

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

Form #4

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OFFICE WEST VIRGINIA
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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Board of Medicine TITLE NUMBER: 11

CITE AUTHORITY: West Virginia Code §30-3-10 (f)

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: 2

TITLE OF RULE BEING PROPOSED: Establishment and Regulation of Restricted License Issued to an Applicant
in Extraordinary Circumstances

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Robert C. Kittle/DK
Authorized Signature

\$2.80

TITLE II
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE
SERIES 2

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**ESTABLISHMENT AND REGULATION OF RESTRICTED LICENSE
ISSUED TO AN APPLICANT IN EXTRAORDINARY CIRCUMSTANCES**

11-2-1. General.

- 1.1. **Scope.-** W. Va. Code §30-3-10(e) provides for the issuance of a restricted license by the Board to an applicant in extraordinary circumstances under certain specific conditions and W. Va. Code §30-3-10(f) requires that rules be promulgated that establish and regulate the restricted license issued to an applicant in extraordinary circumstances.
- 1.2 **Authority.-** W.Va. Code §30-3-10(f).
- 1.3. **Filing date.-**
- 1.4. **Effective date.**

11-2-2. Definitions.

- 2.1. As used in this rule, the following words and terms have the following meanings:
 - a. “Extraordinary circumstances” means circumstances where the physician has achieved a high level of academic or professional recognition for excellence in research, teaching, specialty or the practice of medicine as evidenced by objective factors.
 - b. “Restricted license in extraordinary circumstances” means a license which contains limitations or conditions including but not limited to the following:
 - 1. Practice location;
 - 2. Practice setting;
 - 3. Specialty area of practice;
 - 4. Practice procedures;
 - 5. Hours and length of practice;
 - 6. Type of patients;
 - 7. Sitting for and successful completion of examination(s);
 - 8. Evaluations and treatment;

9. Education; and,
10. Monitoring and supervision.

c. "Restricted licensee" means a person licensed pursuant to this rule.

11-2-3. Issuance of License in Extraordinary Circumstances.

3.1. The Board may issue a restricted license in extraordinary circumstances to an applicant who meets the criteria established by this rule.

3.2. After reviewing the application and interviewing the applicant, the Board makes written findings describing:

1. The applicant's exceptional education, training and practice credentials, including but not limited to, academic appointments, length of time in a profession, specialty, scholarly publications and presentations, professional accomplishments, and awards.
2. How the applicant's practice in the state would be beneficial to the public welfare;
3. The applicant's specialty and the need of that specialty;
4. How the applicant's education, training and practice credentials are substantially equivalent to the requirements of licensure established in W.Va. Code §30-3-10; and,
5. That the applicant received his or her post-graduate medical training outside of the United States and its territories.

3.3. The applicant must provide to the board all additional information requests, and an explanation of his or her extraordinary circumstances.

3.4. The board by three-fourths vote shall approve a restricted license issued in extraordinary circumstances.

3.5. a. An applicant who has been the subject of disciplinary action by any other jurisdiction; the United States Uniformed Services; the applicant's peers in a professional medical association; or the staff of a hospital is not eligible for a restricted license in extraordinary circumstance.

b. However, an applicant who was temporarily suspended from a hospital for: failure to maintain records on a timely basis; failure to attend staff or section meetings; or voluntary cessation of hospital privileges for reasons

unrelated to professional competence or ethics is not be considered to be disciplinary action for purposes of this section.

3.6. An applicant who was convicted, pled guilty, pled no contest, placed on deferred adjudication, community supervision, or deferred disposition for a felony is not eligible for a restricted license in extraordinary circumstances.

3.7. An applicant who was convicted, pled guilty, pled no contest, placed on deferred adjudication, community supervision, or deferred disposition for a misdemeanor connected with the practice of medicine or with moral turpitude is not eligible for a restricted license in extraordinary circumstances.

3.8. An applicant is not be eligible for a temporary license pursuant to W.Va. Code §30-3-11.

3.9. Orders denying applications for a restricted license in extraordinary circumstances are not appealable.

3.10. The board shall report to the President of the Senate and the Speaker of the House of Delegates all decisions made regarding requests for a restricted license under extraordinary circumstances.

3.11. The burden of satisfying the board of the applicant qualifications for a restricted license in extraordinary circumstances is upon the applicant.

11-2-4. Regulation of Restricted License in Extraordinary Circumstances.

4.1. The Restricted licensee is subject to all the provisions of the West Virginia Medical Practice Act, W.Va. Code §30-3-1 et seq. and all rules.

11-2-5. Change in Restricted License.

5.1. The board may, upon its own motion or upon the request of a restricted licensee, by a vote of three fourths of its members, authorize changes in restrictions applicable to a restricted license. The board may authorize changes under this subsection only upon a finding that the changes are appropriate, necessary and in the public interest.

11-2-6. Conversion of Restricted License to Standard License.

6.1. The board may convert the restricted license to a standard license upon application of a restricted licensee who later meets the requirements for a standard license.