

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

Form #4 ■

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2001 NOV 29 P 1:54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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 _____

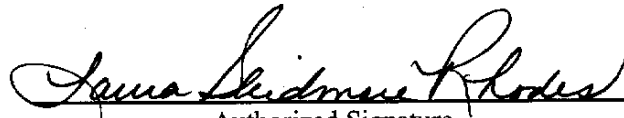
IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 3

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


Authorized Signature

\$7.00

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

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,

Laura Skidmore Rhodes

Laura Skidmore Rhodes, MSN, RN
Executive Secretary

Enclosures

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

SERIES 3

REQUIREMENTS FOR REGISTRATION AND LICENSURE

FILE

2001 NOV 29 F

OFFICE WEST V.
SECRETARY OF

§ 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. ~~“Board” means the West Virginia board of examiners for registered professional nurses;~~
- 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; and
- 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 ~~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.a. Preliminary education of applicant.

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

3.1.b. Personal qualifications of applicant.

An applicant **must shall** be of good moral character.

3.1.c. Educational qualifications of applicant.

An applicant **must 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.

3.1.d. In lieu of the educational qualifications specified in subdivision 3.1.~~3~~ c. of this rule, an applicant qualifying under West Virginia Code §30-24-1 et. seq. shall meet the following requirements:

3.1.d.1. An applicant **must shall** have served on active duty in the medical corps of any of the armed forces of the United States and **must shall** 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;

3.1.d.2. The applicant **must shall** be honorably discharged from military service.

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 submit or ~~cause to be submitted~~ the following information as specified ~~in the following subsections~~ 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 set forth in a separate rule WV 19 CSR 12, Fees. Payment **must 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 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.~~ 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 in another country.

3.2.b.1. An applicant who was educated in another country and who seeks licensure by examination shall submit or cause to be submitted the following information as specified in the following subsection:

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 set forth in a separate rule WV 19 CSR 12, Fees. Payment must 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.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. 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 ~~or cause to be submitted~~ the following information ~~as specified in the following subsections~~ 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 set forth in a separate rule WV 19 CSR 12, Fees. Payment must 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; 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 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.

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. ~~A temporary permit may be issued~~ 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. No 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 ~~n~~National ~~e~~Council of ~~s~~State ~~b~~Boards of ~~n~~Nursing, ~~Inc.~~ 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 board^s of nursing.
- 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. ~~Approval by the board to repeat an examination after two failures may be denied~~ The board may deny approval for an applicant 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 subsection 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 forth in WV 19 CSR 12, Fees. Applicants for licensure by endorsement ~~must~~ shall be currently licensed in another state and ~~must~~ 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.

7.2. 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 ~~of thirty dollars (\$30.00).~~

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. ~~Failure~~ A temporary permit holder who fails to complete the endorsement application for full licensure ~~does is~~ not entitled ~~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~~ 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 ~~must~~ 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 ~~it is determined by the board~~ determines, upon satisfactory proof, that it will deny the applicant full licensure ~~will be~~ 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.~~ 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 ~~must~~ 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. The licensee ~~must~~ shall submit this affidavit 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 and/or mailing address within thirty (30) days of the change. This notification ~~must~~ shall 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 forth in rule WV 19 CSR 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 A licensee who is not practicing, and in the absence of~~ who has no disciplinary action pending against the his or her 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 board shall then designate the licensee's records "inactive". No fee is required for inactive status and no license is issued. ~~The inactive licensee may~~ The board may provide the inactive licensee, upon application, and 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.

§ 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.~~ 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.

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

11.1. The board ~~will~~ 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. 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~~ 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 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 nurse 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 nurse licensee 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 forth in 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 upon request at the board's discretion.

§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, a money order, or a cashier's check. Provided that after July 1, 2002 the fees shall be set forth in rule WV 19 CSR 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 the registered professional nurse is no longer valid. 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 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 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 to the board 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 governing prescriptive authority, WV 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. 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.tt. 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 to be paid for by the licensee or applicant. The licensee or applicant 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. 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.

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

SERIES 3

REQUIREMENTS FOR REGISTRATION AND LICENSURE

FILED

2001 DEC -6 P 3:41

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.

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

- ~~2.1.~~ "Board" means the West Virginia board of examiners for registered professional nurses;
- 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; and
- 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 ~~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.a. Preliminary education of applicant.

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

3.1.b. Personal qualifications of applicant.

An applicant ~~must~~ shall be of good moral character.

3.1.c. Educational qualifications of applicant.

An applicant ~~must~~ 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.

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

3.1.d.1. An applicant ~~must~~ shall have served on active duty in the medical corps of any of the armed forces of the United States and ~~must~~ shall 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;

3.1.d.2. The applicant ~~must have been~~ shall be honorably discharged from military service.

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 submit or ~~cause to be submitted~~ the following information ~~as specified in the following subsections~~ 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 set forth in the board's rule Fees, 19 CSR 12. Payment ~~must~~ 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 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.~~ 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 in another country.

3.2.b.1. An applicant who was educated in another country and who seeks licensure by examination shall submit ~~or cause to be submitted~~ the following information ~~as specified in the~~

~~following subsection:~~

- 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 set forth in the board's rule Fees, 19 CSR 12. Payment ~~must~~ 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.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 the board's rule Qualification of Graduates of Foreign Nursing Schools for Admission to the Professional Nurse Licensing Examination, 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. 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 ~~or cause to be submitted~~ the following information ~~as specified in the following subsections~~ 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 set forth in the board's rule Fees, 19 CSR

12. Payment ~~must~~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; 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. ~~A temporary permit may be issued~~ 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. ~~No~~ 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 ~~n~~National ~~c~~Council of ~~s~~State ~~b~~Boards of ~~n~~Nursing, Inc. ~~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 board's of nursing.~~

5.2. The board shall 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~~ 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) 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.

§ 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 forth in the board's rule Fees, 19 CSR 12. Applicants for licensure by endorsement ~~must~~ shall be currently licensed in another state and ~~must~~ 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.

7.2. 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 ~~of thirty dollars (\$30.00).~~

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 the board's rule Fees, 19 CSR 12.

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. ~~Failure~~ A temporary permit holder who fails to complete the endorsement application for full licensure ~~does is~~ not entitled ~~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~~ 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 must 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 it is ~~determined by~~ the board determines, upon satisfactory proof, that it will deny the applicant full licensure ~~will be~~ 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. 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 ~~must~~ 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. The licensee ~~must~~ shall submit this affidavit along with the fee of five dollars (\$5.00). Provided that after July 1, 2002 the fees shall be set forth in the board's rule Fees, 19 CSR 12.

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~~ shall 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 forth in the board's rule Fees, 19 CSR 12. 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 A licensee who is not practicing, and in the absence of who has no disciplinary action pending against the his or her 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 board shall then designate the licensee's records "inactive". No fee is required for inactive status and no license is issued. ~~The inactive licensee may~~ The board may provide the inactive licensee, upon application, and 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.

§ 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. 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 the board's rule Fees, 19 CSR 12.

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

11.1. The board ~~will~~ 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. 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~~ 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 board's rule Fees, 19 CSR 12.

§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 licensee~~ 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 the board's rule Fees, 19 CSR 12.
- 12.2. To replace a lost or destroyed current licensure card, the ~~nurse licensee~~ licensee 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 forth in the board's rule Fees, 19 CSR 12.
- 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 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, a money order, or a cashier's check. Provided that after July 1, 2002 the fees shall be set forth in the board's rule Fees, 19 CSR 12.

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 the registered professional nurse is no longer valid. 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 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 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 to the board 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. 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.tt. 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 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. 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.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Board for Registered Professional Nurses

Subject: Requirements for Registration and Licensure, 19CSR3

PERTINENT DATES

Filed for public comment: May 8, 2001
Public comment period ended: June 8, 2001
Filed following public comment period: July 30, 2001
Filed LRMRC: July 30, 2001
Filed as emergency:

Fiscal Impact: None

FILED
2001 OCT 19 A 10:19
OFFICE WEST VIRGINIA
SECRETARY OF STATE

ABSTRACT

The proposed rule amends a current legislative rule. Where fees are specified throughout the proposed rule, language has been added referencing the new fee rule, which will go into effect on July 1, 2002. The following is a synopsis of the substantive amendments.

Section 2 defines terms. Definitions have been added for the following terms: "Direct Supervision", "Good Professional Character", "Impaired", and "Structured Treatment Program".

Section 4 relates to temporary permit to practice as a registered professional nurse. It has been amended to require the holder of a temporary permit to work under the direct supervision of a licensee until the applicant has successfully passed the examination and a license has been issued.

Section 13 relates to the penalty for the presentation of a nonnegotiable check. The fee for a returned check has been increased from \$15 to \$20.

Section 14 relating to professional misconduct is new. It sets forth conduct which constitutes professional misconduct for the purpose of disciplinary actions against an applicant or licensee. This section also permits the Board to require an applicant or licensee to submit to a physical or psychological examination and allows the Board to require a criminal history records check of the licensee.

Section 15 relating to impaired nurse treatment program is new. It allows the Board to permit an applicant or licensee to participate in a structured treatment program in lieu of disciplinary action and allows the Board to establish or approve impaired nurse treatment programs.

Section 16 relating to expungement of records is new. It provides that a licensee may request that dismissed complaints be expunged from his or her file after three years, if no other complaints have been made against the licensee within the three-year period.

AUTHORITY

Statutory authority: W.Va. Code, §30-7-4, which provides, in part, as follows:

...The board is hereby authorized and empowered to:

(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Board of Examiners for Registered Professional Nurses

Subject: Fees, 19CSR12

PERTINENT DATES

Filed for public comment: June 26, 2001
Public comment period ended: July 26, 2001
Filed following public comment period: July 27, 2001
Filed LRMRC: July 27, 2001
Filed as emergency:

FILED
2001 OCT - 2 A 9:51
OFFICE WEST VIRGINIA
SECRETARY OF STATE

Fiscal Impact: \$14,395 revenue increase

ABSTRACT

The proposed rule is new. It compiles fees charged by the Board into one rule. Currently, these fees are in the statute, other rules or are being charged by the Board but are not specifically listed.

Under the proposed rule, the return check fee is being increased from \$15 to \$20. The current fee for making copies of documents is 25 cents per page. The proposed rule would add a charge of \$3 for the first page.

The following fees have been added:

Announcement of Advanced Practice	\$35.00
Continuing Educator Provider Fee	\$100.00
Continuing Educator Provider Maintenance Fee	\$25.00

The fees set forth in subsection 2.14 through subsection 2.19 of the proposed rule have been charged by the Board for at least the past 10 years but have not been set forth in a rule. The fees are for computer printouts, mailing labels, etc.

AUTHORITY

Statutory authority: W.Va. Code, §30-7-4, which provides, in part, as follows:

...The board is hereby authorized and empowered to:

(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER