

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3 ■

Do Not Mark In This Box

FILED

2001 JUL 30 P 3:22

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 Bd. of Exam. for Registered Prof. Nurses 19
TITLE NUMBER: _____

CITE AUTHORITY: W. Va. 30-1-4

AMENDMENT TO AN EXISTING RULE: YES X NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 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.

Laura S. Rhodes, sec
Authorized Signature

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



TELEPHONE:
(304) 558-3596
(304) 558-3728
FAX (304) 558-3666

STATE OF WEST VIRGINIA
BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES

101 Dee Drive
Charleston, WV 25311-1620

May 8, 2001

The Honorable Joe Manchin III
Secretary of State
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

Dear Mr. Manchin:

The Board in session April 24, 2001 approved for filing proposed legislative rule CSR titled Requirements for Registration and Licensure.

A brief summary of the rule follows:

This legislative rule outlines the complaint process followed by the West Virginia Board of Examiners for Registered Professional Nurses (Board) for licensing individuals and reasons for disciplinary action.

A statement of circumstances requiring the rule follows:

This rule puts forth the requirements for registration and licensure. Pursuant to HB 4062 the Board was mandated to provide a legislative rule on the complaint process followed by the Board. The rule was submitted last year as a legislative rule as there were legislative components of the rule. This year the rule has been divided into a procedural rule for the complaint process and the legislative portions have been revised into this rule on advice of council.

Should you have any questions or require further information, do not hesitate to contact me.

For the Board,

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

Laura Skidmore Rhodes, MSN, RN
Executive Secretary

Enclosures

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



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

July 30, 2001

The Honorable Joe Manchin III
Secretary of State
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770


RE: Amendment to Definition of "Direct Supervision"

Dear Mr. Manchin:

The Board in session June 12, 13, and 14 approved an amendment to the definition of "direct supervision" contained in series 3, Title 19 of the Board's legislative rules. The amendment makes the definition more clear.

Should you have any questions or require further information, please do not hesitate to contact me.

For the Board,


Laura S. Rhodes, MSN, RN
Executive Secretary

Enclosures

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 30, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WV Board of Examiners for Registered Professional Nurses
(Agency Name, Address & Phone No.)

101 Dee Drive, Charleston, WV 25311, (304) 558-3596

LEGISLATIVE RULE TITLE: Requirements for Registration and Licensure

1. Authorizing statute(s) citation W. Va. Code 30-1-4

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

May 8, 2001 filed with Secr. of State, appeared in the
May 11, 2001, Issue 19, Volume XVIII State Register

b. What other notice, including advertising, did you give of the hearing?

Rules were published in agency newsletter.

c. Date of Public Hearing(s) or Public Comment Period ended:

June 8, 2001.

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)

July 30, 2001.

- 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 S. Rhodes, MSN, RN, Executive Secretary, 101 Dee

Dr., Charleston, WV 25311, (304) 558-3596, fax-(304) 558-3666,

westvirginiarn@ncsbn.org

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Requirements for Licensure and Registration

Type of Rule: X Legislative Interpretive Procedural

Agency: West Virginia Board of Examiners for Registered Prof. Nurses

Address: 101 Dee Drive

Charleston WV 25311-1620

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	-0-	-0-	-0-	-0-	-0-
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-
CURRENT EXPENSE	-0-	-0-	-0-	-0-	-0-
REPAIRS & ALTERATIONS	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-

2. Explanation of Above Estimates:

No additional expenses.

3. Objectives of These Rules:

To provide licensing requirements and fulfill the Legislative requirement to have a Discipline Procedural Rule. The Legislative portions of the previous Discipline Rule are incorporated in this rule.

Rule Title: Requirements for Licensure and Registration

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

No additional economic impact on state government.

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

None known

C. Economic Impact on Citizens/Public at Large.

None known

Date: May 8, 2001

Signature of Agency Head or Authorized Representative:

Laura Sherman Rhodes

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

SERIES 3

REQUIREMENTS FOR REGISTRATION AND LICENSURE

FILED

2001 JUL 30 P 3: 22

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 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.

- 2.1. The following words and phrases as used in this rule shall have the following meanings, unless the context otherwise requires:
 - 2.1.1. "Board" means the West Virginia board of examiners for registered professional nurses;
 - 2.1.2. "Certificate of registration" means a document issued by the board upon original licensure by examination in West Virginia;
 - 2.1.3. "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."
 - 2.1.4. "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 the Nursing Practice Act, the Board's rules and generally accepted standards of nursing practice including, but not limited to, behaviors indicating honesty, accountability, trustworthiness, reliability and integrity.

2.1.5. "Impaired" means the condition of a licensee whose performance or behavior is altered through the use of alcohol, drugs, or other means.

2.1.3.6 "Licensure card" means the wallet-sized document issued annually to indicate current registration or re-registration; and

2.1.7. "Structured treatment program" means a program for physical, psychological, social and/or spiritual rehabilitation, if the program has been expressly approved by the board.

2.1.4.8 "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 (West Virginia Code §30-7-1 (a)). 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.

3.1.1. Preliminary education of applicant.

An applicant for a license to practice as a registered professional nurse in West Virginia must have completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency.

3.1.2. Personal qualifications of applicant.

An applicant must be of good moral character.

3.1.3. Educational qualifications of applicant.

An applicant must 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.

3.1.4. In lieu of the educational qualifications specified in subdivision 3.1.3. of this rule, an applicant qualifying under West Virginia Code §30-24-1 *et. seq.* shall meet the following requirements:

- a. An applicant must have served on active duty in the medical corps of any of the armed forces of the United States and must have successfully completed the course of instruction(s) 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;
- b. The applicant must have been honorably discharged from military

service.

3.2. Filing of Application.

3.2.1. Applicant educated in the United States.

- a. An applicant for licensure by examination shall submit or cause to be submitted the information as specified in the following subsections to the board office:
 - a.1. A completed board application forty-five (45) days prior to the date the applicant wishes to take the examination;
 - a.2. 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 set in a separate rule WV CSR Title 19, Series 12 Fees. Payment must 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;
 - a.3. 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
 - a.4. An official transcript shall be sent directly to the office of the board from a board approved nursing education program. The

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 application will not be considered for approval until the final, official transcript is received in the board office.

- b. An applicant for licensure by examination shall submit directly to the test service 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.
- c. The authorization to test for any one application is valid for ninety (90) days, and may not be extended.

3.2.2. Applicant educated in another country.

- a. An applicant who was educated in another country and who seeks licensure by examination shall submit or cause to be submitted the information as specified in the following subsections:
 - a.1. A completed board application forty-five (45) days prior to the date the applicant wishes to sit for the examination;
 - a.2. The required fee for licensure by examination of fifty-one dollars and fifty cents (\$51.50). Payment must 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;

- a.3. One (1) passport type identification photograph of the applicant signed on the front by the applicant;
 - a.4. A copy of the certificate issued by the commission on graduates of foreign nursing schools (CGFNS), as specified in 19CSR4 Qualification of Graduates of Foreign Nursing Schools for Admission to the Professional Nurse Licensing Examination; and
 - a.5. A copy of the transcript from a professional nursing education program, translated in the english language, if requested by the board.
- b. An applicant for licensure by examination shall submit directly to the test service 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.
 - c. The authorization to test for any one application is valid for ninety (90) days, and may not be extended.

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

- a. An applicant for licensure by examination who qualifies under West Virginia Code §30-24-1 *et. seq.* (veterans) shall submit or cause to be submitted the information as specified in the following subsections to the board office:

- a.1. A completed board application forty-five (45) days prior to the date the applicant wishes to take the examination;
- a.2. The required fee for licensure by examination of fifty-one dollars and fifty cents (\$51.50). Payment must 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;
- a.3. One (1) passport type identification photograph of the applicant signed on the front by the applicant;
- a.4. An official copy of military form DD214 directly from the national personnel records center; and
- a.5. Any additional information requested by the board including but not be limited to:
 - (a). Copies of certificates of completion for military education; and
 - (b). Course outlines for military education documenting nursing science content in the training program.
- b. An applicant for licensure by examination who qualifies under West Virginia Code §30-24-1 *et. seq.* shall submit directly to the test service 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.

- c. 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. A temporary permit may be issued 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. No temporary permit is 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 must work under the direct supervision of a fully licensed registered professional nurse holding an unencumbered West Virginia license 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. The computer adaptive version of this examination (NCLEX-RN) shall be the licensure examination following its adoption and implementation by the national council of state boards of nursing.
- 5.2. The board determines 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. Approval by the board to repeat an examination after two failures may be denied 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) 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 section 3.2. of this rule.

§ 19-3-7.Licensure by endorsement.

- 7.1. An applicant for licensure by endorsement shall 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 in a separate rule WV CSR Title 19, Series 12 Fees. Applicants for licensure by endorsement must be currently licensed in another state and must 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.
- 7.2. 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.
- 7.2.1. 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 of thirty dollars

(\$30.00).

- 7.2.2. A complete board application for a temporary permit for an endorsement applicant shall be on file in the board office including the form and the ten dollar (\$10.00) fee prior to the issuance of a temporary permit. Provided that after July 1, 2002 the fees shall be set in a separate rule WV CSR Title 19, Series 12 Fees.
- 7.2.3. The temporary permit expires ninety (90) days from the date of issuance and the expiration date shall be printed on the temporary permit.
- 7.2.4. The holder of the temporary permit shall immediately return the temporary permit upon request of the board. Failure to complete the endorsement application for full licensure does not entitle the temporary permit holder to an extension of the temporary permit. In the event that 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, a satisfactory explanation must be furnished to the board prior to any subsequent request for endorsement by that applicant. If the explanation is considered acceptable by the board, the applicant must repeat the process for endorsement in its entirety.
- 7.2.5. A temporary permit is not renewable, and the board shall not extend the initial ninety (90) day period.
- 7.2.6. 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.

7.2.7. 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.

7.2.8. 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.

7.2.9. A temporary permit becomes void during the ninety (90) days if it is determined by the board, upon satisfactory proof, that full licensure will be denied for any of the causes set forth in West Virginia Code §30-7-6. In addition, the expiration of the temporary permit may occur prior to ninety (90) days in the event that the board revokes the permit.

§ 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 must 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. The licensee must submit this affidavit along with the fee of five dollars (\$5.00). Provided that after July 1, 2002 the fees shall be set in a separate rule WV CSR Title 19, Series 12 Fees.

8.2. Change of residence/mailing address.

A licensee shall also notify the board of any change in residence and/or mailing address within thirty (30) days of the change. This notification must be submitted in writing to the board office.

§ 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 in a separate rule WV CSR Title 19, Series 12 Fees. The deadline for receipt of the renewal application and fee is thirty days after receipt of the renewal application.

9.2. Request for inactive status.

If not practicing, and in the absence of disciplinary action pending against the license, the nurse 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 licensee's records will then be designated "inactive". The inactive licensee may, upon application and payment of the current fee, receive 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. No fee is required for inactive status and no license is issued.

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

10.1. Non-renewal of license.

The registered nurse's license lapses due to the licensee's failure to renew the license before the current license expires.

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 in a separate rule WV CSR Title 19, Series 12 Fees.

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

11.1. The board will 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. 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 will 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 in a separate rule WV CSR Title 19, Series 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 nurse 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 in a separate rule WV CSR Title 19, Series 12 Fees.

12.2. To replace a lost or destroyed current licensure card the nurse shall send an affidavit certifying the loss and a fee of five dollars (\$5.00) to the board. Provided that after

July 1, 2002 the fees shall be set in a separate rule WV CSR Title 19, Series 12 Fees.

- 12.3. The board may publish notice of the issuance of a duplicate certificate of registration or current licensure card.

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

- 13.1. The board shall assess a fee not to exceed ~~fifteen~~ twenty dollars (\$~~15~~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, money order, or cashier's check. Provided that after July 1, 2002 the fees shall be set in a separate rule WV CSR Title 19, Series 12 Fees.
- 13.2. 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, the license or temporary permit of a registered professional nurse is no longer valid.

§19-3-14 Professional Misconduct

- 14.1. Pursuant to West Virginia Code § 30-7-11(f), the Board is authorized to take disciplinary action against an applicant or licensee upon proof that the individual "[i]s guilty of conduct derogatory to the morals or standing of the profession of registered nursing." The Board determines that 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):

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. committed knowingly 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 nurse 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
registered professional nurse delegating such 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 the 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. became addicted to a controlled substance;
- 14.1.n. became 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 thereof; thus, not exercising good professional character;
- 14.1.p. practiced professional nursing while the ability to safely and
effectively practice is 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 or 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, failed to file a report required by state or federal law, 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 of having 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 failure to comply or respond to requests for action or information, whether such 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. 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 to the Board treatment or counseling for substance abuse, or participation in any professional peer assistance program;

- 14.1.ji. provided false information on an application for licensure by examination or endorsement, or an application for renewal, 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 the 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 governing prescriptive authority, 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, or has been subjected to any other disciplinary action by the licensing authority thereof, or has been denied licensure in any other state, territory, jurisdiction, or foreign nation;

14.1.ss. 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.

14.2 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.

14.3. Upon a finding of probable cause that a basis for disciplinary action exists, the Board may require a registered professional nurse 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 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, such 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 registered professional nurse 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.

14.4. Based on the nature of the complaint, the Board may require a criminal history records check to be paid for by the licensee. The licensee under investigation shall furnish to the agency a full set of fingerprints for purposes of conducting a criminal history record check. Records are checked through the criminal identification bureau of the West Virginia State Police, a similar agency within the licensee's state of residence, and the United States Federal Bureau of Investigation. Disciplinary action may be taken against the licensee for refusing to submit to the criminal history records check.

14.5. 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 or other action. The Board shall promptly institute and determine further disciplinary action.

§19-3-15 Impaired Nurse Treatment Program

15.1. Pursuant to West Virginia Code § 30-7-11, the Board has the authority to deny, revoke, suspend, or otherwise discipline an applicant or licensee upon proof of prohibited conduct. Pursuant to that authority, the Board may permit the licensee or applicant for licensure to participate in a structured treatment program and meet other terms and conditions for continued licensure, in lieu of disciplinary action.

15.1.a. Participation in an approved treatment program may be monitored by a designee of the Board;

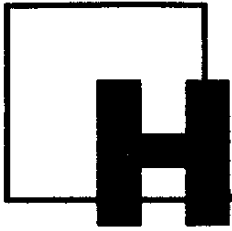
15.1.b. The Board may allow an applicant or licensee that remains in compliance with the terms of an approved treatment program, to the satisfaction of the Board's designee, to not appear before the Board or hearing examiner to respond further to charges of misconduct;

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. All complaints that are dismissed by the DRC shall be expunged 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.



SISTERSVILLE GENERAL HOSPITAL

314 South Wells St. Sistersville, WV 26175 (304) 652-2611



June 7, 2001

Laura Skidmore Rhodes, MSN, RN
Executive Secretary
West Virginia Board of Examiners for Registered Professional Nurses
101 Dec Drive
Charleston, WV 25311-1620

Dear Ms. Rhodes,

I recently received the Spring, 2001 Second Edition of the R.N. Newsletter and read with interest the proposed rule changes for 2002 Legislative Session. Series 3 Requirements for Registration and Licensure: 3-2.1.3. "Direct Supervision" means the activity of a registered professional nurse . . . being in the same assigned physical area/location as the person being supervised such that the person being supervised is not alone in that assigned specific work area."

Sistersville General Hospital is a small rural hospital with 12 inpatient beds, Emergency Department and Outpatient Clinics. Because of our size, we operate with a limited number of staff. We have ten full time registered nurses to staff these departments, as well as five licensed practical nurses and two certified nursing assistants. It is our policy to staff one RN on the Nursing Floor and one RN in the ER at all times (24/7). LPN's and CNA's are used as the second person on the Nursing Floor.

Occasionally, if the need would arise that the ER would become so busy that the ER RN would need assistance for a critical patient, it has been our practice to have the Floor RN, if able, go to that department, temporarily, to assist. This leaves the LPN alone on the Nursing Floor with the patients for that period of time. At any time, the LPN can phone or page the Floor RN back to the Nursing Floor and have her there within seconds. (If a CNA is the second staff person on the Nursing Floor, the CNA would be sent to the ER to assist with whatever he/she can.)

This situation is not a frequent occurrence and because of the nature of the business of healthcare, is not something for which staffing can be scheduled in advance. Other situations would include the RN leaving for a break, or to get a food tray. We are confident that our LPN staff is competent to assess any situation that would occur when alone on the floor and take the appropriate action. We are also confident that our RN staff is competent to assess the acuity of the patients at any given time to know whether it is appropriate to delegate responsibility to the LPN.

As a Registered Nurse, and the Nursing Administrator, I am very concerned about these areas and how SGH and other small, rural hospitals would be affected and respectfully request that these situations be given consideration before the proposed language change is approved in this rule.

Kind Regards,

Anita Mattingly RN
Nursing Administrator