

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #1

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1991 MAY -7 AM 9:03  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF PUBLIC HEARING ON A PROPOSED RULE**

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

RULE TYPE: Legislative; CITE AUTHORITY W.V. Code 30-7A-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 6

TITLE OF RULE BEING PROPOSED: Continuing Competence

DATE OF PUBLIC HEARING: Wednesday, June 19, 1991 TIME: 1:00 p.m.

LOCATION OF PUBLIC HEARING: Board Office at 922 Quarrier Street, Room 506  
Charleston, West Virginia 25301

COMMENTS LIMITED TO: ORAL \_\_\_ , WRITTEN \_\_\_ , BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: West Virginia State Board of Examiners for L.P.N.  
922 Quarrier St., Room 506

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

Charleston, WV 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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

SERIES 6 - CONTINUING COMPETENCE

SUMMARY OF PROPOSAL

This is a new series which adds continuing education and minimum practice hours as a prerequisite for renewal of licensure in the State of West Virginia. The rules adds twenty-four (24) contact hours of continuing education and four hundred (400) clock hours of practical nursing practice within the two (2) year period immediately preceding request for renewal of the license. The rule provides for exemptions, established an audit system, defines providers of continuing education and established guidelines for acceptable offerings.

## FISCAL NOTE FOR PROPOSED RULES

Rule Title: Continuing CompetenceType of Rule: XXX Legislative          Interpretive          ProceduralAgency: WV State Board of Exam for L.P.N. Address         922 Quarrier Street, Room 506Charleston, West Virginia 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current 1993	Next 1994	Thereafter
Estimated Total Cost	\$ 60,000	\$	\$60,000	60,000	\$ 40,000
Personal Services			42,000	45,000	22,000
Current Expense			12,000	15,000	18,000
Repairs and Alterations					
Equipment			5,000		
Other					

## 2. Explanation of above estimates:

Costs are estimated based on a need to initially employ a professional nurse staff member during the development and early implementation of continuing competence. Once procedures have been developed the position would be converted to an administrative assistant position. Other costs include furnishing an office, reprogramming of our computer programs to accommodate record keeping, and a general increase in office supplies and forms to implement continuing competence.

## 3. Objectives of these rules:

Implement continuing competence for renewal of licensure for licensed practical nurses.

Complete projections of revenue and expenditures through FY-2000 is attached.

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

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b. Date of hearing: \_\_\_\_\_

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached \_\_\_\_\_

WEST VIRGINIA STATE BOARD OF EXAMINERS  
FOR LICENSED PRACTICAL NURSES

Projected Revenue and Expenditures With Increases

Fund Balance as of June 30, 1990, per Board records - \$152,333

Fiscal Year	Expenditures Projected	Revenue Projected	Fund Balance Projected
FY 1990-91	\$143,500	\$159,030	\$167,863
FY 1991-92	160,000	161,530	169,393
FY 1992-93	226,580	224,830	167,643
FY 1993-94	\$60,000 for CC 234,909	225,830	158,564
FY 1994-95	\$60,000 for CC 223,654	228,530	163,440
FY 1995-96	\$40,000 for CC 234,836	231,030	159,634
FY 1996-97	246,577	232,530	145,587
FY 1997-98	258,905	234,030	120,712
FY 1998-99	271,850	235,530	84,392
FY 1999-2000	285,442	237,030	35,980

Assumptions: Development costs have been spread over two fiscal years with requirements for Continuing Competence beginning with renewals for 1995, which are processed between March and June 30 1994. FY 1982-83, as well as the first three quarters of FY 1993-94 will be use to provide information to licensees, prepare and install computer programs and develop renewal forms, auditing procedures, etc. Costs for maintaining Continuing Competence requirements will increase by 5% per year after 1994-95. Inflation for all other budgetary items is estimated at the level of 5%. Income is projected based on increase in licensees of less than 100 per year following a loss of approximately 1,500 who are not employed and will not renew due to CC requirements. Level of numbers of examination candidates was projected as remaining constant. As is apparent, an increase in fees would be needed by FY 1998, as the \$84,392 balance by FY 1999 would not sustain board operation through the first three quarters of the next fiscal year until the bulk of the revenue is received.

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
- 1.2. Authority. -- WV Code §30-7A-1 et seq.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

**§10-6-2. Definition of Terms.**

- 2.1. The term "approved provider" means formal and informal offerings approved by a state or national agency, organization or association recognized by the Board.
- 2.2. The term "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. The term "continuing education" means planned, organized learning activities acquired following initial licensure and designed to maintain, improve, or expand practical nurses' knowledge and skills or to develop new knowledge and skills relevant to nursing for the enhancement of practice, education, or theory development to the end of improving the health of the public.
- 2.4. The term "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. The term "formal offering" means an extension course, independent study, or other course which is offered by a recognized educational institution.
- 2.7. The term "informal offering" means workshop, seminar, institute, conference, lecture, short term course, or organized self-study which is offered for credit in contact hours or continuing education units.
- 2.8. The term "self-study" means a program of learning designed by an approved provider for the nurse who completes the program at the individual's pace, e.g., home study, programmed instruction.

**§10-6-3. Continuing competence - a prerequisite for renewal**

3.1. Continuing Competence.

3.1.1. Each applicant for renewal of a license, whether the license is currently active, lapsed, or on the nonpracticing list shall verify on the application for renewal that he/she has:

3.1.1.1. Satisfactorily completed 24 contact hours of continuing education during the two (2) year period immediately preceding the request for renewal. Credit shall not be granted for identical continuing education activities submitted during any single continuing education period. Continuing education credits from a previous period shall not be used, nor shall credits be accumulated for use in a future period of time;

Units of measurement used for continuing education courses shall be as follows:

- a. 1 contact hour = 50 minutes of instruction
- b. 1 contact hour = 150 minutes of clinical or laboratory practicum in an informal offering
- c. 1 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. Engaged in 400 hours of practical nursing practice within the two (2) years immediately preceding the date of the request for renewal.

3.1.1.3. Exceptions to Continuing Competence Requirements.

3.1.1.3.1. A licensee shall be deemed to have complied with the continuing competency requirements for renewal of the first license period following passage of the national licensing examination for practical nurses.

3.1.1.3.2. A licensee shall be deemed to have complied with the continuing education requirements when

that person, at the time of renewal, resides outside of West Virginia and holds a current license to practice in a state other than West Virginia which also has mandatory continuing education. The continuing education credit requirements shall be waived; however, a licensee who claims this exception shall retain evidence of the out-of-state license and verification of employment of at least 400 hours of practical nursing practice within the two (2) year period immediately preceding the date of the request for renewal, to be presented upon request from the board. A licensee who resides out of state for a portion of a renewal period but is residing in West Virginia at the time of renewal, shall comply with continuing competency requirements of West Virginia for the renewal period.

3.1.1.3.3. A licensee who is enrolled, full time, in an educational program leading to an associate degree, diploma, or baccalaureate degree in nursing shall be deemed to have complied with all continuing competence requirements.

3.1.1.3.4. A licensee who is a government employee working as a licensed practical nurse and assigned to duty outside the United States during the entire licensing period, or who is serving on active duty in the military during the entire licensing period shall be deemed to have 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 to be presented upon request from the board. A person 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 a portion of a license period, but is not on active duty at the time of renewal, shall comply with continuing competency requirements of West Virginia for the license period.

3.1.1.3.5. A licensee who has had a physical or mental disability or illness or who has been providing direct care to a member of his/her immediate family during the license period shall be eligible for a waiver. A waiver provides for an extension of time or exemption from some or all of the continuing education requirements. An application for a waiver is available upon request to the board office. The application requires the signature of a physician who can attest to the existence of a disability or illness during the license period. The application for a waiver shall be approved or denied depending on the disability or illness of the licensee. A licensee shall be notified of the decision of the board.

3.1.1.3.6. A licensee, over the age of 65, may apply for waiver of continuing competence requirements under the following conditions;

- a. The licensee notifies the Board that he/she desires to apply for a "retired" license prior to the June 30 expiration of a current license.
- b. The licensee has retired from active practice,
- c. The licensee does not intend to seek employment as a licensed practical nurse for compensation.

A license shall be issued bearing the word "retired" on the face of the license. A "retired" license certificate may be issued annually, providing the licensee pays the annual renewal fee. This license shall **NOT** be valid for practice for compensation. Renewal of a "retired" license shall be accomplished according to the same criteria established for renewal of a nonpracticing license.

3.1.1.4. Failure to meet requirements or exceptions to requirements.

The licensee who fails to meet the requirements or the conditions for exceptions for renewal of a license has the following options:

3.1.1.4.1. The license may be placed on nonpracticing status without penalty and continuing competency requirements shall be waived, providing that the licensee notifies the board in writing of the desire to place the license on nonpracticing status prior to the date of expiration. No fee shall be charged to place the license on nonpracticing status.

3.1.1.4.2. The license of an individual who fails to notify the board in writing prior to the expiration of a current license that he/she wished to be placed on nonpracticing status shall be considered lapsed.

3.1.1.5. Renewal of a license on nonpracticing or lapsed status.

3.1.1.5.1. A licensee who desires to renew a license from nonpracticing status or from lapsed status shall comply with the following requirements.

- a. Make application for renewal of the license from nonpracticing status/lapsed status,
- b. Meet requirements of section 3.1. of these rules regarding continuing competence, and
- c. Pay the fee for renewal of nonpracticing or lapsed license as specified in Series 4 of these rules.

3.1.1.5.2. A licensee who is unable to meet requirements for nonpracticing or lapsed renewal shall request a limited licensure renewal application which provides:

3.1.1.5.2.1. A limited license valid for up to ninety (90) days, during which time the licensee shall:

- (a) engage in a minimum of 200 hours of practical nursing practice under the direct supervision of a qualified supervisor and secure twelve (12) contact hours of continuing education, or:
- (b) satisfactorily complete a refresher course of at least eighty (80) hours of theory and eighty (80) 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.

Verification that one of the above requirements has been met shall be mandatory for issuance of an unrestricted license. A limited license issued for non compliance with continuing competence requirements is not renewable.

3.1.1.5.2.2. A licensee who is unable to meet requirements provided under provisions for limited licensure, shall be required to pass a national nursing licensure examination which tests competency relevant to beginning practical nursing practice.

3.2. Audit of Licensees.

The board may select any licensees for audit who holds a current license.

3.2.1. Compliance with the audit request shall include submission of legible copies of certificates of attendance, transcripts, special approval of informal offerings from nonapproved providers, and name, telephone number and mailing address of most recent employer. (Job descriptions may be required to verify the position as a nursing position), or compliance with exceptions in rule 3.1.1.3.

3.2.2. Verification shall be submitted within one month after the date of notification of the audit. Extensions of time may be granted on an individual basis.

3.2.3. Licensees are required to keep certificates of attendance, letters verifying special approval for informal offerings from nonapproved providers, transcripts, and documentation of compliance with exceptions for a two (2) year period following submission of continuing education activity to the board for licensure renewal.

3.2.4. The board shall notify the licensee of satisfactory completion of the audit.

3.2.5. If an individual fails to complete an audit that has been requested renewal of the license shall be withheld until such audit is satisfactorily completed.

3.2.6. Falsification of information on an audit shall result in board action as described in nursing board rules Series 2, Section 10.2.11.

3.2.7. Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirements; completion of an audit will be required prior to further license renewal.

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

4.1. The Board shall recognize as approved providers, those formal and informal offerings which are currently approved, accredited, provided or offered by a recognized credentialing agency which meet minimum provider standards in Section 4.2 of these rules. Approved providers shall include, but not be limited to:

- American Diabetes Association - West Virginia Affiliate
- American Heart Association
- American Medical Association
- American Nurses Association
- American Psychological Association
- American Red Cross
- Boards of Nursing - United States and Territories
- Commission on Aging
- Licensed Practical Nurses Association of West Virginia
- National Federation of LPN'S
- National League for Nursing
- North Central Association of Colleges and Secondary Schools
- West Virginia Association of Home Health Agencies
- West Virginia Department of Education
- West Virginia (Board of Regents) get new name
- West Virginia Department of Health
- West Virginia Health Care Association
- West Virginia Hospital Association

West Virginia Nurses Association

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 Healthcare Organization or the American Association of Osteopathic Hospitals.

The Board shall consider written requests to designate other credentialing agencies, organizations and associations as approved providers.

The Board shall maintain a current listing of approved providers and which shall 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 time period for correction of identified deficiencies. An approved provider who does not correct deficiencies within the time period may be removed from the list of approved providers.

4.2. Minimum Acceptable Provider Standards:

4.2.1. The duration of the activity is at least one contact hour.

4.2.2. The objectives are written in measurable terms which describe what a licensee can expect to learn.

4.2.3. The program content relates to program objectives.

4.2.4. The instructor's qualifications in the subject, are stated in written form.

4.2.5. The method to be utilized by the learner to determine whether or not learning occurred is in written form. Acceptable methods may include but need not be limited to self-evaluation check lists or tests.

4.2.6. A written statement of participation provided by the instructor or a designee following completion of each acceptable continuing education activity is obtained.

4.2.7. A grade indicating successful completion is obtained.

4.2.8. A record of individuals who attend a continuing education offering is maintained for a period of not less than three years.

4.3. Acceptable Subject Matter.

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

4.3.1.1. Nursing practice areas and special health care problems;

4.3.1.2. Biological, physical, social and behavioral sciences;

4.3.1.3. Legal aspects of health care;

4.3.1.4. Management of health care personnel and patient care;

4.3.1.5. Teaching/learning process of health care personnel and patients;

4.3.1.6. 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.

4.4. Self Study.

4.4.1. No more than a total of five (5) contact hours of self study may be credited toward the continuing education requirement for a two (2) year period. Self study activities may include:

4.4.2. mediated learning - which refers to but is not limited to, educational television, audio cassettes, and printed media, such as programmed learning units;

4.4.3. independent study - which refers to a course or a program initiated by the licensee to enhance skills and knowledge of nursing;

4.4.4. Contact hour equivalents for approved self study shall be based on contact hours approved by an approved provider, if the independent study course is so approved, or actual learning hours spent by the licensee.

4.5. Subject Areas Not Acceptable for Continuing Education Credit.

4.5.1. Job related clinical practice (400 hours required in two (2) year period for renewal of license, but may not be substituted for the twenty four (24) hours of continuing education credit required);

4.5.2. development and presentation of programs as part of on-going job responsibilities;

4.5.3. orientation and update of policies and procedures specific to the work-setting; and

4.5.4. activities which are part of the usual job responsibility.