

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #7

Do Not Mark In This Box  
Filing Date

2011 JUN 17 PM 1:35

OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

**NOTICE OF AN EMERGENCY RULE**

AGENCY: WEST VIRGINIA MASSAGE THERAPY LICENSURE BOARD TITLE NUMBER: 194

CITE AUTHORITY: 30-36-7

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

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

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 4

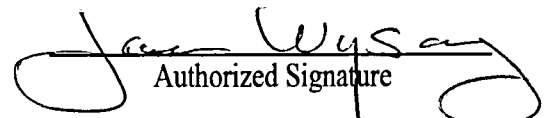
TITLE OF RULE BEING PROPOSED: SCHEDULE OF FEES

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

THE BOARD DOES NOT RECEIVE ANY GENERAL REVENUE FUNDS TO OPERATE. IN ORDER TO PROVIDE OUR FIRST AND FOREMOST DUTY TO PROTECT THE PUBLIC; IT IS NECESSARY FOR THE BOARD TO INCREASE THE FEES IMMEDIATELY. THE EXPENSES INCURRED THIS FISCAL YEAR FOR LEGAL FEES AND THE INVESTIGATION AND DISPOSITION OF COMPLAINTS HAVE INCREASED SIGNIFICANTLY. THE BOARD IS MANDATED TO BE SELF-SUFFICIENT. IN ORDER TO MAINTAIN SELF-SUFFICIENCY, IT IS URGENT THAT THIS EMERGENCY RULE BE APPROVED AS SOON AS POSSIBLE. THANK YOU!

Use additional sheets if necessary

  
Authorized Signature

**EMERGENCY RULE QUESTIONNAIRE**

DATE: June 14, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Linda Lyter, WV Massage Therapy Licensure Board  
179 Summers Street, Suite 711  
Charleston, WV 25301 (304-558-1060)

EMERGENCY RULE TITLE: Title 194 Series 4 General Provisions

1. Date of filing June 17, 2011

2. Statutory authority for promulgating emergency rule:  
§30-36-7

3. Date of filing of proposed legislative rule: June 17, 2011

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?  
Yes, it amends Series 1 General Provisions  
and it creates a new Series 4 Schedule of Fees

5. Has the same or similar emergency rule previously been filed and expired?  
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

~~Due to incurring unforeseen extraordinary expenses for the investigation and disposition of complaints and legal fees; the board's funds have been significantly depleted. The board does not receive any general revenue funds and is required to be self-sufficient. If the regulatory board could not fully operate, protection of the public would be greatly jeopardized and consumers and clients would not have a place to turn to report any unlicensed practice or improper misconduct. Businesses that provide these services would not be able to operate lawfully without the board. This is an urgent request.~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

---

---

---

---

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~The board has incurred significant unanticipated expenses due to the investigation and resolution of complaints. The board is charged with the protection of the public while simultaneously required to be financially self-sufficient. The fee increase is necessary to cover ongoing legal fees and other related costs for the resolution of current and future complaints. Throughout the history of the board, there hasn't been any legal proceedings that have been as lengthy and exhausted the amount of funds as occurred this year .~~

---

## **SUMMARY OF THE RULE**

### **TITLE 194**

#### **SERIES 4 GENERAL PROVISIONS**

This rule is being submitted to amend and increase the schedule of fees and create a new Series 4 Schedule of Fees. This will allow the fee structure to be in a series relating only to fees.

#### **FACTS AND CIRCUMSTANCES**

THIS SERIES IS BEING SUBMITTED TO INCREASE THE SCHEDULE OF FEES. DUE TO A SIGNIFICANT INCREASE IN EXPENSES RELATED TO THE INVESTIGATION AND DISPOSITION OF COMPLAINTS AS WELL AS LEGAL FEES; THIS HAS CREATED AN URGENT NEED FOR ADDITIONAL FUNDS. THIS WILL REQUIRE THE BOARD TO INCREASE FEES IN ORDER TO OPERATE. THE BOARD DOES NOT RECEIVE ANY GENERAL REVENUE FUNDS AND IS REQUIRED TO BE SELF-SUFFICIENT.

IF THE REGULATORY BOARD COULD NOT FULLY OPERATE, PROTECTION OF THE PUBLIC WOULD BE GREATLY JEOPARDIZED AND CONSUMERS AND CLIENTS WOULD NOT HAVE AN AVENUE TO REPORT ANY UNLICENSED PRACTICE OR IMPROPER MISCONDUCT. BUSINESSES THAT PROVIDE THESE SERVICES WOULD NOT BE ABLE TO OPERATE LAWFULLY WITHOUT THE BOARD. THROUGHOUT THE HISTORY OF THE BOARD, THERE HAS NOT BEEN ANY LEGAL PROCEEDINGS THAT HAVE BEEN AS LENGTHY AND EXHAUSTED THE AMOUNT OF FUNDS THAT HAS OCCURRED THIS YEAR.

APPENDIX B  
**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: General Provisions

Type of Rule:  Legislative  Interpretive  Procedural

Agency: WV Massage Therapy Licensure Board

Address: 179 Summers Street, Suite 711  
Charleston, WV 25301

Phone Number: 304-558-1060 Email: linda\_lyter@frontier.com

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This will not have any impact on the costs and revenues of state government. This board is a Chapter 30 board and is required to be self-sufficient in regards to its funding. The board operates on its own revenue that is generated by licensure and other related fees. The board does not receive any general revenue funds.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	150,578.00	127,006.00	127,006.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>	0.00	180,000.00	130,000.00

Rule Title: \_\_\_\_\_

Rule Title:

General Provisions

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The board is increasing the schedule of fees. This includes the initial application and renewal fees for licensure. The license renewal is on a biennial basis so the revenue generated is increased in one fiscal year and decreased in the next consecutive fiscal year depending on the number of license renewals due for that particular fiscal year. It also depends on the total number of new license applications submitted for each fiscal year and those who may be currently licensed that fail to renew due to relocation, exiting the field, etc.

Estimated license applications and renewals for FY 2012 would generate approximately \$80,000.00 in additional revenue.

Estimated license applications and renewals for FY 2013 would generate approximately \$40,000.00 in additional revenue.

This revenue would enable the board to maintain operations and retain a cash balance to cover any extraordinary expenses (e.g. legal fees) incurred during any fiscal year and what is also recommended by the legislative auditors to carryover from one fiscal year to another.

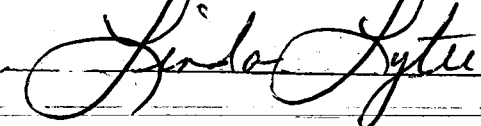
**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

N/A

Date: June 14, 2011

Signature of Agency Head or Authorized Representative



TITLE 194  
LEGISLATIVE RULES  
MESSAGE THERAPY LICENSURE BOARD

SERIES 4  
SCHEDULE OF FEES

FILED  
JUN 17 PM 1:35  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§194-4-1. General.**

1.1. Scope. -- This rule establishes the schedule of fees for the Massage Therapy Licensure Board.

1.2. Authority. -- W. Va. Code 30-37-6.

1.3. Filing Date. --

1.4. Effective Date. --

**§194-4-2. Licensure and Administrative Fees.**

2.1. Each applicant for licensure is responsible for paying the appropriate fees specified in this rule.

2.2. The fees authorized to be established by the Board and necessary to the operation of the Board are as follows:

2.3. Application fee -- Fifty dollars (\$50.00) -- a non-refundable fee to be paid by all applicants for a massage therapy license including those seeking to re-apply for a license.

2.4. Two (2) year license fee -- Three hundred dollars (\$300.00) -- a fee to be paid at the time of application for initial or reciprocal license. This fee does not include the fifty dollars (\$50.00) application fee. This fee is non-refundable after issuance of a license.

2.5. Two (2) year licensure renewal fee -- Two hundred dollars (\$200.00) -- a fee to be paid prior to the issuance of the license. This fee must be received by the end of the month before the license expires. This fee is non-refundable after issuance of license.

2.6. Late fee -- Fifty dollars (\$50.00) -- a non-refundable fee to be paid when a licensee

fails to submit application and fees on or before the date the license expires. This is in addition to the other required fees.

2.7 Duplicate or replacement license fee -- Twenty-five dollars (\$25.00) -- a non-refundable fee to be paid when a licensee requests a replacement or duplicate license or a license request due to a name change.

2.8. Certified statement fee -- Thirty dollars (\$30.00) -- a fee to be paid at the time of request the Board verify that a licensee is licensed in West Virginia.

2.9. Failure to report change of address fee in writing fee -- Twenty-five dollars (\$25.00) -- a fee that is to be paid by the applicant when he or she has failed to notify the Board in writing within thirty (30) days of changing his or her address.

2.10. Re-application fee -- Three hundred fifty dollars (\$350.00) -- a fee to be paid when re-applying for licensure after the license lapsed sixty days after the expiration date of the license.

2.11. Failure to report name change in writing fee -- Twenty dollars (\$25.00) -- a fee that is to be paid by the applicant when he or she has failed to notify the Board in writing within thirty (30) days of changing their name.

2.12. Roster fee -- One hundred dollars (\$100.00) -- a fee that is to be paid by at the time of the request for a copy of the roster of current licensees.

2.13. Photocopy per page fee -- a fifty cent (\$.50) per page photocopying fee shall be paid at the time information is requested.