

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #7

Do not mark in this box  
Filing Date

FILED

APR 4 1 12 PM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

May 3, 1996

NOTICE OF AN EMERGENCY RULE

AGENCY: WV Board of Pharmacy TITLE NUMBER: 15

CITE AUTHORITY: W. Va. Code Sections 29A-3-15, 30-5-2

EMERGENCY 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 FILED AS AN EMERGENCY: 7

TITLE OF RULE BEING FILED AS AN EMERGENCY: Registration of Pharmacy Technicians

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

  
Signature

Use additional sheets if necessary

4.60

## SUMMARY OF PROPOSED LEGISLATIVE RULE

15 C.S.R. 7.

### Registration of Pharmacy Technicians.

West Virginia Code § 30-5-5(a) passed by the West Virginia Legislature in 1995 states that, on or after the first day of July 1996, any person practicing as a pharmacy technician in the State of West Virginia shall be registered with the Board of Pharmacy and in order to become registered as a pharmacy technician they must satisfactorily complete a Board approved pharmacy technician program established by rule. The statute also states that the training program shall be designed to train individuals to perform non-professional functions as described in legislative rules and also that pharmacy technicians shall be identified by a name tag and designation as a pharmacy technician while working in a pharmacy. The following rule establishes the qualifications for registration as a pharmacy technician and sets up the core requirements of the pharmacy technician training program. This rule also elaborates on the duties and restrictions of a pharmacy technician or technician trainee and states how the identification of the technicians and technician trainees will be accomplished. Due to the requirement that technicians must be registered by July 1, 1996, after completing a Board approved training program established by rule, this rule must be promulgated prior to the 1997 legislative session as an emergency rule.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 15 Series 7, Registration of Pharmacy Technicians  
 Type of Rule:  Legislative  Interpretive  Procedural  
 Agency West Virginia Board of Pharmacy  
 Address 236 Capitol Street  
Charleston, WV 25301

1. Effect of Proposed Rule Not Applicable.

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	HEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates: Not Applicable

3. Objectives of these rules:

Rule establishes the qualifications for registration as a pharmacy technician and sets up the core requirements of the pharmacy technician training program.

Rule Title: Title 15 Series 7, Registration of Pharmacy Technicians

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Not Applicable.

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

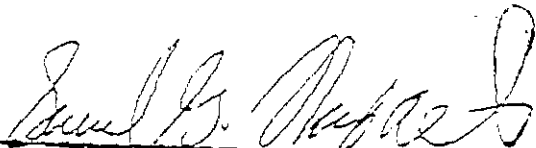
Applicants will pay a \$100.00 fee to the Board for the competency examination.

C. Economic Impact on Citizens/Public at Large.

Not Applicable.

Date: 1/18/96

Signature of Agency Head or Authorized Representative :



DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:

EMERGENCY RULE TITLE: Registration of Pharmacy Technicians

1. Date of Filing April 4, 1996

2. Statutory authority for promulgating emergency rule:  
W. Va. Code Sections 29A-3-15, 30-5-2

3. Date of filing of proposed legislative rule: April 4, 1996

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

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 West Virginia Legislature in 1995 passed W. Va. Code Section 30-5-5(a), which required the Board to establish by rule a training program for pharmacy technicians to be registered with the Board by July 1, 1996.

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.

W. Va. Code Section 30-5-5a(b) requires that by July 1, 1996, any person practicing as a pharmacy technician must be registered.

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

The legislature found it in the best interests of the public health, safety and welfare that licensed pharmacists be assisted with or relieved of certain tasks so that the pharmacist may counsel patients, improve pharmaceutical care and therapeutic outcomes. To achieve this aim, the Board is required to recognize and register pharmacy technicians by July 1, 1996.

FILED

APR 4 1 14 PM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

LEGISLATIVE RULES

15 C.S.R. 7

TITLE 15

WEST VIRGINIA BOARD OF PHARMACY

SERIES 7

REGISTRATION OF PHARMACY TECHNICIANS

**§ 15-7-1. General.**

1.1. Scope. --- To establish rules for the training and regulation of pharmacy technicians.

1.2. Authority. --- W. Va. Code § 30-5-5(a).

1.3. Filing Date. --- \_\_\_\_\_, 199\_\_.

1.4. Effective Date. --- \_\_\_\_\_, 199\_\_.

**§ 15-7-2. Qualifications for registration as a pharmacy technician.**

2.1 In order to become registered as a pharmacy technician in this State, an individual shall:

- a) be at least eighteen (18) years old;
- b) be a high school graduate or its equivalent;
- c) present to the Board satisfactory evidence that he or she is of good moral character, is not addicted to alcohol or controlled substances and is free of any felony convictions; and

d) satisfactorily complete a Board-Approved Pharmacy Technician Training Program.

**§ 15-7-3. Pharmacy Technician Training Program.**

3.1. An applicant for registration as a pharmacy technician shall complete 2,080 hours of on-the-job training within a pharmacy under the direct supervision of a pharmacist within a period of twenty-four (24) months.

3.2. A prospective pharmacy technician trainee may begin their initial orientation and evaluation by a licensed Pharmacist while their application forms are being processed by the Board. A pharmacy technician trainee must register with the Board immediately via letter and make application with submission of a \$25 registration fee within 30 days of starting to work in the pharmacy. Any hours worked during this interim period will be applied toward the 2,080 hour requirement upon the successful completion of the registration process.

3.3. After a period of 24 months has passed since a technician trainee has registered with the Board, the technician trainee must send in verification of completion of 2,080 hours of on-the-job training. If the trainee has failed to complete the required hours, his/her registration expires and he/she can no longer perform the duties of a technician; Provided, that the Board may provide for an extension of time upon the showing of special circumstances by the trainee.

3.4. Upon completion of the on-the-job training the applicant shall be required to take a competency examination prepared and administered by the Board and obtain a passing score of 75%. If the applicant takes and fails the examination two times then the applicant shall not be permitted to perform the duties of a technician until he/she successfully completes the examination.

3.5. A manual shall be used during the course of the on the job training program and such training manual shall be approved by the Board prior to its use.

#### **§ 15-7-4. Duties and restrictions.**

4.1. During the course of their employment the duties of a registered pharmacy technician or technician trainee may include, but are not limited, to the following:

- (a) Place, receive, unpack, and store drug orders.

(b) Maintain work area and equipment in a clean and orderly condition. Order and stock all pharmacy supplies.

(c) Check all prescription and non-prescription stock for outdates and process outdated returns.

(d) Operate the cash register.

1. May only handle the complete transaction on refill prescriptions when specifically requested to do so by the pharmacist and when the patient has no questions for the pharmacist.

2. May only handle the transactions on new prescriptions after counseling by the pharmacist has been offered. New prescriptions packaged for the will-call shelf shall be clearly marked by the pharmacist completing the order.

3. Must refer all questions regarding over the counter and prescription product selection or advice to the pharmacist.

(e) File completed hard-copies of new prescriptions (except schedule II drugs) in numerical order. Pharmacists shall file the C-II hard-copies.

(f) Place completed prescription orders on the will-call shelf.

(g) Wrap completed orders for mailing and log mailed and delivered orders into the record.

(h) Print out third-party billings and process them for mailing and transmit electronically handled third-party billings.

(i) Reconcile third-party payments.

(j) Contact third-party billers and payers if problems arise while handling patients' insurance transmissions.

(k) Post patient purchases to private charge accounts and assist with the printing and distribution of the monthly statements.

(l) Handle non-professional phone calls to/from:

1. Patients requesting refills of prescriptions by number and patient name.

2. Physicians' offices authorizing refills providing no changes in the prescription are involved, and in which the patient's name, medication and strength, number of doses, and date of prior fill is stated. Any other inquiries by the office shall be referred to the pharmacist.

3. Patients concerning price information as per computer calculated.

4. Patients concerning business hours, mailing and delivery services, and availability of goods and services.

5. Patients asking if their prescriptions are refillable and/or number of refills remaining. Any interpretation of the proper length of time between refills must be handled by the pharmacist.

6. Wholesalers and distributors dealing with the ordering of goods and supplies.

7. Physicians' offices dealing with profile information where no interpretation or judgment is necessary only after verifying to whom the information is being given.

(m) Accept refill requests and accept new written prescriptions from patients or their agents after determining the following- correct name, address, phone number, birth date, drug allergies, disease states, and method of payment.

(n) Enter prescription data and patient profile data into the computer. Any information needing clarification or interpretation shall be referred to the pharmacist.

1. Monitor label printing.

2. Alert pharmacist to any duplication of medication, drug therapy overlap, drug interactions, drug-disease state interactions, and any questions that arise from inputting the information.

(o) Perform tasks under pharmacist's supervision, such as obtaining stock bottles for prescription filling.

(p) Count and pour from stock bottles for individual prescriptions only under the direct supervision of a pharmacist. The accuracy of the prescription contents and the accuracy of the labeling must be accounted for by the initials of the pharmacist on the hard-copy and the label.

(q) Reconstitute-restoration of original form of medication previously altered for preservation and storage by the addition of a specific quantity of an appropriate diluent requiring no calculations. May assist in the preparation of sterile parenteral/enteral products under the direct supervision of a licensed pharmacist. In all cases the accuracy of the assistant is checked and verified by a pharmacist.

(r) Weigh or measure specific ingredients for the pharmacist to use in extemporaneous compounding. In all cases the accuracy must be verified by the pharmacist.

4.2. The only personnel that shall be allowed within the pharmacy area to perform pharmaceutical care are, pharmacists, registered pharmacy technicians, technician trainees and pharmacy interns.

4.3. A registered pharmacy technician or technician trainee shall not receive any telephone calls for new prescriptions from a physician's office and such calls are to be immediately transferred to a pharmacist.

4.4. Any pharmacy desiring to utilize registered technicians shall maintain written policies and procedures regarding the utilization of technicians stating their position and specific scope of duties. Such written policies and procedures shall be available for inspection at all times by the Board.

4.5. A ratio of no more than four (4) pharmacy technicians and/or technician trainees per on duty pharmacist operating in out-patient, mail order or institutional pharmacies shall be maintained.

**§ 16-7-5. Identification of Technicians and Technician Trainees.**

5.1. Pharmacy technicians shall be identified by a name tag approved by the Board with the designation "Pharmacy Technician" while working in a pharmacy within this State. The name tags shall not be smaller than 3 1/2 inches by 2 1/4 inches and shall be permanent; no removable labels are permitted. Pharmacy technicians and technician trainees shall be required to wear appropriate sanitary attire other than a white coat.

5.2. A pharmacy technician trainee during the period of on-the-job training, shall wear a name tag approved by the Board with the designation "Pharmacy Technician Trainee". The name tags shall not be smaller than 3 1/2 inches by 2 1/4 inches and shall be permanent; no removable labels are permitted.

**§ 15-7-6. Grandfathering.**

6.1. Any person who has been continuously employed in the State of West Virginia as a pharmacy technician for 2,080 hours within the two (2) years prior to the effective date of this rule shall be exempt from the on-the-job training requirement and the competency examination for registration. Such applicant must verify their employment by submitting to the Board an affidavit of the pharmacist-in-charge certifying that the applicant has performed the duties of a pharmacy technician as defined in § 15-7-4 of this rule for the two (2) years prior to the effective date of this rule.

6.2. An applicant who has performed the duties of a pharmacy technician for less than two (2) years prior to the effective date of this rule may have the

number of hours worked applied toward the 2,080 hour on-the-job training requirement upon submitting verification of such employment to the Board.

**§ 15-7-7. Fees.**

7.1. The Board of Pharmacy shall charge and collect the following fees:

(a) Application and Registration Fee for a Pharmacy Technician -- as established by statute;

(b) Annual Renewal Fee -- as established by statute; and,

(c) Competency Examination Fee -- \$100.00.

(d) Technician Trainee Registration --\$25.00

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KEN HECHLER  
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(Plus all the volunteer  
help we can get)

## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

May 3, 1996

### NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: West Virginia Board of Pharmacy

RULE: New Rule, Series 7, Registration of Pharmacy Technicians

DATE FILED AS AN EMERGENCY RULE: April 4, 1996

DECISION NO. 8-96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
MAY 3 4 06 PM '96  
FILED

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.

  
\_\_\_\_\_  
KEN HECHLER  
Secretary of State

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help we can get)

## EMERGENCY RULE DECISION (ERD 8-96)

AGENCY: West Virginia Board of Pharmacy  
RULE: New Rule, Series 7, Registration of Pharmacy Technicians  
FILED AS AN EMERGENCY RULE: April 4, 1996

- par. 1 The West Virginia Board of Pharmacy (Board) has filed the above new rule as an emergency 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(b))].
- 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 emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Board filed this emergency rule with supporting documents with the Secretary of State April 4, 1996 and with the LRMRC April 4, 1996.
- 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 §30-5-5a reads:

*(a) The Legislature finds that it is in the best interests of the public health, safety and welfare that licensed pharmacists in this state be assisted with or relieved of certain tasks so that the pharmacists may counsel patients, improve pharmaceutical care and therapeutic outcomes. To achieve this aim, the board shall recognize and register pharmacy technicians.*

*(b) On or after July 1, 1996, any person practicing as a pharmacy technician in this state shall be registered with the board of pharmacy pursuant to the provisions of this section.*

*(c) In order to become registered as pharmacy technicians in this state, individuals shall:*

*(1) Be at least 18 years old;*

*(2) Be a high school graduate or its equivalent;*

*(3) Present to the board satisfactory evidence that he or she is of good moral character, is not addicted to alcohol or controlled substances and is free of any felony convictions; and*

*(4) Satisfactorily complete a board-approved pharmacy technician training program.*

*(d) The pharmacy technician training program and its curriculum shall be designed to train individuals to perform nonprofessional functions as described in legislative rules promulgated in accordance with the provisions of §29A-3-1 et seq. of this code.*

*(e) Pharmacy technicians shall be identified by a name tag and designation as pharmacy technician while working in a pharmacy within this state. A ratio of no more than 4 pharmacy technicians per on-duty pharmacists operating in any outpatient, mail order or institutional pharmacy shall be maintained.*

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(f) defines "emergency" as follows:

*(f) 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.

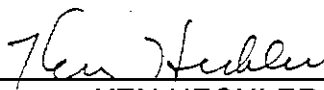
par. 12 The facts and circumstances as presented by the Board are as follows:

The West Virginia Legislature in 1996 passed WV Code §30-5-5(a) which required the Board to establish by rule a training program for pharmacy technicians to be registered with the Board by July 1, 1996.

The Legislature found it in the best interests of the public health, safety and welfare that licensed pharmacists be assisted with or relieved of certain tasks so that pharmacists may counsel patients, improve pharmaceutical care and therapeutic outcomes. To achieve this aim, the Board is required to recognize and register pharmacy technicians by July 1, 1996.

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(f). . . "public health, safety and welfare" and "time limitation."

par. 14 This decision shall be cited as Emergency Rule Decision 8-96 or ERD 8-96 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the West Virginia Board of Pharmacy, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER  
Secretary of State

Entered \_\_\_\_\_

FILED  
MAY 3 4 06 PM '96  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE