six of this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

§30-4-28. Dental corporations.

(a) All dental corporations created prior to the first day of July, two thousand one, are hereby continued.

(b) On or after the first day of July, two thousand one, one or more dentists may organize and become a shareholder or shareholders of a dental corporation domiciled within this state under the

terms and conditions and subject to the limitations and restrictions specified by rule.

(c) No corporation may practice dentistry, or any of its branches, or hold itself out as being capable of doing so without a certificate of authorization from the board.

(d) When the secretary of state receives a certificate of authorization to act as a dental corporation from the board, he or she shall attach the authorization to the corporation application and, upon compliance with the applicable provisions of chapter thirty-one of this code, the secretary of state shall issue to the incorporators a certificate of incorporation for the dental corporation.

(e) A corporation holding a certificate of authorization must register annually, on or before the thirtieth day of June, on a form prescribed by the board and pay an annual registration fee in an amount specified by rule.

(f) A dental corporation may practice dentistry only through an individual dentist or dentists duly licensed to practice dentistry in this state, but the dentist or dentists may be employees rather than shareholders of the corporation.

(g) A dental corporation holding a certificate of authorization shall cease to engage in the practice of dentistry upon being notified by the board that any of its shareholders is no longer a duly licensed dentist or when any shares of the corporation have been sold or disposed of to a person who is not a duly licensed dentist: *Provided*, That the personal representative of a deceased shareholder has a period, not to exceed twelve months from the date of the shareholder's death, to dispose of the shares; but nothing contained herein may be construed as affecting the existence of the corporation or its right to continue to operate for all lawful purposes other than the practice of dentistry.

§30-4-29. Inapplicability of article.

The provisions of this article do not apply to:

(1) A duly licensed physician or surgeon in the practice of his or her profession when rendering dental relief in emergency cases, unless he or she undertakes to reproduce or reproduces lost parts of the human teeth or to restore or replace lost or missing teeth in the human mouth;

(2) A dental laboratory in the performance of dental laboratory services as that term is defined in section one, article four-b of this chapter while the dental laboratory, in the performance of the work, conforms in all respects to the requirements of article four-b and further does not apply to persons performing dental laboratory services under the direct supervision of a licensed dentist or under the direct supervision of a person authorized under this article to perform any of the acts in this article defined to constitute the practice of dentistry while the work is performed in connection with, and as a part of, the dental practice of the licensed dentist or other authorized person and for

his or her dental patients;

(3) Students enrolled in and regularly attending any dental college recognized by the state board of dental examiners, provided their acts are done in the dental college and under the direct and personal supervision of their instructor;

(4) Licensed or registered dentists of another state temporarily operating a clinic under the auspices of a duly organized and reputable dental college or reputable dental society, or to one lecturing before a reputable society composed exclusively of dentists; or

(5) The practice of dentistry by dentists whose practice is confined exclusively to the service of the United States army, the United States navy, the United States public health service, the United States veteran's bureau or any other authorized United States government agency or bureau.

§30-4-30. Continuation of the West Virginia Board of Dental Examiners.

Pursuant to the provisions of article ten, chapter four of this code, the West Virginia Board of Dental Examiners shall continue to exist until the first day of July, two thousand eight, unless sooner terminated, continued or reestablished.