

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #5

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OFFICE OF THE
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

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

CITE AUTHORITY: WV Code 30-7A-1 et. seq.

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5


TITLE OF RULE BEING AMENDED: Open Meetings and Bylaws

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS February 9 2008


Authorized Signature

\$3.00

WEST VIRGINIA STATE BOARD OF EXAMINERS FOR
LICENSED PRACTICAL NURSES

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January 8, 2008

Ms. Judy Cooper
Administrative Law Division
Office of the Secretary of State
Building 1 Room 157-K
1900 Kanawha Boulevard, E.
Charleston, West Virginia 25311

Dear Ms. Cooper:

Enclosed please find required documentation for Notice of Agency Adoption of a Procedural Rule. The members of the West Virginia State Board of Examiners for Licensed Practical Nurses approved these revisions to 10 C.S.R. 5, Open Meetings and Bylaws, during its regular meeting on October 18, 2007. No comments were received during the Comment Period.

If any problems exist with what is submitted herein, please feel free to contact me. Your assistance is greatly appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Lanette L. Anderson".

Lanette L. Anderson, MSN, JD, RN
Executive Director

LLA/a

Enclosures:

PROCEDURAL RULE
WEST VIRGINIA STATE BOARD OF EXAMINERS
FOR LICENSED PRACTICAL NURSES
SERIES 5
OPEN MEETINGS AND BYLAWS

FILED
2008 JAN -9 AM 9:56
OFFICE OF THE CLERK
SECRETARY OF STATE

§10-5-1. General

1.1. Scope - This procedural rule sets forth the means by which the time, place, and purpose of all regular and special meetings are made available in advance to the public and the news media, except in the event of an emergency requiring immediate official action and also sets forth certain bylaws of the board.

1.2. Authority - WV Code §6-9A and §30-1-5

1.3. Filing Date - January 9, 2008

1.4. Effective Date - February 1, 2008

§10-5-2. Application And Enforcement

This procedural rule applies to the board and any and all individuals desiring to attend or to address the West Virginia State Board of Examiners for Licensed Practical Nurses.

§10-5-3. Definitions

3.1. Board - The West Virginia State Board of Examiners for Licensed Practical Nurses.

3.2. Meeting - The convening of a governing body of a public body for which a quorum is required.

3.3. Quorum - A simple majority of the constituted members of the board.

§10-5-4. Regular Meetings

4.1. The board meets in regular session during the months of February, June and October. The length of each meeting is determined by the amount of business to be addressed by the board. A majority of the board members shall agree upon specific meeting dates. Meeting dates are determined for one (1) year in advance beginning July 1, and ending June 30. The first regular meeting after January 1 shall include as an agenda item dates for meetings for the next fiscal year.

4.2. The Executive Secretary shall provide notice of the date, time, location and purpose of each regular meeting to the Secretary of State, Capitol News Service, all programs of practical nursing, appropriate professional associations and state agencies, as well as persons and organizations who request information, at least fifteen (15) business days in advance of a regularly scheduled meeting.

4.3. The board shall convene all regular meetings at ten o'clock a.m. unless otherwise changed by a majority vote of those board members present and voting.

4.4. The board shall convene all regular meetings at the board office unless otherwise changed by a majority vote of those board members present and voting.

4.5. The board may move the location of the meeting without notice in the event the meeting room cannot accommodate members of the public who wish to attend.

4.6. All regular meetings are general meetings for the consideration of any and all matters which may properly come before the board.

4.7. The Executive Secretary shall send a topical agenda to each board member at least fifteen (15) business days prior to each regularly scheduled meeting. The Executive Secretary shall send an annotated agenda to each board member at least one (1) week prior to each regularly scheduled meeting.

4.8. Board members may submit agenda items at any time prior to mailing of the annotated agenda.

4.9. Individuals may submit items for board consideration. The items should be submitted not less than thirty (30) days prior to the date of a regularly scheduled meeting. The President makes the final determination on whether an item submitted less than thirty (30) days in advance shall be considered.

4.10. The President may cancel a meeting if a quorum cannot be convened or if there are no items of business to be conducted by the board.

4.11. Individuals who desire to address the board during a regularly scheduled meeting may do so by making their wish known to the President at any time prior to the call to order.

§10-5-5. Special Meetings

5.1. The President, the secretary or any two (2) members of the board may call a special meeting.

5.2. The executive secretary shall send a written notice setting forth the time, place and matters to be considered to each member of the board at least ten (10) business days in advance of a special meeting.

5.3. The executive secretary shall file a written notice containing the time, place, and matters to be considered at least ten (10) business days in advance of any special meeting, to the Secretary of State, Capitol News Service, all programs of practical nursing, appropriate professional associations and state agencies, as well as persons and organizations who request the information.

§10-5-6. Emergency Meetings

6.1. The President may call a meeting in the event of an emergency requiring immediate official action by the board.

6.2. The executive secretary shall notify members by telephone or other expedient method.

6.3. The executive secretary shall file a written notice containing time, place, purpose of the meeting and facts and circumstances of the emergency prior to the meeting, with the Secretary of State and Capitol News Service.

§10-5-7. Executive Sessions

7.1. The board may hold executive sessions, as provided in West Virginia Code, §6-9A-4., for the purpose of discussing employment promotion, resignation, discipline, discharge, or compensation of any public officer or employee unless the public officer or employee requests an open meeting; or to discuss issues effecting denial, suspension or revocation of a license unless the licensee requests an open meeting; or to discuss material the disclosure of which would constitute an unwarranted invasion of an individual's privacy; or to discuss an official investigation relating to law enforcement; or to discuss matters relating to development, administration or security of a licensure examination; or to discuss logistical or procedural methods to schedule and regulate a meeting.

7.2. The President shall convene an executive session by identifying and announcing to the members of the board and public in attendance the authorization under §6-9A-4 for holding the executive session. A majority affirmative vote of the members present is required to hold the executive session. All decisions resulting from discussions during the executive session shall be made during an open meeting.

§10-5-8. Minutes

8.1. The board shall prepare written minutes of all meetings. Minutes are available to the public within a reasonable time after the meeting and include:

- 8.1.a. the date, time and place of the meeting,
- 8.1.b. the name of each board member present or absent,
- 8.1.c. the name of each staff member and guest present,
- 8.1.d. all motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same, and their disposition, and,

8.1.e. the results of all votes and, upon request of a member, the vote of each member by name.

8.2. Minutes of executive sessions may be limited to material which is not inconsistent with the provisions of West Virginia Code, §6-9A.

8.3. A board member may request that a minority report be included in the minutes.

§10-5-9. Quorum

9.1. A quorum for conducting business at a regular or special meeting of the board shall be a simple majority of the constituted members.

9.2. Each member has one vote on all matters of business.

9.3. The vote of a majority of all members present at any meeting of the board shall be necessary to take any action.

9.4. The board may hold regular or special meetings with one or more members participating by telephone conference call, video conference or other interactive means of conducting conference communications. Minutes shall reflect the names of participating members and a report of a roll call on each vote.

9.5. Proxy voting is prohibited.

9.6. The board may authorize a mail vote providing the issue to be voted on has been presented in a regular meeting of the board. Matters for vote by mail are limited to acceptance of editorial revisions or those matters where more detail is requested prior to final approval. All issues voted on by mail shall be discussed and the vote ratified at the next regular meeting of the board following the vote.

§10-5-10. Records of the Board

All records and proceedings of the board are public records and shall be available to the public during the usual and customary business hours of the board, except as provided by West Virginia Code, §29B-1-4.

§10-5-11. Election of Officers

11.1. The board shall elect officers during the first regular meeting in each calendar year.

11.2. The elected officers shall be President, Vice President and secretary. The Executive Secretary shall act as treasurer while employed by the board and is not subject to election procedures.

11.3. The Executive Secretary shall be an ex-officio member of the board and has no voting privileges.

11.4. Officers serve for one (1) year.

11.5. Officers may be re-elected to serve one (1) additional term, but in no instance shall an officer serve more than two (2) successive terms.

11.6. Newly elected officers assume the duties of office fifteen (15) calendar days following the date of the regular meeting during which they are elected.

§10-5-12. Duties of Officers

12.1. President. Presides at all meetings of the board, appoints all committees of the board, serves as or designates the chairperson for all committees and performs other duties incidental to the office.

12.2. Vice-President. Presides over meetings of the board in the absence of the President. and performs other duties requested by the President..

12.3. Secretary. Records minutes of the board meetings, authorizes distribution of minutes following meetings, and performs other duties as requested by the President.

12.4. Treasurer. The Executive Secretary, as the appointed employee of the board, keeps an accounting of all monies received and spent on behalf of the board and provides a report of receipts and expenditures at each regular meeting of the board.

§10-5-13. Vacancies in Elected Offices

13.1. President. In the event that the President is unable to complete his or her term of office, the Vice President shall become President for the remainder of the unexpired term.

13.2. Vice-President. In the event the Vice President is unable to complete his or her term of office a new Vice President shall be elected to serve the unexpired term.

13.3. Secretary. In the event that the secretary is unable to complete his or her term of office, a new secretary shall be elected to serve the unexpired term.

13.4. Treasurer. In the event of a vacancy in the position of Executive Secretary the President shall appoint a member of the board or staff to fulfill the duties until a new Executive Secretary is employed.

§10-5-14. Resignation of Members

A member who wishes to resign should send a letter of resignation to the Governor with a copy to his or her respective association and a copy to the President of the board.

§10-5-15. Committees

15.1. Disciplinary Review Committee

15.1.a. Composition. The committee shall be comprised of the President and two (2) additional members of the board who shall be appointed by the President.

15.1.b. Terms. The term of service is one (1) year beginning with the adjournment of the regular meeting during which elections are held.

15.1.c. Duties. The committee shall approve for dismissal all complaints if probable cause is not established. The committee may issue reprimands, accept voluntary surrender of a license and enter into consent agreements as appropriate for individuals found in violation of West Virginia Code §30-7A-1 et. seq., or rules and regulations of the board.

15.1.d. Meetings. The committee shall meet immediately prior to each regularly scheduled meeting of the board. The President may call additional meetings as needed to complete the duties of the committee. At the discretion of the President, the committee may transact business by electronic communication or by mail, providing that a report of each action is made available to each committee member at the next meeting of the committee. All meetings of the committee shall be closed to the public. All final actions of the committee shall be public.

15.1.e. Reports. The committee shall report all actions at the next regularly scheduled meeting of the board. The board shall ratify all actions taken by the committee.

§10-5-16. Joint Nursing Regulatory Committee

16.1. Composition. The committee shall be comprised of three (3) members of the board who shall be appointed by the President.

16.2. Terms. The term of service is one (1) year beginning with the adjournment of the regular meeting during which elections are held.

16.3. Duties. The committee shall meet with the appointed representatives to the committee from the West Virginia Board of Examiners for Registered Professional Nurses and shall consider issues referred to them by either board of nursing or other issues of common interest to both boards of nursing.

16.4. Frequency of Meetings. The committee shall meet as needed to address issues before the committee.

16.5. Reports. The committee shall report final action on activities delegated to it by the board and on other activities of

the committee at the next regularly scheduled meeting of the board.

§10-5-17. Ad Hoc Committees

The President of the board shall appoint ad hoc committees as needed to accomplish the objectives established by the board. Appointment to committees is not limited to members and may include any individual who will best serve a particular committee.

§10-5-18. Committee Meetings

18.1. Meetings of committees of the board, with the exception of the disciplinary review committee, are open to the public, except as provided in West Virginia Code, §6-9A-4.

18.2. Committees may conduct meetings with one or more members participating by telephone conference call, video conference or other interactive means of conducting conference communications. Minutes shall reflect the names of participating members, names of members not participating and a report of a roll call on each vote. The public may attend meetings held by means of telecommunications devices. The location for public attendance shall be the board office unless otherwise announced.

18.3. The Executive Secretary shall send a written notice containing the time, place, and matters to be considered at least ten (10) business days in advance of any meeting of a committee of the board, to the Secretary of State, Capitol News Service, all programs of practical nursing, appropriate professional associations and state agencies, as well as persons and organizations who request information.

18.4. Each committee shall present a report of activities and any recommendations for action to the board at a regularly scheduled meeting as directed by the board.

§10-5-19. Contested Case Hearings

19.1. Contested case hearings shall be held before a quorum of the board or before an independent hearing examiner.

19.2. All contested case hearings are open to the public.

19.3. Contested case hearings shall be held as provided in West Virginia Code §29A-5-1. et. seq., and §30-1-1. et. seq.

19.4. The board shall consider evidence gathered in a contested case hearing and shall determine denial, suspension, revocation or other disciplinary action in executive session.

19.5. All final decisions by the board to deny, suspend, revoke or otherwise discipline a license are public.

§10-5-20. Roberts' Rules of Order Newly Revised shall govern the meetings of the board in applicable situations not addressed in these rules.

§10-5-21. Amendments to this Open Meetings and Bylaws rule shall be made in accordance with established procedures for promulgating procedural rules, pursuant to Secretary of State's rule 153 CSR 6.