

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED

JUL 25 9 50 AM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: The West Virginia Board of Respiratory Care TITLE NUMBER: 30

CITE AUTHORITY 30-34-7

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 NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Procedures for licensure application  
process.

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
Authorized Signature

DATE: July 24, 1996

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WV Board of Respiratory Care

LEGISLATIVE RULE TITLE: 30-1 Procedures for licensures application process

1. Authorizing statute(s) citation 30-34-7

2. a. Date filed in State Register with Notice of Hearing  
May 23, 1996

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

Notification of comment period via letter sent to respiratory care  
departments in the state using the WVHA list and home care companies  
on our data base.

c. Date of Hearing(s) Comment period end June 25, 1996

d. Attach list of persons who appeared at hearing,  
comments received, amendments, reasons for amendments.

Attached  No comments received

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

July 24, 1996

f. Name and phone number(s) of agency person(s) to  
contact for additional information:

Anna Parkman 357-4837

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.

N/a

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b. Date of hearing: N/a

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

N/a

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d. Attach findings and determinations and reasons:

Attached N/a

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West Virginia Board of Respiratory Care  
Post Office Box 3709  
Charleston, West Virginia 25337

June 24, 1996

**Written Comments were received from:**

David S. Haden  
Donna Burgess  
Bradley Weaver  
Robert M. Ortiz  
Kimberly A. Mulneix  
Diane Ocheltree  
Linda Shriver

In reading and responding to the individuals that commented on rule some comments were technical in nature. (ex. don't list respiratory tech, instead say respiratory technician) One person had a problem with the licensure fee. One person did not like the title of respiratory care assistant for the grandfathered individuals.

Given the nature of the comments and the small number; we feel no change to the rule is necessary with regard to the comments listed above. One suggestion we would like to institute is in section 30-1-4:(change in bold)

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 LRT or other qualified health care professional as designated by the board.

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	THEREAFTER
<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. W. Paul*

FILED

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

JUL 25 9 50 AM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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.



STATE OF WEST VIRGINIA

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

Gaston Caperton  
Governor

June 12, 1996

Gretchen O. Lewis  
Secretary

Anna Parkman  
West Virginia Board of Respiratory Care  
Post Office Box 8709  
Charleston, West Virginia 25337

Dear Ms. Parkman,

Your efforts to improve the quality of care for West Virginians are to be commended. The West Virginia Black Lung Clinics Program (BLCP) has reviewed the rules and regulations for implementation of the licensure procedure and emergency rule. Our program wishes to have the following recommendations considered:

*Article 30-34 Emergency Rule.*

- ▶ The BLCP recommends that the implementation date be extended to January 1997 to provide both the effected parties and the Board ample time to respond and review rules governing respiratory care givers.
- ▶ It is also recommended that a waiver and/or exemptions to the Emergency Rule be considered. Consideration should be given to current respiratory care givers based on licensure, type of practice, procedures, and location. Physicians, mid-level practitioners, NIOSH Certified Spirometry Technicians, and Registered Nurses performing respiratory treatments, i.e., spirometry testing, drawing ABG, nebulizer, and inhalation therapy, in rural primary care centers are examples of categories for waiver or exemption.

*Procedure for Licensure Application, 30-1-4.*

- ▶ The Grandfather Applicants section 4.4 line 2 states "...and must work under the supervision of a LRCT or and LRT." This section limits supervision and forces health care facilities to employ a Licensed Respiratory Technician or a Licensed Respiratory Therapist to treat respiratory patients. The inclusion of "...or other qualified health care professional as designated by the board..." is recommended by the BLCP to be included.

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**BUREAU FOR PUBLIC HEALTH**  
**Division of Primary Care and Recruitment**

1411 Virginia Street, East  
Charleston, West Virginia 25301-3013

Phone: (304) 558-4007

FAX: (304) 558-1437

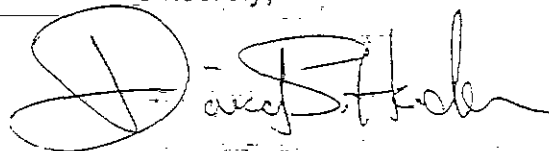
June 12, 1996  
Page 2  
Parkman

The costs of respiratory health care in rural West Virginia would dramatically increase if these primary care centers were forced to hire additional staff. Restrictions on the use of NIOSH certified technicians and other providers has become an issue and is being challenged in the courts in other states. The limited and controlled use of a waiver would provide a smoother transition and would decrease resistance to the changes in respiratory care. It is of utmost importance that patients continue to receive respiratory care without diminishing the quality of care and the value of the regulatory board. Supervision may then be provided by the attending physician, mid-level, or the Registered Nurse trained in respiratory care.

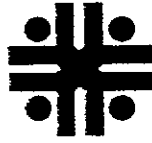
The Rules and Regulations of the West Virginia Respiratory Board will have an impact on the level of care for West Virginians. The suggestions offered above will give the board credibility and respect from other health care professionals. The West Virginia Black Lung Clinics Program appreciates the opportunity to comment on the Respiratory Board's proposed rule.

If you have any questions, please contact Karen Snyder, Assistant Director. She will be available to assist you with the needs of the BLCP.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Haden". The signature is written in a cursive style with a large, stylized initial "D".

David S. Haden, Director  
WV Black Lung Clinics Program



# CABELL HUNTINGTON HOSPITAL

Anna W. Parkman, MBA, R.R.T.  
President WV Licensure Board for Respiratory Care  
P.O. Box 3709  
Charleston, WV 25337

Dear Ms. Parkman,

Thank you for spending your evening with some of the staff at Cabell Huntington Hospital explaining the licensure process. During the meeting you requested input from our co-worker. I would like to express their desires with you and the Licensure Board.

I conducted a survey of the 30+ respiratory care professional in our department and we would like to make some suggestions on CEU's and licensure fees.

1. An average of one CEU per month for a total of 24 in a two year period would seem adequate.
2. Renewal of license every two years at a cost not to exceed \$50.00 for the two years.
3. We hope the board would consider the advance life support classes (ACLS, PALS, and NRP) to be adequate to obtain CEU's for and the board will look at accepting already obtained CEU's from the year of 1996 to be credited toward the next licensure renewal.

We at Cabell Huntington Hospital would like to thank the Board for their willingness to volunteer their time for this worthwhile endeavor.

Sincerely,

Donna Burgess, RRT, PPS  
Perinatal-Pediatric Specialist  
Supervisor- Respiratory Care Department  
304 526-4888

Fairmont General Hospital  
Pulmonary Lab  
1325 Locust Avenue  
Fairmont, WV 26554

May 14, 1996

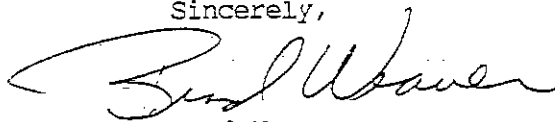
Anna Parkman:

I am writing in reference to our meeting on April 19, 1996 at Fairmont General Hospital. As you may remember I voiced my concerns about the title selected for grandfathers, Respiratory Care Assistance. It was explained by Mike Ortiz that the original selection, Respiratory Care Practitioner, would not be used because a conflict may arise from the nursing sector. As previously discussed I am very concerned about the division of our profession. I believe you can appreciate that.

I have enclosed a brochure printed by the AARC which describes all in the profession as RCP. I feel that if WV does not consider this, we may be the only state not referred to as RCP's.

Please present this to the board for me.

Sincerely,




Brad Weaver



WEST VIRGINIA UNIVERSITY HOSPITALS

**MEMORANDUM**

**To:** Anna Parkman RRT, MBA  
President,  
Board Of Respiratory Care

**From:** Robert M. Ortiz RRT, RPFT   
Administrative Director,  
Respiratory Care/Pulmonary Svs.

**Date:** June 4, 1996

**Re:** Title 30 Legislative Rule Proposed Amendment

I have reviewed Title 30, Legislative Rules, The West Virginia Board of Respiratory Care, Series # 1, Procedures for Licensure Application Process, and have the following suggestion:

Under Section 30-1-5 Restricted Titles, I believe the title of "respiratory technician" and "respiratory assistant" should be added to the listing. The secondary title should only be added if the current verbiage remains accepted.

Thank you for your attention to this issue, and , should you have any question regarding this issue, please call.

**Respiratory Care/Pulmonary Services**

Ruby Memorial Hospital West Virginia University Children's Hospital Jon Michael Moore Trauma Center  
Medical Center Drive PO Box 8066 Morgantown WV 26506-8066 Telephone 304 598-4106 FAX 304 598-4025

Kimberly A. Mulneix  
Rt. 3, Box 120-M  
Weston, WV 26452  
June 3, 1996

To whom it may concern;

I am writing in response to a letter I have received concerning the rules that are being formed for the state licensure. There are 4 points of concern I wish to address.

Traditional school vs nontraditional school. I have found no significant difference between the two schools. As a graduate of a traditional school of respiratory therapy technology, I have had the opportunity to help and observe the students of nontraditional schools. I have compared the curriculum and have found it to be as good or better in some cases as the traditional curriculum. Granted the majority of the tests are open book, however, the final exams are not. It is in my opinion that the students are required to study and know their books in order to pass their final exams, after which they must pass a rigorous clinical exam in order to receive a diploma. As an evaluator for CCHS, I have found students do very well on their clinical exams.

Another concern of mine is that technicians in the field 10 years or longer and have had adequate schooling should be grandfathered in without taking the examination. I feel that they have already demonstrated their ability in the field and that the years of invaluable experience should account for something. The radiology field grandfathered in all their technicians without requiring examinations. Most hospitals have continuing education for their employees to ensure the best possible quality for their patients. These people were unable to attend a traditional school due to lack of money, opportunity, or supporting a family many of which are staying off the welfare programs for which they should be applauded. Let us support them rather than knock them out of their jobs. I agree that in the future the licensure is important but let us take care of the people we have at present and concentrate on the future respiratory care practitioners.

As far as the criteria, I find that the breaking down of duties in relationship to credentials is not feasible especially for the small rural hospitals such as where I work. They are unable to afford the wages of the "RRT or LRT" and would be forced to delegate the duties to the nurses due to shortages in staffing which otherwise could have been done by a "LCRT". The technicians that I have worked with do the same the things I do and do an excellent job. I would rather work with an experienced LCRT than a graduate LRT. There is no substitute for clinical experience.

The last point I would like to make would be the renewal fee of which we would be charged. I understand the necessity of the \$200.00 to start with and have no problem with that. I hope in the future that the fees will be more reasonable. For example, the radiology field have a renewal fee of \$25.00 every 2 years in spite of the fact they are a small field. I feel that a renewal fee of \$25.00 - 50.00 a year would be feasible. I realize that you have to be self-supporting but please don't make the burden impossible to bear.

I hope you do not feel that I am too critical about these things. It is simply my intention to point out a few realistic views of our future as respiratory care practitioners. I thank you for your time and hard work.

Sincerely yours,

*Kimberly A. Mulneix, RRT*

Kimberly A. Mulneix, RRT

# SJM<sup>H</sup>

## STONEWALL JACKSON

*memorial hospital*

May 30, 1996

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

RE: State Licensure

Dear Madam President:

Being the director of a Respiratory Care department in a small rural hospital, I find that some parts of the Respiratory Care Licensure Bill will be detrimental to the staffing of my department and likewise to many other facilities. I have two staff members who have been Respiratory Care Technicians for more than 10 years each and are as competent as any CRTT. I think that all staff members, without regard to credentials, who are competent, should be grandfathered as was done for Radiology Technicians State licensure many years ago.

Another concern of mine is the \$200 licensure fee. I do understand that respiratory care providers are a smaller group than some such as nursing, but I also know that the State fee for Radiology licensure is only \$25 every 2 years which is also a small group.

Hopefully, the renewal fee will be considerably less. The Board needs to consider that Respiratory Care Technicians do not make the salaries of other licensed professionals and most hospitals are in rural communities.

I have also heard that the Board is proposing to establish criteria for the procedures that a Respiratory Care Technician can perform. I hope this does not occur or at least does not affect employees who are already working in the field. I have people in my department who were trained on the job, certified eligible, certified and registered and even though all have different credentials, all do the same job and are competent at what they do. I am a graduate of California College of Health Sciences, which is AMA Accredited. I think this schooling required more dedication on my part because I had to make myself study. I did not have the luxury of setting and listening to some lecture. I had to work and go to school.

I am also concerned how all the above will affect Home Care Providers.

This licensure bill will also put an added stress on hospitals. Because of all these credentials, the practitioners will expect high salaries and in this day and time hospitals can not

*Route 4 Box 10, Weston, West Virginia 26452-9545  
Telephone (304) 269-8000*

West Virginia Board of Respiratory Care  
May 30, 1996  
Page 2

justify the added expense. I am afraid hospitals will do away with Respiratory Care Technicians, which will put people out of work and cross-train other licensed professionals to do the job.

We need to consider everyone's concerns, such as mine. We need to protect the field of Respiratory Care and the practitioners who do the work.

Sincerely,

A handwritten signature in cursive script that reads "Diane Ocheltree CRTT". The signature is written in dark ink and is positioned above the printed name.

Diane Ocheltree, CRTT  
Director of Respiratory Care

DO/dar

*Preston-Taylor Community Health Centers, Inc.*

ADMINISTRATIVE OFFICE  
P.O. BOX 399  
500 MARKET STREET, HOSPITAL ANNEX  
GRAFTON, WEST VIRGINIA 26354  
TELEPHONE (304) 265-0312



June 17, 1996

Ms. Ann Parkman  
WV Board of Respiratory Care  
P.O. Box 8709  
Charleston, WV 25337

Dear Ms. Parkman:

I am writing to comment on the proposed emergency rules and regulations for respiratory care filed 05-23-96.

The rule does not clearly state that a state licensed professional i.e. RN, MD, PA can provide respiratory services. That was the way it was explained at our meeting in Charleston this past spring.

Also, in Grandfather Applicants 30-1-4 Section 4.4, it states ("and must work under the supervision of a LRCT or and LRT" ). Does this supervision have to be on-site and what period of time i.e. hourly, daily, weekly, monthly? Does this mean that a board certified physician is not an acceptable supervisor?

I may be making too much of this rule, but I do not think licensed professionals should be prohibited from doing their job in order to protect a title. I feel the proposed rules & regulations are either too restrictive or too vague and open to interpretation. They do not address who can do what, when they can do it, or where (in what setting) they can provide services. Does a licensed respiratory therapist exceed the authority of a nurse or physician?

I feel that you will have difficulty in completing all of the work required to have everyone ready by July 1, 1996, if the cut-off day for comments is June 24, 1996.

Thank you for considering my comments in reaching a final decision.

Sincerely,

Linda M. Shriver  
Executive Director

LS/bj