

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

Form #7

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FILED

2005 JUN 24 P 3:05

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

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

CITE AUTHORITY: §30-7C-1 et. seq.

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

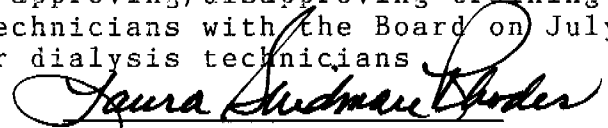
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____ Title 19, Series 13

TITLE OF RULE BEING PROPOSED: Dialysis Technicians

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

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Citizens requiring dialysis must have it to survive. Dialysis technicians are unlicensed personnel. The registered professional nurse could not delegate dialysis tasks to the dialysis technician until the 2005 legislature passed HB 3151. This Emergency Rule provides the requirements for delegating to dialysis technicians, certifying dialysis technicians, approving/disapproving training programs, registering dialysis technicians with the Board on July 1 of each year and requirements for dialysis technicians employed before July 1, 2005.


Authorized Signature

Use additional sheets if necessary

\$8.60

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

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

June 24, 2005

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

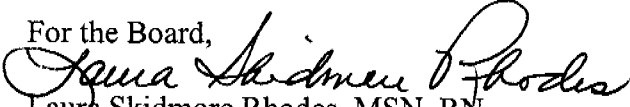
Dear Secretary Ireland:

The West Virginia Board of Examiners for Registered Professional Nurses in session June 17, 2005 approved for filing, the proposed emergency rule CSR §19-13 titled Dialysis Technicians.

A brief summary of the rule follows:

Dialysis treatments are life sustaining. Dialysis technicians provide technical support for the treatment process. Enrolled HB 3151 gives authority to the registered professional nurse to delegate these activities to the dialysis technician, to certify dialysis technicians and for the Board to approve and disapprove training programs. Failure to implement rules which permit the continuation of dialysis care by dialysis technicians could effect the ability of individuals to receive treatment.

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

For the Board,

Laura Skidmore Rhodes, MSN, RN
Executive Director

EMERGENCY RULE QUESTIONNAIRE

DATE: June 24, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

EMERGENCY RULE TITLE: Dialysis Technicians

1. Date of filing June 24, 2005

2. Statutory authority for promulgating emergency rule:
§30-7C-7(5)(c)

3. Date of filing of proposed legislative rule: June 24, 2005

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

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

Citizens requiring dialysis must have it to survive. Dialysis technicians completed the Sunrise process and were approved by the legislature as a group to be regulated in 2005 through HB 3151. This legislation requires the Board to regulate Dialysis Technicians in addition to the Education Programs. The immediate enforcement of this requirement is necessary to assure the safety of the public while they continue to receive dialysis care.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

§30-7C-3(5)(b)

July 1, 2005

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

The West Virginia RN Board wants to assure citizens of West Virginia receive safe dialysis care. ~~Failure to implement rules which permit the continuation of dialysis care~~ by dialysis technicians could effect the ability of individuals to receive the treatment.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Dialysis Technicians

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

Fiscal Note Summary

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

None, if fees are approved, it is 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 | 2005 Increase/Decrease (use "-") | 2006 Increase/Decrease (use "-") | Fiscal Year (Upon Full Implementation) |
| 1. Estimated Total Cost | 57,000.00 | 57,000.00 | 57,000.00 |
| Personal Services | 48,550.00 | 48,500.00 | 48,550.00 |
| Current Expenses | 13,200.00 | 13,200.00 | 13,200.00 |
| Repairs & Alterations | 250.00 | 250.00 | 250.00 |
| Assets | | | |
| Equipment | 5,000.00 | 5,000.00 | 3,000.00 |
| Other | 250.00 | 250.00 | 250.00 |
| 2. Estimated Total Revenues | 57,000.00 | 57,000.00 | 57,000.00 |

Rule Title: Dialysis Technicians

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

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

Regulation of Dialysis Technicians is expected to be budget neutral. Fees collected are expected to fund the regulatory services.

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.

The delimita the Board faces is that there are not many Dialysis Technicians in West Virginia, approximate 180. Because of this the fees must be high, and therefore the initial application fee is set at \$200.00. The facilities offering education programs are required to have those programs approved by the Board. There are twenty-one (21) facilities that may offer educational programs. The fee for approval is one thousand dollars (\$1,000.00). If all the technicians and all the facilities apply and pay the required fees, the Board will receipt \$57,000.00 in revenue. If not, then the required regulatory services cannot be provided in full.

The Board's proposed budget for Dialysis Technicians is:

| | |
|--------------------------------|--|
| Professional Staff (Part-time) | \$23,835.00 |
| Clerical Staff 1 FTE | \$20,000.00 |
| Related Benefits | \$ 4,715.00 |
| Utilities | \$300.00; Rental \$500.00; Maintenance and Related \$250.00; Postage and Related \$400.00; |
| Miscellaneous | \$250.00; Telecommunications \$1,000.00; Computer Services \$5,000.00 |

All services related to implementing this rule are new services. This fiscal note represents the funds required to fully implement the rule.

Date: June 24, 2005

Signature of Agency Head or Authorized Representative

19CSR13

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

SERIES 13
DIALYSIS TECHNICIANS

FILED
2005 JUN 24 P 3 05

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§19-13-1. General.

- 1.1. Scope. - This legislative Rule establishes the general requirements for certification of dialysis technicians, renewal and reinstatement of certification for dialysis technicians, delegation of acts by the registered professional nurse to dialysis technicians, discipline of dialysis technicians and for approving and disapproving dialysis technician training programs.
- 1.2. Authority. - W. Va. § 30-7C-4
- 1.3. Filing Date. --
- 1.4. Effective Date. --

§19-13-2. Definitions of Terms.

- 2.1. "Delegation" means the transfer of responsibility for the performance of a selected task or activity from a licensed physician or registered professional nurse authorized to perform the task or activity to an individual who does not have the statutory authority to perform the task or activity.
- 2.2. "Dialysis training course" means the three hundred twenty clock hours of instruction for hemodialysis care by dialysis technicians comprised of both classroom and supervised clinical components; and, approved out of state programs that meet the requirements of the board.
- 2.3. "Discontinue" means to cease or stop the treatment.
- 2.4. "Initiation of dialysis care" means appropriately preparing the dialysis machine and extra corporeal circuit for dialysis according to the physician order upon delegation by the registered professional nurse or physician. The registered professional nurse or physician assesses the patient upon entering the dialysis unit to assure they are stable, and then delegates dialysis care to the Dialysis Technician. The Dialysis Technician evaluates the patient pre-dialysis, including vital signs, volume assessment and evaluation of the vascular access; and reports

any abnormality to the responsible registered professional nurse or physician who then further evaluates the patient problem prior to the Dialysis Technician proceeding with vascular access to begin the procedure.

- 2.5. "Monitor" means to collect objective and subjective data and observe the dialysis patient for signs or symptoms of any change in physiological or psychosocial status or complications related to dialysis, to check or regulate the performance of the machines used in performing dialysis, and to report any irregularity to the licensed physician or registered professional nurse as appropriate.
- 2.6. "Preceptor" means a registered professional nurse or a dialysis technician with at least one (1) year of full time experience in providing dialysis care in the previous two (2) years.
- 2.7. "Site visit" means an announced or unannounced visit to a dialysis training program by a board representative to determine whether the program meets or maintains the minimum standards required by the board.
- 2.8. "West Virginia dialysis technician or dialysis technician" means an individual certified by the Board who has successfully completed an approved dialysis technician training program and who has achieved national certification as a dialysis technician, or an individual who meets the requirements set forth in subsection (b), section three of this article.
- 2.9. "Dialysis technician trainee" means an individual enrolled in an approved dialysis technician program.

§19-13-3. Standards for Delegation of Safe Dialysis Care.

- 3.1. The dialysis technician providing hemodialysis care shall provide dialysis care in accordance with WV Code § 30-7C-1 et seq. and the rules of the board which require that the performance of the care be delegated to the technician by a licensed physician or registered professional nurse.
- 3.2. The registered professional nurse shall not delegate medication administration to the dialysis technician trainee until medication administration competencies have been validated.
- 3.3. The registered professional nurse who is delegating to the dialysis technician shall assure that:
 - 3.3.a. The activity or task does not require the substantial, specialized knowledge, judgement, skill and decision making of a registered professional nurse;

- 3.3.b. The registered professional nurse has completed an assessment prior to delegating any nursing intervention in accordance with the standards outlined in WV CSR §19-10;
- 3.3.c. There is validation of the dialysis technicians competency in performing the delegated task;
- 3.3.d. The registered professional nurse performs ongoing evaluation and assessment of the person receiving the care;
- 3.3.e. The staffing in the treatment facility provides for adequate supervision of the delegated tasks;
- 3.3.f. The dialysis technician maintains knowledge of the duties responsibilities, and accountabilities of a dialysis technician and practices in accordance with the following:
 - 3.3.f.1. The laws regulating the provision of dialysis care;
 - 3.3.f.2. The rules of the board;
 - 3.3.f.3. Any other applicable federal and state laws and rules; and,
 - 3.3.f.4. Applicable standards .
- 3.3.g. The dialysis technician demonstrates competence and accountability in all areas of dialysis care in which the technician is engaged which includes, but is not limited to the following:
 - 3.3.g.1. Consistent performance of all aspects of dialysis care according to acceptable standards;
 - 3.3.g.2. Appropriate recognition, referral, or consultation, and intervention when a complication arises in conjunction with dialysis or when a change in patient status occurs;
 - 3.3.g.3. Not falsifying any patient record or any other documents prepared in the course of or in conjunction with the provision of dialysis care;
 - 3.3.g.4. Implements measures to provide a safe environment for the patient;
 - 3.3.g.5. Delineates, establishes, and maintains professional boundaries with each patient;

- 3.3.g.6. Not engaging in behavior that causes or may cause physical, verbal, mental, or emotional abuse to a patient, or in behavior that may reasonably be interpreted as physical, verbal, mental or emotional abuse;
- 3.3.g.7. Not misappropriating a patient's property, engage in behavior to seek or obtain personal gain at the patient's expense, or engage in behavior that constitutes inappropriate involvement in a patient's personal relationships. The patient is always presumed incapable of giving free, full, or informed consent to these behaviors by a dialysis technician;
- 3.3.g.8. Not engaging in sexual misconduct or in conduct that may reasonable be interpreted as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or in behavior that may reasonably be interpreted as seductive or sexually demeaning to a patient. The patient is always presumed incapable of giving free, full, or informed consent to these behaviors by a dialysis technician; and,
- 3.3.g.9. Treats each patient with courtesy, respect, and with full recognition of the dignity of each individual.
- 3.3.h. The dialysis technician timely:
 - 3.3.h.1. Implements the prescribed dialysis care order for a patient unless the dialysis technician believes or should have reason to believe that the prescribed order is inaccurate, not properly authorized, not current or valid, harmful or potentially harmful to the patient, or contraindicated by other documented information;
 - 3.3.h.2. Clarifies any prescribed dialysis care order for a patient when the dialysis technician believes or should have reason to believe that the order is inaccurate, not properly authorized, not current or valid, harmful or potentially harmful to the patient, or contraindicated by other documented information.
 - 3.3.h.2.a. When clarifying the prescribed dialysis care order, the dialysis technician shall:

- 3.3.h.2.a.1. Timely consult with a physician or registered professional nurse; and,
- 3.3.h.2.a.2. Accurately, timely, and completely document and report to the appropriate practitioner all errors in or deviations from the prescribed dialysis care regimen;
- 3.3.h.3. Initiates dialysis care after assuring that the equipment has been properly prepared and the environment is safe according to current state and federal requirements for dialysis facilities.
- 3.3.i. The dialysis technician shall not submit or cause to be submitted any false, misleading, or deceptive statements, information , or documentation to the board, to current employers, or to any future employers for positions requiring a certificate to practice dialysis care.
- 3.4. A dialysis technician employed in West Virginia through a temporary agency shall meet the requirements of this rule.
- 3.5. A registered professional nurse delegating inappropriately to a dialysis technician is subject to action by the board.

§19-13-4. Standards for Medication Administration by a Dialysis Technician.

- 19-13-4.1. A dialysis technician shall administer only the following medications as included in the dialysis prescription and as delegated by the licensed physician or registered professional nurse:
 - 4.1.a. Intradermal lidocaine or another single therapeutically equivalent local anesthetic for the purpose of initiating dialysis treatment;
 - 4.1.b. Intravenous heparin or other single therapeutically equivalent anticoagulant for the purpose of initiating and maintaining dialysis treatment;
 - 4.1.c. Intravenous normal saline;
 - 4.1.d. Patient specific dialysate to which the dialysis technician may add only electrolytes; and
 - 4.1.e. Oxygen, when the administration of the oxygen has been delegated to the technician by a registered professional nurse.

- 4.2. Administration of any blood products or intravenous medications is a nursing responsibility except as outlined in this rule.
- 4.3. When administering the medications set forth in subsection 13-4.1 of this rule, the dialysis technician shall:
 - 4.3.a. Assure that the right dose of the right medication is given to the right individual, through the right route of administration, at the right time, for the right reason;
 - 4.3.b. Accurately and timely document the administration of the medication and notify the physician or licensed professional nurse of the patient's response to the medication as appropriate;
 - 4.3.c. Consult with an appropriate licensed practitioner when the dialysis technician believes or should have reason to believe that a prescribed medication is inaccurate, not properly authorized, harmful or potentially harmful to a patient, or contraindicated by other documented information;
 - 4.3.d. Take any other action needed to assure the safety of the patient.
- 4.4. A dialysis technician shall administer the medications authorized by this rule only if the task has been delegated to the dialysis technician by a registered professional nurse or by a licensed physician in accordance with this rule.
- 4.5. The dialysis technician shall be under the direct supervision of a registered professional nurse or licensed physician when administering medications.

§19-13-5. Procedures for Obtaining Approval as a Dialysis Technician Training Program.

- 5.1. The board shall approve dialysis technician training programs as follows:
 - 5.1.a. A dialysis technician training program that seeks to be approved by the board shall:
 - 5.1.a.1. Submit to the board a completed application on a form specified by the board which includes the following:
 - 5.1.a.1.A. Identifying information;
 - 5.1.a.1.B. Information regarding administrative processes of the program;

- 5.1.a.1.C. A description of the record-keeping system to be used by the training program to assure accurate reporting to the board of individuals who have enrolled in and who did or did not successfully complete the program;
 - 5.1.a.1.D. A copy of the policies required by subsection 6.1.g. of this rule ; and,
 - 5.1.a.1.E. Any other information requested by the board; and,
- 5.1.b. Submit payment of a program approval fee.
- 5.2. No more than one hundred sixty days (160) after receipt of a complete application for approval, the board shall make a determination regarding the approval status of the training program;
 - 5.3. Approval shall be current for two years providing the program demonstrates that the standards set forth in this rule are met and maintained throughout the two-year approval period. The board may conduct additional site visits during each two-year approval period, and at any other time the Board deems necessary.
 - 5.4. Dialysis training programs in existence on or before July 1, 2005 shall submit all items for the application of approval required by the Board in this subsection on or before October 15, 2005.
 - 5.5. Dialysis training programs in existence after July 1, 2005 shall submit all items for application of approval required by the Board in this subsection at least one hundred sixty (160) days prior to the beginning of the first day of the training program.
 - 5.6. Any dialysis training program that fails to meet the initial requirements of the board, will have three (3) months after notification of these deficiencies to provide the board with evidence of meeting the identified deficiencies, and six (6) months to submit evidence of providing the additional required training to individuals completing the program within the last twelve (12) months.

§19-13-6. Minimum Standards of a Dialysis Technician Training Programs.

- 6.1. To be approved by the board a dialysis technician training program shall meet and maintain the following standards and requirements:
 - 6.1.a. The program shall be administered by a registered professional nurse who meets the following qualifications:

- 6.1.a.1. Current, unencumbered, valid licensure in West Virginia to practice nursing as a registered professional nurse;
 - 6.1.a.2. At least twenty-four (24) months experience in the practice of nursing as a registered professional nurse, of which at least twelve (12) months has been in the care of renal patients, with at least six (6) of those months in dialysis care, occurring within the last three years; and,
 - 6.1.a.3. Education or experience in adult education, as supported by a portfolio submitted to the Advisory Counsel and,
 - 6.1.a.4. A bachelors degree in nursing or a bachelors degree in education or a portfolio of skills and education evaluated and approved by the Advisory Council;
- 6.1.b. The registered professional nurse administering the program shall:
- 6.1.b.1. Assure that the governing body of the training program establishes in writing the policies required by subsection 6.1.g. of this rule; and,
 - 6.1.b.2. Implement the policies as written.
- 6.1.c. When the registered professional nurse responsible for administering the program vacates the position or is replaced, the board shall be immediately informed in writing of the vacancy and provided the name and qualification of the new administrator or interim administrator. A training program shall not initiate a new dialysis technician training course unless an administrator or interim administrator who meets the requirements of this rule are in place.
- 6.1.d. The dialysis technician training program shall be taught by multidisciplinary faculty with expertise in the subject matter.
- 6.1.d.1. The name, title, and credentials identifying the educational and professional qualifications of each instructor shall be provided to the board;
 - 6.1.d.2. The registered professional nurse who is responsible for administering the program may utilize other health care professionals authorized to practice to assist in conducting classroom and clinical portions of the program if the other authorized health care professional relays information for

which the professional has been educated and which is within the professional scope of practice as set forth in law.

- 6.1.d.3. A change in faculty shall be reported to the board within thirty (30) days of the change.
- 6.1.e. There shall be written objectives for the training program which serve as the basis for planning, implementing and evaluating the program.
 - 6.1.e.1. The objectives shall be developed by the training program faculty;
 - 6.1.e.2. The training program objectives shall describe the knowledge and skills expected of the dialysis technician, and shall be consistent with the authorized functions of the dialysis technician; and
 - 6.1.e.3. The training program objectives shall be reviewed annually and revised as necessary by the registered professional nurse administrator.
- 6.1.f. The curriculum offered by the program which prepares an individual to perform dialysis care shall include both classroom and clinical instruction which is a minimum of three hundred twenty clock hours in length and shall include content which ensures sufficient preparation for safe and effective practice as a dialysis technician. Of the three hundred twenty (320) clock hours, at least one hundred sixty (160) clock hours shall be theoretical instruction with at least one hundred (100) hours face to face instruction in a classroom setting and a minimum of one hundred sixty (160) hours of supervised clinical experience. Supervised clinical experience shall provide opportunities for the application of theory and for the achievement of stated objectives in a patient care setting and shall include clinical learning experiences to develop the skills required by technicians to provide safe patient care. The registered professional nurse educator or clinical preceptor shall be physically present and accessible to the student when the student is in the patient care area.
 - 6.1.f.1. Classroom instruction shall include instruction which may be supported by audio visuals which include:
 - 6.1.f.1.A. A review of the relevant laws and rules regulating the practice of a dialysis technician and appropriate program policies;
 - 6.1.f.1.B. Renal anatomy and physiology;

- 6.1.f.1.C. Infection control, universal precautions, and Federal Regulations;
- 6.1.f.1.D. Basic chemistry of body fluids and electrolytes;
- 6.1.f.1.E. Manifestations of renal failure;
- 6.1.f.1.F. Basic laboratory values. Blood work and laboratory values related to dialysis;
- 6.1.f.1.G. Principles of dialysis;
- 6.1.f.1.H. Basic pharmacology of the drugs commonly used during dialysis;
- 6.1.f.1.I. Medication administration techniques specific to the drugs used in dialysis;
- 6.1.f.1.J. Management of the complications of dialysis and renal failure;
- 6.1.f.1.K. Principles related to vascular access;
- 6.1.f.1.L. The role of the dialysis technician in a dialysis setting including, but not limited to, legal and ethical considerations and concepts of delegation;
- 6.1.f.1.M. Water treatment relevant to dialysis;
- 6.1.f.1.N. Principles of patient education related to renal failure;
- 6.1.f.1.O. Principles of and requirements for documentation of hemodialysis care and interventions;
- 6.1.f.1.P. Communication and team work skills;
- 6.1.f.1.Q. Operation of dialysis delivery systems which includes the machines, dialysate, and dialyzer;
- 6.1.f.1.R. Principles of safe effective dialysis care;
- 6.1.f.1.S. Principles related to the nutritional considerations for patients receiving dialysis;

- 6.1.f.1.T. Psychosocial aspects of renal disease;
 - 6.1.f.1.U. Principles of dialyzer reprocessing;
 - 6.1.f.1.V. Principles for initiating, monitoring, and discontinuing dialysis; and,
 - 6.1.f.1.W. Principles related to the adequacy of dialysis.
- 6.1.f.2. Written tests shall be developed for each unit in the curriculum including a final test and a skills performance evaluation must be conducted.
- 6.1.f.2.A. Exams shall be paper pencil or computerized exams and available for review during site visits;
 - 6.1.f.2.B. A score of eighty five percent (85%) or greater is required on each unit test with an opportunity to retake each unit test one time without additional instruction. If the student fails a unit test a second time, additional instruction is required before further testing is allowed.
- 6.1.f.3. Supervised clinical instruction shall:
- 6.1.f.3.A. Provide the dialysis technician trainee with the opportunity to practice the cognitive, psychomotor, and effective skills required for the safe performance of dialysis care by the dialysis technician;
 - 6.1.f.3.B. Meet the learning needs of each trainee;
 - 6.1.f.3.C. Meet the established program objectives or outcomes;
 - 6.1.f.3.D. Be provided concurrently with the related classroom theory instruction;
 - 6.1.f.3.E. Maintain a faculty to student ratio not to exceed one to four (1:4) in the clinical setting. A one to one (1:1) ratio is required for skills performance evaluation. The clinical preceptor to student ration is one to two (1:2);

- 6.1.f.3.F. Include a registered professional nurse or a dialysis technician preceptor with at least one (1) year of experience in providing dialysis care in the previous two (2) years.
- 6.1.g. The registered professional nurse responsible for administering the program shall establish and adopt program policies which address:
- 6.1.g.1. Criteria for trainee admission and continuation in the program which require, at a minimum, that each individual enrolled in the program has a high school diploma or equivalent, is at least eighteen (18) years of age and the individual is able to safely perform the essential functions of a dialysis technician;
 - 6.1.g.2. Criteria for trainee re-enrollment in the program;
 - 6.1.g.3. Criteria for successful completion of the program;
 - 6.1.g.4. A process for determining achievement of the skills required for the safe performance of dialysis care which shall include, at a minimum, written verification, signed by both a registered professional nurse and the trainee, that the trainee has been taught the required skills;
 - 6.1.g.5. A process for maintaining trainee records. The records shall include, but not be limited to, the date the trainee began the program, the date the trainee completed the 320 hour program, and the trainee's competency check lists;
 - 6.1.g.6. An accurate, timely process for notifying the board regarding enrollment and program completion which includes, but is not limited to, the following;
 - 6.1.g.6.A. Completion Requirements: Requirements for successful completion of the dialysis technician-training program shall be clearly specified. The requirements shall include demonstration of clinical competency and successful completion of a comprehensive, written final examination. There shall be a statement of policy regarding a trainee who fails to successfully complete the training program. The statement of policy adopted by the

training program shall include requirements that a person:

- 6.1.g.6.A.1. Shall not be enrolled in a training program more than two (2) times
 - 6.1.g.6.A.2. Shall show continuing progress toward completion of the program; and
 - 6.1.g.6.A.3. Who fails to successfully complete the program within twenty (20) calendar weeks shall cease functioning as a trainee until that person is reenrolled in a subsequent training program if that opportunity still exists pursuant to paragraph (a) of this subsection.
- 6.1.g.6.B. At a minimum, the following records shall be maintained by the program:
- 6.1.g.6.B.1. Provider name, date and site of the training program
 - 6.1.g.6.B.2. The program code number issued by the board; and
 - 6.1.g.6.B.3. Trainee roster, with minimum of name, date of birth, Social Security number, and program completion date.
- 6.1.g.6.C. An individual who successfully completed the training program shall receive a certificate of completion that documents the following:
- 6.1.g.6.C.1. Name of individual;
 - 6.1.g.6.C.2. Title of training program, date of completion, and location;
 - 6.1.g.6.C.3. Provider's name;

- 6.1.g.6.C.4. The program code number issued by the Board; and
- 6.1.g.6.C.5. Name and signature of program administrator.
- 6.1.g.6.D. The criteria required for making modifications in the training program or in the testing components of the program to meet the learning needs of individual trainees who are re-enrolling or who have previous training or experience in dialysis care;
- 6.1.g.6.E. Those persons who have authority to notify the board regarding trainee enrollment, reenrollment, and completion of the program; and,
- 6.1.g.6.F. A procedure for dealing with the unexpected vacancy of the registered professional nurse responsible for administering the program.
- 6.1.h. When a decision is made to close a training program, the board shall be notified in writing of the decision at least ninety (90) days prior to the anticipated closing date; the tentative date of closing; the location of the program's records, including but not limited to, trainees' records; and the name and address of the custodian of the records.
- 6.1.i. When a facility changes ownership, the training program must be approved as though it is a new program, if any changes were made to the training program previously approved by the board and now under new ownership.
- 6.1.j. Records maintained shall include documentation of the following:
 - 6.1.j.1. Each trainee enrolled in the program, including documentation of performance, and the date and reason the trainee withdrew or the date the trainee failed or completed the program;
 - 6.1.j.2. Each individual teaching the program, including qualifications and nursing experience;
 - 6.1.j.3. The curriculum plan and revisions;
 - 6.1.j.4. Any test administered; and

§19-13-7. Procedures for Obtaining Re-approval as a Dialysis Technician Training Program.

- 7.1. A dialysis technician training program seeking reapproval by the board shall submit to the board ninety (90) days before the approval expires the following:
 - 7.1.a. A reapproval application on a form specified by the board which includes, but is not limited to, verification that the program meets and has maintained the standards set forth in rule;
 - 7.1.b. Evidence of the completion of an evaluation of the curriculum and program standards for compliance with this rule to the board every two years;
 - 7.1.c. Payment of a program reapproval fee; and,
 - 7.1.d. Any other information requested by the board.
- 7.2. The board may conduct site visits before reapproving a program:
 - 7.2.a. The board shall provide written notification of the planned site visit to the dialysis technician training program seeking reapproval if additional information is needed. The notice shall specify a time frame for submission of the required information;
 - 7.2.b. At a scheduled board meeting the board shall review the completed application for reapproval, site visit information and all other documentation to determine compliance with this rule. The board shall approve or reapprove a program when the program meets the requirements of this rule.
 - 7.2.c. When a complete application for reapproval is submitted to the board in accordance with this rule, the on-site visit is completed and the board fails to make a determination before the program's approval expires, the board shall issue a notice to the registered professional nurse responsible for administering the program extending approval of the program until board action is taken on the reapproval application.

§19-13-8. Criteria for Probationary Approval.

- 8.1. The board shall submit to the registered professional nurse responsible for administering the program a written deficiency report which identifies the standard or standards not met or maintained and shall include the date on which the board is to consider the deficiency report.

- 8.2. Within thirty (30) days after receipt of the deficiency report, the registered professional nurse responsible for administering the program will submit to the board a written response to the report setting forth evidence that the program is meeting and maintaining each minimum standard identified in the report as not being met or maintained.
- 8.3. Based on the deficiency report; the program's response to the report, if any; and any other relevant evidence, the board may grant approval, continue approval, or deny or withdraw approval of the program.
- 8.4. At any time, the board may give probationary approval to a dialysis training program or a training program seeking approval or reapproval when there is evidence of :
 - 8.4.a Noncompliance with the "minimum standards for approval of dialysis technician training programs" in Section 13-6.5.
 - 8.4.b. Continuous disruptions in retaining qualified faculty or preceptors resulting in disorganization of the program and a breakdown of supervision and teaching of the program;
 - 8.4.c. Noncompliance with the training program's stated philosophy, objectives, policies and curriculum resulting in unsatisfactory student achievement; or,
 - 8.4.d. Failure to provide clinical experiences or supervision necessary to meet the objectives of the training program.

§19-13-9. Criteria for Denial or Withdrawal of Approval.

- 9.1. The board may deny approval of a training program when a program fails to provide evidence of compliance with the "minimum standards for approval of dialysis technician training programs" in Section 13-6. A written notice detailing the reasons shall be provided to the registered professional nurse responsible for administering the program.
- 9.2. The board may withdraw approval of a training program if the program fails to correct deficiencies resulting in noncompliance with the "minimum standards for approval of dialysis technician training programs."
- 9.3. The training program shall be removed from the list of board approved dialysis technician training programs.

§19-13-10. Requirements for Approval and Reapproval of a Testing Organization That Conducts an Examination of a Dialysis Technician.

- 10.1. To be approved by the board a testing organization that conducts an examination of a dialysis technician shall meet all of the following requirements:
 - 10.1.a. Be national in the scope of its testing and credentialing;
 - 10.1.b. Maintain files for each applicant who passes the organization's examination for dialysis technicians;
 - 10.1.c. Issue a certificate to each individual who passes the organization's examination for dialysis technicians;
 - 10.1.d. Periodically conduct an analysis of the tasks, role delineation, skills, and knowledge required of a dialysis technician and revise the examination as needed to reflect the findings of the analysis;
 - 10.1.e. Require work experience in dialysis care before the candidate is allowed to take the examination;
 - 10.1.f. Provide a mechanism for assuring the security of the examination;
 - 10.1.g. Not be affiliated in any way with a provider of dialysis care or with a dialysis technician training program; and
 - 10.1.h. Include on the examination material which comprehensively tests the following:
 - 10.1.h.1. Patient care activities which include, at a minimum, collection of objective and subjective data about the patient's condition; the patient's response to dialysis; and appropriate interventions when complications arise in conjunction with dialysis;
 - 10.1.h.2. Principles of dialysis delivery systems including machine technology which include, at a minimum, operation of the machines used in dialysis; machine set-up; and machine evaluation;
 - 10.1.h.3. Principles of water treatment systems which include, at a minimum, system components and design; maintenance; monitoring; and evaluation of the system;

10.1.h.4. Principles of dialyzer reprocessing which include, at a minimum, reprocessing procedures; testing; and evaluation; and

10.1.h.5. Responsibilities of the dialysis technician in respect to documentation, continuing education, and professional development.

10.1.i. The board may also require a testing organization to demonstrate that the test administered by the organization is psychometrically sound.

10.2. A testing organization seeking approval by the board shall submit to the board a completed application which includes the information required by the board to determine whether the organization meets the requirements set forth in subsection 13.10.1. of this rule. The board shall verify compliance of each testing organization with the criteria contained in subsection 13.10.1. of this rule.

10.3. Annually, at a time specified by the board, the board shall send or cause to be sent to each testing organization approved by the board for the prior year a form specified by the board on which the organization shall indicate whether it complies with the criteria contained in subsection 13.10.1. of this rule. The board shall verify continued compliance of each testing organization with the criteria contained in subsection 13.10.1. of this rule.

10.4. The board shall issue a written notification to each testing organization that is approved by the board.

10.5. No later than the thirtieth of January of each year, the board shall make available a list of approved testing organizations that meet the requirements of subsection 13.10.1. of this rule

10.6. The board may discontinue approval of a testing organization that does not meet the criteria contained in subsection 13.10.1. of this rule or that fails to timely return to the board the form indicating compliance with subsection 13.10.1. of this rule.

§19-13-11. Board Approved Testing Organizations for Dialysis Technicians.

11.1. The successful completion of a national certifying examination shall be the final step of the dialysis technician's training program. In order for a dialysis technician to become a West Virginia Certified Dialysis Technician he or she must pass a certifying examination offered by an organization approved by the Board of Nursing. The approved testing organizations are:

11.1.a. Board of Nephrology Examiner Nursing Technology (BONENT) ;

11.1.b. National Nephrology Certification Organization (NNCO) Professional;
and

11.1.c. Nephrology Nursing Certification Commission (NNCC).

§19-13-12. Fees.

- 12.1. Dialysis technician training program initial approval fee applies to each site where training occurs, including all clinical experiences \$1000.00
- 12.2. Dialysis technician training program continued reapproval fee \$800.00
- 12.3. Dialysis technician training program reinstatement fee \$1,000.00
- 12.4. Return check fee \$20.00
Approval of the program is voided if resolution of the outstanding fees is not made in the required time frame.
- 12.5. Subsequent review and approval of a training program when a change has been required by a change in board policy or rules, shall not exceed \$250.00
- 12.6. Fee for periodic evaluation of a training program, not to exceed \$2,000.00
- 12.7. Initial application for hemodialysis technician certification \$200.00
- 12.8. Hemodialysis Technician Renewal fee \$100.00
- 12.9. Hemodialysis Technician Reinstatement fee \$200.00
- 12.10. All fees are nonrefundable.

§19-13-13. Reporting Responsibility of Dialysis Centers.

13.1. Dialysis Centers shall provide a list of all dialysis technicians employed by the center on or before July 1, of every year on documents provided by the Board. The report is due to the Board on July 15 of every year. The Board may provide these documents by electronic means.

13.1.a. The report shall include documentation attesting to the dialysis technician's competencies to perform in the role of dialysis technician.

§19-13-14. Application for Certification; Temporary Permit and Endorsement of Certification.

- 14.1. An individual who applies to be credentialed as a dialysis technician in order to engage in dialysis care shall:
 - 14.1.a. File with the Board the completed "Application for Dialysis Technician Credential", within the deadlines and according to all instructions including remittance of the required fee. Provided that such application shall be submitted at least thirty (30) days prior to the date the applicant wishes to take the examination. Payment shall be in the form of a cashier's check or money order, and made payable to the West Virginia board of examiners for registered professional nurses. Application fees are not refundable;
 - 14.1.b. Have completed a board approved dialysis technician training program, unless otherwise excepted by the law governing this rule;
 - 14.1.c. Submit with the application one (1) passport type identification photograph of the applicant signed on the front by both the applicant and the administrator of the training program completed by the applicant; and
 - 14.1.d. Have submitted to the Board directly from the board approved training program a sealed verification of completion indicating the date of completion of the dialysis training program;
 - 14.1.e. Provide to the board a certified copy of the court record of any conviction from any jurisdiction, except for traffic-related misdemeanors (other than DUI); and
 - 14.1.f. Provide to the board a letter of explanation that addresses each conviction.
- 14.2. The board may issue a temporary permit to an applicant who files a completed "Application for Credential" following completion of a board approved training program. The temporary permit is effective from the date of issuance until three (3) days following receipt by the applicant and the Board of the results of the first written certification examination. Temporary permits are not renewable. The Board may revoke the temporary permit prior to expiration.
- 14.3. The holder of a temporary permit is subject to all provisions of West Virginia Code § 30-7C-1 et seq. and all other relevant provisions of the West Virginia Code and rules promulgated by the board.

- 14.4. An applicant for certification who fails to attain a passing score on the certification examination shall, upon notification of examination results, immediately return any temporary permit to the office of the board.
- 14.5. A repeat certification applicant shall complete the application for certification as specified in this rule.
- 14.6. Individuals employed and working as dialysis technicians prior to July 1, 2005 may continue to do so provided they:
 - 14.6.a. Meet the requirements put forth in §30-7C-3 et seq.;
 - 14.6.b. Complete and submit an application to the Board along with all required documents and fees;
 - 14.6.c. Meet with the Board upon request.
- 14.7. On or before the first day of July, two thousand six, an individual who has successfully completed an approved dialysis technician training program and who was working on or before the first day of July, two thousand five, as a dialysis technician trainee in a dialysis facility, and whose administrative registered professional nurse in charge acknowledges that he or she is competent to perform the delegated duties and practices in accordance with the laws regulating the provision of dialysis care, the rules of the Board and any other applicable federal and state laws and rules, will be considered as having met the requirements of subdivision (4), subsection (a) of this section for the purposes of being certified by the Board as a dialysis technician and must:
 - 14.7.a. Submit an application and all required documents and related fees;
 - 14.7.b. Meet with the Board upon request.
- 14.8. Application for Endorsement. Individuals certified as a dialysis technician in another state or territory may apply for West Virginia certification by endorsement provided the applicant provides:
 - 14.8.a. Evidence directly from the dialysis training program of completion of a program that meets the Boards requirements for an approved dialysis training program in West Virginia;
 - 14.8.b. Evidence from the original state and other states in which the applicant has been a dialysis technician that the certification in that state is in good standing;

- 14.8.c. Evidence that the applicant passed a national certification exam approved by the Board. Such evidence shall be provided directly from the certification body;
- 14.8.d. A completed competency verification form;
- 14.8.e. Completion of a local and Federal criminal background check completed with the previous six (6) months; and,
- 14.8.f. Payment of the required fee.

§19-13-15. Renewal of Certification; Request for inactive status and Reinstatement of Certification.

- 15.1. Annual renewal of certification.
The renewal period for dialysis technicians is annual and occurs from July 1 through June 30 of each year, with all certifications expiring on June 30 of each year. The deadline for receipt of the renewal application and fee is thirty days after receipt of the renewal application.
- 15.2. Request for inactive status. A dialysis technician not practicing, and has no disciplinary action pending against his or her certification, may request his or her name be entered on the inactive list by the executive director of the board by completing the renewal application furnished by the board and indicating his or her desire to be placed on inactive status. The board shall then designate the certificate holder's records "inactive". No fee is required for inactive status and no certificate is issued. The board may provide the inactive certificate holder, upon application, payment of the current reinstatement fee, and an active national certification, a certificate to practice in West Virginia. The board may inquire into activities and events during the term of the inactive period.
- 15.3. Reinstatement of lapsed certification/Non-renewal of certification. If a certificate holder fails to renew his or her certification before the current certification expires, the certification shall lapse and the holder must make application and submit the required reinstatement fee. The board may inquire into activities and events during the term of the lapsed period.

§19-13-16. Discipline of a Dialysis Technician.

- 16.1. Conduct, including, but not limited to the following, if proven by a preponderance of evidence, constitutes professional misconduct subject to disciplinary action pursuant to W. Va. Code §30-7(C)-10(6). The applicant or technician:
 - 16.1.a. failed to adhere to common and current standards for dialysis care, including but not limited to standards established by a national

professional organizations, dialysis research, dialysis education, or the Board;

- 16.1.b. failed to adhere to established standards in the practice setting to safeguard patient care;
- 16.1.c. knowingly committed an act which could adversely affect the physical or psychological welfare of a patient;
- 16.1.d. abandoned patients by terminating responsibility for nursing care, intervention, or observation without properly notifying appropriate personnel and ensuring the safety of patients;
- 16.1.e. practiced or offered to practice beyond the scope permitted by law or accepted and performed professional responsibilities that the technician knows or has reason to know that he or she is certified, qualified, or competent to perform;
- 16.1.f. impersonated another certified technician;
- 16.1.g. permitted another person to use the technician's certification for any purpose;
- 16.1.h. permitted, aided, or abetted an unlicensed, uncertified, or unregistered person to perform activities requiring a license, certificate, or registration;
- 16.1.i. delegated or assigned responsibilities to another person when the technician delegating the responsibilities knows or has reason to know that person is not qualified by training, experience or certification to perform them;
- 16.1.j. practiced as a dialysis technician while his or her certification is suspended, lapsed, or inactive;
- 16.1.k. failed to comply with terms and conditions as may be imposed by the Board based upon previous disciplinary action of the Board;
- 16.1.l. practiced as a dialysis technician while the ability to safely and effectively practice is compromised by alcohol or drugs;
- 16.1.m. is addicted to a controlled substance;
- 16.1.n. is a chronic or persistent alcoholic;

- 16.1.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;
- 16.1.p. practiced as a dialysis technician while the ability to safely and effectively practice was compromised by physical or mental disability;
- 16.1.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;
- 16.1.r. provided false or incorrect information to an employer or potential employer regarding the status of certification, or failed to inform an employer or potential employer of a change in the status of a certification;
- 16.1.s. knowingly falsified an application for employment;
- 16.1.t. knowingly provided false information regarding completion of educational programs;
- 16.1.u. falsified patient records or intentionally charted incorrectly;
- 16.1.v. improperly, incompletely, or illegibly documented the delivery of care, including but not limited to treatment or medication;
- 16.1.w. knowingly made or filed a false report;
- 16.1.x. knowingly or negligently failed to file a report or record required by state or federal law;
- 16.1.y. willfully impeded or obstructed the filing of a report or record required by state or federal law;
- 16.1.z. induced another person to file a false report or obstructed the filing of a report required by state or federal law;
- 16.1.aa. failed to report to the board within thirty (30) days, knowledge of a violation by a dialysis technician of W. Va. Code §30-7C-1 et seq., this rule, any other applicable state law or rule or any applicable federal law or regulation;
- 16.1.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;

- 16.1.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;
- 16.1.dd. violated any provision of W. Va. Code §30-7C-1 et seq., or rules governing the practice of the dialysis technician, or a rule or order of the board, or failed to comply with a subpoena or subpoena duces tecum issued by the board;
- 16.1.ee. failed to register or notify the board of any changes of name or mailing address;
- 16.1.ff. failed to accept certified mail from the board, when mailed to the technician's last address on record in the board's office;
- 16.1.gg. failed to disclose to the board a criminal conviction in any jurisdiction;
- 16.1.hh. was convicted of a misdemeanor or felony which involved fraud, deceit, a breach of trust, or physical harm or endangerment to others, or acts that bear directly on the qualifications or ability of the dialysis technician to practice dialysis care;
- 16.1.ii. failed to disclose information when required by the board concerning treatment or counseling for substance abuse, or participation in any peer assistance program;
- 16.1.jj. provided false information on any application, or any other document submitted to the board;
- 16.1.kk. misappropriated medications, supplies, or personal items of a patient or employer;
- 16.1.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;
- 16.1.mm. being listed on the nurse aide abuse registry in this state or any other state, territory, jurisdiction or foreign nation
- 16.1.nn. physically or verbally abused, or failed to provide adequate protection or safety for an incapacitated individual in the context of a dialysis technician-patient/client relationship;
- 16.1.oo. used the dialysis technician-patient/client relationship to exploit a patient or client;

- 16.1.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;
- 16.1.qq. failed to maintain appropriate professional boundaries in the dialysis technician-patient/client relationship;
- 16.1.rr. failed to report that his or her authority to practice as a dialysis technician 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 credentialing or certifying authority, or that he or she was denied certification or credentialing in any other state, territory, jurisdiction, or foreign nation;
- 16.1.ss. practiced as a dialysis technician by way of telecommunications or otherwise, in any other state, territory, jurisdiction, or foreign nation, without the authority from that state, territory, jurisdiction or foreign nation to do so and not in accordance with the law of that state, territory jurisdiction, or foreign nation; or
- 16.1.tt. was found guilty for improper professional practice or professional misconduct by a duly authorized professional disciplinary agency or licensing or certifying or credentialing 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.
- 16.2. Upon a finding of probable cause that a basis for disciplinary action exists, the board may require a technician or a person applying for certification to practice as a dialysis technician 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 dialysis technician 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 technician 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 dialysis technician competently and in accordance with accepted standards for professional practice. A technician or person applying for certification as a dialysis technician who is adversely affected by this provision may request a hearing within thirty days of any action taken by the board.

- 16.3. Based on the nature of the complaint filed against a technician or based on the nature of the information received on an applicant, the board may require a criminal history records check of the technician or the applicant to be paid for by the technician or applicant. The technician 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 technician's state of residence, and the United States Federal Bureau of Investigation. The board may take disciplinary action against the technician for refusing to submit to the criminal history records check or the board may deny certification.
- 16.4. 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 certification pending proceedings for revocation of the certification or other action. The board shall promptly institute and determine further disciplinary action.
- 16.5. In addition to the disciplinary actions provided in W. Va. Code §30-7C-10, the board may also levy fines and assess administrative costs in accordance W. Va. Code §30-1-8.
- 16.6. The board shall follow the procedures set out in and have the authority set forth in W. Va. Code §§29A-5-1 et seq. and 30-1-1 et seq.