

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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FILED

1990 JUL -9 14 11:50

OFFICE OF THE SECRETARY OF STATE
ADMINISTRATIVE LAW DIVISION

NOTICE OF AN EMERGENCY RULE

AGENCY: Board of Medicine TITLE NUMBER: 11

CITE AUTHORITY: West Virginia Code §30-3-7(a)(1)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Fees for Services Rendered by the Board of Medicine

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY:

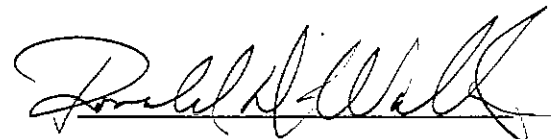
TITLE OF RULE BEING FILED AS AN EMERGENCY:

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The filing of the rules on an emergency basis is necessitated by several factors: (1) the 1991 increase in fees owed by the Board to national medical examination boards which fees are in excess of what the Board is authorized to charge applicants for giving the examination; (2) the unrecouped costs to the Board of renting facilities to give the examination and the use of staff for the same purpose; (3) the cost of processing annual renewal applications for physician assistants which far exceeds the \$5.00 present fee charged to physician assistants for such renewals; (4) the repeated removal of large amounts of the Board's funds by the Legislature for purposes other than Board functions, which render it increasingly difficult for the Board to carry out its purpose. In order to prevent substantial harm to the public interest and to immediately preserve the public peace, health, safety and welfare, these rules are necessary on an emergency basis to keep the Board solvent and able to carry out its duties of protecting the public interest pursuant to West Virginia Code §30-3-1 et seq.

Use Additional Sheets If Necessary.



FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fees for Services Rendered by the Board of MedicineType of Rule: X Legislative Interpretive ProceduralAgency West Virginia Board of Medicine Address 101 Dee DriveCharleston, West Virginia 25311

1. Effect of Proposed Rule:	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

No increase in state funding will be needed.

3. Objectives of these rules:

To recoup losses to the Board experienced by insufficient fees presently charged for giving medical and podiatry examinations to applicants, and for issuing temporary licenses, which fees do not cover Board costs; to recoup losses to the Board experienced by fees presently charged for annual renewal of physician assistant certification which are insufficient to cover Board costs of processing same and to recoup losses experienced as a result of removal of the Board's funds by the legislature.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

Applicants for medical and podiatric licensure will pay more to sit for their examinations - they will pay the cost of the examination plus a small fee for the costs to the Board of giving the examination. Physician assistants will pay \$45.00 more annually for the renewal of their physician assistant certification which presently costs \$5.00, and is a ridiculously low fee which does not begin to cover the costs to the Board of processing the application renewals

C. Economic Impact on Citizens/Public at Large.

None

Date:

7/9/90

Signature of Agency Head or Authorized Representative

Ronald J. Wally

DATE: July 9, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Board of Medicine

EMERGENCY RULE TITLE: Fees for Services Rendered by the Board of Medicine

1. Date of filing: July 9, 1990

2. Statutory authority for promulgating the emergency rule: West Virginia Code §30-3-7 (a)(1)

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

The emergency rule amends a current legislative rule 11 CSR 4

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.

The filing of the rules on an emergency basis is necessitated by several factors:

(1) the 1991 increase in fees owed by the Board to national medical examination boards which fees are in excess of what the Board is authorized to charge applicants for giving the examination; (2) the unrecouped costs to the Board of renting facilities to give the examination and the use of staff for the same purpose; (3) the cost of processing both temporary license applications and annual renewal applications for physician assistants, both of which exceeds the \$5.00 present fee charged to physician assistants for such renewals and the \$50.00 present fee charged for temporary licenses; (4) the repeated removal of large amounts of the Board's funds by the Legislature for purposes other than Board functions which render it increasingly difficult for the Board to carry out its purpose. In order to prevent substantial harm to the public interest and to immediately preserve the public peace, health, safety and welfare, these rules are necessary on an emergency basis to keep the Board solvent and able to carry out its duties of protecting the public interest pursuant to West Virginia Code §30-3-1 et seq.

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.

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

See answer to 6 on previous page.

EMERGENCY RULE

TITLE 11
LEGISLATIVE RULE
BOARD OF MEDICINE

SERIES 4
FEES FOR SERVICES RENDERED BY
THE BOARD OF MEDICINE

\$11-4-1. General.

- 1.1. Scope. - These legislative rules establish the fees to be charged by the Board for services rendered.
- 1.2. Authority. - W.Va Code §30-3-7(a)(1).
- 1.3. Filing Date. -
- 1.4. Effective Date. -
- 1.5. Amendment to former Rule. - This emergency rule amends and replaces 11 CSR 4 "Fees for Services Rendered by the Board of Medicine" that was filed on April 11, 1988, and became effective on April 12, 1988.

\$11-4-2. Schedule of Fees For Services Rendered By The West Virginia Board of Medicine For Physicians, Podiatrists and Physician Assistants:

- 2.1. Examination - ~~\$500.00~~. \$600.00
- 2.2. Reciprocity or Endorsement Application - \$200.00.
- 2.3. Temporary License Until Board Meets - ~~\$50.00~~. Not to exceed \$100.00.
- 2.4. Medical and/or Podiatry Corporation Application Fee - \$200.00.
- 2.5. Medical and/or Podiatry Corporation Biennial Registration \$200.00.

- 2.6. Medical and/or Podiatry Examination Score Endorsemen
\$25.00.
- 2.7. Active Biennial Registration - \$200.00.
- 2.8. Inactive Biennial Registration - \$50.00.
- 2.9. Podiatry Examination - ~~\$250.00.~~ Not to exceed \$400.00.
- 2.10. Podiatry Application - \$200.00.
- 2.11. Podiatry Temporary License Until Board Meets - \$50.00.
- 2.12. Active Podiatry Biennial Registration Fee - \$200.00.
- 2.13. Inactive Podiatry Biennial Registration Fee - \$50.00.
- 2.14. Physician Assistant Application - \$50.00.
- 2.15. Physician Assistant Annual Renewal - ~~\$5.00.~~ \$50.00

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Aug. 14, 1990
ADMINISTRATIVE LAW DIVISION

August 14, 1990

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Board of Medicine

RULE: Amendments, Series 4; Fees for Services Rendered by the Board of Medicine

DATE FILED AS AN EMERGENCY RULE: July 9, 1990

DECISION NO. 30-90

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

A handwritten signature in cursive script, reading "Ken Hechler".

KEN HECHLER
Secretary of State

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DECISION EMERGENCY RULE DECISION (ERD 30-90)

AGENCY: Board of Medicine

RULE: Amendments, Series 4, Fees for Services Rendered by
the Board of Medicine

FILED AS AN EMERGENCY RULE: July 9, 1990

- par. 1 The Board of Medicine (Board) has filed the above emergency amendments to an existing rule.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Board has filed this emergency rule with supporting documents with the Secretary of State on July 9, 1990 and with the LRMRC on July 11, 1990.

par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §30-3-7(a)(1) reads:

(1) Adopt such regulations as are necessary to carry out the purposes of this article.

par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

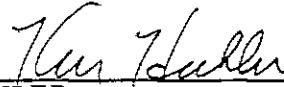
(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Board are as follows:

The filing of the rules on an emergency basis is necessitated by several factors: (a) the 1991 increase in fees owed by the Board to national medical examination boards which fees are in excess of what the Board is authorized to charge applicants for giving the examination; (2) the unrecouped costs to the Board of renting facilities to give the examination and the use of staff for the same purpose; (3) the cost of processing annual renewal applications for physician assistants which far exceeds the \$5.00 present fee charged to physician assistants for such renewals; (4) the repeated removal of large amounts of the Board's funds by the Legislature for purposes other than Board functions, which render it increasingly difficult for the Board to carry out its purpose. In order to prevent substantial harm to the public interest and to immediately preserve the public peace, health, safety and welfare, these rules are necessary on an emergency basis to keep the Board solvent and able to carry out its duties of protecting the public interest pursuant to West Virginia Code §30-3-1 et seq.

- par. 13. It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in 29A-3-15(g) . . . "immediate preservation of public peace, health safety or welfare."
- par. 14 This decision shall be cited as Emergency Rule Decision 30-90 or ERD 30-90 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with Division of the Board of Medicine, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER

SECRETARY OF STATE

FILED IN THE OFFICE OF
THE SECRETARY OF STATE

Entered THIS DATE Aug. 14, 1990
ADMINISTRATIVE LAW DIVISION