





**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

**FILED**

2001 JUN 19 A 10:09

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: WV Radiologic Technology Board of Examiners TITLE NUMBER: 18

RULE TYPE: Legislative CITE AUTHORITY: § 30-1-1 et seq. & § 30-23-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Rule of the West Virginia Radiologic Technology Board of Examiners

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

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

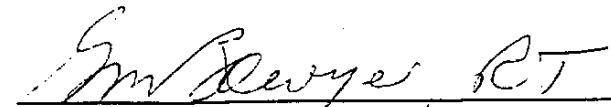
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 20, 2001 AT 4:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV RT Board of Examiners

P.O. Box 638

Cool Ridge, WV 25825

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

  
Authorized Signature

**Legislative Rule Making**

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

JUN 19 2001

**Review Committee**

**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 24, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Radiologic Technology Board of Examiners  
P.O. Box 638  
Cool Ridge, WV 25825

Telephone 304-787-4398

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

1. Authorizing statute(s) citation § 30-1-1 et seq. and § 30-23-1 et seq.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 19, 2001

b. What other notice, including advertising, did you give of the hearing?  
Notices were mailed to 540 owners / operators of radiation producing equipment  
for medical purposes that the rule had been submitted for comment and this  
modified rule was posted on the Agency's web for viewing.

c. Date of Public Hearing(s) or Public Comment Period ended:  
July 20, 2001

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received X

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

July 24, 2001

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

Mary Casto, Administrative Secretary

West Virginia Radiologic Technology Board of Examiners

P.O. Box 638

Cool Ridge, WV 25825

Telephone: 304-787-4398 Fax: 304-787-3030

Email: wvrtboe@wvnm.wvnet.edu

- 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)

Grady M. Bowyer, R.T. (R), Executive Director

1939 Wilson Avenue, St. Albans, WV 25177

Telephone: 304-727-8946 (home) 304-546-4642 (cell)

Email: gradybowyer@yahoo.com

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.

NA

b. Date of hearing or comment period:

NA

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

NA

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d. Attach findings and determinations and reasons:

Attached NA

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□  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rule of the WV Board of Examiners of Radiologic Technology

Type of Rule:  Legislative     Interpretive     Procedural

Agency: WV Radiologic Technology Board of Examiners

Address: P.O. Box 638

Cool Ridge, WV 25825

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	0	0	0	0	0
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

2. Explanation of Above Estimates:

There is no change in the amount of funding or frequency of collection from previous years.

3. Objectives of These Rules:

To have this rule reflect the W. Va. Code by changing the wording from biennial to annual and removing language on method of paying an annual portion of the biennial license fee. .

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:  
N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:  
N/A

C. Economic Impact on Citizens/Public at Large.  
N/A

Date: June 19, 2001

Signature of Agency Head or Authorized Representative:

*Andrew Swyer, RT*  
Executive Director

## SUMMARY OF THE RULE

This rule is being submitted to allow the rule to conform to the W. Va. Code by changing to an annual license renewal and correct fee for same. Language added to Series 1 Rule to remind that Continuing Education documentation is required with renewal as stated in Series 2 Rule (18CSR2).

## **FACTS AND CIRCUMSTANCES**

THIS MODIFICATION TO OUR SERIES 1 RULE IS BEING SUBMITTED TO BRING THIS RULE INTO CONFORMANCE WITH THE WEST VIRGINIA CODE. THE CODE WAS CHANGED IN THE 2001 LEGISLATIVE SESSION TO ALLOW FOR AN ANNUAL LICENSE RENEWAL AND REMOVE THE FEE FROM THE CODE. THIS PROPOSED RULE WILL CHANGE THE RULE FROM A BIENNIAL LICENSE RENEWAL TO AN ANNUAL LICENSE RENEWAL AND SET THE BIENNIAL RENEWAL FEE TO AN ANNUAL RENEWAL FEE. LANGUAGE IS ADDED TO STIPULATE THAT DOCUMENTATION OF CONTINUING EDUCATION MUST BE SUBMITTED WHEN RENEWING A LICENSE.

TITLE 18  
 LEGISLATIVE RULES  
 RADIOLOGIC TECHNOLOGISTS

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

FILED

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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; or

(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 3.6 of this rule; 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 ~~shall be~~ is the duty of the Board to carry out the provisions of ~~this~~ that article 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.

(d) The application shall be accompanied by a money order, certified check or personal check.

(e) If an applicant fails to complete all forms and to provide all information, the Board may reject and cause return the application to be returned 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 ~~two (2) years~~ one (1) year from the date of issuance.

(c) A licensee shall renew his or her license ~~biennially~~ annually without examination by applying for renewal on a form prescribed by the Board. The licensee is responsible for obtaining, completing, signing and forwarding the renewal application to the Board with the required fee and documentation of his or her Continuing Education as required by the Board's rule, CONTINUING EDUCATION, 18CSR2 .

~~(d) — A licensee may pay an annual renewal fee for the biennial license by sending one half of the required biennial fee to the Board each year thirty (30) days before the anniversary date of the initial issuance of the license.~~

~~(e) (d)~~ The Board may deny an application for renewal for any reason which would justify the denial of an original application for a license. In addition, an application for renewal shall be considered delinquent and subject to an additional fee if it is not received within thirty (30) days after the due date.

(f) ~~(e)~~ 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 this 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~~ are for a period of twenty-four (24) weeks or (six (6) months from the date that the RTBØE 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 an individual 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 as guilty of unethical conduct by the Board.

#### 4.4 Responsibilities of the licensees and permittees .

(a) It is the responsibility of each licensee or permittee to be familiar with the requirements of the law regulating these activities 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 ~~licensure~~ 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 and/or renewal registration card when requested by the following:

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

(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 or address change, the licensee shall return the current license to the Board with the required fee 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	\$75.00
(b)	Biennial <u>Annual</u> License Renewal Fee	<del>\$100.00</del> \$50.00
(c)	<u>All</u> Temporary Permits Fee	\$25.00
(d)	Reinstatement Fee (delinquent)	\$15.00
(e)	Reciprocity Fee	\$25.00
(f)	Duplicate License	\$10.00
(g)	Change of Name	\$10.00
(h)	Roster of Active Licenses	\$25.00
(i)	Mailing Labels (Name and Address/per 1000)	\$50.00

**4.8 Presumptive penalties**

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

1.	Person working without a license	\$ 1,000.00
2.	Aiding and abetting person working without 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.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Radiologic Technology Board of Examiners

**Subject:** Rule of the West Virginia Radiologic Technology Board of Examiners, 18CSR1

PERTINENT DATES

Filed for public comment: June 19, 2001  
Public comment period ended: July 20, 2001  
Filed following public comment period: July 24, 2001  
Filed LRMRC: July 24, 2001  
Filed as emergency:

Fiscal Impact: None

**FILED**  
2001 JUL 31 A 10:15  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ABSTRACT

The proposed rule amends a current legislative rule. It conforms the rule to the statute, which provides for annual renewal of a license and requires licensees to submit documentation of continuing education with license renewal forms. It also changes the license fee to reflect the annual, rather than biennial license.

AUTHORITY

Statutory authority: W.Va. Code, §30-23-5, which provides, in part, as follows:

- (a) The board shall:
  - (1) Propose legislative rules implementing the provisions of this article and the powers and duties conferred upon the board in accordance with the provisions of article three, chapter twenty-nine-a of this code...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.