

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

Form #3

Do Not Mark In This Box

**FILED**

2006 JUN 16 P 2:53

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: West Virginia Board of Exam. for Reg. Prof. Nurses TITLE NUMBER: 19

CITE AUTHORITY: §30-1-4 and §30-7-4

AMENDMENT TO AN EXISTING RULE: YES  NO

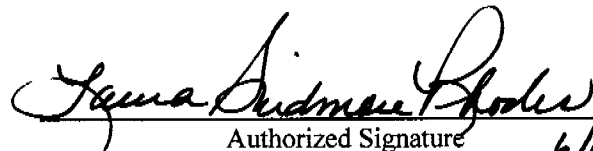
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Requirements for Registration and Licensure

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

6/16/06

Laura S. Rhodes, M.S.N., R.N.  
Executive Director

email:rnboard@state.wv.us  
web address:www.wvrnboard.com



TELEPHONE:  
(304) 558-3596  
FAX (304) 558-3666

**STATE OF WEST VIRGINIA**  
**BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES**  
**101 Dee Drive, Suite 102**  
**Charleston, WV 25311-1620**

June 16, 2006

The Honorable Betty Ireland  
Secretary of State  
Building 1, Suite 157-K  
1900 Kanawha Blvd  
Charleston, WV 25305-0770

RE: Board Approved Proposed Rule WV 19 CSR 3

Dear Secretary Ireland:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 approved the proposed rule WV 19 CSR 3 Requirements for Registration and Licensure. This letter serves to notify your office of the agency approval and to provide the required brief summary for the proposed changes.

The proposed revisions clarify the requirements for licensure by education preparation and endorsement; decrease the time lapse required between taking the exam from 90 days to 45 days; change the expiration date of the license from December 31 of every year to October 31 of each year; require criminal background checks on all new applicants; and implement a "retired nurse status".

Should you have any questions or desire more information please contact me.

For the Board,

A handwritten signature in cursive script that reads "Laura Skidmore Rhodes".

Laura Skidmore Rhodes, MSN, RN  
Executive Director

**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: June 16, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Board of Exam for Registered Professional  
Nurses  
101 Dee Drive, Suite 102  
Charleston, WV 25311

LEGISLATIVE RULE TITLE: \_\_\_\_\_  
WV 19 CSR 3 Requirements for Registration and Licensure

1. Authorizing statute(s) citation §30-7-4 and §30-1-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
March 28, 2006

b. What other notice, including advertising, did you give of the hearing?  
The Notice of Public Comment Period was placed on the Board's web site, sent by e-mail to hospitals and schools of nursing, sent in the newsletter to over 22,000 registered professional nurses licensed to practice in West Virginia.

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
Public Comment Period ended June 13, 2006

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached       x       No comments received \_\_\_\_\_

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

Filed with Secretary of State June 16, 2006

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

Laura Skidmore Rhodes, Executive Director  
West Virginia Board of Examiners for Registered Professional Nurses  
101 Dee Drive, Suite 102  
Charleston, WV 25311

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Phone: 304-558-3596 Fax: 304-558-3666

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e-mail: rnboard@state.wv.us

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- 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)

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- 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.

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b. Date of hearing or comment period:

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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?

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d. Attach findings and determinations and reasons:

Attached 

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*Jana Ardmore Rhodes 6/16/06*  
*Executive Director*

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: WV 19 CSR 3 Requirements for Registration and Licensure

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Board of Examiners for Registered Professional Nurses

Address: 101 Dee Drive, Suite 102  
Charleston, WV 25311

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Phone Number: 304-558-3596 Email: rnboard@state.wv.us

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The changes to Series 3 will have a total cost of \$11,000.00 during the first year of implementation. This includes approximately \$5,000.00 for required changes to the Board's current electronic licensing system and approximately \$6,000.00 for a part-time FTE to maintain the criminal background records. The part-time FTE will continue every year after the passing of the rule.

**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.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	11,000.00	6,000.00
Personal Services	0.00	6,000.00	6,000.00
Current Expenses	0.00	5,000.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: WV 19 CSR 3 Requirements for Registration and Licensure

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

There are no fee increases and no changes in revenue. The one time fee for adjustments to the electronic licensing system is to incorporate data collection capabilities for the criminal background checks and to change the expiration date from December 31 to October 31 of each year. The labor related costs are associated with managing the records and processing the criminal background information.

**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.

Date: 6/16/2006

Signature of Agency Head or Authorized Representative

*Laura Shidman Rhodes* 6/16/06

**TITLE 19**  
**LEGISLATIVE RULES**  
**WEST VIRGINIA BOARD OF EXAMINERS FOR**  
**REGISTERED PROFESSIONAL NURSES**

**FILED**

JUN 16 P 2: 53  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**SERIES 3**

**REQUIREMENTS FOR REGISTRATION AND LICENSURE AND CONDUCT**  
**CONSTITUTING PROFESSIONAL MISCONDUCT**

**§ 19-3-1. General.**

- 1.1. Scope. -- This rule establishes the requirements for registration and licensure of a registered professional nurse.
- 1.2. Authority. -- West Virginia Code §30-7-4 and §30-1-4.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

**§ 19-3-2. Definitions.**

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

- 2.1. "Certificate of registration" means a document issued by the board upon original licensure by examination in West Virginia;
- 2.2. "Direct Supervision" means the activity of a registered professional nurse with an unencumbered license in West Virginia being present at all times in the same assigned physical work area as the person being supervised."
- 2.3. "Good Professional Character" means the integrated pattern of personal, academic and occupational behaviors which, in the judgment of the board, indicates that an individual is able to consistently conform his or her conduct to the requirements of W.Va. Code § 30-7-1 et seq., the board's rules and generally accepted standards of nursing practice including, but not limited to, behaviors indicating honesty, accountability, trustworthiness, reliability and integrity.
- 2.4. "Impaired" means the condition of a licensee whose performance or behavior is altered through the use of alcohol, drugs, or other means.
- 2.5. "Licensure card" means the wallet-sized document issued annually to indicate current registration or re-registration.
- 2.6. "National Council Licensure Examination" (NCLEX-RN) means the licensure examination for registered nurses which is owned and controlled by the national council of state boards of nursing.

- 2.7. "Structured treatment program" means a program for physical, psychological, social and/or spiritual rehabilitation, if the program has been expressly approved by the board.
- 2.8. "Temporary permit" means a permit authorizing the holder to practice registered professional nursing in this state until the permit is no longer effective or the holder is granted a license by the board. The holder of a temporary permit is subject to all provisions of West Virginia Code § 30-7-1 et.seq., and all other relevant sections of the West Virginia Code and rules promulgated by the board.

**§ 19-3-3.Application for Examination.**

3.1. Qualifications-for application

~~3.1.a. Preliminary education of applicant. An applicant for a license to practice as a registered professional nurse in West Virginia~~ Applicants educated in the United States or United States Territories shall meet the following requirements:

3.1.a.1. shall have completed an approved four-year high school course of study or an equivalent course of study, as determined by the appropriate educational agency;

~~3.1.a.1. Personal qualifications of applicant. An applicant shall be of good moral character.~~

~~3.1.a.2. Educational qualifications of applicant. An applicant shall have completed the basic curriculum in a program in nursing education approved by the board, or in a school accredited or approved by a comparable board or other recognized authority in another jurisdiction. He or she must hold a diploma from that school and be recommended to the board by the faculty of the school of nursing; and.~~

3.1.a.3. shall be subject to a state and national criminal history records check in a manner determined by the Board.

3.1.b. Veteran applicants seeking licensure ~~3.1.d.1~~ in lieu of the educational qualifications specified in subdivision 3.1.c. of this rule, and applicant qualifying under West Virginia Code §30-24-1 et. seq. shall meet the following requirements:

3.1.b.1 shall have completed an approved four-year high school course of study or an equivalent course of study, as determined by the appropriate educational agency;

3.1.b.2. shall be of good moral character;

3.1.b.3 ~~3.1.d.1.~~ An applicant shall have served on active duty in the medical corps of any of the armed forces of the United States for at least one (1) year within the three (3) year period immediately preceding the date of application and shall have successfully

completed the course of instruction required to qualify her or him for rating as a medical specialist advanced, medical service technician or advanced hospital corpsman technician, or other equivalent rating in her or his particular branch of the armed forces;

~~3.1.d.2.~~ 3.1.b.4. The applicant shall be honorably discharged from military service; and,

3.1.b.5 shall be subject to a state and national criminal history records check in a manner determined by the Board.

3.1.c. Applicants educated outside the United States or United States Territory shall meet the following requirements:

3.1.c.1. shall have completed an approved four-year high school course of study or an equivalent course of study, as determined by the appropriate educational agency;

3.1.c.2. be of good moral character;

3.1.c.3 submit a copy of the certificate issued by the commission on graduates of foreign nursing schools (CGFNS), as specified in WV 19 CSR 4, Qualification of Graduates of Foreign Nursing Schools for Admission to the Professional Nurse Licensing Examination;

3.1.c.4. submit a copy of the transcript from a professional nursing education program, translated in the English language;

3.1.c.5. submit satisfactory documentation of the English language proficiency by one of the following methods:

3.1.c.5.A. submit evidence that the nursing education, text books, and majority of the clinical experiences were in English;

3.1.c.5.B. submit an original report showing a score of at least 530 for the written exam or 200 for the computer exam on the Test of English as a Foreign Language (TOEFL) plus a score of at least 50 on the Test of Spoken English (TSE); or,

3.1.c.5.B.1 submit an original report showing a score of at least 700 on the Test of English for International Communication (TOEIC) plus a score of at least 50 on the Test of Spoken English (TSE); and

3.1.c.5.C. Provide a VisaScreen certificate; and,

3.1.c.6. shall be subject to a state and national criminal history records check in a manner determined by the Board.

3.2. Filing of Application.

3.2.a. Applicant educated in the United States.

3.2.a.1. An applicant for licensure by examination shall meet the requirements set forth in subsection 3.1.a. of this section and submit the following information to the board office:

3.2.a.1.A. A completed board application forty-five (45) days prior to the date the applicant wishes to take the examination;

3.2.a.1.B. The required fee for licensure by examination of ~~fifty-one dollars and fifty cents (\$51.50). Provided that after July 1, 2002 the fees shall be as set forth in a separate rule WV 19 CSR 12. Fees set forth in the board's rule Fees, 19 CSR 12.~~ Payment shall be in the form of a cashier's check or money order, and made payable to the West Virginia board of examiners for registered professional nurses. Application fees are not refundable, nor applicable to other test dates;

3.2.a.1.C. One (1) passport type identification photograph of the applicant signed on the front by both the applicant and the director of the nursing education program completed by the applicant; and

3.2.a.1.D. An final official transcript showing the type of degree and date conferred shall be sent directly to the office of the board from a board approved nursing education program. The final official transcript may be submitted after the forty-five (45) day filing deadline, but shall be submitted ~~at least two weeks~~ prior to the examination date. The Board will not consider an application for approval until the final, official transcript is received in the board office.

3.2.a.2. An applicant for licensure by examination shall submit an application directly to the contracted test service for the national council licensure examination (NCLEX-RN) with the application fee forty-five (45) days prior to the date the applicant wishes to take the examination.

- 3.2.a.3. The authorization to test for any one application is valid for ninety (90) days, and may not be extended.
- 3.2.b. Applicant educated outside the United States or United States Territories in another country:
- 3.2.b.1. An applicant who was educated outside the United States or United States Territories in another country and who seeks licensure by examination shall submit the following information:
- 3.2.b.1.A. A completed board application forty-five (45) days prior to the date the applicant wishes to sit for the examination;
- 3.2.b.1.B. The required fee for licensure by examination of ~~fifty-one dollars and fifty cents (\$51.50)~~. ~~Provided that after July 1, 2002 the fees shall be as set forth~~ in a separate rule WV 19 CSR 12, Fees. Payment shall be in the form of a cashier's check or money order, and made payable to the West Virginia board of examiners for registered professional nurses. Application fees are not refundable, nor applicable to other test dates; and
- 3.2.b.1.C. One (1) passport type identification photograph of the applicant signed on the front by the applicant;
- ~~3.2.b.1.D. A copy of the certificate issued by the commission on graduates of foreign nursing schools (CGFNS); as specified in WV 19 CSR 4, Qualification of Graduates of Foreign Nursing Schools for Admission to the Professional Nurse Licensing Examination; and~~
- ~~3.2.b.1.E. A copy of the transcript from a professional nursing education program; translated in the English language, if requested by the board.~~
- 3.2.b.2. An applicant for licensure by examination shall submit directly to the current test service under contract with national council, a completed national council licensure examination (NCLEX-RN) application with the application

fee forty-five (45) days prior to the date the applicant wishes to take the examination.

3.2.b.3. The authorization to test for any one application is valid for ninety (90) days, and may not be extended.

3.2.c. Veteran Applicant pursuant to West Virginia Code §30-24-1 *et. seq.* (veterans).

3.2.c.1. An applicant for licensure by examination who qualifies under West Virginia Code §30-24-1 *et. seq.* (veterans) shall submit the following information to the board office:

3.2.c.1.A. A completed board application forty-five (45) days prior to the date the applicant wishes to take the examination;

3.2.c.1.B. The required fee for licensure by examination of ~~fifty-one dollars and fifty cents (\$51.50). Provided that after July 1, 2002 the fees shall be~~ as set forth in a separate rule WV, 19 CSR 12, Fees. Payment shall be in the form of a cashier's check or money order, and made payable to the West Virginia board of examiners for registered professional nurses. Application fees are not refundable, nor applicable to other test dates;

3.2.c.1.C. One (1) passport type identification photograph of the applicant signed on the front by the applicant and the dean or director of the nursing program completed;

3.2.c.1.D. An official copy of military form DD214 directly from the national personnel records center; and

3.2.c.1.E. Any additional information requested by the board including but not be limited to:

3.2.c.1.E.1. Copies of certificates of completion for military education including course and occupation credit

recommendations; and,

3.2.c.1.E.2. Course outlines for military education documenting nursing science content in the training program.

3.2.c.2. An applicant for licensure by examination who qualifies under West Virginia Code §30-24-1 et. seq. shall submit directly to the current test service under contract with national council a completed national council licensure examination (NCLEX-RN) application with the application fee forty-five (45) days prior to the date the applicant wishes to take the examination.

3.2.c.3. The authorization to test for any one application is valid for ninety (90) days, and may not be extended.

**§ 19-3-4. Temporary permit to practice as a registered professional nurse.**

- 4.1. A temporary permit issued to an applicant awaiting initial examination for licensure as a registered professional nurse is valid until three (3) days from the date the applicant's licensing examination results are mailed from the office of the board.
- 4.2. The board may issue a temporary permit to an applicant for examination following graduation from a state approved nursing education program. The temporary permit expires ninety (90) days following graduation, or at the time licensure examination results are announced, whichever comes first. A temporary permit is not renewable.
- 4.3. The board shall not issue a temporary permit which permits the holder to practice registered professional nursing while awaiting initial examination for licensure and the reporting of the results of the examination until it has received and approved an application for licensure by examination.
- 4.4. The holder of a temporary permit is subject to all provisions of West Virginia Code § 30-7-1 et. seq. and all other relevant provisions of the West Virginia Code and rules promulgated by the board.
- 4.5. The holder of a temporary permit shall work under the direct supervision of a licensee, until the applicant has successfully passed the NCLEX-RN and a license is issued.

**§ 19-3-5.Licensure Examination.**

- 5.1. The licensure examination is the national council licensure examination for registered nurses (NCLEX-RN) which is owned and controlled by the National Council of State Boards of Nursing, Inc.
- 5.2. The board shall determine the availability of the examination dates, times, and places of administration.

**§ 19-3-6.Failure to pass licensure examination.**

- 6.1. An applicant for licensure by examination who fails to attain a passing score on the examination shall, upon notification of examination results, immediately return any temporary permit to practice registered professional nursing to the office of the board.
- 6.2. In considering an application for licensure by examination, the number of times the applicant has taken the licensing examination shall include each time that the applicant has taken an examination for licensure as a registered professional nurse in any jurisdiction.
- 6.3. In the event an applicant fails the licensure examination two times, he or she may petition the board for permission to repeat the licensure examination. The board may deny approval for an applicant to repeat an examination after two failures if more than two years has lapsed since the applicant graduated from a nursing education program. In addition, the board may deny approval to repeat the examination after two failures if the applicant cannot show in the petition to repeat the examination more than two times that any further education has been taken by the applicant to correct deficiencies in his or her nursing knowledge.
- 6.4. An examination applicant may not repeat the licensure examination more than four times per year, nor more often than every ~~ninety (90)~~ forty five (45) days,, even if the examination is available from the testing service at more frequent intervals.
- 6.5. A repeat examination applicant shall complete the application for examination as specified in subsection 3.2. of this rule and be subject to other requirements as established by the board.

**§ 19-3-7.Licensure by endorsement.**

- 7.1. An applicant for permanent licensure by endorsement shall:

7.1.a. ~~complete and submit to the board an application for licensure by endorsement along with the non-refundable fee of thirty dollars (\$30.00) in the form of a money order or cashier's check. Provided that after July 1, 2002 the fees shall be set forth in WV 19 CSR 12, Fees. Applicants for licensure by endorsement shall be currently licensed in another state and shall have passed the licensure examination that was used in the state of West Virginia at the time of his or her graduation from a professional nursing education program.~~

7.1.b. complete and submit to the board an accurately completed application for licensure by endorsement;

7.1.c. submit the non-refundable fee set forth in WV 19 CSR 12, Fees;

7.1.d. have submitted a verification of licensure from the state in which they were originally licensed and the state in which they are currently employed if it is different than the original state of licensure. If these boards participate in the licensure verification system as maintained by the National Council of State Boards of Nursing the licensee shall follow the process of verification to another state in accordance with the procedures set in place for that system.

7.2. Temporary permit for endorsement applicant.

The holder of a temporary permit is subject to all provisions of West Virginia Code §30-7-1 et. seq. and all other relevant sections of the West Virginia Code and rules promulgated by the board.

7.2.a. A complete endorsement application shall be on file in the board office prior to the issuance of a temporary permit including the notarized form, identification photograph, and endorsement application fee .

7.2.b. The board shall not issue a temporary permit until a complete board application for a temporary permit for an endorsement applicant is on file in the board office including the form and the ~~ten dollar (\$10.00) fee.~~ Provided that after July 1, 2002 the fees shall be set forth in WV 19 CSR 12, Fees.

7.2.c. The temporary permit expires ninety (90) days from the date of issuance and the expiration date shall be printed on the temporary permit.

7.2.d. The holder of the temporary permit shall immediately return the temporary permit upon request of the board. A temporary permit holder who fails to complete the endorsement application for full licensure is not

entitled to an extension of the temporary permit. An applicant must provide a satisfactory explanation to the board prior to any subsequent request for endorsement by the applicant if the ninety (90) day period expires prior to the completion of the required procedure for licensure by endorsement by an applicant licensed as a registered professional nurse in another state, territory, or foreign country. The applicant shall repeat the process for endorsement in its entirety if the explanation is considered acceptable by the board.

- 7.2.e. A temporary permit is not renewable, and the board shall not extend the initial ninety (90) day period.
- 7.2.f. The holder of any temporary permit to practice registered professional nursing shall furnish the board with his or her address and telephone number, and the name, address, and telephone number of his or her employer at all times while the permit is effective.
- 7.2.g. The board shall not issue a temporary permit if it determines upon satisfactory proof that the applicant has in any way falsified his or her qualifications for the temporary permit.
- 7.2.h. The board shall not issue the temporary permit if it is presented with satisfactory proof that the applicant has any action pending against his or her license to practice registered professional nursing in another state, territory, or foreign country, or if the license is encumbered in any way
- 7.2.i. A temporary permit becomes void during the ninety (90) days if the board determines, upon satisfactory proof, that it will deny the applicant full licensure for any of the causes set forth in West Virginia Code §30-7-6. The board may also revoke the temporary permit at any time.

#### **§ 19-3-8. Change of name and/or address.**

- 8.1. ~~Change of name~~ If a licensee legally changes his or her name through marriage, divorce court order or other means, he or she shall send this information to the office of the board. The information shall include both the full prior name and the new name, in a properly executed affidavit, or a certified copy of the marriage certificate or divorce decree. The licensee shall submit ~~this affidavit~~ these documents along with the fee of five dollars (\$5.00). ~~Provided that after July 1, 2002 the fees shall be set forth in WV 19 CSR 12, Fees.~~
- 8.2. ~~Change of residence/ mailing address.~~ A licensee shall ~~also~~ notify the board of any change in residence or mailing address within thirty (30) days of the change.

This notification shall be submitted in writing to the board office by facsimile, electronic communication or postal service.

**§ 19-3-9. Renewal of license.**

9.1. ~~Annual renewal of license. The renewal period for registered professional nursing licenses is annual and occurs from January 1 to December 31 of each year. The fee for licensure renewal is twenty-five dollars (\$25.00). Provided that after July 1, 2002 the fees shall be set forth in rule WV 19 CSR 12, Fees. Each license issued by this board expires on October 31 of each year. In order to continue practicing a licensee shall renew his or her license annually. The deadline for receipt of the renewal application and fee is thirty days after receipt of the renewal application. A license for which a renewal application is received after October 31 is lapsed.~~

9.1.a. The board shall consider the application for renewal of the license of each licensee upon receipt of:

9.1.a.1. an accurately completed application for renewal of the license:

9.1.a.2. submission of additional documents as determined by the Board:

9.1.a.3. verification that he or she meets the continuing competence requirements specified in WV 19 CSR 11, Continuing Education;

9.1.a.4. all additional requirements set forth by the Board; and,

9.1.a.5. the fee for renewal as set forth in WV 19 CSR 12, Fees .

Provided, the license issued by renewal after the implementation of the October 31 renewal date shall have a prorated fee of the current renewal fee.

9.2. Request for inactive status.

9.2.a. A licensee who is not practicing, and who has no disciplinary action pending against his or her license, may request his or her name be entered on the inactive list by the executive secretary of the board by completing the renewal application furnished by the board and indicating his or her desire to be placed on inactive status. The board shall then designate the licensee's records "inactive". No fee is required for inactive status and no license is issued. The board may provide the inactive licensee, upon application, payment of the current fee, and completion of required continuing education, an active license to practice registered

professional nursing in West Virginia. The board may inquire into activities and events during the term of the inactive license period.

9.3. Request for permanently retired status.

9.3.a. A licensee who has permanently retired from the practice of nursing in all states may upon request be designated as a "Retired Registered Professional Nurse" and shall receive an identification card with such designation. The recipient of the designation shall not practice as a registered professional nurse in any state and shall not in any way indicate to any persons that they are licensed to practice as a registered professional nurse. If the individual identified as the "Retired Registered Professional Nurse" does practice in any form, voluntarily or for pay, as a registered professional nurse he or she shall be guilty of practicing nursing without a license and shall be subject to the appropriate penalties contained in law and rule. If at any time the individual designated as the "Retired Registered Professional Nurse" desires to return to the practice of nursing, he or she shall submit the reinstatement application along with the current fee and shall meet all reinstatement requirements.

**§ 19-3-10. Reinstatement of lapsed license.**

10.1. Non-renewal of license.

If a licensee fails to renew his or her license before the current license expires, the license shall lapse.

10.2. The fee to reinstate a lapsed license is ~~fifty dollars (\$50.00), and is in addition to the regular renewal fee of twenty-five dollars (\$25.00). Provided that after July 1, 2002 the fees shall be set forth in rule WV 19 CSR 12, Fees.~~

10.3. Any person practicing registered professional nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of §30-7-et seq.

**§ 19-3-11. Verification of licensure to another state board of nursing.**

11.1. The board shall furnish a certified statement verifying West Virginia licensure ~~to the board responsible for the licensure of registered professional nurses in another state~~ upon submission of a written request by the licensee for the verification and payment of a ~~thirty dollar (\$30.00) fee set forth in the rule WV 19 CSR 12, Fees.~~ If the licensee is a graduate of a school which has closed and his or her records are on file in the board office, the board shall provide a copy of school records upon written request and payment of ~~five dollars (\$5.00) for copying. Provided that after July 1, 2002 the fees shall be set forth in the rule WV 19 CSR 12, Fees.~~

**§19-3-12.Loss of certificate of registration or current licensure card.**

- 12.1. To replace a lost or destroyed certificate of registration, the licensee shall send an affidavit certifying the loss or destruction of the certificate of registration and a fee of five dollars (\$5.00) to the board. ~~Provided that after July 1, 2002 the fees shall be set forth in rule WV 19 CSR 12, Fees.~~
- 12.2. To replace a lost or destroyed current licensure card, the licensee shall send an affidavit certifying the loss and ~~at the fee of five dollars (\$5.00) to the board. Provided that after July 1, 2002 the fees shall be set forth in the rule WV 19 CSR 12, Fees.~~
- 12.3. The board may publish notice of the issuance of a duplicate certificate of registration or current licensure card at the board's discretion.

**§19-3-13.Penalty for presentation of non-negotiable check.**

- 13.1. The board shall assess a fee as set forth in the rule WV19CSR 12, Fees ~~not to exceed twenty dollars (\$20.00)~~ to any individual who presents a check payable to the board that is later returned by the bank as non-negotiable. The presenter of the non-negotiable check shall redeem the non-negotiable check within fourteen (14) days of notification by certified mail. This fee is in addition to any reinstatement or other fee which may additionally become due because the applicant or licensee submits an application or registration form after a board deadline. The applicant, licensee, or other person who presents a non-negotiable check shall redeem it with cash, a money order, or a cashier's check. ~~Provided that after July 1, 2002 the fees shall be set forth in the rule WV 19 CSR 12, Fees.~~
- 13.2. The board shall designate the license or temporary permit of a registered professional nurse as invalid if fees are not paid within 14 days for a non-negotiable check submitted with an application for renewal or reinstatement or any other application form.

**§19-3-14 Professional Misconduct**

- 14.1. Conduct, including, but not limited to the following, if proven by a preponderance of evidence, constitutes professional misconduct subject to disciplinary action pursuant to West Virginia Code § 30-7-11(f). The applicant or licensee:
  - 14.1.a. failed to adhere to common and current standards for professional nursing practice, including but not limited to standards established by a national professional nursing organization, nursing research, nursing education, or the Board;

- 14.1.b. failed to adhere to established standards in the practice setting to safeguard patient care;
- 14.1.c. knowingly committed an act which could adversely affect the physical or psychological welfare of a patient;
- 14.1.d. abandoned patients by terminating responsibility for nursing care, intervention, or observation without properly notifying appropriate personnel and ensuring the safety of patients;
- 14.1.e. practiced or offered to practice beyond the scope permitted by law or accepted and performed professional responsibilities that the licensee knows or has reason to know that he or she is not licensed, qualified, or competent to perform;
- 14.1.f. impersonated another licensed practitioner;
- 14.1.g. permitted another person to use the licensee's license for any purpose;
- 14.1.h. permitted, aided, or abetted an unlicensed, uncertified, or unregistered person to perform activities requiring a license, certificate, or registration;
- 14.1.i. delegated professional responsibilities to a person when the licensee delegating the responsibilities knows or has reason to know that person is not qualified by training, experience or licensure to perform them;
- 14.1.j. practiced registered professional nursing while his or her license is suspended, lapsed, or inactive;
- 14.1.k. failed to comply with terms and conditions as may be imposed by the Board based upon previous disciplinary action of the Board;
- 14.1.l. practiced professional nursing while the ability to safely and effectively practice is compromised by alcohol or drugs;
- 14.1.m. is addicted to a controlled substance;
- 14.1.n. is a chronic or persistent alcoholic;
- 14.1.o. engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member of the public; thus, not exercising good professional character;
- 14.1.p. practiced professional nursing while the ability to safely and effectively practice was compromised by physical or mental disability;
- 14.1.q. refused or failed to report for a physical or mental examination, including but not limited to laboratory or other tests, requested by the board;
- 14.1.r. provided false or incorrect information to an employer or potential employer regarding the status of a license, or failed to inform an employer or potential employer of a change in the status of a license;

- 14.1.s. knowingly falsified an application for employment;
- 14.1.t. knowingly provided false information regarding completion of educational programs;
- 14.1.u. falsified patient records, intentionally charted incorrectly;
- 14.1.v. improperly, incompletely, or illegibly documented the delivery of nursing care, including but not limited to treatment or medication;
- 14.1.w. knowingly made or filed a false report;
- 14.1.x. knowingly or negligently failed to file a report or record required by state or federal law;
- 14.1.y. willfully impeded or obstructed the filing of a report or record required by state or federal law;
- 14.1.z. induced another person to file a false report or obstructed the filing of a report required by state or federal law;
- 14.1.aa. failed to report to the board within thirty (30) days, knowledge of a violation by a registered professional nurse of W. Va. Code §§ 30-7-1 et seq., 30-15-1 et seq., this rule, any other applicable state law or rule or any applicable federal law or regulation;
- 14.1.bb. failed to report through proper channels a violation of any applicable state law or rule, any applicable federal law or regulation or the incompetent, unethical, illegal, or impaired practice of another person who provided health care;
- 14.1.cc. impeded or obstructed an investigation by the Board by failing to comply or respond to requests for action or information, whether the failure was known or negligent;
- 14.1.dd. violated any provision of West Virginia Code §30-7-1 et seq., or rules governing the practice of registered professional nursing, or a rule or order of the board, or failed to comply with a subpoena or subpoena duces tecum issued by the board;
- 14.1.ee. failed to register or notify the board of any changes of name or mailing address;
- 14.1.ff. failed to accept certified mail from the board, when mailed to the licensee's last address on record in the board's office;
- 14.1.gg. failed to disclose to the board a criminal conviction in any jurisdiction;
- 14.1.hh. was convicted of a misdemeanor with substantial relationship to the practice of registered professional nursing, in a court of competent jurisdiction.
- 14.1.ii. failed to disclose information when required by the board concerning treatment or counseling for substance abuse, or participation in any professional peer assistance program;
- 14.1.jj. provided false information on any application, or any other document submitted to the board for the purpose of licensure, advanced practice recognition, or prescriptive authority;

- 14.1.kk. misappropriated medications, supplies, or personal items of a patient or employer;
- 14.1.ll. self-administered or otherwise took into his or her body any prescription drug in any way not in accordance with a legal, valid prescription or used any illicit drug;
- 14.1.mm. prescribed, dispensed, administered, mixed or otherwise prepared a prescription drug, including any controlled substance under state or federal law, not in accordance with accepted nursing practice standards or not in accordance with the board's rule Limited Prescriptive Authority For Nurses in Advanced Practice, 19 CSR 8;
- 14.1.nn. physically or verbally abused, or failed to provide adequate protection or safety for an incapacitated individual in the context of a nurse-patient/client relationship;
- 14.1.oo. used the nurse-patient/client relationship to exploit a patient or client;
- 14.1.pp. engaged a patient or client in sexual activity or became romantically involved with a patient or client while still responsible for the care of that patient or client;
- 14.1.qq. failed to maintain appropriate professional boundaries in the nurse-patient/client relationship;
- 14.1.rr. failed to report that his or her license to practice registered professional nursing in any other state, territory, jurisdiction or foreign nation was revoked, suspended, restricted or limited, or otherwise acted against, that he or she was subjected to any other disciplinary action by the licensing authority, or that he or she was denied licensure in any other state, territory, jurisdiction, or foreign nation;
- 14.1.ss. Violated the confidentiality of information or knowledge concerning a patient;
- 14.1.sstt. practiced registered professional nursing by way of telecommunications or otherwise, in any other state, territory, jurisdiction, or foreign nation, without a license to do so and not in accordance with the law of that state, territory jurisdiction, or foreign nation; or
- 14.1.ttuu. was found guilty for improper professional practice or professional misconduct by a duly authorized professional disciplinary agency or licensing or certifying body or board in this or another state or territory, where the conduct upon which the finding was based would, if committed in this state, constitute professional misconduct under the laws of this state, may serve as a basis for disciplinary action by this Board.

- 14.2. Upon a finding of probable cause that a basis for disciplinary action exists, the board may require a licensee or a person applying for licensure to practice as a registered professional nurse in this state to submit to a physical or psychological examination by a practitioner approved by the board. Any individual who applies for or accepts the privilege of practicing as a registered professional nurse in this state is considered to have given consent to submit to all such examinations when requested to do so in writing by the board and to have waived all objections to the admissibility of the testimony or examination report of any examining practitioner on the ground that the testimony or report is a privileged communication. If an applicant or licensee fails or refuses to submit to any examination under circumstances which the board finds are not beyond his or her control, that failure is prima facie evidence of his or her inability to practice as a registered professional nurse competently and in accordance with accepted standards for professional practice. A licensee or person applying for licensure as a registered professional nurse who is adversely affected by this provision may request a hearing within thirty days of any action taken by the board.
- 14.3. Based on the nature of the complaint filed against a licensee or based on the nature of the information received on an applicant, the board may require a criminal history records check of the licensee or the applicant to be paid for by the licensee or applicant. The licensee or applicant under investigation shall The board may take disciplinary action against the licensee for refusing to submit to the criminal history records check or the board may deny licensure.
- 14.4. If the board finds that public health, safety and welfare requires emergency action and incorporates a finding to that effect into its order, the board shall order summary suspension of a license pending proceedings for revocation of the license or other action. The board shall promptly institute and determine further disciplinary action.

#### **§19-3-15 Impaired Nurse Treatment Program**

- 15.1. The board may permit a licensee or applicant for licensure who has been found guilty of prohibited conduct, to participate in a structured treatment program and meet other terms and conditions for continued licensure, in lieu of disciplinary action.
  - 15.1.a. The board may appoint a designee to monitor participation in a approved treatment program;
  - 15.1.b. The board may excuse an applicant or licensee that remains in compliance with the terms of an approved treatment program, to the satisfaction of the board's designee, from appearing before the board or hearing examiner to respond further to charges of

- misconduct;
- 15.1.c. An applicant or licensee that fails to comply with the terms of an approved treatment program, to the satisfaction of the board's designee, may be subject to further disciplinary action to the fullest extent of the board's authority;

15.2. The board may establish or approve impaired nurse treatment programs.

**§19-3-16 Expungement of Records.**

- 16.1. The Disciplinary Review Committee shall expunge all complaints that it dismisses, upon request by the licensee, from the licensee's file after three (3) years, if no other complaint is received against the same licensee within the three (3) year period.

## Series 3 Comments and Responses

**laurarhodes**

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**From:** "laurarhodes" <lrhodes@state.wv.us>  
**To:** <baden@marshall.edu>  
**Sent:** Friday, June 16, 2006 11:34 AM  
**Subject:** Re: Public comment on rule change

Dear Ms. Baden:

The Board will notify RNs of the change in the expiration date several times before it is implemented. As the rule is currently written, the first time there will be an October 31 expiration date will be on the 2008 license. The Board will use the web site, newsletters and e-mails to agencies to notify nurses of the change.

Thank you for taking time to review and comment on the rule.

For the Board,

Laura Skidmore Rhodes  
Executive Director

----- Original Message -----

**From:** RNBoard  
**To:** [laura.rhodeswork](mailto:laura.rhodeswork)  
**Sent:** Thursday, April 13, 2006 1:19 PM  
**Subject:** FW: Public comment on rule change

-----Original Message-----

**From:** Baden, Peggy [<mailto:baden@marshall.edu>]  
**Sent:** Thursday, April 13, 2006 1:13 PM  
**To:** [rnboard@state.wv.us](mailto:rnboard@state.wv.us)  
**Subject:** Public comment on rule change

Spelling error line 2.14d My only concern is how will you publicize the changes especially the new October 31 deadline and CEU change? I foresee some people missing the deadline because they are inclined to "look for" the nursing license renewal in the mail in the fall.

*Peggy Baden*

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**laurarhodes**

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**From:** "laurarhodes" <lrhodes@state.wv.us>  
**To:** <marra@marshall.edu>  
**Sent:** Friday, June 16, 2006 11:27 AM  
**Subject:** Re: Proposed Rule Changes

Dear Dr. Marra:

Thank you for taking time to review the rule and provide comments.

For the Board  
Laura Rhodes

----- Original Message -----

**From:** "RNBoard" <rnboard@state.wv.us>  
**To:** "laura rhodeswork" <lrhodes@state.wv.us>  
**Sent:** Thursday, April 13, 2006 1:16 PM  
**Subject:** FW: Proposed Rule Changes

>  
>

> -----Original Message-----

> **From:** Marra, Sandra E [mailto:marra@marshall.edu]  
> **Sent:** Thursday, April 13, 2006 12:53 PM  
> **To:** RNBoard  
> **Subject:** RE: Proposed Rule Changes

>  
>

> Laura,  
> I have reviewed and agree with changes. Have also forwarded to the  
> nursing faculty members at MU.  
> Thanks,  
> Sandy Marra

>  
>

> -----Original Message-----

> **From:** RNBoard [mailto:rnboard@state.wv.us]  
> **Sent:** Thursday, April 13, 2006 8:59 AM  
> **To:** Threasia Witt; Susan Layos; Sue Forsbrey; Shelia Kyle; Sandra Wynn;  
> Marra, Sandra E; ROSE KUTLENIOS; R CAROL COCHRAN; Patsy H. Haslam;  
> PAMELA ALDERMAN; Nancy Alfred; Monica Kennison; Linda Shelek; LAURA  
> FESTA; Kathleen Gaberson; JUDITH MCKINNEY; JANE MARTIN; FRANCES G  
> SNODGRASS; DEBORAH M KISNER; ALITA SELLERS; Connie Moore  
> **Subject:** Proposed Rule Changes

>  
>

> Dear Nursing Colleagues:

>  
>

> The West Virginia Board of Examiners for Registered Professional Nurses  
> is  
> proposing changes to three (3) rules and is now accepting public comment  
> on

- > these changes. The effected rules include Series 1 related to nursing
- > education programs; Series 3 related to licensure and professional
- > misconduct; and Series 11 related to continuing education. Please share
- > this information with those working in your facility and encourage them
- > to
- > review these rule changes. Links to the changes are located on the home
- > page of our web site at [www.wvrnboard.com](http://www.wvrnboard.com). Written comments are being
- > accepted throughout the Comment Period which ends at 4:00 PM May 25,
- > 2006.
- > The comments may be submitted by e-mail to [rnboard@state.wv.us](mailto:rnboard@state.wv.us),
- > facsimile at
- > 304-558-3666, postal service to 101 Dee Drive, Suite 102, Charleston,
- > WV,
- > 25311 or hand delivered to the Board office on Dee Drive. An overview
- > of
- > the changes is included on the web site as well.
- >
- > Thank you for taking time to review the proposed rule changes. The
- > Board
- > looks forward to receiving your comments.
- >
- > For the Board,
- >
- > Laura Skidmore Rhodes, MSN, RN
- > Executive Director
- >
- > West Virginia Board of Examiners
- > for Registered Professional Nurses
- > 101 Dee Drive, Suite 102
- > Charleston, WV 25311-1620
- >
- > Phone: (304) 558-3596
- > e-mail: [rnboard@state.wv.us](mailto:rnboard@state.wv.us)
- > web: [www.wvrnboard.com](http://www.wvrnboard.com)
- >
- >
- >
- >

**laurarhodes**

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**From:** "laurarhodes" <lrhodes@state.wv.us>  
**To:** <annmarhoy@charter.net>  
**Sent:** Friday, June 16, 2006 11:25 AM  
**Subject:** Re: changes

Dear Ms. Hoy:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 reviewed your comments related to the proposed changes to WV 19 CSR 3 Requirements for Registration and Licensure. The Board voted to remove the language of concern related to documentation. The requirement for maintaining an accurate record is already within the definitions of professional misconduct and professional standards, the Board wanted to include clarifying language. The clarifying language has been removed from the proposed rule, however, the registered nurse is currently, and will continue to be responsible for accurate documentation and record keeping as part of providing safe care.

Thank you for taking time to review the rule and offer comments.

For the Board,  
 Laura Rhodes  
 Executive Director

----- Original Message -----

**From:** RNBoard  
**To:** [laura rhodeswork](mailto:laura_rhodeswork)  
**Sent:** Friday, May 19, 2006 2:40 PM  
**Subject:** FW: changes

-----Original Message-----

**From:** martha hoy [mailto:[annmarhoy@charter.net](mailto:annmarhoy@charter.net)]  
**Sent:** Friday, May 19, 2006 1:32 PM  
**To:** [mboard@state.wv.us](mailto:mboard@state.wv.us)  
**Subject:** changes

The changes are wonderful but I just have a comment about one of them. "Failed to document appropriately to maintain accurate record for each patient" Who will define what "accurate records" are?

If this is left up to the hospital or facility then there will be a lot less nurses in WV. From my experience I have worked in a place where the rules change all the time to benefit the facility and not the patient. The definition of "accurate" could change on a daily or monthly basis or whenever they feel like changing it. For example, the RN has 12 patients that day and the policy for that floor is to document every 4 hours on each patient. So about the time you are half way through "checking" on your patients someone codes or their condition changes for the worse and that nurse does not get to document her or his every 4 hours exactly. Then if whoever is in charge just personally does not like that nurse for whatever reason could discipline that nurse for "inaccurate documentation."

Also another issue is going back to document later to document something that happened earlier considered "inaccurate documentation" or incorrect charting?

Thank you for talking the time to listen!  
 Martha Hoy, RN  
 Charleston WV

**laurarhodes**

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**From:** "laurarhodes" <lrhodes@state.wv.us>  
**To:** <vickie@hospicecarewv.org>  
**Sent:** Friday, June 16, 2006 11:24 AM  
**Subject:** Re: question about rule change

Dear Ms. Powell:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 reviewed your comments related to the proposed changes to WV 19 CSR 3 Requirements for Registration and Licensure. The Board voted to remove the language of concern related to documentation. The requirement for maintaining an accurate record is already within the definitions of professional misconduct and professional standards, the Board wanted to include clarifying language. The clarifying language has been removed from the proposed rule, however, the registered nurse is currently, and will continue to be responsible for accurate documentation and record keeping as part of providing safe care.

Thank you for taking time to review the rule and offer comments.

For the Board,  
Laura Rhodes  
Executive Director

----- Original Message -----

**From:** "RNBoard" <rnboard@state.wv.us>  
**To:** "laura rhodeswork" <lrhodes@state.wv.us>  
**Sent:** Tuesday, May 23, 2006 9:02 AM  
**Subject:** FW: question about rule change

>  
>  
> -----Original Message-----  
> From: Vickie Powell [mailto:vickie@hospicecarewv.org]  
> Sent: Tuesday, May 23, 2006 8:48 AM  
> To: [rnboard@state.wv.us](mailto:rnboard@state.wv.us)  
> Subject: question about rule change  
>  
>  
> Title 19 Series 3 #9b.  
> "Failure to document appropriately to maintain an accurate record for each  
> patient" has been added as a definition of professional misconduct. Does  
> this become a reportable offense upon which the Board can take  
> disciplinary  
> action?  
>  
> Thank you for clarifying.  
>  
> Vickie Powell, RN

**laurarhodes**

---

**From:** "laurarhodes" <lrhodes@state.wv.us>  
**To:** <bill@mmswv.com>  
**Sent:** Friday, June 16, 2006 11:23 AM  
**Subject:** Re: Proposed Rule Changes

Dear Mr. Wright:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 reviewed your comments related to the proposed changes to WV 19 CSR 3 Requirements for Registration and Licensure. The Board voted to remove the language of concern related to documentation. The requirement for maintaining an accurate record is already within the definitions of professional misconduct and professional standards, the Board wanted to include clarifying language. The clarifying language has been removed from the proposed rule, however, the registered nurse is currently, and will continue to be responsible for accurate documentation and record keeping as part of providing safe care.

Thank you for taking time to review the rule and offer comments.

For the Board,  
Laura Rhodes  
Executive Director

----- Original Message -----

**From:** "RNBoard" <rnboard@state.wv.us>  
**To:** "laura rhodeswork" <lrhodes@state.wv.us>  
**Sent:** Thursday, May 25, 2006 3:24 PM  
**Subject:** FW: Proposed Rule Changes

>  
>  
> -----Original Message-----  
> From: bill [mailto:bill@mmswv.com]  
> Sent: Thursday, May 25, 2006 2:49 PM  
> To: rnboard@state.wv.us  
> Subject: Proposed Rule Changes  
>  
>  
>  
>  
> May 25, 2006  
>  
> WV Board of Examiners for Registered Professional Nurses  
> 101 Dee Drive  
> Suite 102  
> Charleston, WV 25311-1620  
>

> To Whom It May Concern:

>

> I am writing in reference to the following statements which have been  
> proposed to be added to rules governing RNs:

>

> 9. Added the following statements as definitions of professional  
> misconduct:

>

> a. Violated the confidentiality of information or knowledge concerning

a

> patient; and,

> b. falsified patient records, or intentionally charted incorrectly, or

> failed to document appropriately to maintain an accurate record for each  
> patient. The underlined language is added to current language.

>

> I am concerned that these statements are too broad and suggest that they  
be

> revised. In the statement, 'Violated the confidentiality of information

or

> knowledge concerning a patient', no distinction is made between an

> intentional and an inadvertent breach of confidentiality and 'a violation

of

> confidentiality' is not limited in any way.

>

> What nurse in his or her career hasn't inadvertently violated

> confidentiality in some minor matter? Can it be foreseen where a charge  
of

> such a violation could be used as a punitive tool by a patient, co-worker

or

> employer? What RN would want to defend such a charge and worse what RN

> would want such a 'black mark' following them. Please reconsider this

> language and narrow its focus.

>

> Following the same reasoning, the underlined portion of 9.b. is of similar

> concern. What nurse hasn't 'failed to document appropriately to maintain

an

> accurate record for each patient'? This statement is too broad. Is an RN

> guilty of 'professional misconduct' when they are so overwhelmed by their

> workload that they 'failed to document' a blood pressure? Common sense

> would say no, but a strict interpretation of the proposed language, places

> the RN in the wrong.

>

> The charge of Professional Misconduct is serious. Prudence requires that

we

> are careful in the way it is defined. Thank you for considering these

> comments.

>

> Sincerely,

>

> William E. Wright

> WV License #32273

# Overview Rule Changes

title 19 Series 3

- #1. I don't have an issue with this one.
- #2. I don't have an issue with this either.
- #3. I have a problem with this section.

Why is it so important to change our expiration date? Dec 31 has been good date for many, many years. All of us RN's are accustomed to this date and I don't see the need in changing it. It will make us paid more for our license that year. A lot of RN will be late in renewing their license. All health businesses are set for the RN renewal to be Dec 31. Changing it will cause the business a headache.

#4 is ok.

#5. I feel all people need a criminal background check. As a nurse, we deal with a lot of personal items belonging to a patient. When working in or with a business, we deal with important items, ex. money, medicine, & financial papers a criminal should not have access to!!

#6 not a problem.

#7. not a problem I don't guess. I am not for.

#8. Yes, there is an issue. What if a nurse is old enough to retire & financially secure to retire. After obtaining a retired status, need to return or wants to return, called get read stated, get a license works for awhile then has to retire

Again for some reason. She dont want to lose her license if she dont renew them but she can't get a retired status. That is not right. Can she be put their license on hold?

What will happen to those that hold 2 kinds of license but one is on hold. I pray that wont change!!

# 9. B & C issue - Big Issue  
Professional misconduct

A. Violated the confidentiality of information or knowledge concerning a patient.

In many peoples opinion any time we mention a patient to any one at place of employment or to another facility in which is performing a test or where patient will be transfer, some one could say we are violated confidentiality.

- Ex what if we are transferring Patient A to another hospital. - for all information to that hospital, talk with doctor accepting patient, speak with the nurse about patient condition, get ambulance give them information - ready to send patient A. She or he decides not to be transfer and they states Violated confidentiality - out for professional misconduct. a family could bring big law - suit. This is just one example.

Power of attorney for family could try to bring suit for just disclosing patients condition or financial situation within medical institution.

I sure dont agree with this addition

#9 B. No one in health field should document anything that isn't correct or that they have not assessed I agree. Record all information you have assessed correctly and there shouldn't be a problem. No falsified patient records as intentional or unintentional should occur. To chart incorrectly is not right. Fair to chart something can't always be held against a nurse. Sometimes patients don't tell a nurse everything, shows use areas on their body that can cause problems later, has pain somewhere but don't tell us and some patients brought to hospital via EMS, friend or relatives are not sure about their medicines and treatments. Some haven't been to their own MD for long time and are taking medicine they shouldn't take and swears their MD ordered that medicine. What happens when patients goes to many physician & different drug stores for medicine. What happens if they don't tell us about over the counter meds. they are taking. A nurse don't know everything. I just don't agree with this section,!!

itle 19 Series 11 - Continue Ed.

#1 No problem

3+ #2. Leave it every 2 yrs. Change to every year is more work for your office. Sometimes it is hard to find 12 credits that is of interest to the nurse in her field of practice. Consider dropping require<sup>to</sup> 24 hrs a year instead of 30. If 12 is good for 1 yr then 24 should be good for 2 yrs - With all meeting hospitals have that we have

to attend, 24 credits should be enough. When we work the hours we work & when those hours start sometimes it is difficult to search for CEUs.

#4 Provide us a list of additional activities to be considered for CEU before accepting them. Some of us work in rural areas and may not have access to a lot of these activities.

I know it is long but it is the way I feel about these section changes.

Thanks for your time in reading my comments

Jwila J Daniels R  
May 19, 2006

Laura S. Rhodes, M.S.N., R.N.  
Executive Director

email:rnboard@state.wv.us  
web address:www.wvrnboard.com



TELEPHONE:  
(304) 558-3596  
FAX (304) 558-3666

STATE OF WEST VIRGINIA  
**BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES**  
101 Dee Drive, Suite 102  
Charleston, WV 25311-1620

June 16, 2006

Twila Daniels  
RR 1 Box 63  
Marlinton, WV 24954-9708

RE: WV 19 CSR 3 Requirements for Registration and Licensure  
for Registered Nurses

Dear Ms. Daniels:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 reviewed your comments related to WV 19 CSR 3 and wants to take this opportunity to respond to them.

The expiration date change from December 31 to October 31 will be helpful in several ways. An October 31 expiration date will allow for a renewal season with more business days available for processing renewals, is during a slower time for the U.S. Postal Service and avoids a major holiday season. Most agencies allow as many people off as possible during the winter holiday season. If a nurse scheduled for January 1 hasn't renewed, it is difficult if not impossible for the agency to locate another nurse to work that shift. All of these are seen as positive reasons to change the renewal date.

The Board agrees that criminal background checks on all nurses is important, however, the agency must begin somewhere. Beginning with applicants seems to be the best.

The Board agreed with your point about the language allowing a "retired status" only once and so removed that language from the proposed rule.

Regarding your concern about the definition of professional misconduct related to confidentiality, the Board maintains that this definition is important to include in the rule. This language remains as proposed.

Thank you for taking time to review the rule and comment.

For the Board,

A handwritten signature in cursive script that reads "Laura Skidmore Rhodes".

Laura Skidmore Rhodes, MSN, RN  
Executive Director

Peter Bradford MSN  
PO Box 706  
Harpers Ferry, WV 25425

West Virginia Board of Examiners for Registered Professional Nurses  
101 Dee Drive, Suite 102  
Charleston, WV 25311-1620

June 5, 2006

Re: Written Comments on Proposed Rule Changes

Dear Board Members:

In response to proposed changes referenced in the SPRING 2006 RN Newsletter, I would ask that you consider the below comments regarding Item #9 on Page 2, the section dealing with professional misconduct.

I am a quality assurance officer with a large community health center in the state. In that and previous roles, I have dealt extensively with **privacy and confidentiality issues** and would observe that it can be one of the most problematic areas to teach, to observe fully, and to enforce. Violations seem rampant at certain levels in many organizations (Ex: internal confidentiality), yet almost nonexistent at other levels (the selling of confidential information).

Having said that, I think nurses in WV would be well served if more specificity or layers of "offense" in the area of confidentiality were referenced. I am very concerned that wide ranging, global references as drawn up in the draft language leave far too much latitude for abuse of the Rules, for organizational or professional retaliation on whistleblowers or others not in organizational favor, and for overstatement and misinterpretation, to stand as drafted.

I offer the following observations and would be glad to testify or comment further if you require. Common violations of best practices in confidentiality include:

1. Giving health information to a caller over the phone once key information that is designed to accurately ascertain identity has been discharged.
2. Receiving or asking about a matter related to health status of a patient in one's organization for whom one has or had no direct need to know.
3. Systems or organizational violations (a patient sign up list on the doctor's front desk where other patient names are displayed).
4. Accidental or inadvertent violations (such as overhearing health information at a party and repeating it to someone else who then caused or became a party to a complaint about said RN).

None of the above would constitute a sufficiently egregious violation that would result in disciplinary action, much less termination, and less again loss of license, in most situations. Even more serious violations (such as those that take place due to systems issues, organizational culture, or lack of training) occur that should not result in a loss of license.

In general, I would not favor any language referencing violations of confidentiality in the professional misconduct section unless it were to include words like *substantial*, or *serious*, or *persistent*, or *reckless*, to prevent misinterpretation of the Rules or misapplication of the Rules by less than ethical influences that may bring a complaint to the Board's attention.

Peter Bradford MSN  
PO Box 706  
Harpers Ferry, WV 25425

On the matter of **Documentation** under the same section of the Rules, I would again urge more specificity and extreme caution. The language "or failed to document appropriately...." may be construed by any from the inept to the corrupt, to mean almost anything.....

I have reviewed thousands of patient records at this point in my career (having worked in utilization roles, clinical roles, in the medical insurance industry, and as a medical records committee member, as a JCAHO specialist and Quality Management consultant and lecturer over the last 30 years of nursing practice, and I have observed over and over again that completeness and accuracy (failing to include all elements that are relevant, or at least core elements) are always problematic. Teaching and remediation is ongoing on documentation in most settings.

Further, documentation is especially problematic at the systems level (in that organizations tend to undermine documentation quality directly when they short staff units in acute and other nursing settings).

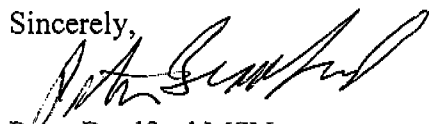
One needs to be very careful with language in this area of the Rules as well. The simple lack of a notation indicating the time of the assessment, the procedure, the medical or nursing act could be considered an egregious violation under the current draft language. This could apply also to failing to have a legible signature, for failing to document a treatment in all of the places in the record it "should" go (i.e.: on the Med Sheet, on the Progress Note, on the Narcotic Sign Out sheet), for failure to document completely, for use of unapproved abbreviations, etc, etc. You get my point.

In general, both of the areas of Confidentiality and Documentation would be well served by the Board's careful characterization of these violations as I referenced earlier; with references to the gravity of the offense, to the malicious nature of the offense, to the harm resulting from the offense, or to the egregious or persistent error represented by the offense (whether or not harm resulted, or financial gain garnered, or complaint registered).

Further, one would like to see some sort of reference to hearings and impartial juries of peers that would "judge" these offenses before action to suspend or recommendations on length of suspension were promulgated by the Board. Due process and the ability to adjudicate the offense based upon the gravity of the offense in such matters is essential to such reviews of licensure.

Thank you very much for the opportunity to comment.

Sincerely,



Peter Bradford MSN,  
Director, Corporate Quality Assurance  
Shenandoah Valley Medical System  
Martinsburg, WV

Laura S. Rhodes, M.S.N., R.N.  
Executive Director

email:rnboard@state.wv.us  
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(304) 558-3596

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**STATE OF WEST VIRGINIA**  
**BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES**  
101 Dee Drive, Suite 102  
Charleston, WV 25311-1620

June 16, 2006

Peter Bradford, MSN, RN  
PO Box 706  
Harpers Ferry, WV 25425

RE: WV 19 CSR 3 Requirements for Registration and  
Licensure for Registered Nurses

Dear Mr. Bradford:

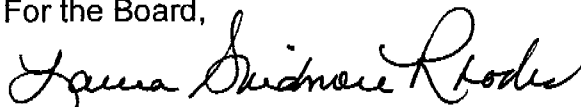
The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 reviewed your comments related to WV 19 CSR 3 and wants to take this opportunity to respond to them.

Regarding your concern about the definition of professional misconduct related to confidentiality, the Board maintains that this definition is important to include in the rule. This language remains as proposed.

Regarding your concern about the definition of professional misconduct related to documentation, the Board removed this proposed language. The requirement for accurate documentation is already in the Board's rules and standards. The Board wanted to insert some clarifying language in the rule. However, upon reviewing comments and further review of the rule the Board found the new language unnecessary.

Thank you for taking time to review the rule and comment.

For the Board,

  
Laura Skidmore Rhodes, MSN, RN  
Executive Director

RN Board

101 Dec Drive

Suite 102

Charleston, W.V. 25311

Dear RN Board

I am writing to express my concerns about the proposed changes in regards to the addition of the following: "or failed to document appropriately to maintain ~~and~~ accurate record for each patient." All of the RN's I have spoken to about this new proposal have made the same comment: "If this proposal passes there will be fewer RN's." "The nursing shortage will increase with more pressure to document every little detail and the ever present threat of losing your license." Nurses are stressed enough with concerns about ever increasing liability in our out happy society and state. The wording of this phrase would leave no room for human error, and no consideration for busy shifts with multiple patients. Please reconsider this proposal.

It is quite adequate to leave the penalty about professional misconduct being restricted to intentional infractions such as falsifying documentation or violating confidentiality. There is a big difference in being punished for intentional infractions and being subject for punishment due to someone's perception of a failure to document into entirety.

Please take these concerns into consideration. I feel nurses have enough to worry about in the ever changing health field. Much less worrying about our RN board adding more stress.

Sincerely,

Hilda L. Phillips

Laura S. Rhodes, M.S.N., R.N.  
Executive Director

email:rnboard@state.wv.us  
web address:www.wvrnboard.com



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STATE OF WEST VIRGINIA  
**BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES**  
101 Dee Drive, Suite 102  
Charleston, WV 25311-1620

June 16, 2006

Hilda L. Phillips  
RT 1 Box 363  
Marlinton, WV 24954

RE: WV 19 CSR 3 Requirements for Registration and  
Licensure for Registered Nurses

Dear Ms. Phillips:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 reviewed your comments related to WV 19 CSR 3 and wants to take this opportunity to respond to them. Regarding your concern about the definition of professional misconduct related to documentation, the Board removed this proposed language. The requirement for accurate documentation is already in the Board's rules and standards. The Board wanted to insert some clarifying language in the rule. However, upon reviewing comments and further review of the rule the Board found the new language unnecessary.

Thank you for taking time to review the rule and comment.

For the Board,

A handwritten signature in cursive script that reads "Laura Skidmore Rhodes".

Laura Skidmore Rhodes, MSN, RN  
Executive Director

Mary M. Walkup  
RR 2, Box 20 D  
Buckeye, WV 24924

May 9, 2006

RN Board  
101 Dee Drive  
Suite 102  
Charleston, WV 25311

Dear RN Board:

I am writing to you to express my concerns about the proposed changes to the Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct. I do not see the benefit to the nurses in West Virginia of changing the expiration date of all licenses from December 31 to October 31. December 31 is an easier and more logical date to remember. Will changing this date really be worth its expense and its inconvenience to the nurses that the Board is supposed to serve?

My greatest concern however, is about the proposed changes in regards to the addition of the following: "or failed to document appropriately to maintain an accurate record for each patient." Every RN I know of who has read that proposal has made the same comment: "If they do that, they will have even fewer nurses than ever before. The nursing shortage will increase along with the pressure to document every detail and the ever-present threat of losing your license." Already nurses are stressed with concerns about the ever-increasing liability in our suit-happy society and state. The wording of this phrase would make it so that there is no room for human error and no consideration for busy shifts with multiple patients. Lawyers will have a heyday and patient care will suffer as nurses have to spend ever-increasing hours writing minutia rather than spending time with their patients. Hind sight is 20/20. There will often be situations in patient care where something was not documented because at the time it seemed insignificant and later became very significant once viewed with that 20/20 hindsight that the lawyers have when the outcome has already come to pass.

It is quite adequate to leave that section about professional misconduct being restricted to intentional infractions such as falsifying documentation or violating confidentiality. There's a big difference in being punished for intentional infractions and being subject to being punished due to someone else's perception of a failure to document into eternity.

Please do NOT fashion and fill a Pandora's Box to bring about the further demise of professional nursing by adding this broad statement to "conduct constituting professional misconduct."

Sincerely,  
Mary M. Walkup, RN

Mary M Walkup  
25552

Laura S. Rhodes, M.S.N., R.N.  
Executive Director



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**STATE OF WEST VIRGINIA**  
**BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES**  
101 Dee Drive, Suite 102  
Charleston, WV 25311-1620

June 16, 2006

Mary M. Walkup  
RR 2 Box 20 D  
Buckeye, WV 24924

RE: WV 19 CSR 3 Requirements for Registration and  
Licensure for Registered Nurses


Dear Ms. Walkup:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 14, 2006 reviewed your comments related to WV 19 CSR 3 and wants to take this opportunity to respond to them. The expiration date change from December 31 to October 31 will be helpful in several ways. An October 31 expiration date will allow for a renewal season with more business days available for processing renewals, is during a slower time for the U.S. Postal Service and avoids a major holiday season. Most agencies allow as many people off as possible during the winter holiday season. If a nurse scheduled for January 1 hasn't renewed, it is difficult if not impossible for the agency to locate another nurse to work that shift. All of these are seen as positive reasons to change the renewal date.

Regarding your concern about the definition of professional misconduct related to documentation, the Board removed this proposed language. The requirement for accurate documentation is already in the Board's rules and standards. The Board wanted to insert some clarifying language in the rule. However, upon reviewing comments and further review of the rule the Board found the new language unnecessary.

Thank you for taking time to review the rule and comment.

For the Board,

  
Laura Skidmore Rhodes, MSN, RN  
Executive Director