

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

Form #2

Do Not Mark In This Box

2008 APR 30 PM 3: 25

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative CITE AUTHORITY: §§30-7-15a, and 30-15-7a

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 8

TITLE OF RULE BEING AMENDED: Limited Prescriptive Authority for Nurses in Advanced Practice

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON June 30 ~~July 10, 2008~~ AT 4:00 P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia RN Board
101 Dec Drive, Suite 102
Charleston, WV 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Jana Steinhilber Rhodes
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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



TELEPHONE:
(304) 558-3596
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STATE OF WEST VIRGINIA
BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES
101 Dee Drive, Suite 102
Charleston, WV 25311-1620

April 30, 2008

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

RE: Proposed Rule Revisions

Dear Secretary Ireland:

The West Virginia Board of Examiners for Registered Professional Nurses in session March 20 – 21, 2008 approved revisions to WV 19 CSR 8 Limited Prescriptive Authority for Nurses in Advanced Practice. This letter serves to provide the required brief summary for the proposed changes.

The proposed revisions include changes that will benefit the citizens of West Virginia in several ways, including but not limited to: 1) permitting the advanced practice nurse to prescribe a 90 day supply of certain drugs providing citizens the opportunity to take advantage of discount drug programs requiring a 90 day prescription; 2) permitting the prescribing of some scheduled drugs for a period longer than seventy-two (72) hours (up to thirty (30) days) providing the opportunity to prescribe patients with needed medications in situations where they are waiting for an appointment for another health care provider or for short term pain related needs; 3) permitting the prescribing of injectable medications such as vaccines; and, 4) permitting the prescribing of birth control pills for more than six (6) months.

In preparing the proposed changes, the Board held meetings with stakeholders. As a result of these meetings the Board made several changes to the proposed rule.

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

For the Board,

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

Laura Skidmore Rhodes, MSN, RN
Executive Director

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Limited Prescriptive Authority for Nurses in Advanced Practice

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Exam. for Reg. Prof. Nurses

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

Phone Number: 304-558-3586 Email: lrhodes@state.wv.us

Fiscal Note Summary

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

The proposed revisions are budget neutral.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

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

Rule Title: Limited Prescriptive Authority for Nurses in Advanced Practice

Rule Title: Limited Prescriptive Authority for Nurses in Advanced Practice

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

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

This rule has been implemented since 1993. The related costs have been included in the budget since that time. The proposed changes will not change the costs of implementation.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

This rule has been implemented since 1993. The related costs have been included in the budget since that time. The proposed changes will not change the costs of implementation.

Date: April 30, 2008

Signature of Agency Head or Authorized Representative

Faura Bridman Rhodes 4/30/08
Executive Director

QUESTIONNAIRE

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

DATE: April 30, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

LEGISLATIVE RULE TITLE: _____
Limited Prescriptive Authority for Nurses in Advanced Practice

1. Authorizing statute(s) citation §§30-7-15a, and 30-15-7a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
April 30, 2008

b. What other notice, including advertising, did you give of the hearing?
Placed on the Board's web site and in the news magazine mailed to all RNs with a WV license

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 10, 2008

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached N/A No comments received _____

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

N/A

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

Laura Skidmore Rhodes, Executive Director

WV RN Board

101 Dee Drive, Suite 102

Charleston, WV 25311

- 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)

Alice R. Faucett, JD

WV RN Board

101 Dee Drive, Suite 102

Charleston, WV 25311

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:

April 30, 2008 through July 10, 2008

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

Will file after July 10, 2008

d. Attach findings and determinations and reasons:

Attached Will attach after July 10, 2008

Jana Sidman Rodes
Executive Director 4/30/08

2006 APR 30 PM 3: 26
STATE

TITLE 19
LEGISLATIVE RULE
REGISTERED PROFESSIONAL NURSES

SERIES 8
LIMITED PRESCRIPTIVE AUTHORITY FOR
NURSES IN ADVANCED PRACTICE

§19-8-1. General.

1.1. Scope. -- This rule establishes the requirements whereby the Board authorizes qualified nurses in advanced practice to prescribe prescription drugs in accordance with the provisions of W. Va. Code §§30-7-15a, 15b, 15c, and §§30-15-1 through 7c. An authorized advanced nurse practitioner may write or sign prescriptions or transmit prescriptions verbally or by other means of communication.

1.2. Authority. -- W. Va. Code §§30-7-15a, and 30-15-7a.

1.3. Filing Date. --

1.4. Effective Date. --

§19-8-2. Definitions.

2.1. ~~The nurse in a~~ Advanced pPractice Nurse means is a nurse who has been recognized by the Board for Annoucnment of Advanced Practice as provided for in ~~Legislative Rules~~ the Board's rule, Annoucnment of Advanced Practice, 19 CSR 7.

2.2. Advanccd Nurse Practitioner means an advanced practice nurse.

2.3. ~~The eCertified nNurse-mMidwife is~~ means a nurse who has been licensed by the Board to practice nurse-midwifery as provided for in W. Va. Code §30-15-1c.

2.4. Nurses in advanced shall be referred to in ~~these rules~~ this rule as:

2.4.a. Advanced Nurse Practitioners, ~~and~~

2.4.b. Advanced Practice Nurse, ~~and~~

2.4.c. Certified Nurse-Midwives;

§19-8-3. Application and Eligibility for Limited Prescriptive Authority.

3.1. The advanced nurse practitioner or certified nurse-midwife shall submit a notarized application for prescriptive authority on forms provided by the Board along with a fee ~~of one hundred twenty-five dollars (\$125.00).~~ set forth in the Board's rule, Fees For Services Rendered by the Board, 19 CSR 12.

3.1.a. The Applicant shall submit ~~A- a~~ voided sample of the prescription form ~~shall be submitted~~ with the application.

3.1.b. The advanced nurse practitioner or certified nurse-midwife shall submit written verification of an agreement to a collaborative relationship with a licensed physician for prescriptive practice on forms provided by the Board. The applicant shall certify on this form that the collaborative agreement includes the following:

3.1.b.1. A- Mutually agreed upon written guidelines or protocols for prescriptive authority as it applies to the advanced nurse practitioner's or certified nurse-midwife's clinical practice;

3.1.b.2. B- Statements describing the individual and shared responsibilities of the advanced nurse practitioner or certified nurse-midwife and the physician pursuant to the collaborative agreement between them;

3.1.b.3. C- Provision for the periodic and joint evaluation of the prescriptive practice; and

3.1.b.4. D- Provision for the periodic and joint review and updating of the written guidelines or protocols.

3.1.c. The advanced nurse practitioner or certified nurse-midwife with prescriptive authority shall submit additional documentation ~~of the regulations of~~ Subdivision Section ~~Section~~ 3.1.b. of this rule at the request of the Board.

3.2. The Board shall forward a copy of the verification specified in Subdivision Section ~~Section~~ 3.1.b. of this rule to the Board of Medicine or to the Board of Osteopathy, whichever is indicated.

3.3. The Board shall grant prescriptive authority to an advanced nurse practitioner applicant who meets all eligibility requirements ~~advanced nurse practitioner applicant for prescriptive authority shall meet all eligibility requirements as specified in W. Va. Code §30-7-15b.~~

a. If any evidence exists that all eligibility requirements have not been met, the Board shall not grant prescriptive authority.

3.4. ~~The Board shall grant prescriptive authority to the certified nurse-midwife applicant who meets all eligibility requirements. The certified nurse-midwife applicant for prescriptive authority shall meet all eligibility requirements as specified in W. Va. Code §30-15-7b.~~

a. If any evidence exists that all eligibility requirements have not been met, the Board shall not grant prescriptive authority.

3.5. ~~If at the time of application for prescriptive authority, the Board obtains information that an applicant for prescriptive authority was previously nurse, although not currently addicted to or dependent upon alcohol or the use of controlled substances, has had any addiction or dependency problem in the past, the Board may grant prescriptive authority with any limitations it considers proper. The limitations may include, but are not limited to, restricting the types of schedule drugs a nurse may prescribe.~~

3.6. Upon satisfactory evidence that the advanced practice nurse applicant has met all requirements for prescriptive authority as set forth in W. Va. Code §§30-7-15a, 15b, 15c, and the certified nurse midwife has met all requirements for prescriptive authority as set forth in W. Va. Code §§30-15-1 through 7c, and this rule, the Board may grant authority to prescribe drugs as set forth in this rule and shall assign an identification number to that nurse.

3.6.a. The Board shall notify the Board of Medicine, the Board of Osteopathy, and the Board of Pharmacy of those advanced nurse practitioners or certified nurse-midwives who have been granted prescriptive authority, and shall also provide the prescriber's identification number and effective date of prescriptive authority.

3.6.a.1A. The advanced nurse practitioner or certified nurse-midwife shall file with the Board any restrictions on prescriptive authority that are not imposed by W. Va. Code §60A-3, or this rule, but which are ~~agreed to~~ within the written collaborative agreement and the name of the collaborating physician(s) for each advanced nurse practitioner or certified nurse-midwife on the approved list.

3.7. The advanced practice nurse practitioner and/or certified nurse-midwife with prescriptive authority who wishes to prescribe Schedules III through V drugs shall comply with federal Drug Enforcement Agency requirements prior to prescribing controlled substances.

3.8. The advanced nurse practitioner and/or certified nurse-midwife shall immediately file any and all of his or her Drug Enforcement Agency registrations and numbers with the Board.

3.9. The Board shall maintain a current record of all advanced nurse practitioners and/or

certified nurse-midwives with Drug Enforcement Agency registrations and numbers.

3.10. Any information filed with the Board under the provisions of this rule shall be available, upon request, to any pharmacist, regulatory agency or board or shall be made available pursuant to other state or federal law.

§19-8-4. Renewal of Prescriptive Privileges.

4.1. ~~An~~ The applicant for renewal of prescriptive authority shall meet all eligibility requirements as specified in W. Va. Code §30-7-15b for advanced nurse practitioners or W. Va. Code §30-15-7b for certified nurse-midwives.

4.2. The applicant shall maintain national certification as an advanced nurse practitioner or certified nurse-midwife as required for initial authorization for limited prescriptive privileges.

4.3. The applicant shall complete during the two (2) years prior to renewal a minimum of eight (8) contact hours of pharmacology education that has been approved by the Board.

4.4. The Board shall renew prescriptive authority for advanced nurse practitioners or certified nurse-midwives biennially by June 30, of odd-numbered years.

4.5. The advanced practice nurse shall submit an application for renewal of prescriptive authority on forms provided by the Board. The application must be notarized, and the fee set forth in the Board's rule, Fees For Services Rendered by the Board, 19 CSR 12 ~~of one hundred twenty-five dollars (\$125.00)~~ must accompany the application.

§19-8-5. Pharmacology Course Requirements.

5.1. Prior to application to the Board for approval for limited prescriptive authority, the applicant shall successfully complete ~~an~~ accredited course(s) of instruction in clinical pharmacology and clinical management of drug therapy approved by the Board of not less than forty-five (45) contact hours, provided that fifteen (15) of these hours have been completed within two (2) years prior to application for prescriptive authority.

5.2. The applicant shall submit official transcripts or certificates documenting completion of pharmacology course work. The Board may request course outlines and/or descriptions of the course if necessary to evaluate the pharmacology course's content and objectives.

§19-8-6. Drugs Excluded from Prescriptive Authority.

6.1. The advanced nurse practitioner or certified nurse-midwife shall not prescribe from the following categories of drugs:

6.1.a. Schedules I and II of the Uniform Controlled Substances Act; -

6.1.b. Anticoagulants;-

6.1.c. Antineoplastics; -

6.1.d. Radio-pharmaceuticals; or -

6.1.e. General anesthetics.

6.2. Drugs listed under Schedule III are limited to a seventy-two (72) hour supply without refill.

6.3. The advanced nurse practitioner or certified nurse-midwife ~~may shall not~~ prescribe drugs from Schedules IV through V in ~~excess of a~~ quantity necessary for ~~thirty (30)~~ up to a ninety (90) day supply, ~~shall not may~~ provide for ~~more than five (5) only one (1)~~ refill, and shall provide that the prescription expires in six (6) months-; Provided, that 1) prescriptions for phenothiazines and benzodiazepines shall be limited to up to a thirty (30) day supply and shall be non-refillable: Provided, however that 2) Prescriptions for non-controlled substances of antipsychotics, and sedatives prescribed by the advanced nurse practitioner and/or certified nurse-midwife shall not exceed the recommended average therapeutic dose for that drug based on standard prescribing guidelines, shall not exceed the quantity necessary for a thirty (30) day supply, shall provide for no more than five (5) prescription refills and shall expire in six (6) months.

6.4. In addition, an ~~advanced nurse practitioner or certified nurse-midwife~~ may not prescribe any parental preparations ~~except insulin and epinephrine.~~

6.5. ~~The Board may revise the prescribing protocols annually, and they shall include the following designated sections:~~

~~a. Choice of drugs used less commonly in primary care outpatient settings not to be prescribed by advanced nurse practitioners and/or certified nurse-midwives shall have the following limitations:~~

~~6.4. A~~ The maximum dosage prescribed by the advanced nurse practitioner or certified nurse-midwife shall be indicated in the protocol and shall in no case exceed the standard prescribing guidelines manufacturer's average for the therapeutic dose for that drug.

~~6.5. B:~~ Each prescription and subsequent refill(s) given by the advanced nurse practitioner and/or certified nurse-midwife shall be entered on the patient's chart.

~~C. The advanced nurse practitioner and/or certified nurse-midwife authorized to issue prescriptions for Schedules III through V controlled substances shall write on the V prescription the~~

federal Drug Enforcement Agency number issued to that advanced nurse practitioner and/or certified nurse-midwife.

~~D. The maximum amount of Schedule IV or V drugs prescribed shall be not more than ninety (90) dose units or a thirty (30) day supply, whichever is less.~~

~~E. Prescriptions for phenothiazepines and benzodiazepines shall be limited up to a seventy-two (72) hour thirty (30) day supply and shall be non-refillable.~~

~~F. Prescriptions for specific antidepressants, to include tricyclics, MAO inhibitors, and miscellaneous antidepressants of buprophin, fluoxetine, maproline, trazodone, shall be limited to non-toxic quantities and shall be non-refillable.~~

~~G. Prescriptions for non-controlled substances of antipsychotics, and sedatives prescribed by the advanced nurse practitioner and/or certified nurse-midwife shall not exceed the manufacturer's recommended average therapeutic dose for that drug, shall not exceed the quantity necessary for a thirty (30) day supply, shall provide for no more than five (5) prescription refills and shall expire in six (6) months.~~

~~H. Advanced nurse practitioners and certified nurse-midwives shall not prescribe other prescription drugs or refill for a period exceeding six (6) months.~~

~~I. Advanced nurse practitioners and certified nurse-midwives shall not prescribe combination drug products containing drugs fully excluded in section 6.1 of this rule and limitations set forth in this rule apply to any other combination drug products.~~

6.6. An advanced nurse practitioner and/or certified nurse-midwife may administer local anesthetics.

6.7. The advanced nurse practitioner or certified nurse-midwife who has been approved for limited prescriptive authority by the Board may ~~is authorized to~~ sign for, accept, and provide to patients samples of drugs received from a drug company representative.

6.8. The form of the prescription shall comply with all state and federal laws and regulations.

6.8.a. All prescriptions shall include the following information:

~~6.8.a.1.A.~~ The name, title, address and phone number of the prescribing advanced nurse practitioner and/or certified nurse-midwife who is prescribing;

~~6.8.a.2.B.~~ The name and address of the patient;

~~6.8.a.3.C.~~ The date of the prescription;

6.8.a.4.D. The full name of the drug, the dosage, the route of administration and directions, for its use;

6.8.a.5.E. The number of refills;

6.8.a.6.F. The expiration date of the advanced practice nurse's prescriptive authority;

6.8.a.7.G. The signature of the prescriber on the written prescription; and

6.8.a.8.H. The Drug Enforcement Agency number of the prescriber-, when required by federal laws.

6.8.b. The advanced nurse practitioner and/or nurse mid-wife shall document the records of all prescriptions in patient records.

6.8.c. An advanced nurse practitioner and/or certified nurse-midwife shall, ~~within thirty (30) days of the initial prescription,~~ record in the patient client record the plan for his or her continued evaluation of the effectiveness of the controlled substances prescribed in accordance with current standards of care based upon the continued relationship with the client.

6.8.d. An advanced nurse practitioner and/or certified nurse-midwife shall ~~not~~ prescribe refills of controlled substances according to current laws and standards ~~unless the refill prescription is in writing.~~

6.8.c. Drugs considered to be proved human teratogens shall not be prescribed during a known pregnancy by the advanced nurse practitioner and/or certified nurse midwife. This prohibition includes all Category D and X drugs from the Federal Drug Administration Categories of teratogen risks (21 CFR 201.57).

6.9. The Board may, in its discretion, approve a formulary classifying pharmacologic categories of all drugs which may be prescribed by an advanced nurse practitioner or certified nurse-midwife with prescriptive authority.

§19-8-7. Termination of Limited Prescriptive Privileges.

7.1. The Board may deny or revoke privileges for prescriptive authority if the applicant or licensee has not met conditions set forth in the law or this rule, or if the applicant has violated any part of W. Va. Code §30-7-1 et seq. or §30-15-1 et seq.

7.2. The Board shall notify the Board of Pharmacy, the Board of Osteopathy, and the Board of Medicine within twenty-four (24) hours after the termination of, or a change in, an advanced nurse practitioner's or certified nurse-midwife's prescriptive authority.

7.3. The Board shall immediately terminate prescriptive authority of the advanced nurse practitioner or certified nurse-midwife if disciplinary action has been taken against his or ~~her~~ license to practice registered professional nursing in accordance with W. Va. Code §30-7-11.

7.4. Prescriptive authority for the advanced nurse practitioner or the certified nurse-midwife terminates immediately if either the license to practice registered professional nursing in the State of West Virginia lapses or the license to practice as a nurse-midwife in the State of West Virginia lapses.

~~7.5. Prescriptive authority for the certified nurse-midwife terminates immediately if either the license to practice registered professional nursing~~

~~7.5.6. Prescriptive authority is immediately and automatically terminated if national certification as an advanced nurse practitioner or certified nurse-midwife lapses.~~

~~7.6.7. If authorization for prescriptive authority is not renewed by the expiration date which appears on the document issued by the Board reflecting approval of prescriptive authority, the authority terminates immediately on the ~~upon~~ expiration date.~~

~~7.7.8. Any advanced nurse practitioner or certified nurse-midwife who allows her or his prescriptive authority to lapse by failing to renew in a timely manner, may have his or her prescriptive authority ~~be~~ reinstated by the Board on satisfactory explanation for the failure to renew and submission of the prescriptive authority application and fee.~~

~~7.8.9. An advanced nurse practitioner ~~and~~/or certified nurse-midwife shall not prescribe controlled substances for his or her personal use or for the use of members of his or ~~her~~ immediate family.~~

~~7.9.10. An advanced nurse practitioner ~~and~~/or certified nurse-midwife shall not provide controlled substances or prescription drugs for other than therapeutic purposes.~~

~~7.10.11. An advanced nurse practitioner and/or certified nurse-midwife with prescriptive authority shall not delegate the prescribing of drugs to any other person.~~

§19-8-8. Adoption/Revision of Rules/Policies.

8.1. The Board ~~has the authority~~ may subject to legislative approval to adopt and revise such rules and/or policies as may be necessary to enable it to carry into effect the provisions of W. Va. Code §30-7-1 et seq.