

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

Form #3

Do Not Mark In This Box

FILED

2007 JUL 18 AM 11:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: WV Medical Imaging & Radiation Therapy Technology Board of Examiners TITLE NUMBER: 18

CITE AUTHORITY: W. Va. Code § 30-23-5

AMENDMENT TO AN EXISTING RULE: YES NO

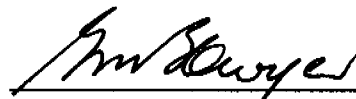
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Standard of Ethics

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 17, 2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Medical Imaging & Radiation Therapy Technology
Board of Examiners
PO Box 638

1715 Flat Top Road
Cool Ridge, WV 25825

LEGISLATIVE RULE TITLE: Standard of Ethics

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, 2007

b. What other notice, including advertising, did you give of the hearing?
Posted a copy of the Rule on Board's web page when filed for comments. Also stated in
newsletter that Rules would be out for comment around the middle of June, 2007.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 17, 2007 @ 9:00 am

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 18, 2007 @ 11:00 am

- 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, Executive Director

PO Box 638
Cool Ridge, WV 25825

Phone: 304-546-4642 Fax: 304-787-3030

E-mail: gradymbowyer@suddenlink.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 AND FACTS AND CIRCUMSTANCES CONCERNING THIS RULE

House Bill 2800 was passed during the 2007 Legislative session and signed by the Governor on April 4, 2007 which was a complete re-writing of W. Va. Code § 30-23. This legislation changed the name of the West Virginia Radiologic Technology Board of Examiners to the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Board). It also mandated the licensing of Nuclear Medicine technologist and Magnetic Resonance Imaging (MRI) technologist. This Rule is being updated to have the Rule conform to the Code. This Series 5 Rule is the Rule defining the Standard of Ethics for all Medical Imaging or Radiation Therapy technologists. This Rule changes the name throughout to the correct name and adds the Code provision of the conviction of a misdemeanor if it relates to the practice of medical imaging.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: STANDARD OF ETHICS

Type of Rule: Legislative Interpretive Procedural

Agency: WV RADIOLOGIC TECHNOLOGY BOARD OF EXAMINERS

Address: PO BOX 638

1715 FLAT TOP ROAD
COOL RIDGE, WV 25825

Phone Number: 304*-787-4398 Email: gradymbowyer@suddenlink.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 RULE WILL NOT HAVE ANY FINANCIAL IMPACT. IT IS BEING SUBMITTED TO HAVE THE RULE CONFORM TO THE CODE CHANGES PASSED DURING THE 2007 LEGISLATIVE SESSION (HB 2800).

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)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title: STANDARD OF ETHICS

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

NO INCREASE IN FEES OR ANY OTHER COST TO THE BOARD.

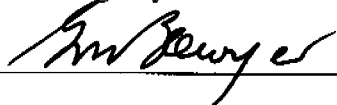
MEMORANDUM

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 RULE DOES NOT HAVE ANY FINANCIAL IMPACT. THERE ARE NO FEE INCREASE. IT IS BEING SUBMITTED TO CONFORM TO CHANGES MADE IN THE LAW (NAME CHANGE) DURING THE 2007 LEGISLATIVE SESSION BY HB 2800.

Date: 6/15/2007

Signature of Agency Head or Authorized Representative



TITLE 18
LEGISLATIVE RULE
WEST VIRGINIA RADIOLOGIC TECHNOLOGY MEDICAL IMAGING AND
RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

FILED

2007 JUL 18 AM 11:03

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

SERIES 5
STANDARD OF ETHICS

§ 18-5-1. General.

1.1. Scope. -- The Standards of Ethics of the West Virginia Radiologic-Medical Imaging and Radiation Therapy Technology Board of Examiners apply solely to persons holding a License or Permit issued by the Board and to persons applying for examination and licensure in order to become a West Virginia Licensed Technologist. This Standard of Ethics consists of the Standard of Practice and the Code of Ethics.

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

1.3. Filing Date. --

1.4. Effective Date. --

§ 18-5-2. Application.

This rule applies to all licensees and permittees under W.Va. Code § 30-23-1 et seq.

§ 18-5-3. Definitions.

The following words and phrases as used in this rule have the following meanings, unless the context otherwise requires:

3.1 "Applicant" means any person making application for examination and/or a license to become a Licensed Radiologic Medical Imaging or Radiation Therapy Technologist.

3.2 "Individual" means any person holding a license or permit issued by the Board.

§ 18-5-4. Standard of Practice

4.1 The Standard of Practice forms the first part of the Standard of Ethics. The Standard of Practice shall serve as a guide by which the individual may evaluate

his or her professional conduct as it relates to patients, health care consumers, employers, colleagues and other members of the health care team. The Standard of Practice is intended to assist the individuals and applicants in maintaining a high level of ethical conduct and in providing for the protection, safety and comfort of patients. The individual shall:

4.1.1 conduct herself or himself in a professional manner, respond to patient needs and support colleagues and associates in providing quality patient care;

4.1.2 act to advance the principle objective of the profession to provide services to humanity with full respect for the dignity of mankind;

4.1.3 deliver patient care and service unrestricted by the concerns of personal attributes or the nature of the disease or illness, and without discrimination on the basis of sex, race, creed, religion or socioeconomic status;

4.1.4 practice technology founded upon theoretical knowledge and concepts, use equipment and accessories consistent with the purposes for which they were designed, and employ procedures and techniques appropriately;

4.1.5 assess situations; exercise care, discretion and judgment; assume responsibility for professional decisions; and act in the best interest of the patient;

4.1.6 act as an agent through observation and communication to obtain pertinent information for the physician to aid in the diagnosis and treatment of the patient and recognize that interpretation and diagnosis are outside the scope of practice for the profession;

4.1.7 use equipment and accessories, employ techniques and procedures, perform services in accordance with an accepted standard of practice, and demonstrate expertise in minimizing radiation exposure to the patient, himself or herself and other members of the health care team;

4.1.8 practice ethical conduct appropriate to the profession and protect the patient's right to quality radiologic technology care;

4.1.9 respect confidences entrusted in the course of professional practice, respect the patient's right to privacy, conforming to the Health Information Portability & Accountability Act of 1996 (HIPAA) and requirements of protected health information (PHI) and reveal confidential information only as required by law or to protect the welfare of the individual or the community;

4.1.10 continually strive to improve knowledge and skills by participating in continuing education and professional activities, sharing knowledge with colleagues and investigating new aspects of professional practice.

§ 18-5-5. Code of Ethics

5.1 The Code of Ethics forms the second part of the Standards of Ethics. They are directive-specific standards of minimally acceptable professional conduct for all present Licensees, Permittee's and applicants. A license or permit is a method of assuring the medical community and the public that an individual is qualified to practice within the profession. Because the public relies on the Board to issue licenses and permits, it is essential that these individuals and applicants act consistently with this Code of Ethics. The Code of Ethics is intended to promote the protection, safety and comfort of patients. The individuals and applicants engaging in any of the following conduct or activities, or who permit the occurrence of the following conduct or activities with respect to them, have violated the Code of Ethics and could be subject to sanctions. An individual shall not:

5.1.1 Employ fraud or deceit in procuring or attempting to procure, maintain, renew or obtain reinstatement of a license or permit issued by the Board for employment in radiologic technology. This includes altering in any respect any document issued by the Board or any state or federal agency, or by indicating in writing certification or registration with the Board when that is not the case;

5.1.2 Subvert or attempt to subvert the Board's examination process. Conduct that subverts or attempts to subvert the Board's examination process includes, but is not limited to:

5.1.2 (a) conduct that violates the security of Board examination materials, such as removing or attempting to remove examination materials from an examination room, or having unauthorized possession of any portion of or information concerning a future, current or previously administered examination of the Board; or disclosing information concerning any portion of a future, current or previously administered examination of the Board; or disclosing what purports to be, or under all circumstances is likely to be understood by the recipient as, any portion of or "inside" information concerning any portion of a future, current or previously administered examination of the Board;

5.1.2 (b) conduct that in any way compromises ordinary standards of test administration, such as

- communicating with another applicant during administration of the examination, copying another applicant's answers, permitting another applicant to copy one's answers, or possessing unauthorized materials; or
- 5.1.2 (c) impersonating a applicant or permitting an impersonator to take the examination on one's own behalf;
- 5.1.3 Fail to report to the Board that:
- 5.1.3 (a) charges regarding the individual's permit or license to practice radiologic medical imaging or radiation therapy technology or any other medical or allied health profession are pending or have been resolved adversely to the individual in any state, territory or country, (including but not limited to, imposed conditions, probation, suspension or revocation); or
- 5.1.3 (b) that the individual has been refused a permit, license or registration certificate to practice radiologic medical imaging or radiation therapy technology or any other medical or allied health profession by another state, territory or country;
- 5.1.4 Fail to perform radiologic medical imaging or radiation therapy technology with reasonable skill and safety;
- 5.1.5 Engage in unprofessional conduct, including, but not limited to:
- 5.1.5 (a) a departure from or failure to conform to applicable federal, state or local governmental rules and regulations regarding radiologic medical imaging or radiation therapy technology practice; or, if no rule or regulation exists, to the minimal standards of acceptable and prevailing radiologic medical imaging or radiation therapy technology practice;
- 5.1.5(b) any radiologic medical imaging or radiation therapy technology practice that may create unnecessary danger to a patient's life, health or safety; or
- 5.1.5 (c) any practice that is contrary to the ethical conduct appropriate to the profession that results in the termination from employment. Actual injury to a patient or the public need not be established;

5.1.6 Delegate or accept the delegation of a radiologic medical imaging or radiation therapy technology function or any other prescribed health care function when the delegation or acceptance could reasonably be expected to create an unnecessary danger to a patient's life, health or safety. Actual injury to a patient need not be established;

5.1.7 Engage in actual or potential inability to practice radiologic medical imaging or radiation therapy technology with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals or any other material; or as a result of any mental or physical condition;

5.1.8 Be adjudicated as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public, by a court of competent jurisdiction;

5.1.9 Engage in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud or harm the public; or demonstrate a willful or careless disregard for the health, welfare or safety of a patient. Actual injury need not be established;

5.1.10 Engage in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engage in sexual exploitation of a patient or former patient. This subsection also applies to any unwanted sexual behavior, verbal or otherwise, that results in the termination of employment. This does not apply to pre-existing consensual relationships;

5.1.11 Reveal a privileged communication from or relating to a former or current patient, except when otherwise required or permitted by law;

5.1.12 Knowingly engage or assist any person to engage in, or otherwise participate in, abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws;

5.1.13 Improperly manage patient records, including fail to maintain adequate patient records or to furnish a patient record or report required by law; or make, cause or permit anyone to make false, deceptive or misleading entry in any patient record;

5.1.14 Knowingly aid, assist, advise or allow a person without a current and appropriate state permit or license to engage in the practice of radiologic medical imaging or radiation therapy technology, in a jurisdiction which requires a person to have a current and appropriate state permit or license in order to practice radiologic medical imaging or radiation therapy technology in that jurisdiction;

5.1.15 Violate a rule adopted by any state board with competent jurisdiction, an order of the board, or state or federal law relating to the practice of radiologic medical imaging or radiation therapy technology, or any other medical or allied health professions, or a state or federal narcotics or controlled substance law;

5.1.16 Knowingly provide false or misleading information that is directly related to the care of a former or current patient;

5.1.17 Practice outside the scope of practice authorized by the individual's current state permit or license;

5.1.18 Make a false statement or knowingly providing false information to the Board, ~~American Registry of Radiologic Technologists (ARRT), or American Society of Podiatric Medicine Association (ASPMA)~~ or to a national certification organization which is accredited by either the National Commission for Certifying Agencies (NCCA) or by the American National Standards Institute (ANSI), or fail to cooperate with any investigation of the Board's Ethics Committee;

5.1.19 Engage in false, fraudulent, deceptive or misleading communications to any person regarding the individual's education, training, credentials, experience or qualifications, or the status of the individual's state permit or license; or

5.1.20 Know of a violation or a probable violation of any Standard of Ethics by any individual or by a applicant and fail to promptly report it in writing to the Board.

5.2 An individual must report convictions, criminal proceedings or military court-martials as set forth in this section:

5.2.1 Conviction of a ~~crime (felony)~~ felony, misdemeanor if it relates to the practice of medical imaging, and all substance abuse related violations.

5.2.2 Criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered, or a criminal proceeding where the individual enters a plea of guilty or nolo contendere.

5.2.3 Military court-martials that involve substance abuse, any sex-related infractions, or patient-related infractions.