

**WEST VIRGINIA
SECRETARY OF STATE
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OFFICE OF THE SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

CITE AUTHORITY: W. Va. Code 21-14-4

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: 32

TITLE OF RULE BEING PROPOSED: Supervision of Plumbing Work

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

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**TITLE 42
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF LABOR**

OFFICE OF THE
SECRETARY OF STATE

**SERIES 32
SUPERVISION OF PLUMBING WORK**

§42-32-1. General.

1.1. Scope. -- This legislative rule governs certification, fees, examinations, training, and duties of the Commissioner and penalties for violations,, all in accordance with W. Va. Code §21-14-1, *et seq.*

1.2. Authority. -- W. Va. Code §21-14-4.

1.3. Filing Date. --

1.4. Effective Date. --

§42-32-2. Application and Enforcement.

2.1. Application. This legislative rule applies to the West Virginia Division of Labor and all persons, materials and transactions governed or otherwise defined under coverage of the Supervision of Plumbing Work Act, W. Va. Code §21-14-1, *et seq.*

2.2. Enforcement. The enforcement of this legislative rule is vested with the West Virginia Division of Labor.

§42-32-3. Definitions.

3.1. "Commissioner" means the Commissioner of the West Virginia Division of Labor.

3.2. "Division" means the West Virginia Division of Labor.

3.3. "Immediate family" is limited to one or more of the following: father, mother, spouse, brother, sister, son, and/or daughter.

§42-32-4. Adoption of Standards.

4.1. National standards. For the enforcement of this rule, the plumbing code as adopted by the West Virginia Fire Commission in §87 CSR 4, State Building Code, is hereby incorporated by reference.

4.2. State standards. [RESERVED]

§42-32-5. License Required; Exemptions.

Unless otherwise exempt under the provisions of W. Va. Code § 21-14-3 (c), effective the first day of January, two thousand-nine (January 1, 2009), no person may perform or offer to perform plumbing work in this State without a license issued under the provisions of W. Va. Code § 21-14-1, *et seq.*, and this rule.

§42-32-6. Minimum Qualifications for Licensure.

6.1. The Commissioner shall issue a license to any applicant who:

- a. Is at least eighteen a (18) years of age;
- b. Submits a properly completed application on forms provided by the Division;
- c. Submits a copy of the required written examination scores reflecting a score of at least seventy percent (70%); and
- d. Pays the application fee set forth in section 10 of this rule.

6.2. On or before the first day of July, two thousand nine (July 1, 2009), the Commissioner may issue a license to an applicant without written examination if the applicant:

- a. Is at least eighteen (18) years of age;
- b. Submits a properly completed application on forms provided by the Division;
- c. Provides acceptable documentation or sworn affidavit which demonstrates that he or she meets the minimum experience requirements for the plumber license classification requested; and
- d. Pays the application fee set forth in section 10 of this rule.

6.3. A license issued under this rule is valid throughout the State, is not assignable or transferable, and is valid for one (1) year from the date on which it was issued.

6.4. The Commissioner shall provide each licensee with a renewal application forty-five (45) days in advance of the license expiration date. Upon return of the renewal form and payment of the applicable fee, the Commissioner shall renew the license for a period of twelve (12) months. Any license which is expired by ninety (90) days or more may not be renewed.

§42-32-7. Examination Required.

7.1. Any person desiring a license under the provisions of W. Va. Code § 21-14-1, *et seq.*, shall submit an application to the Commissioner on forms provided by the Division.

7.2. All persons desiring license under the provisions of this article shall pass a written examination. The contents of the examination shall be based on the standards adopted under section four of this rule. All applicants are required to pass the examination for the license classification desired. The classifications of license are as follows:

- a. Master plumber;
- b. Journeyman plumber; or
- c. Plumber in training.

7.3. The Commissioner shall provide for the written examination of all license applicants. The examination shall test the applicant's knowledge of the standards as adopted in section 4 of this rule.

a. The Commissioner may:

1. Contract with a private testing agent to conduct the written examinations. The private testing agent shall charge examination fees according to a rate schedule developed by the Commissioner and the applicant shall pay all examination fees directly to the testing agent; or

2. Develop a written examination process within the Division to include a fees schedule not to exceed the actual cost of administering the examinations. The license applicant shall pay all fees directly to the Division in advance of the examination

b. The minimum passing score is a score of seventy (70%) percent for each examination.

c. An applicant who fails the examination may request and the Division or private testing agent shall provide the applicant with an analysis of his or her performance on the failed examination. An applicant who fails the examination shall have the opportunity to be re-examined after thirty (30) days and upon the submission of a new application and the payment of the fees required.

§42-32-8. Denial, Suspension, Revocation, or Reinstatement of License.

8.1. The Commissioner may deny, suspend, revoke or reinstate a license.

8.2. A violation of W. Va. Code §21-14-1, *et seq.*, or this rule, is grounds for the denial, suspension, revocation or refusal to reinstate a license and permits the imposition of disciplinary action. No disciplinary action against a licensee may be imposed without a proper notice served under W. Va. Code §56-2-1, and an opportunity for hearing held before the Commissioner or his designee. The hearing shall be conducted pursuant to the provisions of W. Va. Code §29A-5-1, *et seq.*, the Administrative Procedures Act. At the hearing, the licensee shall have the opportunity to present evidence in person, by counsel or both. After the hearing, if the Commissioner finds a violation of this article has occurred, he or she may impose any disciplinary action provided for in W. Va. Code §21-14-1, *et seq.*, or this rule.

8.3. The performance of plumbing work in violation of W. Va. Code §21-14-1, *et seq.*, or this rule, may result in the suspension of a license for not less than twenty-four (24) hours nor more than one (1) year, or revocation of the license until reinstated.

8.4. Each licensed plumber shall carry proof of a valid license on his or her person during the performance of plumbing work.

8.5. A person whose license has been revoked may apply for a new license one (1) year after the date of the revocation.

§42-32-9. Penalties.

A cease and desist order shall be issued to any person required to have a license under W. Va. Code §21-14-1, *et seq.*, or this rule, who is found performing plumbing work without a valid license on his or her person. The order shall remain in effect until the person comes into compliance with subsection 8.4 of this rule.

§42-32-10. Fees.

The annual license fee shall be seventy-five dollars (\$75) which shall cover the costs incurred for the issuance or renewal of a license.

§42-32-12. Reciprocity.

To the extent that other states which provide for the licensing and supervision of plumbers have requirements equivalent to W. Va. Code § 21-14-1 *et seq.*, the Commissioner, in his or her discretion, may grant licenses of the same classification without examination to plumbers licensed by other states.