

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Filing Date

FILED

MAY 23 4 29 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #7

Effective Date

July 5, 1996

NOTICE OF AN EMERGENCY RULE

AGENCY: WV Board of Respiratory Care TITLE NUMBER: 30

CITE AUTHORITY: 30-34-7

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 FILED AS AN EMERGENCY: 1

TITLE OF RULE BEING FILED AS AN EMERGENCY: Procedures for Licensure application process.

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: Law established to protect the public safety to ensure qualified individuals will deliver respiratory care services in the state. The board cannot begin the licensing process without soliciting applications, collecting the fees to be self supporting and protect the public unless the process can begin.


Signature

Use additional sheets if necessary

DATE: 5/22/96

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Board of Respiratory Care

EMERGENCY RULE TITLE: Procedure for licensure application process

1. Date of Filing 5/21/96

2. Statutory authority for promulgating emergency rule:

3. Date of filing of proposed legislative rule: 5/22/96

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

NO.

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.

The WV Board of Respiratory Care is responsible for the application process, collecting of fees, and monitoring of the profession of Respiratory Care, to protect the public safety from unqualified practitioners. This self sustaining board cannot do so by July 1, 1996 as stated in the law without the ability to collect fees and gather information on practitioners in the state. The longer we wait, the longer unlicensed, untrained individuals will hold the public safety in hand.

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.

~~30-34: Board of Respiratory Care. States that by July 1, 1996 : In order to protect the public, any person practicing or offering to practice as a respiratory care provider is required to submit evidence that he or she is qualified to practice, and is licensed as provided in this article.~~

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

~~The public safety is in jeopardy untill all those practicing this portion of medicine are qualified to do so. The longer we wait, the longer unqualified individuals my hold the breath of life in their hands and jeopardize the public interest.~~

Anna Parkman, MBA, RRT
(304) 357-4837

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedure licensure application process.

Type of Rule: Legislative Interpretive Procedural

Agency WV Board of Respiratory Care

Address PO Box 3709
Charleston, WV 25337

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THIRTEENTH
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

The board will be self supporting with licensing fees as established in the law. The state will save money as quality providers ensure cost effective care. No additional expense will be incurred by WVa.

3. Objectives of these rules:

This rule will allow the board to license the profession of Respiratory Care, protect the public and ensure a cost effective health care provider in this critical area of medicine.

The rule allows us to collect the fees and establish the board and begin the rule writing process for the next session.

Rule Title: Procedures for licensure application processing.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There will be impact on the economic condition of the state other than the cost savings related to quality providers ensuring public safety and cost effective care impacting positively on medicaid cost.

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

The WVa health care consumer will have cost effective care delivered by trained professionals. This will impact positively as unnecessary procedures are recognized and eliminated thereby decreasing cost to the public.

C. Economic Impact on Citizens/Public at Large.

This will allow the self sustaining board to monitor the profession and ensure the above.

Date: 5/21/96

Signature of Agency Head or Authorized Representative

J. H. Paul

Emergency Rule Summary

Article 30-34 established a self supporting state board of respiratory care practitioners to protect the life, health and safety of the public. The article states that any person practicing respiratory care must submit evidence that he or she is licensed to do so by July 1, 1996.

The emergency rule submitted basically describes the procedures for license application. It describes how to apply, the application fee, who can apply, and the process for each category of license.

This has been filed as an emergency rule because it impacts on the health, safety and life of the public. The article requires licensure for practitioners by July 1, 1996. The West Virginia Board of Respiratory Care is responsible for processing the applications and making sure that all those practicing respiratory care are qualified to do under the provisions of article 30-34. To meet the deadline, be a self sustaining board, and protect the public, an emergency rule is needed.

Title 30
Legislative Rules
The West Virginia Board of Respiratory Care
Series # 1
Procedure for Licensure Application Process

30-1-1 General.

1.1. Scope. -- This legislative rule establishes the application process for licensure by the West Virginia Board of Respiratory Care.

1.2. Authority. -- W.Va. Code 30-34-7

1.3. Filing Date. --

1.4. Effective Date. --

30-1-2. Application for License

2.1. The applicant for licensure shall file with the West Virginia Board of Respiratory Care (WVBORC) a signed application form and shall pay an application fee of \$200.00.

2.2. The application for a license shall indicate the level of license requested, Licensed Respiratory Care Technician (LRCT or Licensed Respiratory Therapist (LRT). The applicant will also be required to submit a notarized copy of the "National Board of Respiratory Care, Inc." (NBRC) certificate designating registry or certification status.

30-1-3. Temporary License

3.1. The applicant for a temporary license shall include a notarized copy of a certificate of completion from an respiratory care program accredited by the "Joint Review Committee for Respiratory Therapy Education " (JRCRTE) or its WVBORC approved successor and shall pay an application fee of \$200.00.

3.2. An applicant who has not yet graduated may apply for a temporary permit. Applications are to be received by the WVBORC no earlier than 30 days prior to graduation. A certificate of completion must be filed with the WVBORC no later than 30 days after graduation. Failure to comply will result in the loss of the temporary permit

3.3. The applicant under a temporary license shall file an application to take the next available entry level examination offered by the NBRC. The results of the

examination shall be recorded by the WVBORC as reported by the NBRC or its testing service.

3.4. The applicant under a temporary license must be signed by the program director, and a principle administrative officer of the institution where the program is completed.

3.5. Upon notification of passage of the examination and by receipt of a notarized copy of the certificate, the WVBORC shall issue a license as a Licensed Respiratory Care Technician (LRCT) to the applicant.

3.6. Upon notification of failure of the examination the WVBORC shall revoke the temporary license and refund the application fee less a processing fee of \$30.00.

30-1-4 Grandfather Applicants

4.1. The applicant who has not passed the entry level examination by the NBRC may apply for a temporary license whose term shall expire June 1, 1997.

4.2. The applicant must submit an application, pay and application fee of \$200.00 and shall submit a letter as written evidence of current function as a respiratory care provider with a two year employment history. The two year period shall have begun on or before June 15, 1994. The applicant shall have worked a minimum of 1000 hours each year of practice. The letter shall be signed by a principal administrative officer of the institution where the applicant is employed, and the applicant's direct supervisor.

4.3. Those individuals currently licensed by appropriate agencies or boards of the State of West Virginia are prohibited from the application for a license under the grandfather application.

4.4. Upon review the WVBORC shall issue an appropriate license. The applicant who is granted a license under this provision shall hold a temporary license as a Licensed Respiratory Care Assistant (LRCA), and must work under the supervision of a LRCT or and LRT. Failure to pass the licensing examination on or before June 1, 1997 will result in revocation of the license.

30-1-5. Restricted Titles

5.1. The following titles are prohibited from use by persons who are not licensed under this provision: respiratory care professional, respiratory care practitioner, respiratory therapist, respiratory technologist, respiratory tech, inhalation therapist, cardiopulmonary technician or any similar title.

WEST VIRGINIA BOARD OF RESPIRATORY CARE
P.O. Box 3709
Charleston, WV 25337

Application for License

Name: _____
(LAST) (FIRST) (MIDDLE INITIAL)

Address _____
(STREET)

(CITY) (STATE) (ZIP CODE)

Social Security Number _____

Phone: (_____) _____ (_____) _____
(HOME) (WORK)

Employer _____

Employer Address _____
(CITY) (STATE) (ZIP CODE)

Please check for license type:

- Temporary Permit Respiratory Care Assistant
- Temporary Permit Respiratory Care Technician
- Temporary Permit Respiratory Therapist
- Licensed Respiratory Care Assistant
- Licensed Respiratory Care Technician
- Licensed Respiratory Therapist

Signature of Applicant _____ Date _____

FOR OFFICE USE ONLY

Application Fee: _____

- _____ Temporary Permit Respiratory Care Assistant
- _____ Temporary Permit Respiratory Care Technician/Therapist
- _____ Licensed Respiratory Care Assistant
- _____ Licensed Respiratory Care Technician
- _____ Licensed Respiratory Therapist

Permit / License Number _____ Expiration Date: _____

Board Signature

Board Signature

**West Virginia Board of Respiratory Care
P.O. Box 3709, Charleston, WV 25337**

Instructions for Application for License

Temporary Permit Respiratory Care Assistant

To apply for a temporary permit whose term shall expire June 1, 1997, The applicant must submit written evidence of current function as a respiratory care provider. The provider must have worked a minimum of 1000 hours per year functioning as a respiratory care provider and have been employed in this function before June 15, 1994. Written evidence must be in the form of a letters signed by a principal administrative officer of the institution and the applicants direct supervisor where the applicant is employed. The applicant must work under the supervision of a Licensed Respiratory Therapist or a Licensed Respiratory Care Technician.

Temporary Permit Respiratory Care Technician/ Therapist

To apply for a temporary permit whose term shall expire 6 months from the date of issuance the applicant must provide a notarized copy of the certificate of completion from an approved respiratory care program, or an applicant may file application accompanied by a letter of intent of graduation from the school's program director no sooner than 30 days prior to graduation. A certificate of completion must be filed with the Board of Respiratory Care no later than 30 days after graduation.

Licensed Respiratory Care Technician/ Therapist

To apply for a license whose term will expire on December 31, 1996, the applicant will complete the application for license and attach a notarized copy their original NBRC credential certificate. Therapists need only to submit the notarized copy of the registry certificate.

Application Fees

The application fee of \$200.00 must accompany the license application. Use Money Order or Certified Check made payable to the West Virginia Board of Respiratory Care as your method of payment. Personal checks will not be accepted. Do not send cash.

Upgrade from Temporary Permit to License

Respiratory Care Assistants who pass the competency examination prior to June 1, 1997 will pay a \$10.00 fee to obtain a permanent license.

Respiratory Care Technicians and Therapists who pass the NBRC credential examination will pay a \$10.00 fee to obtain a permanent license provided their temporary permit has not expired.

Examination Failure/ License / Permit Not Approved

Holders of respiratory care technician or therapist temporary permits will be refunded the application fee less \$30.00 for failure to successfully complete the credential examination within the time frame of the permit. The applicant may request reapply for license after successful completion of the examination.

Applicants who do not meet the requirements for license or temporary permit will be notified and their application fee less \$30.00 will be returned.

Mail Completed Application and Appropriate Fees to:

**West Virginia Board of Respiratory Care
P.O. Box 3709, Charleston, WV 25337**

**West Virginia Board of Respiratory Care
P.O. Box 3709, Charleston, WV 25337**

Instructions for Application for License

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Mail Completed Application and Appropriate Fees to:

**West Virginia Board of Respiratory Care
P.O. Box 3709, Charleston, WV 25337**

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

July 5, 1996

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE July 5, 1996
ADMINISTRATIVE LAW DIVISION

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: West Virginia Board of Respiratory Care

RULE: New Rule, Series 1, Procedures for Licensure Application Process

DATE FILED AS AN EMERGENCY RULE: May 23, 1996

DECISION NO. 10-96

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
Secretary of State

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Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

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Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

EMERGENCY RULE DECISION (ERD 10-96)

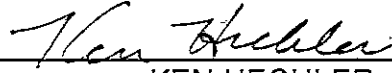
AGENCY: West Virginia Board of Respiratory Care
RULE: New Rule, Series 1, Procedures for Licensure Application Process
FILED AS AN EMERGENCY RULE: May 23, 1996

- par. 1 The West Virginia Board of Respiratory Care (Board) has filed the above new rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-15a(b))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Board filed this emergency rule with supporting documents with the Secretary of State May 23, 1996 and with the LRMRC May 23, 1996.
- par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

- par. 8 (B) Statutory Authority -- WV Code §30-34-6 reads in part:
- (1) Adopt rules pursuant to §29A-3-1 et seq. of this code, as may be necessary to enable it to effect the provisions of this article.*
- par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.
- par. 10 (C) Emergency -- WV Code 29A-3-15(f) defines "emergency" as follows:
- (f) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.*
- par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 12 The facts and circumstances as presented by the Board are as follows:
- Law established to protect the public safety to ensure qualified individuals will deliver respiratory care services in the state. The board cannot begin the licensing process without soliciting applications, collecting the fees to be self supporting and protect the public unless the process can begin.
- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f). . . "time limitation" because the code states that the Board should start licensing starting July 1, 1996 and all expenditures must be made from collections rather than an appropriation. In addition, this qualifies "to prevent substantial harm to the public interest."

par. 14

This decision shall be cited as Emergency Rule Decision 10-96 or ERD 10-96 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Board of Respiratory Care, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

Entered _____

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE July 5, 1996
ADMINISTRATIVE LAW DIVISION