

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

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SECRET

**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 TITLE NUMBER: 10
Licensed Practical Nurses

CITE AUTHORITY: 6-9A-3, 30-1-5

RULE TYPE: PROCEDURAL XXX INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW _____

AMENDMENT TO AN EXISTING RULE: YES _____, NO XX

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: Series 5

TITLE OF RULE BEING ADOPTED: Open Meetings and Bylaws

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

EFFECTIVE DATE OF THIS RULE IS _____

Nov. 25, 1987

Nancy K. Wilson

RECEIVED



DEC 13 1987

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Secretary of State

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Special Assistant

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

TO: Nancy Wilson, LPN Bd.

FROM: RICH O. HARTMAN, DIR. ADMIN. LAW DIV.

DATE: Dec. 17, 1987

THE ATTACHED RULE(S) RECENTLY FILED BY YOUR AGENCY HAVE BEEN ENTERED INTO THE COMPUTER. PLEASE REVIEW AND PROOF AND RETURN WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS PLEASE SIGN THIS MEMO AND RETURN TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE(S) FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

Open Meetings

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND ARE CORRECT.

SIGNED: *Nancy A. Wilson*

TITLE OF PERSON SIGNING: Executive Secretary

DATE: December 21, 1987

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND NEEDS CORRECTED. THESE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

TITLE 10
PROCEDURAL RULES
WEST VIRGINIA STATE BOARD OF
EXAMINERS FOR LICENSED PRACTICAL NURSES

SERIES 5

TITLE: Open Meetings and Bylaws

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 - W.Va. Code §6-9A-3 and §30-1-5

1.3 Filing Date October 26, 1987

1.4 Effective Date October 26, 1987 Nov 25, 1987

10.5.2 Application and Enforcement

This procedural rule shall apply 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. The enforcement of this rule shall be vested with the Executive Secretary of 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 constituent membership of the board.

10.5.4 Regular Meetings: Notice, Time, Place

4.1 The West Virginia State Board of Examiners for Licensed Practical Nurses shall meet in regular sessions during the months of October, February and June. The meeting shall last one to three days, and length shall be determined by the amount of business to be addressed by the board. Specific meeting dates shall be agreed upon by a majority of the board members and shall be determined for one 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.

Board of Practical Nurses
Open Meetings and Bylaws
Series 5, Section 4

4.2 Notice of the date, time, location and purpose of each regular meeting shall be provided 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 requesting such information. Meeting notices shall be provided not less than fifteen (15) 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 922 Quarrier Street, Room 506, Charleston, West Virginia 25301, unless otherwise changed by a majority vote of those board members present and voting.

4.5 The board may without notice, move the location of the meeting to accommodate members of the public who wish to attend such meeting in the event the meeting room is too small to accommodate such attendance.

4.6 All regular meetings shall be 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 all board members at least three weeks prior to regularly scheduled meetings, and an annotated agenda shall be prepared and sent to all members at least one week prior to a regularly scheduled meeting.

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

4.9 Agenda items may be submitted by individuals other than board members. The items shall be submitted not less than thirty days (30) prior to the date of a regularly scheduled meeting. If items are submitted less than thirty days prior to a scheduled meeting, the board reserves the right to delay consideration of that item until a subsequent meeting. The chairperson shall make the final determination on whether an item submitted less than thirty days in advance shall be considered.

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

10.5.5 Special Meetings; Notice Required, Time, Place and Purpose

5.1 The board may convene special meetings in accordance with the procedures established herein.

5.2 Special meetings of the board may be called by the chairperson, the secretary or by two members of the board upon written request to the secretary.

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Series 5, Section 5

5.3 The executive secretary shall send to all members at least ten days in advance of a special meeting, if possible, a written notice setting forth the time and place of such special meeting and the matter to be considered at such special meeting. Provided, that such written notice is not required if the time, the place, and matter for consideration has been fixed in a regular meeting.

5.4 The executive secretary shall cause the notification of the public and news media by filing a notice of such special meeting at least ten days in advance of such meeting, if possible, with the Secretary of State and Capitol News Service. The notice shall contain the time, the place, and the matter to be considered.

5.5 The provisions of this section shall not apply in the event of an emergency requiring immediate official action by the board.

10.5.6 Proceedings to be Open: Exceptions: Executive Session
Permitted

6.1 Notwithstanding any other provision of law or regulation, all meetings of the board shall be open to the public, except as provided in Chapter 6, Article 9A, Section 4 of the West Virginia Code.

6.2 The board reserves the right to executive sessions or closed meetings for purposes of discussing employment, promotion, resignation, disciplining, discharge, dismissal or compensation of any public officer or employee unless the public officer or employee requests an open meeting; or discussions involving issues effecting denial, suspension or revocation of a license unless such licensee requests an open meeting; or matters which if discussed in public would be likely to effect adversely the reputation of any person; or an official investigation; or matters related to crime prevention or law enforcement; or for matters relating to development, administration, storing or security of a licensure examination.

10.5.7 Minutes

7.1 The West Virginia State Board of Examiners for Licensed Practical Nurses shall provide for the preparation of written minutes of all its meetings. All such minutes shall be available to the public within a reasonable time after the meeting and shall include the following information:

- (a) The date, time and place of the meeting;
- (b) The name of each board member present or absent;
- (c) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same, and their disposition;
- (d) The results of all votes and, upon request of a member, the vote of each member, by name;
- (e) Minutes of executive sessions may be limited to material which is not inconsistent with the provisions of Chapter 6, Article 9A, Section 4, of the West Virginia Code.

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Open Meetings and Bylaws
Series 5, Section 7

7.2 A minority report may be included in the minutes upon request of a member.

10.5.8 Quorum; Majority Vote Required: Vote by Proxy Prohibited

8.1 A majority of the constituent members of the board shall constitute a quorum.

8.2 Each appointed member of the board shall have the right to vote on all matters of business before the board.

8.3 The vote of a majority of all members present at any meeting of the board shall be necessary to take any action. The board may authorize the chairperson to poll absent members by telephone regarding matters of business before the board.

8.4 Proxy voting is hereby prohibited.

8.5 A mail vote may be authorized by the board providing the issue to be voted on has been presented in a regular meeting of the board. Matters for vote by mail shall be 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.

10.5.9 Records of the Board to be Public

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 department, except as provided by Chapter 29B, Article 1, Section 4 of the West Virginia Code.

10.5.10 Election of Officers, Duties of Officers

10.1 At the last regular meeting in each calendar year the board shall elect officers.

10.2 Officers shall be chairperson, vice-chairperson and secretary. Treasurer shall be the executive secretary appointed and employed by the board and shall not be subject to election procedures, but will act as treasurer while employed by the board. The executive secretary shall be considered an ex-officio member of the board and as such shall have no voting privileges.

10.3 Officers shall be elected from the membership of the board to serve for a period of one year.

10.4 Elections shall be held during the last regular meeting of each year. 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.

10.5 Duties of Officers shall be as follows:

(a) Chairperson - Shall preside at all meetings of the board and shall perform such other duties incidental to that office. Shall appoint all committees and shall serve as ex-officio member of all committees of the board.

(b) Vice-Chairperson - Shall preside over meetings of the board in the absence of the chairperson and shall perform such other duties as requested by the chairperson.

(c) Secretary - Shall record minutes of the board meetings and perform such duties as requested by the chairperson.

(d) Treasurer - The executive secretary, as the appointed employee of the board shall keep an accounting of all monies received by the board and deposit such monies as designated by the board. (The executive secretary shall perform any and all other duties as designated by the board and not in conflict with state government policy.)

10.6 Vacancies - shall be filled as follows:

(a) Chairperson - In the event that the chairperson is unable to complete his/her term of office, the vice-chairperson will automatically become chairperson for the remainder of the unexpired term.

(b) Vice-Chairperson - In the event the vice-chairperson is unable to complete his/her term of office, whether by reason of leaving the board or being required to finish an unexpired term vacated by the chairperson, a new vice-chairperson shall be elected to serve the unexpired term.

(c) Secretary - In the event that the secretary is unable to complete his/her term of office, a new secretary shall be elected to complete said term.

(d) Treasurer - Executive Secretary - In the event a vacancy occurs, the person shall notify the board allowing sufficient time for a replacement to be secured. The board shall secure applications and select the most appropriate individual for that position. This individual shall serve at the will and pleasure of the board.

10.5.11 Resignation of Members

A board member wishing to resign should make the wish known by sending a letter to the Governor with a copy to his/her respective association and a copy to the chairperson of the board.

10.5.12 Committees

12.1 Examination Draft Review Committee:

Purpose - Review drafts of examination questions as is necessary for use of the National Council Licensure Examination for Practical Nurses. Committee members, all registered nurse and licensed practical nurse members of the boards shall serve on the committee. The executive secretary shall serve as an ex-officio member.

12.2 Disciplinary Review Committee:

The chairperson of the board and two other members of the board who shall be appointed by the chairperson annually, shall serve on the Disciplinary Review Committee. Said committee may hold informal hearings on any and all disciplinary matters and shall have the authority to 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. All such determinations by the Disciplinary Review Committee shall be receivable by the board.

12.3 Disciplinary Hearings:

Formal hearing shall be held before a quorum of the board, or at the chairperson's discretion before an approved hearing examiner, on all disciplinary matters involving a licensee when requested by the licensee or before revocation or suspension of such license may occur, in contested cases.

The board has the authority to compel the attendance of witness and secure proof concerning matters within its jurisdiction. For such purposes, the chairperson or executive secretary of the board shall be authorized to issue subpoenas.

12.4 Ad Hoc Committee:

The chairperson of the board has the right to appoint committees to perform such tasks as are deemed necessary by a simple majority of the board. Such appointments to committees are not limited to board members and may include such individuals who are determined will best serve a particular committee.

12.5 Committee Meetings Open:

Meetings of committees of the board shall be open to the public, except as provided in Chapter 6, Article 9A, Section 4.

12.6 Notice of Committee Meetings:

Notice of meetings for committees, except for those meetings when the agenda items are exempt, by virtue of Chapter 6, Article 9A, Section 4, shall be filed with the Secretary of State not less than ten (10) days prior to the meeting, if possible.

12.7 Committee Reports:

Each committee shall prepare a report to include recommendations, which shall be receivable by the board at a regular meeting.