

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

Do Not Mark In this Box

Oct 28 3 05 PM '93

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: The WV Board of Respiratory Care TITLE NUMBER: 30

CITE AUTHORITY 30-34

AMENDMENT TO AN EXISTING RULE: YES NO

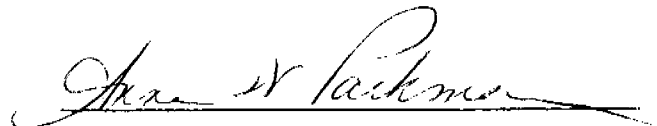
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: Continuing Education Requirements

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



Title 30
Legislative Rules
The West Virginia Board of Respiratory Care
Series #3
Continuing Education Requirements

5711
5711
Oct 23 3 00 PM '96
OFFICE OF THE SECRETARY
SECRETARY

30-3-1. General.

3.1. Scope. -- This legislative rule delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

1.2. Authority. -- W.Va. Code 30-34-5

1.3. Filing Date. --

1.4. Effective Date. --

30-3-2. **Definitions**

2.1. "Academic Course" offered by an accredited post-secondary institution means a respiratory care course, designated by a respiratory care course number, beyond the mandatory entry level. The academic course shall be applicable to respiratory care practice and appropriate for the respiratory care provider employed in the areas of clinical practice, administration, education or research.

2.2. "American Association for Respiratory Care for Continuing Respiratory Care Education approval" means any program which has received recognition by the AARC

2.3. "Continuing Education Unit" means fifty (50) contact minutes of participating in approved continuing educational program.

2.4. "Program" means an organized learning experience planned and evaluated to meet behavioral objectives; programs may be presented in one session or in a series.

2.5. "Provider" means an organization approved by the board for offering continuing education programs.

2.6. "Relevant" means having content applicable to the practice of respiratory care as defined by the board.

2.7. "Successful completion" means that the respiratory care licensee has satisfactorily met the specific requirements of the offering and that the respiratory care licensee has earned the continuing education units. The board will not grant continuing education units for repeated instruction of the same course.

30-3-3. **Accrual of Continuing Education Units Mandatory;
Computation of Accrual.**

3.1. A licensee shall accrue a minimum of twenty (20) continuing education units every two (2) years.

3.2. A licensee shall submit continuing education units to the board by March 14 of the year proceeding the accrual period. The initial accrual period is from January 1, 1997 to December 31, 1998. The first reporting deadline is March 14, 1999.

3.3. The accrual period is January 1 of one year through December 31 of the following calendar year.

3.4. All continuing education units must be relevant to the field of respiratory care.

3.5. A license of a licensee who fails to meet the continuing education requirements lapses. The board shall notify the licensee in writing within 10 working days of receipt of CEU forms. If the board fails to notify the licensee within this time period, the requested continuing education units shall be considered approved by the board.

30-3-4. Methods of acquiring continuing education units.

4.1. Continuing education units applicable to the renewal of the license shall be directly related to the professional growth and development of the respiratory care licensee.

4.2. A licensee may earn continuing education units completing any of the educational offerings of the American Association of Respiratory Care approved courses or programs.

4.3. A licensee may earn continuing education units by completing an academic courses as set forth in subsection 2.5. of this rule. For the purposes of this rule, one (1) credit hour of academic course equals fifteen (15) continuing education units.

4.4. Relevant offerings provided by other organizations or institutions may be approved by the board for continuing education units. Approved organizations may include but are not limited to the West Virginia Society for Respiratory Care, the West Virginia Lung Association, the West Virginia Thoracic Society, the Board of Examiners for Registered Professional Nurses, the American Medical Association, or the National Association of Medical Equipment Suppliers.

4.5. The board may approve continuing education units for successful completion of the "National Board of Respiratory Care, Inc." advanced practitioner exams including but not limited the Perinatal Pediatric Exam, the Certified Pulmonary Function Exam, the Registered Pulmonary Function exam or any other future exam developed and administered by the NBRC or its successor organization. The board shall grant ten (10) continuing education units to a licensee upon passing each exam. The board encourages licensees to retake the "National Board of Respiratory Care, Inc." exams and the board shall grant 5 (five) continuing education units for those licensees passing the exam.

4.6. The board may approve related areas not specifically a part of the field of respiratory care for up to two (2) continuing education units, if the board believes that the related areas may serve to enhance the licensee's ability to practice.

4.7. The board may approve continuing education units for up to 5 (five) units for authorship of a research article printed in a board approved medical journal or board approved textbook.

30-3-5. Procedures for accreditation of sponsors and approval of continuing education activities.

5.1. Any organization desiring to establish accreditation of a continuing education program prior to the program offering. The program shall be approval to the board at least thirty (30) days in advance of the commencement of the program, on a form provided by the board, stating the type of learning activity, the subject matter, the names and qualifications of the instructors, the number of continuing education units offered, and pay the fees as established by the board.

5.2. A continuing education activity is qualified for approval if the board determines that the activity being presented is an organized program of learning; pertains to subject matters which integrally relate to the practice of respiratory care; contributes to the professional competency of the licensee; and is conducted by individuals who have educational training, or experience acceptable to the board.

30-3-6. Responsibilities and reporting requirements of the license holders.

6.1. A licensee is responsible for obtaining the required number of continuing education units. The licensee shall identify his or her own continuing education needs, take initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills and attitudes.

6.2. Each licensee shall select approved activities by which to earn continuing education units and obtain from the board prior approval for continuing education not accredited by the board.

6.3. Each licensee shall maintain records of continuing education units and submit records of them to the board postmarked by March 15 of each year proceeding the accrual period.

6.4. Each licensee shall document attendance and participation in a continuing education activity in the form of, but not limited to, official documents such as transcripts, certificates, or affidavits signed by instructors. The type of documentation required varies depending on the specific activity submitted to the board for approval.

6.5. Each licensee shall fully comply with the provisions of this rule. The board may revoke or refuse to renew a licensee's license if he or she fails to comply with the provisions of this rule.

30-3-7. Carry-over of Continuing Education Units.

7.1. A licensee may carry over 6 (six) continuing education units earned in excess of those required under subsection 3.1. of this rule into the immediately following accrual period.

30-3-8. **Board to approve Continuing Education Units; Appeal when Approval Denied.**

8.1. In the event of denial, in whole or part, of any application for approval of continuing education units, the licensee has the right to appeal in writing to the board. Notice of the appeal must be received by the board within thirty (30) days after the date of the receipt of the board's order denying approval of continuing education units.

8.2. A hearing before the full board may be held at the request of the licensee, if the written appeal is denied. The board must receive the written request for a hearing within ten (10) business days after the date the board mails the notification of denial.

30-3-9. **Temporary license holders and Inactive status.**

9.1. Continuing education requirements shall not apply to the holders of a temporary license.

9.2. The board may, in individual cases involving medical disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the requirements or make the required reports. A written request for waiver or extension of time shall be submitted by the licensee and shall be accompanied by a verifying document signed by a licensed physician. Waivers of the minimum continuing education requirements or extensions of time within which to fulfill the requirements may be granted by the board for a period of time not to exceed one (1) calendar year. If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee must apply for another waiver.

9.3. The board may waive continuing education requirements for a licensee on inactive status during the period he or she remains inactive. If the licensee applies to the board to return to active status, the licensee shall submit proof of completion of five (5) continuing education units within the twelve (12) month period immediately preceding the date on which the application is submitted. The licensee may request to be allowed to return to active status immediately. The board shall grant the request, if the licensee agrees to successfully complete ten (10) continuing education units within twelve (12) months of the date on which the board approves active status.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Board of Respiratory Care
Subject: Continuing Education Requirements

PERTINENT DATES

Filed for public comment: July 29, 1996
Public comment period ended: August 30, 1996
Filed following public comment period: August 30, 1996
Filed LRMRC: August 30, 1996
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 requires a licensee to accrue 20 continuing education hours every 2 years. The initial two year period for reporting runs from January 1, 1997 through December 31, 1999. A licensee who fails to meet the requirements will have his or her license lapsed.

Section 4 specifically approves offerings by the American Association for Respiratory Care for Continuing Respiratory Care Education and academic courses offered by an accredited post-secondary institution for continuing education hours. It also allows the Board to approve offerings by other organizations.

Section 5 sets forth the procedure whereby an entity may obtain Board approval of an offering and sets forth the qualifications for approval.

Section 6 provides that licensees are responsible for obtaining the required number of continuing education hours, for documenting the hours and for providing the documentation to the Board. The Board may revoke a license where the Licensee fails to meet the continuing education requirements.

Section 7 allows a licensee to carry over 6 continuing education hours to the next reporting period where the licensee has acquired excess hours in a reporting period.

Section 8 allows a licensee to appeal the Board's denial of an application for approval of continuing education hours.

Section 9 provides that continuing education requirements do not apply to holders of a temporary license and allows the Board to grant waivers in individual cases involving medical disability or illness. It allows the Board to waive the requirements for licensees on inactive status and requires those licensees to 5 continuing education hours before returning to active status.

AUTHORITY

Statutory authority: W.Va. Code, §30-34-5, which provides, in part, as follows:

(h) Establish rules pursuant to the provisions of chapter twenty-nine-a of this code regarding relicensure and continuing education requirements. Continuing education requirements shall be established pursuant to a recognized continuing respiratory care education program such as, but not limited to, the program established by the American Association for Respiratory Care;...

ANALYSIS

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

No.

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

Yes.

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

No.

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

Yes.

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

Yes.

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

Yes. There are several provisions of the proposed rule that Counsel is unable to understand.

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

No. The filing did not contain a statement of the circumstances requiring the proposed rule nor did it contain a summary of the proposed rule.

VIII. OTHER.

Counsel has technical modifications to suggest.

Senate Bill No. 209

(By Senator(s) Ross, Anderson, Macnaughtan,
Boley and Buckalew)

[Introduced March 3, 1997; referred to the
Committee on Health and Human Resources; and
then to the Committee on the Judiciary.]

10 A BILL to amend article nine, chapter sixty-four of the
11 code of West Virginia, one thousand nine hundred
12 thirty-one, as amended, by adding thereto a new
13 section, designated section eight, relating to
14 authorizing the board of respiratory care to
15 promulgate a legislative rule relating to continuing
16 education requirements.

17 *Be it enacted by the Legislature of West Virginia:*

18 That article nine, chapter sixty-four of the code of
19 West Virginia, one thousand nine hundred thirty-one, as
20 amended, be amended by adding thereto a new section,
21 designated section eight, to read as follows:

22 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
23 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

1 §64-9-8. Board of respiratory care.

2 The legislative rule filed in the state register on
3 the thirtieth day of August, one thousand nine hundred
4 ninety-six, under the authority of section five, article
5 thirty-four, chapter thirty, of this code, modified by the
6 board of respiratory care to meet the objections of the
7 legislative rule-making review committee and refiled in the
8 state register on the twenty-ninth day of October, one
9 thousand nine hundred ninety-six, relating to the board of
10 respiratory care (continuing education requirements, 30 CSR
11 3), is authorized.

12

13 NOTE: The purpose of this bill is to authorize the
14 Board of Respiratory Care to promulgate a legislative rule
15 relating to Continuing Education Requirements.

16

17 This section is new; therefore, strike-throughs and
18 underscoring have been omitted.

H. B. 2372

1 Bill-Respiratory, Cont Ed

(By Delegate(s) Douglas, Hunt, Compton,
Faircloth, Linch and Riggs)

2

3

4

[Introduced March 3, 1997; referred to the
Committee on Government Organization then the
Judiciary.]

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West Virginia Legislature
Legislative Rule-Making Review Committee

Room NB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vicki Douglas, Co-Chair

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Admr. Assistant

October 15, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Anna Parkman
WV Board of Respiratory Care
P. O. Box 3709
Charleston, WV 25337

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Continuing Education Requirements

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
(a) as originally filed
(b) as modified by the agency
 X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.