

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

Form #3

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FILED

2005 JUL 21 A 10: 58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Radiologic Technology Board of Examiners TITLE NUMBER: 18

CITE AUTHORITY: W. Va. Code § 30-23-5

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 21, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Radiologic Technology Board of Examiners
PO Box 638
1715 Flat Top Road
Cool Ridge, WV 25825-0638
304-787-4398

LEGISLATIVE RULE TITLE: Rule of the West Virginia Radiologic Technology Board of Examiners

1. Authorizing statute(s) citation W Va Code § 30-23-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 15, 2005

b. What other notice, including advertising, did you give of the hearing?
Memorandum was mailed with all license renewals since September, 2004 of intent to raise fees and when public comment period would commence. Notice was placed in Agency newsletter & professional organization's officers were notified of intent to raise fees and when public comment would commence. Professional organization reported this contact to the membership. Notice was placed on agency's web page of public comment.

c. Date of Public Hearing(s) or Public Comment Period ended:
July 15, 2005 @ 5:00 pm

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached None No comments received None

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 21, 2005

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Grady M. Bowyer, R.T., Executive Director
WV Radiologic Technology Board of Examiners
PO Box 638

1715 Flat Top Road

Cool Ridge, WV 25825-0638

Phone: 304-546-4642 Fax: 304-787-3030 Email: gradybowyer@charter.net

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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.

N/A

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached

SUMMARY OF THE RULE

THIS SERIES 1 RULE OF THE WEST VIRGINIA RADIOLOGIC TECHNOLOGY BOARD OF EXAMINERS (BOARD) IS BEING SUBMITTED FOR REVISION TO THE 2006 LEGISLATIVE SESSION.

THERE IS A MINOR WORDING CHANGE IN § 18-1-4.1 AND AN INCREASE IN THE ANNUAL RENEWAL FEE FROM \$ 50.00 TO \$ 65.00 in § 18-1-4.7.

THE WORDING in § 18-1-4.1(c) IS FOR CLARIFICATION ON THE SIGNATURE FOR ON-LINE CREDIT CARD RENEWALS AND § 18-1-4.1(d) CONCERNING THE METHOD OF PAYMENT OF FEES.

THE INCREASE IN THE ANNUAL RENEWAL FEE (§ 18-1-4.7) IS NEEDED TO ALLOW THE BOARD TO MAINTAIN FINANCIAL STABILITY. THE BOARD MUST BE SELF-SUSTAINING AND WITH EXPENDITURES EXCEEDING REVENUE, THIS IS THE ONLY METHOD OF INCREASING REVENUE TO MAINTAIN THE BOARD'S FINANCIAL STABILITY.

FACTS AND CIRCUMSTANCES

THE REVISION OF THE SERIES 1 RULE WOULD CLARIFY THAT AN APPLICATION SUBMITTED THROUGH THE ON-LINE CREDIT CARD RENEWAL SYSTEM WOULD BE DECLARED AS SIGNED BY THE APPLICANT. THIS REVISION WOULD ALSO STIPULATED THAT THE RENEWAL FEE COULD BE PAID BY BOARD-APPROVED CREDIT CARDS AS WELL AS OTHER ESTABLISHED METHODS.

THE REVISION WOULD ALSO INCREASE THE ANNUAL LICENSE RENEWAL FEE FROM \$ 50.00 TO \$ 65.00. THE BOARD HAS REDUCED SPENDING AS FAR AS POSSIBLE, HOWEVER, DUE TO EVER INCREASING COSTS OF DOING BUSINESS, EXPENDITURES CONTINUE TO EXCEED REVENUE. THE BOARD MUST BE SELF SUPPORTING AND, IN ORDER TO MAINTAIN FINANCIAL STABILITY, AN INCREASE IN THE ANNUAL RENEWAL FEE IS THE ONLY OTHER METHOD OF GENERATING REVENUE TO MEET THAT REQUIREMENT. ALL FEES EXCEPT THE ANNUAL RENEWAL FEE WERE INCREASED DURING THE 2005 LEGISLATIVE SESSION.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rule of the West Virginia Radiologic Technology Board of Examiners

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Radiologic Technology Board of Examiners

Address: PO Box 638

1715 Flat Top Road

Cool Ridge, WV 25825-0638

Phone Number: 304-787-4398 Email: wvrtboe@charter.net

Fiscal Note Summary

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

THIS FEE INCREASE WILL GENERATE APPROXIMATELY \$ 28,500.00 ANNUALLY TO FUND THE OPERATIONS OF THE BOARD AND OFFICE. THIS FEE IS ACCESSED ON THE RENEWAL OF A RADIOLOGIC TECHNOLOGIST LICENSE, INCREASING THE ANNUAL RENEWAL FEE FROM \$ 50.00 PER YEAR TO \$ 65.00.

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	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost		28,500.00	28,500.00
Personal Services		5,000.00	5,000.00
Current Expenses		15,000.00	15,000.00
Repairs & Alterations			
Assets			
Equipment		5,000.00	5,000.00
Other		3,500.00	3,500.00
2. Estimated Total Revenues		28,500.00	28,500.00

Rule Title: Rule of the West Virginia Radiologic Technology Board of Examiners

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

THE BOARD HAS BEEN LOSING APPROXIMATELY \$ 12,000.00 - \$ 15,000.00 PER YEAR DUE TO INCREASED COST OF OPERATING. THE LAST ANNUAL RENEWAL FEE INCREASE WAS IN 1998. THE ATTRITION RATE OF LICENSEES MAKES THE FUNDING FOR THE BOARD STAGNANT. BETWEEN FISCAL YEAR 2003 AND FISCAL YEAR 2004, THERE WAS AN INCREASE OF ONE (1) NEW RENEWAL LICENSE. HOWEVER, THE INCREASE IN EXPENDITURES INCREASED APPROXIMATELY \$ 12,000.00. INVESTIGATION OF COMPLAINTS, CREDIT CARD LICENSE RENEWAL FEES, OTHER STATE AGENCIES RE-COUPING THEIR BUDGET CUTS, INCREASE IN GASOLINE COST, INCREASED UTILITIES, & OTHER INCREASED COSTS HAVE CONTRIBUTED TO THE NEED FOR THIS INCREASE. ALL EXPENDITURES HAVE BEEN MONITORED AND CUT AS FAR AS POSSIBLE, BUT EXPENDITURES CONTINUE TO INCREASE AND EXCEED REVENUE GENERATED. THE BOARD MUST, BY LAW, BE SELF-SUPPORTING. THIS FEE INCREASE WILL ALLOW THE BOARD TO MEET THAT REQUIREMENT AND SHOULD PROVIDE FINANCIAL STABILITY FOR SEVERAL YEARS TO COME.

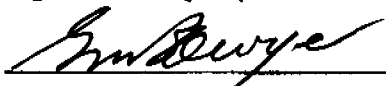
MEMORANDUM

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.

THIS FEE IS ACCESSED ON THE LICENSE RENEWAL OF PROFESSIONALS WORKING IN THE FIELD OF RADIOLOGIC TECHNOLOGY AND RADIATION THERAPY. THE GENERAL POPULATION WILL NOT BE DIRECTLY IMPACTED BY THIS FEE INCREASE.

Date: JUNE 15, 2005

Signature of Agency Head or Authorized Representative



TITLE 18
LEGISLATIVE RULES
RADIOLOGIC TECHNOLOGISTS

FILED

2005 JUN 15 A 11: 58

SERIES 1
RULE OF THE WEST VIRGINIA BOARD OF
EXAMINERS OF RADIOLOGIC TECHNOLOGISTS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§18-1-1. General provisions.

1.1 Scope. -- Except as otherwise specifically provided, this rule applies to all persons in West Virginia who apply ionizing radiation or assist in the application of ionizing radiation to human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner. This rule establishes the general requirements for licensure of Radiologic Technologists in West Virginia.

1.2 Authority. -- W. Va. Code § 30-23- 5

1.3 Filing Date. --

1.4 Effective Date. --

§18-1-2. Definitions.

As used in this rule:

(a) "Ionizing Radiation (X-Ray)" means the relatively high energy of photons capable of producing ionization in substances through which it passes. This high-energy is used to generate an exposure for diagnostic or therapeutic purposes.

(b) "JRCERT" means the Joint Review Committee on Education in Radiologic Technology.

(c) "Reciprocity" means the granting of a license or temporary permit to persons who hold a license or certificate in another state.

(d) "Temporary License" means a license granted and issued by the Board for the practice of radiologic technology which is limited in duration.

(e) "Unethical Conduct" means, but is not limited to:

(1) Engaging in the practice of radiologic technology while in an intoxicated condition under the influence of narcotic or any other drugs which impair consciousness, judgement or behavior;

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- (2) Immoral conduct while engaged in the practice of radiologic technology or behavior indicating an unfitness to practice radiologic technology;
- (3) Willful falsification, destruction or theft of property or records relating to the practice or radiologic technology;
- (4) Failure to exercise due regard for the safety of the life or health of the patient;
- (5) Unauthorized disclosure of information relating to a patient or his or her records;
- (6) Discrimination in the practice of radiologic technology against any person for reason of race, religion, creed, color or national origin;
- (7) Violating the provisions of the Rules of the Board; or
- (8) The grounds enumerated in W. Va. Code § 30-23-9 (b).

§18-1-3. Board functions.

3.1 Duties and powers of the Board. -- The duties and powers of the Board are defined in the W.Va. Code §30-23-1 et seq. It is the duty of the Board to carry out the provisions of the law to the best of its ability.

§18-1-4. Licenses and temporary permits.

4.1 Application for licenses and temporary permits.

(a) The Board shall furnish any person requesting an application for a license or temporary permit the necessary forms, and any other information or questionnaires as the Board considers desirable.

(b) The application forms shall be designed to provide the information necessary to satisfy the Board that all requirements pertaining to the West Virginia Code are being fulfilled.

(c) All applications shall be signed by the applicant, except those any renewal applications submitted on-line. An Applicant who submits a renewal application on-line by credit card payment is considered to have signed the application.

(d) The application shall be accompanied by a money order, certified

check, or a personal check, or Any application or renewal application may be paid by certain credit cards which have been approved by the Board .

(e) If an applicant fails to complete all forms and to provide all information, the Board may reject and return the application to the applicant.

(f) The Board shall deny a license to any person knowingly furnishing false information in an application or if the applicant has already been licensed before the falsification of the information has been made known to the Board, the license or temporary permit is subject to suspension or revocation. In addition, the Board may undertake prosecution of the applicant pursuant to W.Va. Code §30-23-13.

4.2 Issuance of licenses and temporary permits.

(a) The Board shall issue to each applicant a license or a temporary permit within thirty (30) days of receipt of a properly completed application and payment of the appropriate fee.

(b) The license is valid for a period of one (1) year from the date of issuance.

(c) A licensee shall renew his or her license annually without examination by applying for renewal on a form prescribed by the Board or by on-line renewal with the payment by a Board approved credit card. If submitted by U.S. mail, the licensee is responsible for obtaining, completing, signing and forwarding the renewal application to the Board with the required fee and documentation of their Continuing Education (CE) as required by the Board's rule, CONTINUING EDUCATION, 18CSR2. For on-line renewals the Board shall verify Continuing Education by obtaining biennium information from American Registry of Radiologic Technologist (ARRT). If the Continuing Education information cannot be obtained from the American Registry of Radiologic Technologist, the Board shall notify the licensee that the required documentation of Continuing Education compliance must be submitted to the office before the Board issues the renewal license.

(d) The Board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

(e) The Board shall assess a fee for reinstatement of an expired license.

(f) The Board may issue temporary permits:

(1) An applicant for a temporary permit shall present evidence of graduation from a Board approved School of Radiologic Technology. This

evidence may be a diploma or a notarized letter from the school's program director stating the applicant has completed the course's education and clinical requirements.

(2) An applicant for a temporary permit may apply to the Board for a permit up to six (6) months after graduation from a Board approved School of Radiologic Technology. After six (6) months, the applicant must show proof of American Registry of Radiologic Technologist (ARRT) registration and apply for a permanent WV License.

(3) The Board shall issue the temporary permit based on the date of application and payment of the required fee. The effective dates of the temporary permit will be for a period of twenty-four (24) weeks or six (6) months from the date that the Board's office receives the application and fees. Temporary permits may not be renewed or extended.

4.3 Reciprocity.

(a) The Board may consider reciprocity with other states on an individual basis.

(b) The Board shall not honor a license issued to a person by another state in lieu of a license issued by the Board.

(c) A licensee who violates laws regulating radiologic technologists in any other state while he or she is visiting or residing in another state shall be considered guilty of unethical conduct by the Board.

4.4 Responsibilities of licensees and permittees.

(a) It is the responsibility of each licensee or permittee to be familiar with the requirements of the law regulating the practice of Radiologic Technology in West Virginia and with the rules of the Board.

(b) It is the responsibility of each licensee or permittee to make timely application for a license or renewal of license, to complete the forms properly, to submit the required Continuing Education documentation, and to pay the fees required, and to hold himself or herself available for examination at the times and places designated by the Board. Any information or reminders which the Board may issue are courtesies and shall not diminish the responsibilities of the licensee or permittee.

4.5 Display of license or temporary permit.

(a) Each licensee or permittee shall prominently display at his or her

principal place of employment his or her license or temporary permit to practice radiologic technology and his or her current certificate of registration (a wallet-sized registration card issued annually by the Board to every person to whom it issues a license).

(b) A licensee shall exhibit a current licensure or renewal registration card when requested by the following:

(1) A Board member or an employee of the Board;

(2) Any person upon whom the licensee applies ionizing-radiation; or

(3) An employer in whose employ the licensee practices or intends to practice radiologic technology.

(c) An employer, Board member or Board employee shall not accept a photocopy or other facsimile of a license or wallet-sized registration card as the only evidence that a person is licensed to practice radiologic technology. Where, for convenience or security, a photocopy or facsimile is displayed, the original document shall be readily available for review.

4.6 Duplicate license.

(a) In requesting a name change, the licensee shall return the current license to the Board with the required fee and court documentation showing the new name prior to issuance of a corrected license.

(b) When requesting a duplicate license due to loss of license, a licensee shall submit a notarized statement substantiating the loss to the Board with the required fee prior to issuance of a duplicate license.

4.7 Schedule of fees for services rendered by the West Virginia Radiologic Technology Board of Examiners.

(a)	Application Fee	\$100.00
(b)	Annual Renewal Fee	\$50.00 <u>\$ 65.00</u>
(c)	All Temporary Permits Fee	\$40.00
(d)	Reinstatement Fee (delinquent)	\$25.00
(e)	Return Check Fee	Maximum allowable by West Virginia State Code

(f)	Reciprocity Fee	\$40.00
(g)	Duplicate License	\$15.00
(h)	Change of Name	\$15.00
(i)	Roster of Active Licenses	\$50.00
(j)	Mailing Labels (Name and Address/per 750 or portion thereof)	\$50.00
(k)	WV Examination Fee	\$ 100.00

4.8 Presumptive penalties

(a) The Board shall considered the following disciplinary sanctions as presumptive penalties to be imposed in all cases of first time violations of the provisions of this section of this rule unless extenuating circumstances require otherwise:

1. Person working without being issued a license	\$ 1,000.00
2. Aiding and abetting a person working without being issued a license	\$ 1,000.00
3. Radiologic Technologist working on an expired license	\$ 500.00
4. Facility allowing technologist to work on an expired license	\$ 500.00
5. Radiologic Technologist not having license posted at their primary workplace	\$ 100.00
6. Facility not posting license in patient's viewable area	\$ 100.00

§18-1-5. Educational Requirements for applicants for licensure.

5.1 Standards for an approved school shall follow the current standards as established by the JRCERT, or standards determined equivalent by the Board.