

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

Form #3

Do Not Mark In This Box

FILED

2008 JUL 24 PM 12: 24

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**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: 30-34-6a & 30-34-9

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 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

## 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.

**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-supported.

**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.

<b>FISCAL YEAR</b>			
<b>Effect of Proposal</b>	<b>Current Increase/Decrease (use "--")</b>	<b>Next Increase/Decrease (use "--")</b>	<b>Fiscal Year (Upon Full Implementation)</b>
<b>1. Estimated Total Cost</b>		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			
<b>2. Estimated Total Revenues</b>	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: July , 2008

Signature of Agency Head or Authorized Representative

Jack E. Wilson

**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 24, 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 25305  
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?  
Mailing to all current licensees, health care facilities, and educational institutions

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 14, 2008 4:00pm

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

Attached 1 - Lisa Wood No comments received \_\_\_\_\_

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

July 24, 2008

- 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 Wilson, President or Nancy J. Massey, Ex Secretary

WV Board of Respiratory Care

106 Dee Drive, Suite 1

Charleston, WV 25311

304-558-1382

~~304-558-1383 Fax~~

massen@wvnet.edu (email)

- 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 thru July 14, 2008 4:00pm

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

July 24, 2008

d. Attach findings and determinations and reasons:

Attached

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

FILED

**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 and a simple mask.
- b) Set up and maintenance of aerosol devices with FiO<sub>2</sub> 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.

2008 JUL 21 PM 12:24  
OFFICE OF THE CLERK  
WEST VIRGINIA  
SECRETARY OF STATE

**Jack E. Wilson, President  
State of West Virginia  
Board of Respiratory Care  
106 Dee Drive, Suite 1  
Charleston, WV 25311**

**RECEIVED**

**JUL 02 2008**

**W.V. BORC**

**Dear Jack Wilson,**

I am very much against students obtaining a temporary permits. I believe hospitals will use these students for additional coverage of needed positions instead of hiring required and licensed RT's. The policies are good in theory, however hospitals are currently decreasing staff while patient load is continuing to increase. I feel the quality of healthcare in Respiratory Therapy will be in serious jeopardy if these student permits become legal.

**Lisa Wood, LRT**

**Lisa Wood, LRT  
PO Box 37  
Lester, WV 25865**



***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 14, 2008

Lisa Wood, LRTR  
P O Box 37  
Lester, WV 25865

Dear Ms. Wood,

The West Virginia Board of Respiratory Care is confirming the receipt of your letter in regards to the proposed Rule 9 for Student Temporary Permits. We would like to address your concerns for the quality of respiratory care provided by the students and the issue of hospitals using students instead of hiring Licensed Respiratory Therapists.

First, proposed Rule 9 prevents students from practicing until they have completed their first year of a respiratory care program or a minimum of 35 semester hours. A student must have a signed affidavit from their school as to their competency in performing the proposed allowed procedures. Further, a student permit holder will be required to work under the supervision of a licensed respiratory therapist and will be restricted to performing only procedures which are outlined in the rule.

Secondly, more in depth and critical respiratory care procedures must continue to be performed by a Licensed Respiratory Therapist. Our current statute; 30-34-1, the Joint Commission, and the healthcare facility's own concern for liability will prevent the continued use of students as a replacement for Licensed Respiratory Therapist. This rule resulted from the ongoing concern of educational facilities and hospitals located on or near the borders of West Virginia. These institutions have been allowing West Virginia residents who are enrolled in Respiratory Care Programs to perform clinical rotations at their facilities only to lose them to other facilities in our surrounding states which already issue Student Temporary Permits.

In the recent two years, two new Respiratory Care Programs have opened in the State of West Virginia. One located at Fairmont State University and the other is Southern West Virginia Community College. There is a definite need for more respiratory therapists in our state. We currently have 1,404 licensed therapists and 428 (or 30%) live out of state, but work in West Virginia. The new programs will be graduating an average of 65 students per year and we must do everything possible to retain those students to live and work in our state. Many hospitals are currently utilizing "travelers" to fulfill a shortage of Respiratory Therapists.

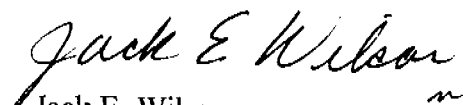
July 14, 2008  
Ms. Lisa Wood  
Page Two

The intent of Rule 9 is to (1) enhance a student's knowledge; (2) retain graduating students in West Virginia; (3) allow advanced respiratory students to earn income for offsetting their educational expenses.

Please be assured that the West Virginia Board of Respiratory Care, in cooperation with the student's educational institution, will do everything possible to ensure these students are providing safe and quality healthcare for the citizens of West Virginia.

The board would like to thank you for your correspondence and trusts that we have been able to address your concerns satisfactorily.

For the Board,

A handwritten signature in cursive script that reads "Jack E. Wilson". The signature is written in dark ink and is positioned above the printed name and title.

Jack E. Wilson  
President

JEW/nm