

**WEST VIRGINIA**

**SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #4

**FILED**

SEP 24 4 02 PM '86

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: West Virginia State Board of Examiners for TITLE NUMBER: 10  
Licensed Practical Nurses

CITE AUTHORITY W. Va. Code 30-7A-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Legal Standards of Nursing Practice  
for the Licensed Practical Nurse

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, 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

WEST VIRGINIA  
STATE BOARD OF EXAMINERS  
FOR LICENSED PRACTICAL NURSES

NANCY R. WILSON, R.N.  
EXECUTIVE SECRETARY

LANETTE L. ANDERSON, J.D., R.N.  
ASSISTANT EXECUTIVE SECRETARY



TELEPHONE  
(304) 558-3572

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(304) 558-4367

101 DEE DRIVE  
CHARLESTON, WEST VIRGINIA 25311-1688

September 24, 1996

Honorable Ken Hechler  
Secretary of State  
Building 1 Suite 157K  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0770

Dear Sir:

Pursuant to direction from the West Virginia State Board of Examiners for Licensed Practical Nurses, I hereby enclose for filing the required documentation and text of modified proposed amendments to Legislative Rule, 10 C.S.R. 3, Legal Standards of Nursing Practice for the Licensed Practical Nurse. Said Rule was approved by the members of the Board during its last scheduled meeting on June 19, 1996, and has previously been filed with your office on March 25 and July 15, 1996. This Rule was considered by the Legislative Rule Making Review Committee on September 17, 1996. Minor modifications were made by this agency based upon recommendations from Committee counsel.

The enclosed modified Rule is being submitted concurrently to the Legislative Rule Making Review Committee. Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Nancy R. Wilson".

Nancy R. Wilson, R.N.  
Executive Secretary

NRW/11a

Enclosures:

FILED

TITLE 10  
LEGISLATIVE RULES  
STATE BOARD OF EXAMINERS  
FOR LICENSED PRACTICAL NURSES  
SERIES 3

SEP 24 4 01 PM '96

LEGAL STANDARDS OF NURSING PRACTICE FOR THE LICENSED PRACTICAL NURSE  
WEST VIRGINIA  
SECRETARY OF STATE

§10-3-1. General.

- 1.1. Scope. -- These This legislative Rules rule establish establishes minimum standards of safe practice of the Licensed Practical Nurse.
- 1.2. Authority. -- WV Code §30-7A-5 & §64-9-17(f)
- 1.3. Filing Date. --
- 1.4. Effective Date. --

§10-3-2. Purpose of Standards.

The purpose of this rule is:

- 2.1. to establish minimum acceptable levels of safe nursing practice for the Licensed Practical Nurse; and
- 2.2. to serve as a guide for the Board to evaluate safe and effective nursing care; the practice of the licensed practical nurse to determine if the practice is safe and effective.

§10-3-3. Standards Related to the Licensed Practical Nurses' Contribution to, and Responsibility for, the Nursing Process.

The Licensed Practical Nurse shall: practicing under the direction of a Registered Professional Nurse, licensed physician or licensed dentist shall:

- 3.1. contribute to the nursing assessment by 3-1-1: collecting, reporting and recording objective and subjective data in an accurate and timely manner. Data collection includes, but is not limited to observations of:
- 3.1.1.1: observing the condition or change in condition of a client; and
- 3.1.1.2: reporting and recording signs and symptoms of deviation from normal health status;
- 3.2. participate in the development of the strategy of care by in consultation with other nursing personnel. Participation in the development of a strategy of care includes:
- 3.2.1: providing data;
- 3.2.2.1. contributing to the identification of priorities;
- 3.2.3.2. contributing to setting realistic and measurable goals; and
- 3.2.4.3. assisting in the identification of contributing to the selection of nursing interventions which include measures to maintain comfort, support human functions and responses, maintain an environment conducive to well being, and provide health teaching and counseling;
- 3.3. Participate in the implementation of the strategy of care by: Provide nursing care under the direction of a registered professional nurse by:
- 3.3.1. providing care for clients whose conditions are stabilized or predictable; under the direction of a registered professional nurse;
- 3.3.2. providing nursing care for assisting with clients whose conditions are critical and/or fluctuating under the direction and direct supervision of the registered professional nurse;
- 3.3.3. implementing nursing care according to the priority of needs and established practices:
- 3.3.3.4. providing an environment conducive to safety and health;
- 3.3.4.5. documenting nursing interventions and responses to care; and
- 3.3.5.6. communicating nursing interventions and responses to care to appropriate members of the health team.

**RULES AND REGULATIONS - RPA - STANDARDS OF PRACTICE**

3.4. Assign components of nursing care to other qualified persons; and

3.4:5. Contribute to the evaluation of the responses of individuals and groups to nursing interventions by:

3.5.1. monitoring the responses to nursing interventions;

3.4:i-5.2. documenting and communicating evaluation assessment data to appropriate members of the health care team; and

3.4:2-5.3. contributing to the modification of the strategy of care on the basis of the evaluation assessment data.

**§10-3-4. Standards Relating to the Licensed Practical Nurse's Responsibilities as a Member of the Health Care Team.**

The Licensed Practical Nurse shall:

- 4.1. be familiar with the statutes and regulations rules governing nursing;
- 4.2. function within the legal boundaries of practical nursing practice;
- 4.3. accept responsibility for individual nursing actions, and competencies and behavior;
- 4.4. function under the direction of a registered professional nurse, licensed physician or licensed dentist;
- 4.5. consult with the registered professional nurse to seek guidance in delivery of nursing care as necessary;
- 4.6. obtain instruction and supervision as necessary from the registered professional nurse when implementing nursing techniques or practices;
- 4.7. supervise and retain accountability for tasks assigned to other qualified persons;
- 4.7:8. function as a member of the health team;
- 4.8:9. contribute to the formulation, interpretation, implementation and evaluation of the objectives and policies related to practical nursing practice within the employment setting;
- 4.9:10. participate in the evaluation of nursing through peer review;
- 4.10:11. report unsafe nursing practice to the Board and unsafe practice conditions to recognized legal authorities;
- 4.11:12. conduct practice without discrimination on the basis of age, race, religion, sex, sexual preference, national origin or handicap;
- 4.12:13. respect the dignity and rights of clients regardless of social or economic status, personal attributes or the nature of the health problem;
- 4.13:14. respect the client's right to privacy by protecting confidential information, unless obligated by law to disclose such the information;
- 4.14:15. respect the property of employers, clients and their families; and
- 4.15:16. participate in relevant continuing competence activities to maintain current knowledge and skill levels in practical nursing as required in 10 CSR 6, Continuing Competence.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Board of Examiners for Licensed Practical Nurses

Subject: Legal Standards of Nursing Practice for the Licensed  
Practical Nurse

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PERTINENT DATES

Filed for public comment: March 25, 1996  
Public comment period ended: May 15, 1996  
Filed following public comment period: July 15, 1996  
Filed LRMRC: July 15, 1996  
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. For the most part, it simply rewrites current provisions of the rule. The proposed amendments do require an LPN to implement nursing care according to the priority of needs and established practices. It also allows LPNs to assign components of nursing care to other qualified persons, while supervising and retaining accountability for tasks assigned to those persons.

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AUTHORITY

Statutory authority: W.Va. Code, §30-7A-5, which provides, in part, as follows:

...The board is authorized to adopt and, from time to time, to revise such rules and regulations not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions hereof. The board shall prescribe curricula and standards for schools and courses preparing persons for licensure under this article. It shall survey such schools and courses at such times as it may deem necessary. It shall survey and accredit such schools, clinical practice areas and courses as meet the requirements of this article and of the board. It shall examine, license and renew the license of duly qualified applicants.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.



FILED

SEP 19 10 17 AM '96

**West Virginia Legislature  
Legislative Rule-Making Review Committee**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Room NB47-State Capitol  
Charleston, West Virginia 25305  
(304) 347-4840

Senator Mike Ross, Co-Chair  
Delegate Vicki Douglas, Co-Chair

September 17, 1996

Debra A. Graham, Counsel  
Joe Altizer, Associate Counsel  
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Nancy R. Wilson  
Executive Secretary  
State Board of Examiners  
for Licensed Practical Nurses  
101 Dee Drive  
Charleston, WV 25311-1688

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Legal Standards of Nursing Practice for the Licensed Practical Nurse

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed
  - (b) as modified by the agency   X
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Lanette L. Anderson

Senate Bill No. 193

(By Senator(s) Ross, Anderson, Macnaughtan,  
Boley and Buckalew)

[Introduced March 3, 1997; referred to the  
Committee on Health and Human Resources; and  
then to the Committee on the Judiciary.]

A BILL to amend article nine, chapter sixty-four of the  
code of West Virginia, one thousand nine hundred  
thirty-one, as amended, by adding thereto a new  
section, designated section eight, relating to  
authorizing the board of licensed practical nurses to  
promulgate a legislative rule relating to legal  
standards of nursing practice for the licensed  
practical nurse.

*Be it enacted by the Legislature of West Virginia:*

That article nine, chapter sixty-four of the code of  
West Virginia, one thousand nine hundred thirty-one, as  
amended, be amended by adding thereto a new section,  
designated section eight, to read as follows:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND

1           BOARDS TO PROMULGATE LEGISLATIVE RULES.

2 §64-9-8. Board of licensed practical nurses.

3           The legislative rule filed in the state register on  
4 the fifteenth day of July, one thousand nine hundred  
5 ninety-six, under the authority of section five, article  
6 seven-a, chapter thirty, of this code, modified by the  
7 board of licensed practical nurses to meet the objections  
8 of the legislative rule-making review committee and refiled  
9 in the state register on the twenty-fourth day of  
10 September, one thousand nine hundred ninety-six, relating  
11 to the board of licensed practical nurses (legal standards  
12 of nursing practice for the licensed practical nurse, 10  
13 CSR 3), is authorized.

14

15           NOTE: The purpose of this bill is to authorize the  
16 Board of Licensed Practical Nurses to promulgate a  
17 legislative rule relating to Legal Standards of Nursing  
18 Practice for the Licensed Practical Nurse.

19

20           This section is new; therefore, strike-throughs and  
21 underscoring have been omitted.

5552

H. B. 2355

1 Bill-LPN, Legal (By Delegate(s) Douglas, Hunt, Compton,  
2 Faircloth, Linch and Riggs)

3  
4 [Introduced March 3, 1997; referred to the  
5 Committee on Government Organization then the  
6 Judiciary.]

7  
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