

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

Form #3

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2007 JUL 27 PM 1:11

SECRETARY OF STATE
STATE OF WEST VIRGINIA

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

AGENCY: WV Board of Respiratory Care TITLE NUMBER: 30

CITE AUTHORITY: 30-34-1, 30-34-15(b)

AMENDMENT TO AN EXISTING RULE: YES NO

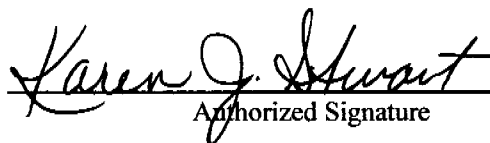
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Student Temporary Permit

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

QUESTIONNAIRE

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

DATE: July 27, 2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.)
WV Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311
304-558-1382

LEGISLATIVE RULE TITLE: _____
Series 9 - Student Temporary Permits

1. Authorizing statute(s) citation _____
30-34-1 and 30-34-15(b)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 25, 2007

b. What other notice, including advertising, did you give of the hearing?
Posting to Board's Web Site
Mailing to all licensed WV Respiratory Therapists
Mailing & Email to WV Healthcare Provider Facilities

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 26, 2007 9:00AM

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached 3 No comments received _____

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

July 27, 2007

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

Karen J. Stewart, Chairperson
WV Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311
Phone: 304-558-1382
Fax: 304-558-1383

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

Comment Period: June 26, 2007 - July 26, 2007

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

July 27, 2007

d. Attach findings and determinations and reasons:

Attached 3 Letters Received & 3 Responses from WV Board of Respiratory Care

Letters received from Hollie Hite, Kent LaForme, Michael Adkins
See copies of letters and the Board's response attached.

After the comment period ended, the following changes were made to the original proposed rule due to some areas of concern addressed in the responses and taken into consideration by the WV Board of Respiratory Care.

1. Definitions were added to provide a clear understanding of the language.
2. Renumbered.
3. 3.3: The word "successful" was added to the first sentence to ensure satisfactory performance completion of the first year of the respiratory care program. A second sentence was added to state that 18 of the 30 hours must be specific to respiratory care core curriculum.
4. 3.5: The word "core" and the words "and advancement in clinical rotations" were added to ensure the student has completed the required satisfactory semester hours specific to course work specific to the science of respiratory care.
5. 3.7 & 3.8: These sections were newly added.

SUMMARY & CIRCUMSTANCE OF PROPOSED RULE
SERIES 9 – STUDENT TEMPORARY PERMITS
AGENCY – WV BOARD OF RESPIRATORY CARE

The West Virginia Board of Respiratory Care is establishing a comment period for the rules and regulations of student temporary permits. Student permits will allow for students enrolled in an accredited respiratory care school to perform limited procedures for which they have proven competency and tested. This will allow for the student to gain employment knowledge thus, promoting the retention of respiratory graduates to remain and work in the State of West Virginia.

Letters received from Hollie Hite, Kent LaForme, Michael Adkins
See copies of letters and the Board's response attached.

After the comment period ended, the following changes were made to the original proposed rule due to some areas of concern addressed in the responses and taken into consideration by the WV Board of Respiratory Care.

1. Definitions were added to provide a clear understanding of the language.
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5. 3.7 & 3.8: These sections were newly added.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 9 - Student Temporary Permit

Type of Rule: Legislative Interpretive Procedural

Agency: WV Board of Respiratory Care

Address: 106 Dee Drive, Suite 1
Charleston, WV 25311

Phone Number: 304-558-1382 Email: massen@wvnet.edu

Fiscal Note Summary

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

The projected cost for this measure is the addition of .025 staff = 5,000 annually. The projected revenue for this measure is 7,500 annually.

Fiscal Note Detail

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

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost		5,000.00	5,000.00
Personal Services	1.00	0.50	1.50
Current Expenses	33,372.00	5,000.00	38,372.00
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	91,625.00	7,500.00	99,125.00

Rule Title: Series 9 – Student Temporary Permit

Rule Title:

Series 9 - Student Temporary Permit

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

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

This measure is expected to increase fees by 7,500.00 to total revenue.

MEMORANDUM

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

This measure would permit students in the last year of educational respiratory programs to limited, supervised practice in a healthcare facility thus, providing access for fulltime employment after graduation which would in turn keep those same students working within the State of West Virginia.

This measure would allow the hiring of .50 part time staff to add to our current 1.0 FT employee. .025 is already required for current peak work time and the remaining .025 (5,000) is targeted for this measure.

Date: July 27, 2007

Signature of Agency Head or Authorized Representative

Karen J. Stuart

Karen J. Stuart

**TITLE 30
LEGISLATIVE RULE
STATE OF WEST VIRGINIA
BOARD OF RESPIRATORY CARE**

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SERIES 9 - STUDENT TEMPORARY PERMIT

SECRETARY OF STATE
STATE OF WEST VIRGINIA

30-34-9.1 General

- 1.1 Scope - this legislative rule establishes the temporary permit process and fees for students enrolled in accredited respiratory care schools.
- 1.2 Authority – WV Code 30-34-6(a).1 and 30-34-15(b)
- 1.3 Filing Date –
- 1.4 Effective Date –

30-34-9-2 Definitions

- 2.1 “Respiratory Care Core Curriculum” means college course work specific to the science of respiratory care inclusive of those items as defined in the “Practice of Respiratory Care” (30-34-2.d).
- 2.2 “Clinical Rotation” means college course work specific to the bedside or site delivery of respiratory care inclusive of those items as defined as the “Practice of Respiratory Care” (30-34-2.d).
- 2.3 “Clinical Hours” means the number of hours of clinical rotations.

30-34-9.3 Application for Student Temporary Permit

- 3.1 An applicant for student temporary permit shall file with the West Virginia Board of Respiratory Care a signed permit application form and shall pay an initial permit application fee of seventy-five dollars (\$75.00).
- 3.2 The applicant shall submit a student work permit form signed by the program director of an accredited respiratory care program and by a principal administrative official of the institution where the program is located.
- 3.3 The student shall submit an official transcript indicating successful completion of the first year of the respiratory care program and a

minimum of 30 semester hours or the quarter hour equivalent and have completed clinical hours not less than 200 hours. 18 of the 30 hours successfully completed must be specific to respiratory care core curriculum.

3.4 The student shall provide documentation from the program director indicating clinical competencies completed by and successful didactic testing. Completed clinical practice shall only include those competencies approved by the board.

3.5 Upon expiration of the initial permit the student may apply for an additional six month permit by payment of an additional fee of forty dollars (\$40.00) and providing the WV Board of Respiratory Care with documentation from the program director of the school where the student is enrolled stating the student is actively enrolled and in good standing taking a minimum of 9 satisfactory semester hours in a respiratory care core curriculum and advancement in clinical rotations.

3.6 A student with a temporary working permit shall be supervised by an employee of the same department with a minimum LRCT (Licensed Respiratory Therapist Certified) credential issued by the West Virginia Board of Respiratory Care and the supervising employee shall be present on the premises.

3.7 A student holding a work permit shall not be permitted to use worked paid hours as a substitute for clinical rotations required by respiratory care educational programs.

3.8 No student holding a temporary permit shall be allowed to take a verbal or telephone order from a licensed physician or other legally authorized person with prescriptive authority.



State of West Virginia
Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311

Joe Manchin III
Governor

Phone: 304-558-1382
Facsimile: 304-558-1383

July 26, 2007

Michael Lee Adkins, LRTR
P O Box 514
Welch, WV 24801

Dear Mr. Adkins,

Thank you for taking the time to respond to the proposed legislative rule to allow respiratory care student work permits. The Board appreciates your input. I would like to address your concerns:

Please be assured the Board will provide a mechanism to assure that any student with a work permit will have successfully completed competencies required and will be demonstrating success progression in their education or their permits will not be renewed.

The intent is to allow students with demonstrated competencies the ability to work to alleviate work force shortages and as a recruitment tool to reduce the number of graduates who leave the State of West Virginia after graduation. The Board intends to limit the procedures that will be allowed. There is no intent by the Board to allow a student with a work permit to perform complex respiratory tasks such as mechanical ventilation, or the management of patient care by protocol.

The Board is committed to providing the citizens of the State of West Virginia with safe, competent respiratory care.

For the Board,

A handwritten signature in cursive script that reads "Karen J. Stewart".

Karen J, Stewart, MS, RRT, LRTR, FAARC
Chairperson

Untitled

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JUL 08 2007

W.V. BORO

To; West Virginia Board of Respiratory Care

From: Michael Lee Adkins, LRTR
P.O. Box 514
Welch, WV 24801

I have received the mailing notice of the proposed "Student Temporary Permit" and I have to say that I have some concerns about this

being amended. I feel as seasoned therapists that work here in our wonderful state, it is our responsibility to carry on a "standard of practice"

as well as passing these guidelines on and instill these skills and help with our upcoming students that will be our future therapist. In the past,

as a previous director, there was never a tempt permit, and the guidelines have always been across the table to all who chose this field of work.

After completing school, there was one attempt to pass their boards, and if they didnt, they where discharged. I was put in this situation of

having to discharge several good students but again, we must uphold our standards and let the new upcoming students always know the severity of this work

and why the education and clinical skills must be there for them. If a student would be allowed a tempt permit, I could see no harm in it as long

as the guidelines only allow them to perform certain procedures. These would include Hand Held Nebulizers, EKG's, general department stocking, after obtaining

a CPR card they could participate in "codes" with an attending credential therapist. I do not think that they should be allowed to do critical care procedures

such as Vent set-ups, ventilatory management, ABG's and anything else that would be consider an avasive procedure. This is just my opinion, but I have always said,

"no one cares about what you know, until they know you care". We must know that these students care and respect and know the severity of these procedures that we

do on a dailey basis' and share the focus of the goal of obtaining respiratory credentials to optimise quality patient care. It is not my intent in anyways to

offend anyone by this letter, but I know we live in a fast pace enviroment or we term "microwave age". I have worked with a few microwave therapists who where

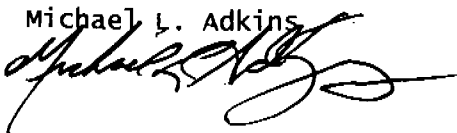
quiet dangerous and really didnt know, nor knew what to expect to do in bad situations. If you need to contact me for any more questions or comments on this topic,

please feel free to contact me at anytime at 304-887-2287 or email me at michael_leea@hotmail.com: Always remember as being Respiratory Therapist practitioners,

it is not what people call us, it is what we answer to.

Thank you,

Michael L. Adkins





State of West Virginia
Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311

Joe Manchin III
Governor

Phone: 304-558-1382
Facsimile: 304-558-1383

July 26, 2007

Hollie A. Hite, RRT, AE-C
10 Devin Lane
Morgantown, WV 26508

Dear Ms. Hite

Thank you for taking the time to respond to the proposed legislative rule to allow respiratory care student work permits. The Board appreciates your input.

I would like to address each area of concern in your letter;

2.3: The decision of 30 semester hours and 200 hundred clinical hours was determined after review of several program curriculums and input from faculty at WV Northern Community College and Fairmont State College. By the time a student completes 30 hours in a respiratory care program and 200 clinical hours they will have completed sufficient training to provide simple oxygen setups and nebulizer treatment as well as the ability to perform such tasks as equipment cleaning, equipment rounds, and similar duties. There is no intent by the Board to allow a student with a work permit to perform complex respiratory tasks such as mechanical ventilation, or management of patient care by protocol.

2.4: The Board will provide forms to be completed by the program director of the respiratory care program and also signed by a school administrator stating the student has successfully completed both the didactic and clinical requirements equal to the first year of curriculum. The Board will amend the rule to specify a minimum of 18 of 30 hours will be respiratory care didactic classes. The Board is modeling this permit to be similar to those licensed states with like permits.

2.5: In discussion with the schools and by review of curriculum if a student is enrolled in 9 hours of a respiratory care curriculum this will include clinical rotations. The Board will specify that the student must be successfully completing their didactic and clinical rotations to maintain the permit.

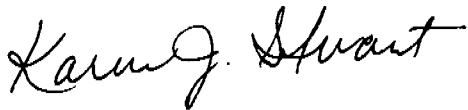
Hollie Hite
July 26, 2007
Page Two

2.6: The concept of a work permit for students is to allow the student with demonstrated competencies the opportunity to become employed in respiratory care to alleviate work force shortages and to act as a recruitment tool to keep graduates in the State of West Virginia after graduation. A student with a work permit in the State of West Virginia will not be allowed to use worked paid hours as part of the hours required by the school to fulfill the requirements for graduation. This will be clarified in the application process and with some adjustment in language in the final rule.

The Board is opposed to allowing a graduate a temporary permit, as it is possible for a student to take the minimal entry licensing examination immediately upon graduation and in some cases prior to graduation. The intent of this rule is to provide strict supervision of a student with a work permit.

The Board is committed to providing the citizens of the State of West Virginia with safe, competent respiratory care.

For the Board,

A handwritten signature in cursive script that reads "Karen J. Stewart".

Karen J, Stewart, MS, RRT, LRTR, FAARC
Chairperson

July 12, 2007

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WV Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311

To Whom It May Concern:

I would like to comment on the proposed legislation regarding the Student Temporary Permit for respiratory therapy students.

I disagree with the proposed legislation in several areas:

1. Sect 2.3 - This section allows students in their first year of education to practice as a respiratory care practitioner. Usually the first year of instruction includes basic courses such as English, Computers, Sociology and Psychology classes, none of which pertain to actual practice as a respiratory therapist. Also, 200 clinical hours is a minimum of one semester of clinics in which students are generally "exposed" to respiratory care practice and not actually taught the more complex and invasive areas of the field.
2. Sect 2.4 - In this section it is stated that "completed clinical practice shall only include those competencies approved by the board..." It does not state that the student has to have passed all or a portion of those competencies. Does this allow a student to practice a competency approved by the board, but not passed by didactic testing? The wording is very vague and can be misconstrued.
3. Sect 2.5 - This section allows a student to be enrolled in just 9 semester hours in a respiratory care curriculum. I feel that just being enrolled in classroom hours is not enough to warrant a continuation of a work permit. The student **SHOULD be enrolled in specifically at least one CLINICAL course** to be actively learning and performing clinical competencies at a satisfactory level as documented by the director of the respiratory care program
4. Sect. 2.6 - This is the most alarming section of the entire proposal. I feel that the supervising employee should be with the student enhancing their education not just providing a pay check and should be **practicing WITH the student rather than just on the premises**. If as a therapist with a student practitioner I am involved in a situation with a patient where I am too busy to supervise I feel that the student should be with me in this situation where they can learn direct patient care and complexities of dealing with patients, staff, and family members.

I am completely opposed to this ruling, however if the majority rules I would prefer to see a few of the changes listed above. In lieu of a student temporary permit I would prefer to see a ***graduate temporary permit*** allowing graduates of an accredited respiratory program to work while they are studying for the national board exam and their licensure.

2 of 2 Hollie Hite

I understand the lack of therapists available, however I would prefer to see completely trained therapists working while they study for licensure rather than students that may or may not be adequately trained. There is a big difference in a therapist that can perform in the patient care setting and a therapist that can pass a test. A student with good grades may not necessarily be good at patient care. I think there are other ways of training students and getting the help we need in health care facilities. I'm afraid this will lead to basically paying students for clinical hours which doesn't make for better learning or patient care.

Thank you for your time and allowing comments on the ruling.

Sincerely,

Hollie Hite RRT, AE-C

Hollie A. Hite, RRT, AE-C
10 Devin Lane
Morgantown, WV 26508
304-291-0759

whites@wvnet.com



State of West Virginia

Board of Respiratory Care

106 Dee Drive, Suite 1

Charleston, WV 25311

Joe Manchin III
Governor

Phone: 304-558-1382
Facsimile: 304-558-1383

July 26, 2007

Kent La Forme
Director Clinical Support/ Rehab Services
Ohio Valley Medical Center
2000 Eoff St
Wheeling, WV 26003

Dear Mr. LaForme,

Thank you for taking the time to respond to the proposed legislative rule to allow respiratory care student work permits. The Board appreciates your input.

Please be assured the Board will provide a mechanism to assure that any student with a work permit will have successfully completed competencies required and will be demonstrating success progression in their education or their permits will not be renewed.

The Board is committed to providing the citizens of the State of West Virginia with safe, competent respiratory care.

For the Board,

A handwritten signature in cursive script that reads "Karen J. Stewart".

Karen J, Stewart, MS, RRT, LRTR, FAARC
Chairperson



OHIO VALLEY MEDICAL CENTER

2000 Eoff Street
Wheeling, WV 26003

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JUL 16 2007
W.V. BORC

July 11, 2007

WV Board of Respiratory Care
106 Dee Drive, Suite 1
Charleston, WV 25311

To: Board Members of Respiratory Care

This correspondence is to signify my support of student temporary permits. My opinion is that students should be allowed temporary permits for establishment of work privileges. As stated, certain specific clinical competencies must be proven prior to the provision of said privilege, which should be the responsibility of the student's specific program. In addition, I support this work concept under the supervision of a licensed respiratory therapist as licensed in the State of West Virginia.

Respectfully submitted,

Kent LaForme, Director
Clinical Support/Rehab Services
OVMC
Wheeling, WV 26003