

# WEST VIRGINIA SECRETARY OF STATE

KEN HECHLER

## ADMINISTRATIVE LAW DIVISION

Form #2

1999 JAN 10 1 56 PM '99

OFFICE OF THE SECRETARY OF STATE  
100 STATE STREET  
CHARLESTON, WV 25309

### NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia State Board of Examiners for TITLE NUMBER: 10  
Licensed Practical Nurses  
RULE TYPE: Legislative; 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: 6

TITLE OF RULE BEING AMENDED: Continuing Competence

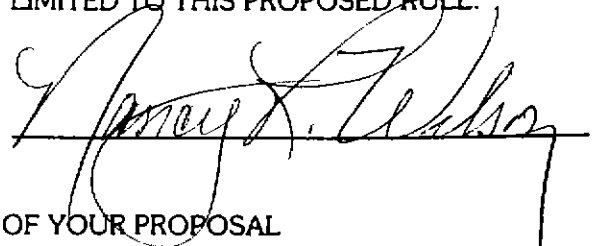
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

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

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON January 7, 2000 AT 4:00 pm. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

West Virginia State Board of Examiners  
for Licensed Practical Nurses  
101 Dee Drive  
Charleston, West Virginia 25311-1688

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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

FAX  
(304) 558-4367

101 DEE DRIVE  
CHARLESTON, WEST VIRGINIA 25311-1688

November 29, 1999

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 proposed amendments to Legislative Rules, 10 C.S.R. 6, Continuing Competence. Said Rules were approved by the members of the Board during its last scheduled meeting on October 14, 1999.

Thank you for your attention to this matter.

Sincerely yours,

*Nancy R. Wilson, R.N.*  
Nancy R. Wilson, R.N.  
Executive Secretary

NRW/11a

Enclosures:

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

SERIES 6 - CONTINUING COMPETENCE

SUMMARY OF PROPOSAL

Proposed changes are primarily editorial in nature. Information relating to requirements during the time period that continuing education for licensed practical nurses was initially required, 1993-1994, has been deleted.

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

SERIES 6 - CONTINUING COMPETENCE

STATEMENT OF CIRCUMSTANCES REQUIRING RULE

Proposed changes to this Rule reflect current requirements for mandatory continuing education for licensed practical nurses. Requirements which were required during the initial time period that continuing education was required for licensed practical nurses, 1993-1994, has been deleted.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Continuing Competence

Type of Rule:  Legislative  Interpretive  Procedural

Agency West Virginia State Board of Examiners for LPNs

Address 101 Dee Drive

Charleston, West Virginia 25311-1688

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	RECY	THREDAFTER
<b>ESTIMATED TOTAL COST</b>	\$ NONE	\$ NONE	\$ NONE	\$ NONE	\$ NONE
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

2. Explanation of above estimates:

3. Objectives of these rules:

Editorial changes

Rule Title: Continuing Competence

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

None

C. Economic Impact on Citizens/Public at Large.

None

Date:

11/29/99

Signature of Agency Head or Authorized Representative

Nancy R. Wilson, RN.

DRAFT  
10/14/99

TITLE 10  
LEGISLATIVE RULES  
STATE BOARD OF EXAMINERS  
FOR LICENSED PRACTICAL NURSES  
SERIES 6  
CONTINUING COMPETENCE

**§10-6-1. General.**

1.1. Scope. -- These legislative Rules establish requirements for continuing competence to practice practical nursing. They set forth both Continuing Education Requirements and Minimum Practice Requirements.

1.2. Authority. -- WV Code §30-7A-5 & §64-9-17(h)

1.3. Filing Date. --

1.4. Effective Date. --

**§10-6-2. Definition of Terms. Continuing Competence**

2.1. "Approved provider" means a local, state or national agency, organization or association recognized by the Board.

2.2. "Audit" means the selection of licensees for verification of satisfactory completion of continuing education and practice requirements during a specified time period; or the selection of approved providers for verification of adherence to continuing education approved provider requirements during a specified time period.

2.3. "Continuing education" means planned, organized learning activities engaged in following initial licensure and designed to maintain, improve, or expand a practical nurses' knowledge and skills or to develop new knowledge and skills related to nursing to enhance practice, education, or theory development to the end of improving the health of the public.

2.4. "Practical nursing practice" means performance of nursing acts under the direction of a registered nurse, licensed physician or licensed dentist, for which a license to practice is required.

2.5. "Formal offering" means an extension course, independent study, or other course which is offered, for college credit, by a recognized educational institution.

2.6. "Informal offering" means a workshop, seminar, institute, conference, lecture, short term course, or organized independent study which is offered for credit in contact hours or continuing education units.

2.7. "Independent study" means a program of learning designed by an approved provider for the practical nurse who completes the program at the individual's pace, e.g., home study, programmed instruction.

2.8. "Self study" means a program of learning designed by the licensee to enhance knowledge and skill and not approved by an approved provider.

RULES AND REGULATIONS - BPN - CONTINUING COMPETENCE

§10-6-3. Continuing Competence - a Prerequisite for Renewal

3.1. Continuing Competence

3.1.a. Continuing Education Requirements

3.1.a.1. Each applicant for renewal of a license, if the license is currently active, or reinstatement of a license if a license is lapsed or on the non-practicing list, shall verify that he or she has satisfactorily completed twenty-four (24) contact hours of continuing education during the prescribed two (2) year reporting period.

Units of measurement used for continuing education courses are as follows:

- A. 1 contact hour = 50 minutes of instruction
- B. 1 contact hour = 50 minutes of clinical or laboratory practice in an informal offering
- C. 1 continuing education unit (CEU) = 10 contact hours of instruction
- D. 1 academic semester hour = 15 contact hours of instruction
- E. 1 academic quarter hour = 10 contact hours of instruction

~~3.1.1.2. During the fiscal year, July 1, 1993, through June 30, 1994, each licensed practical nurse with an active license to practice practical nursing shall complete a minimum of twelve (12) hours of continuing education as approved by these rules. The licensed practical nurse shall report his or her continuing education activities to the Board no later than June 30, 1994, with the application for renewal of his or her practical nurse license for the fiscal year, July 1, 1994, to June 30, 1995.~~

~~3.1.1.3. After the above one year phase-in period,~~

~~3.1.a.3.2. e Each licensed practical nurse with an active license to practice practical nursing in West Virginia shall complete twenty four (24) contact hours of continuing education, as approved by these rules, every two fiscal years. On or before June 30, 1996, and every other June 30 thereafter, in each even year each licensed practical nurse shall file a report of such continuing education activities with the board at the time the licensee files an application for renewal of his or her license to practice practical nursing in West Virginia.~~

~~3.1.a.4.3. The board shall not No credit is granted credit for identical continuing education activities submitted during any single two (2) year reporting period. Continuing education credits from a previous two (2) year reporting period may not be used, nor shall and credits be accumulated for use in a future two (2) year reporting period are not accepted.~~

3.1.b. Practical Nursing Practice Requirements

3.1.b.1. Each applicant for renewal of a license, if the license is currently active, or reinstatement of a license, if the license is lapsed or on the non-practicing list, shall verify that he or she has engaged in four hundred (400) clock hours of practical nursing practice within the prescribed two (2) year reporting period.

**RULES AND REGULATIONS - BPN - CONTINUING COMPETENCE**

~~3.1.2.1. During the fiscal year, July 1, 1993, through June 30, 1994, each licensed practical nurse with an active license to practice practical nursing in West Virginia shall engage in a minimum of two hundred (200) clock hours of practical nursing as specified in these rules. The licensed practical nurse shall file a report with the board certifying that he or she has met the minimum practical nursing practice requirements no later than June 30, 1994, at the time the licensee files application for renewal of his or her license to practice practical nursing for the fiscal year, July 1, 1994, to June 30, 1995.~~

~~3.1.2.2. After the above one year phase in period,~~

~~3.1.b.2. e Each licensed practical nurse with an active license to practice practical nursing in West Virginia shall engage in a minimum of four hundred (400) clock hours of practical nursing practice, as approved by these rules, every two fiscal years. On or before June 30, 1996, and every other June 30 thereafter, in each even year each licensed practical nurse shall file a report certifying that he or she has met the minimum practical nursing practice requirements, at the time the licensee files the application for renewal of his or her license to practice practical nursing.~~

**3.1.c. Exceptions to Continuing Competence Requirements**

The Board shall exempt from the continuing competence requirements a licensee who qualifies for exceptions set forth in this rule.

3.1.c.1. A licensee who obtains a license for the first time in the West Virginia during the first twelve months of any twenty-four (24) month reporting period shall complete twelve (12) contact hours in approved continuing education activities, as set forth in this rule, before the end of the current reporting period. A licensee who obtains a license for the first time in West Virginia during the second twelve (12) months of any twenty-four (24) month reporting period is exempt from the continuing education requirements for the entire reporting period.

3.1.c.2. A licensee who obtains a license for the first time in the West Virginia during the first twelve months of any twenty-four (24) month reporting period shall engage in two hundred (200) clock hours of practical nursing practice, as set forth in this rule, before the end of the current reporting period. A licensee who obtains a license for the first time in West Virginia during the second twelve (12) months of any twenty-four (24) month reporting period is exempt from the minimum practice requirements for the entire reporting period.

~~3.1.3.3. A licensee who resides outside of West Virginia and who holds a current license to practice in a state other than West Virginia which also has mandatory continuing education is exempt from the continuing education requirements set forth in this rule. A licensee who claims this exception shall retain evidence of the out of state license. The licensee shall present such evidence to the board upon request. A licensee who claims this exception from the continuing education requirement is not exempt from the requirement to file a report certifying that he or she meets the minimum practical nursing practice requirements, with the application for renewal of the license to practice practical nursing in West Virginia as provided in subparagraph 3.1.2.1. of this rule.~~

**RULES AND REGULATIONS - BPN - CONTINUING COMPETENCE**

3.1.c.43. A licensee who is enrolled, full time, in an educational program leading to an associate degree, diploma, or baccalaureate degree in nursing has complied with all continuing competence requirements.

3.1.c.54. A licensee who is a government employee working as a licensed practical nurse and assigned to duty outside the United States during the entire reporting period, or who is serving on active duty in the military during the entire reporting period has complied with the all continuing competence requirements during the period of service with the government or on active duty with the military. A licensee who claims this exception shall retain evidence of Government service or active duty with the military and shall present such evidence to the board upon request. A licensee who is a government employee working as a licensed practical nurse outside the United States or who is serving on active duty with the military for more than three (3) months, but less than twelve (12) months of any twenty-four (24) month reporting period ~~is required to~~ completes twelve (12) contact hours of approved continuing education activities and engage in two hundred (200) clock hours of practical nursing practice, as set forth in this rule, before the end of the current reporting period. A licensee who is a government employee working as a licensed practical nurse outside the United States or who is serving on active duty with the military for more than twelve (12) months of any twenty-four (24) month reporting period is exempt from the continuing education requirements and the minimum practical nursing practice requirements for the entire reporting period.

3.1.c.65. The board may grant a waiver to a licensee who has a physical or mental disability or illness or who is providing direct care to a member of his or her immediate family during all or a portion of the two (2) year reporting period. A waiver provides for an extension of time or exception from some or all of the continuing competence requirements. Any licensee may request an application for a waiver from the board. The board ~~shall~~ approves or denies an application for waiver after review of the application. The board shall not grant an exception from continuing competence requirements for more than one (1), two (2) year reporting period, as set forth in this rule.

3.1.d. Failure to meet requirements or exceptions to requirements

The Board may take the following actions if a licensee fails to meet the continuing competence requirements or the conditions for exceptions for renewal.

3.1.d.1. The board may place the license on non-practicing status without penalty and may waive the continuing competency requirements, providing that the licensee notifies the board in writing of his or her desire to have the board place his or her license on non-practicing status before the last day of the reporting period. The Board ~~shall not~~ charges no a fee to place the license on non-practicing status.

3.1.d.2. The board ~~shall~~ lapses the license of any person who fails to notify the board, in writing, prior to the last day of the reporting period that he or she wishes to place his or her license on the non-practicing status.

3.1.e. Reinstatement of a license on non-practicing or lapsed status or issuance of a limited license.

10 CSR 6

RULES AND REGULATIONS - BPN - CONTINUING COMPETENCE

3.1.e.1. A person wishing to reinstate a license from non-practicing status or from lapsed status ~~shall~~ complies with the following requirements. The person ~~shall~~:

- A. makes application for reinstatement of the license from non-practicing status or lapsed status,
- B. meets the continuing competence requirements as set forth in this rule, and
- C. pays the fee for reinstatement of non-practicing or lapsed license as specified in 10 CSR 4, Fees for Services Rendered by the Board.

3.1.e.2. A person who wishes to reinstate a license but is not able to meet requirements for reinstatement of a non-practicing or a lapsed license ~~shall~~ request a limited license.

3.1.e.2.A. A limited license is a license which is valid for ninety (90) days, during which time the licensee ~~shall~~:

1. satisfactorily completes a refresher course of at least eighty (80) clock hours of theory and eighty (80) clock hours of clinical practice recognized by an approved provider and designed for practical nurses returning to practice after a period of absence from the work setting, or,
2. engages in a minimum of two hundred (200) clock hours of practical nursing practice under the direct supervision of a qualified supervisor and secure twelve (12) contact hours of continuing education. ~~or~~

The board ~~shall~~ issues an unrestricted a fully reinstated license when a licensee provides verification that he or she ~~has met~~ meets one of the above requirements.

~~3.1.e.2.B. The board shall not renew~~ A limited license issued for non-compliance with continuing competence requirements is not renewable.

3.1.e.2.C. A licensee who does not meet requirements provided under this section for limited license within the ninety (90) day licensure period is required to meet the full continuing competence requirements of twenty-four (24) contact hours of continuing education and four hundred (400) clock hours of practical nursing practice or is required to pass the national licensure examination for practical nurses which tests competency for beginning practical nursing practice.

3.2. Audit of Licensees

The board may select any licensee who holds a current license to audit for compliance with continuing competence requirements.

3.2.a. To comply with the audit request from the board, a licensee ~~shall~~ submits legible copies of certificates of attendance at continuing education offerings, transcripts of courses taken, notices received from the board granting special approval of informal offerings from non-approved providers, and the name,

**RULES AND REGULATIONS - BPN - CONTINUING COMPETENCE**

telephone number and mailing address of his or her employer to verify practical nursing practice. The board may require the licensee to submit a job description to verify his or her employment in a nursing position which meets the requirements of subparagraph 3.1.2.1. of this rule.

3.2.b. The licensee shall submit the required documents within thirty (30) days of the date he or she receives notification of the audit. The board may grant an extension of time for submission of the documents, on an individual basis, and in cases of hardship, providing the licensee makes a written request for an extension of time and provides justification for such request.

3.2.c. Licensees are required to keep certificates of attendance at continuing education offerings, letters verifying special approval for informal offerings from non-approved providers, transcripts of courses, and documentation of compliance with exceptions for a two (2) year period following submission of continuing education activities to the board.

3.2.d. The board shall notify the licensee of the satisfactory completion of the audit.

3.2.e. If a person fails to submit the audit information requested by the board or meet standards in subparagraph 3.1.1. or 3.1.2. of this rule, the board may institute disciplinary proceedings and shall not renew a license before such audit is completed.

3.2.f. The board shall take action as prescribed in 10 CSR 2, Policies Regulating to Licensure of the Licensed Practical Nurse, against any licensee who submits false information to the board.

3.2.g. A licensee who fails to notify the board of a current mailing address is not absolved from the audit requirements. The board shall not renew a license before the audit is completed.

**§10-6-4. Continuing Education - Providers**

4.1. The Board shall recognize as approved providers an agency which meet minimum provider standards in subparagraph 4.2 of these rules. Approved providers include, but are not be limited to:

- American Diabetes Association - State Affiliates
- American Heart Association - State Affiliates
- American Medical Association - State Affiliates
- American Nurses Association - State Affiliates
- American Psychological Association - State Affiliates
- American Red Cross - State Affiliates
- Boards of Nursing - United States and Territories
- Commission on Aging
- Licensed Practical Nurses Association of West Virginia
- Medicare and Medicaid Certified Long Term Care Facilities
- National Association for Practical Nurse Education and Service
- National Federation of Licensed Practical Nurses
- National League for Nursing - State Affiliates
- North Central Association of Colleges and Secondary Schools
- West Virginia Council of Home Health Agencies
- West Virginia Department of Education
- West Virginia Department of Health
- West Virginia Health Care Association

**RULES AND REGULATIONS - BPN - CONTINUING COMPETENCE**

West Virginia Hospital Association  
West Virginia Nurses Association  
West Virginia Vocational and Technical Education Centers  
Other West Virginia health-related licensing boards  
Other national, regional, or state nursing, medical, or allied health organizations

The Board shall accept courses and programs provided by accredited schools, colleges or universities and programs offered by institutions accredited by the Joint Commission on Accreditation of Health Care Organization or the American Association of Osteopathic Hospitals as well as facilities and agencies certified to receive medicare and medicaid reimbursement.

The Board shall consider written requests to designate other local, state or national agencies, organizations and associations as approved providers.

The Board shall maintain a current list of approved providers which shall be available to the public upon request. Providers who fail to meet the minimum acceptable provider standards shall be notified, in writing, of specific deficiencies and given a reasonable period of time to correct deficiencies. An approved provider who does not correct deficiencies within the specified time period may be removed from the list of approved providers.

4.2. Minimum Standards for Approved Providers

4.2.a. The duration of the activity shall be at least one (1) contact hour.

4.2.b. The provider shall prepare written objectives, in measurable terms, which describe what a licensee can expect to learn.

4.2.c. The program content shall relate to the program objectives.

4.2.d. The provider shall furnish the instructor's qualifications in the subject areas to be taught to the participant, in writing.

4.2.e. The provider shall establish a written method to determine whether the participant has achieved the stated objectives of the offering. Methods may include but are not limited to self-evaluation check lists or tests.

4.2.f. The provider shall furnish a written statement of completion to each participant who satisfactorily completes each continuing education activity which is signed by the instructor or an individual designated by the instructor.

~~4.2.g. The provider shall give each participant a grade indicating satisfactory completion of each continuing education activity.~~

4.2.g. The provider shall maintain a record of individuals who attend a continuing education offering for a period of not less than ~~three (3)~~ four (4) years.

4.3. Independent Study

4.3.a. Independent study activities may include mediated learning, such as educational television, audio cassettes, and printed media, designed as programmed learning units.

4.3.b. Contact hour equivalents for approved independent study shall be based on contact hours approved by the approved provider.

**RULES AND REGULATIONS - BPN - CONTINUING COMPETENCE**

4.4. Self Study

4.4.a. Self study, may include activities which the licensee determines will enhance skills and knowledge of nursing, such as reading professional journals, watching educational television and listening to audio cassettes that are not designed as programmed learning units, and are not approved by an approved provider.

4.4.b. The board shall base contact hour equivalents for self study on the actual time spent by the licensee.

4.4.c. The board will permit credit of a total of five (5) contact hours of self study toward the continuing education requirement for any two (2) year reporting period.

4.5. Continuing Education Subjects

4.5.a. Continuing education offerings shall reflect the educational needs for the learner in order to meet the health care needs of the consumer and may consist of one or more of the following subject areas:

4.5.a.1. Nursing practice areas and special health care problems;

4.5.a.2. The biological, physical, social and behavioral sciences;

4.5.a.3. The legal aspects of health care;

4.5.a.4. Management of health care personnel and patient care;

4.5.a.5. Teaching and learning process for health care personnel and patients;

4.5.a.6. Subjects relating to nursing practice which are required as part of a formal nursing program and which are more advanced than those completed for original licensure.

4.5.b The following activities are not acceptable for continuing education credit:

4.5.b.1 job related clinical practice,

4.5.b.2. development and presentation of programs as part of the licensees on-going job responsibilities,

4.5.b.3. orientation and update of policies and procedures specific to the licensee's employing facility; and

4.5.b.4. activities which are part of a licensee's usual job responsibility.