

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

Form #7

Do Not Mark In This Box
Filing Date

2008 JUN 11 PM 12:57

SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: WV BOARD OF RESPIRATORY CARE TITLE NUMBER: 30

CITE AUTHORITY: 30-34-6a & 30-34-9

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: 9

TITLE OF RULE BEING PROPOSED: STUDENT TEMPORARY PERMITS

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:

To allow upcoming school term's students to work under this proposed student temporary permit. New school term commencing in August. HB4036 dated 3/17/08 does not go into effect until this rule has been approved in order to protect the public. Public misinterpretation of the effective date of the amendment may inadvertently place patients in the care of unregulated students.

Use additional sheets if necessary

Jack E. Wilson
Authorized Signature

Jack E. Wilson

BRIEF SUMMARY OF PROPOSED RULE 9 – STUDENT TEMPORARY PERMITS

This proposed rule sets forth the guidelines for respiratory students practicing under a Student Temporary Permit (HB4036) to be issued by the WV Board of Respiratory Care. This rule is to protect and preserve the safety of patients while advancing the student's knowledge in the practice of Respiratory Care.

STATEMENT OF CIRCUMSTANCES

This rule delineates the role of respiratory students involved in delivering respiratory care. The 2008 Legislature approved amendment (HB4036) to give the WV Board of Respiratory Care the authority to issue temporary permits to students and the authority to promulgate rules for such permit holders in regard to patient safety.

EMERGENCY RULE QUESTIONNAIRE

DATE: JUNE¹¹, 2008

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

EMERGENCY RULE TITLE: STUDENT TEMPORARY PERMITS

1. Date of filing JUNE¹¹, 2008

2. Statutory authority for promulgating emergency rule:
30-34-6a & 30-34-9

3. Date of filing of proposed legislative rule: JUNE¹¹, 2008

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? 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.
~~The WV Board of Respiratory Care has received increased public pressure to set the rules in place to allow for the upcoming school term's students to work under this proposed student temporary permit. The 2008 Legislature approved this amendment to our statute stating it did not go into effect until the board had set the rules. (30-34-9.E; HB4036 Dated 3/7/08). Public misinterpretation of the effective date may inadvertently place students in health care facilities without regulations to protect the safety of patients.~~

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: JUNE 11, 2008

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: _____
STUDENT TEMPORARY PERMITS

1. Authorizing statute(s) citation _____
30-34-6a & 30-34-9

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 11, 2008

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

c. Date of Public Hearing(s) *or* Public Comment Period ended:
JUNE 11, 2008 THRU JULY 14, 2008

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)

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

JACK E. WILSON, CHAIRMAN
WV BOARD OF RESPIRATORY CARE
106 DEE DRIVE, SUITE 1
CHARLESTON, WV 25311
304-558-1382
304-558-1383 (FAX)

NANCY MASSEY, EXECUTIVE SECRETARY (SAME AS ABOVE)

- 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)

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:

June 11, 2008 - July 14, 2008

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

d. Attach findings and determinations and reasons:

Attached _____

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Student Temporary Permits

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 of this measure is the addition of .025 staff = 5,000.00 annually.
 The projected revenue is 7,500.00 annually.

The WV Board of Respiratory Care is a "Special" Appropriated Fund being totally self-suppo.

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	0.03	1.25
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: Student Temporary Permits

Rule Title: Student Temporary Permits

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 annual revenues by 7,500.00

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.

Date: June 11,
July, 2008

Signature of Agency Head or Authorized Representative

Jack E. Wilson
Jack E. Wilson

TITLE 30
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF RESPIRATORY CARE
SERIES 9 - STUDENT TEMPORARY PERMIT

2000 JUN 11 PM 12:58

30-34-9.1 General

1.1 Scope - this legislative rule establishes the temporary permit process, fees and practice limitations for students enrolled in accredited respiratory care schools.

1.2 Authority - WV Code 30-34-6 and 30-34-9

1.3 Filing Date -

1.4 Effective Date -

30-34-9.2 Application for Student Temporary Permit

2.1 An applicant for student temporary permit shall file with West Virginia Board of Respiratory Care a signed permit application form and shall pay an initial six (6) month permit application fee of seventy-five dollars (\$75.00).

2.2 The applicant must 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.

2.3 The applicant must request an official transcript indicating completion of the first year of the respiratory care program or a minimum of 35 semester hours or the quarter hour equivalent.

2.4 The applicant must provide documentation from the program director indicating clinical competencies completed indicating successful completion of tasks by didactic testing and clinical observation by school faculty.

2.5 Upon expiration of initial six (6) month 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 taking a minimum of 9 satisfactory semester hours in respiratory care curriculum.

30-34-9.3 Practice Limitations for the Student Temporary Permit holder.

3.1 The following procedures, approved by the Board, may be assigned to a student temporary permit holder if the permit holder has demonstrated the completion

and competence of such tasks in the documentation from the school facility:

- a) Set up and maintenance of low flow oxygen devices of 6 LPM or less to include nasal cannula or a simple mask.
- b) Set up and maintenance of aerosol devices with FiO₂ of equal to or less than 50%.
- c) Delivery of medications through a spontaneous small volume nebulizer.
- d) Medication delivery via Metered Dose Inhaler or Dry Powder Inhaler.
- e) Measurement of peak flow.
- f) Measurement of simple spirometry.
- g) Measurement of pulse oximetry.
- h) Use of the following airway clearance devices or techniques: therapy vest, chest physiotherapy, incentive spirometry, suctioning via artificial airway, and positive expiratory pressure therapies.
- i) Cardiopulmonary Resuscitation after Basic Life Support Certification.

3.2 A holder of the student temporary permit must work under the supervision of a licensed respiratory therapist certified or registered. The licensed respiratory therapist must be present in the facility where the holder of the student temporary permit is working. Direct observational supervision is not required but the licensed respiratory therapist must be available in the event of an emergent need and act as source of reference for the holder of the student temporary permit.

3.3 A holder of the student temporary permit is not allowed to perform procedures on patients requiring mechanical ventilation, or on patients in any critical care situation or environments, such as: emergency rooms, intensive care units, post anesthesia care units.

3.4 Mass casualty situations are permitted if the student permit holder has received the proper training and supervised directly by a licensed respiratory therapist.

3.5 A holder of the student temporary permit is strictly prohibited from performing positive pressure procedures such as: Intermittent Positive Pressure Breathing, Bi-Level, Continuous Positive Airway Pressure devices.

3.6 A holder of the student temporary permit is strictly prohibited from performing any procedure which is not written within this rule.