

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

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SECRETARY OF STATE

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

AGENCY: West Virginia State Board of Examiners for Licensed Practical Nurses TITLE NUMBER: 10

CITE AUTHORITY: WV Code 30-1-7a

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Continuing Competence

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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

WEST VIRGINIA STATE BOARD OF EXAMINERS FOR
LICENSED PRACTICAL NURSES

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April 26, 2013

Ms. Judy Cooper
Administrative Law Division
Office of the Secretary of State
Building 1 Room 157-K
1900 Kanawha Boulevard, E.
Charleston, West Virginia 25311

Dear Ms. Cooper:

Enclosed please find required documentation for the filing of a Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee. A Comment Period regarding proposed revisions to Legislative Rules 10 C.S.R. 6, Continuing Competence. No comments were received. The West Virginia State Board of Examiners for Licensed Practical Nurses has approved said Rule during its meeting on February 7, 2013.

If any problems exist with what is submitted herein, please feel free to contact me. Your assistance is greatly appreciated.

Very truly yours,

Lanette L. Anderson, MSN, JD, RN
Executive Director

LLA/a

Enclosures:

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: April 22, 2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia State Board of Examiners for Licensed

Practical Nurses

LEGISLATIVE RULE TITLE: Continuing Competence

1. Authorizing statute(s) citation WV Code 30-1-7a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
March 1, 2013

b. What other notice, including advertising, did you give of the hearing?
Full text of proposed changes to Rules posted on Board Website

c. Date of Public Hearing(s) *or* Public Comment Period ended:
April 12, 2013

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

Attached _____ No comments received X

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

April 22, 2013

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

Lanette L. Anderson, MSN, JD, RN Executive Director
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- 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.

N/A

b. Date of hearing or comment period:

March 11, 2013 to April 12, 2013

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 _____

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TITLE 10
LEGISLATIVE RULES
WEST VIRGINIA STATE BOARD OF EXAMINERS
FOR LICENSED PRACTICAL NURSES

SERIES 6 - CONTINUING COMPETENCE

SUMMARY OF PROPOSAL

Proposed changes to this Rule include language from HB 4037 which passed during the 2012 Legislative Session. This language specifies the requirements for the Board regarding licensure and continuing competence requirements for individuals who serve in the military and their spouses.

WEST VIRGINIA STATE BOARD OF EXAMINERS FOR
LICENSED PRACTICAL NURSES

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TITLE 10
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WEST VIRGINIA STATE BOARD OF EXAMINERS
FOR LICENSED PRACTICAL NURSES

SERIES 6 - CONTINUING COMPETENCE

STATEMENT OF CIRCUMSTANCES REQUIRING RULE

Proposed changes to this Rule cause the language to be consistent with HB 4037 which was passed during the 2012 Legislative Session.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Continuing Competence

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia State Board of Examiners for Licensed Practical Nurses

Address: 101 Dee Drive, Suite 100
Charleston, WV 25311

Phone Number: 304-558-3572 Email: Lanette.L.Anderson@wv.gov

Fiscal Note Summary

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

Proposed changes to this Rule will have no impact on costs and revenues of state government.

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	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Continuing Competence

Rule Title: _____

Rule Title: _____

- 3. Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

The proposed change will not provide any revenue to the Board.

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.

Please see above comment.

Date: April 26, 2013

Signature of Agency Head or Authorized Representative

Larelle L Anderson

10 CSR 6

TITLE 10
LEGISLATIVE RULES
STATE BOARD OF EXAMINERS
FOR LICENSED PRACTICAL NURSES
SERIES 6
CONTINUING COMPETENCE

§10-6-1. General.

1.1. Scope. -- This legislative rule establishes requirements for continuing competence to practice practical nursing. They set forth both continuing education requirements and minimum practice requirements.

1.2. Authority. -- WV Code §30-7A-5

1.3. Filing Date. --

1.4. Effective Date. --

§10-6-2. Definition of Terms. Continuing Competence

2.1. "Approved provider" means a local, state or national agency, organization or association recognized by the board.

2.2. "Audit" means the selection of licensees for verification of satisfactory completion of continuing education and practice requirements during a specified time period; or the selection of approved providers for verification of adherence to continuing education approved provider requirements during a specified time period.

2.3. "Continuing education" means planned, organized learning activities engaged in following initial licensure that is designed to maintain, improve, or expand a practical nurses' knowledge and skills or to develop new knowledge and skills related to nursing to enhance practice, education, or theory development to the end of improving the health of the public.

2.4. "Practical nursing practice" means performance of nursing acts under the direction of a registered nurse, licensed physician or licensed dentist, for which a license to practice is required.

2.5. "Formal offering" means an extension course, independent study, or other course which is offered, for college credit, by a recognized educational institution.

2.6. "Informal offering" means a workshop, seminar, institute, conference, lecture, short term course, or organized independent study which is offered for credit in contact hours or continuing education units.

2.7. "Independent study" means a program of learning designed by an approved provider for the practical nurse who completes the program at the individual's pace, e.g., home study, programmed instruction.

2.8. "Self study" means a program of learning designed by the licensee to enhance knowledge and skill and not approved as a continuing education activity for nurses.

§10-6-3. Continuing Competence - a Prerequisite for Renewal

3.1. Continuing Competence

3.1.a. Continuing Education Requirements

3.1.a.1. Each applicant for renewal of a license, if the license is currently active, or reinstatement of a license if a license is lapsed or on the non-practicing list, shall verify that he or she satisfactorily completed twenty-four (24) contact hours of continuing education during the prescribed two (2) year reporting period.

3.1.a.2. Units of measurement used for continuing education courses are:

3.1.a.2.A. 1 contact hour = 50 minutes of instruction

3.1.a.2.B. 1 contact hour = 50 minutes of clinical or laboratory practice in an informal offering

3.1.a.2.C. 1 continuing education unit (CEU) = 10 contact hours of instruction

3.1.a.2.D. 1 academic semester hour = 15 contact hours of instruction

3.1.a.2.E. 1 academic quarter hour = 10 contact hours of instruction

3.1.a.3. Each licensed practical nurse with an active license to practice practical nursing shall complete twenty four (24) contact hours of continuing education, as approved by this rule. On or before June 30, in each even numbered year each licensed practical nurse shall file a report of his or her continuing education activities with the board at the time the licensee files an application for renewal of his or her license.

3.1.a.4. The board shall not grant credit for identical continuing education activities submitted during any single two (2) year reporting period. The

board shall not accept continuing education credits from a previous two (2) year reporting period, nor shall credits be accumulated for use in a future two (2) year reporting period.

3.1.b. Practical Nursing Practice Requirements

3.1.b.1. Each applicant for renewal of a license, if the license is currently active, or reinstatement of a license, if the license is lapsed or on the non-practicing list, shall verify that he or she engaged in four hundred (400) clock hours of practical nursing practice within the prescribed two (2) year reporting period.

3.1.b.2. Each licensed practical nurse with an active license to practice practical nursing shall engage in a minimum of four hundred (400) clock hours of practical nursing practice, as approved by this rule. On or before June 30, in each even numbered year, each licensed practical nurse shall file a report certifying that he or she has met the minimum practical nursing practice requirements, at the time the licensee files the application for renewal of his or her license.

3.1.c. The board shall exempt from the continuing competence requirements a licensee who qualifies for exceptions set forth in this subdivision.

3.1.c.1. A licensee who obtains a license for the first time in West Virginia during the first twelve months of any twenty-four (24) month reporting period shall complete twelve (12) contact hours in approved continuing education activities, as set forth in this rule, before the end of the current reporting period. A licensee who obtains a license for the first time in West Virginia during the second twelve (12) months of any twenty-four (24) month reporting period is exempt from the continuing education requirements for the entire reporting period.

3.1.c.2. A licensee who obtains a license for the first time in West Virginia during the first twelve months of any twenty-four (24) month reporting period shall engage in two hundred (200) clock hours of practical nursing practice, as set forth in this rule, before the end of the current reporting period. A licensee who obtains a license for the first time in West Virginia during the second twelve (12) months of any twenty-four (24) month reporting period is exempt from the minimum practice requirements for the entire reporting period.

3.1.c.3. A licensee who is enrolled, full time, in an educational program leading to an associate degree, diploma, or baccalaureate degree in nursing has complied with all continuing competence requirements.

3.1.c.4. A licensee who is a government employee working as a licensed practical nurse and

~~assigned to duty outside the United States during the entire reporting period, or who is serving on active duty in the military during the entire reporting period has complied with the all continuing competence requirements during the period of service with the government or on active duty with the military. A licensee who claims this exception shall retain evidence of Government service or active duty with the military and shall present this evidence to the board upon request. A licensee who is a government employee working as a licensed practical nurse outside the United States or who is serving on active duty with the military for more than three (3) months, but less than twelve (12) months of any twenty four (24) month reporting period shall complete twelve (12) contact hours of approved continuing education activities and engage in two hundred (200) clock hours of practical nursing practice, as set forth in this rule, before the end of the current reporting period. A licensee who is a government employee working as a licensed practical nurse outside the United States or who is serving on active duty with the military for more than twelve (12) months of any twenty four (24) month reporting period is exempt from the continuing education requirements and the minimum practical nursing practice requirements for the entire reporting period.~~

During periods when the licensee is on active duty as a member of the Armed Forces of the United States, the National Guard of this state or any other state, or any other military reserve component and deployed outside of this state, and for six months after discharge from active duty, the license shall continue in good standing and shall be renewed without meeting continuing education requirements for the license when circumstances associated with military duty prevent the individual from obtaining the required continuing education.

The licensee shall submit a waiver request to the board, informing the board of circumstances which include, but are not limited to, deployment outside of the United States or in any combat area and verify that the individual performs as a licensed practical nurse as part of his or her military duties as annotated in Defense Department Form 214 (DD214).

During periods when the licensee is accompanying his or her spouse who is on active duty as a member of the Armed Forces of the United States, the National Guard of this state or any other state or any other military reserve component and deployed outside of this state, and for six months after discharge from active duty, the license shall continue in good standing and shall be renewed without meeting continuing education requirements for the license when circumstances associated with accompanying a spouse on military duty prevent the individual from obtaining the required continuing education.

The licensee shall submit a waiver request to the board informing the board of these circumstances which include, but are not limited to, deployment outside of the United States or in any combat area.

3.1.c.5. The board may grant a waiver to a licensee who has a physical or mental disability or who is providing direct care to a member of his or her immediate family during all or a portion of the two (2) year reporting period. A waiver provides for an extension of time or exception for some or all of the continuing competence requirements. Any licensee may request an application for waiver from the board. The board shall approve or deny an application for waiver after review of the application. The board shall not grant an exception from continuing competence requirements for more than one (1), two (2) year reporting period, as set forth in this rule.

3.1.d. The board may take the following actions if a licensee fails to meet the continuing competence requirements or the conditions for exceptions for renewal set forth in subdivision 3.1.a., 3.1.b., and 3.1.c. of this section.

3.1.d.1. The board may place the license on non-practicing status without penalty and may waive the continuing competency requirements, providing that the licensee notifies the board in writing of his or her desire to have the board place his or her license on non-practicing status before the last day of the reporting period. The board shall not charge a fee to place the license on non-practicing status; or,

3.1.d.2. The board shall lapse the license of any person who fails to notify the board, in writing, prior to the last day of the reporting period that he or she wishes to place his or her license on the non-practicing

3.1.e. Reinstatement of a license on non-practicing or lapsed status or issuance of a limited license.

3.1.e.1. A person wishing to reinstate a license from non-practicing status or from lapsed status shall comply with the following requirements. The person shall:

3.1.e.1.A. make application for reinstatement of the license from non-practicing status or lapsed status;

3.1.e.1.B. meet the continuing competence requirements set forth in this rule; and

3.1.e.1.C. Pay the fee for reinstatement of non-practicing or lapsed license as specified in West Virginia State Board of Examiners for Licensed Practical Nurses Rules, Fees for Services Rendered by the Board, 10 CSR 4.

3.1.e.2. A person who wishes to reinstate a license but is not able to meet requirements for reinstatement of a non-practicing or a lapsed license shall request a limited license.

3.1.e.2.A. A limited license is a license which is valid for ninety (90) days, during which time the licensee shall:

3.1.e.2.A.1. satisfactorily complete a refresher course of at least eighty (80) clock hours of theory and eighty (80) clock hours of clinical practice recognized by an approved provider and designed for practical nurses returning to practice after a period of absence from the work setting; or

3.1.e.2.A.2. engage in a minimum of two hundred (200) clock hours of practical nursing practice under the direct supervision of a qualified supervisor and secure twelve (12) contact hours of continuing education.

3.1.e.2.B. The board shall issue a fully reinstated license when a licensee provides verification that he or she meets one of the requirements in paragraph 3.1.e.2.A of this section.

3.1.e.2.C. The board shall not renew a limited license issued for non compliance with continuing competence requirements.

3.1.e.2.D. A licensee who does not meet requirements provided under this section for limited license within the ninety (90) day licensure period is required to meet the full continuing competence requirements in subdivision 3.1.a and 3.1.b of this rule or is required to pass the national licensure examination for practical nurses which tests competency for beginning practical nursing practice.

3.2. The board may select any licensee who holds a current license to audit for compliance with continuing competence requirements.

3.2.a. To comply with the audit request from the board, a licensee shall submit legible copies of certificates of attendance at continuing education offerings, transcripts of courses taken, notices received from the board granting special approval of informal offerings from non-approved providers, and the name, telephone number and mailing address of his or her employer to verify practical nursing practice. The board may require the licensee to submit a job description to verify his or her employment in a nursing position which meets the requirements of paragraph 3.1.b.1. of this rule.

3.2.b. The licensee shall submit the required documents within thirty (30) days of the date he or she received notification of the audit. The board may

grant an extension of time for submission of the documents, on an individual basis, in cases of hardship, if the licensee makes a written request for an extension of time and provides justification for the request.

3.2.c. Licensees shall keep certificates of attendance at continuing education offerings, letters verifying special approval for informal offerings from non-approved providers, transcripts of courses, and documentation of compliance with exceptions for a two (2) year period following submission of continuing education activities to the board.

3.2.d. The board shall notify the licensee of the satisfactory completion of the audit.

3.2.e. If a licensee fails to submit the audit information requested by the board or meet the standards in subdivision 3.1.a. or 3.1.b. of this rule, the board may institute disciplinary proceedings and shall not renew a license before the audit is completed.

3.2.f. The board shall take action as prescribed in West Virginia State Board of Examiners for Licensed Practical Nurses Rule, Policies Regulating Licensure of the Licensed Practical Nurse, 10 CSR 2, against any licensee who submits false information to the board.

3.2.g. A licensee who fails to notify the board of a current mailing address is not absolved from the audit requirements. The board shall not renew a license before the audit is completed.

§10-6-4. Continuing Education - Providers

4.1. The Board shall recognize as an approved provider, an agency which meets the minimum provider standards in subdivision 4.2.a. through 4.2.g. of this rule. Approved providers include, but are not limited to:

- American Red Cross - State Affiliates
- Boards of Nursing - United States and Territories
- Commission on Aging
- Licensed Practical Nurses Association of West Virginia
- Medicare and Medicaid Certified Long Term Care Facilities
- National Association for Practical Nurse Education and Service
- National Federation of Licensed Practical Nurses
- National League for Nursing – State Affiliates
- North Ctrl Association of Colleges and Secondary Schools
- West Virginia Council of Home Health Agencies
- West Virginia Department of Education
- West Virginia Department of Health

- West Virginia Health Care Association
- West Virginia Hospital Association
- West Virginia Nurses Association
- West Virginia Vocational and Technical Education Centers

Other West Virginia health-related licensing boards

Other national, regional, or state nursing, medical, or allied health organizations

4.1.a. The board shall accept courses and programs provided by accredited schools, colleges or universities and programs offered by institutions accredited by the Joint Commission on Accreditation of Health Care Organization or the American Association of Osteopathic Hospitals as well as facilities and agencies certified to receive Medicare and Medicaid reimbursement.

4.1.b. The Board shall consider written requests to designate other local, state or national agencies, organizations and associations as approved providers.

4.1.c. The board shall maintain a current list of approved providers which shall be available to the public upon request. The board shall notify in writing a provider who fails to meet the minimum acceptable standards, of specific deficiencies and give a reasonable period of time to correct deficiencies. The board may remove an approved provider from the list of approved providers who does not correct deficiencies within the specified time period.

4.2. Minimum Standards for Approved Providers

4.2.a. The duration of the activity shall be at least one (1) contact hour.

4.2.b. The provider shall prepare written objectives, in measurable terms, which describe what a licensee can expect to learn.

4.2.c. The program content shall relate to the program objectives.

4.2.d. The provider shall furnish the instructor's qualifications in the subject areas to be taught to the participant, in writing.

4.2.e. The provider shall establish a written method to determine whether the participant has achieved the stated objectives of the activity. Methods may include but are not limited to self-evaluation check lists or tests.

4.2.f. The provider shall furnish a written statement of completion to each participant who satisfactorily completes each continuing education activity which is signed by the instructor or an individual designated by the instructor.

4.2.g. The provider shall maintain a record of individuals who attend a continuing education activity for a period of not less than four (4) years.

4.3. Independent Study

4.3.a. Independent study activities may include educational television, audio cassettes, and printed media, designed as programmed learning units.

4.3.b. Contact hour equivalents for approved independent study shall be based on contact hours approved by the approved provider.

4.4. Self Study

4.4.a. Self study, may include activities which the licensee determines will enhance his or her skills and knowledge of nursing, such as reading professional journals, watching educational television and listening to audio cassettes that are not designed as programmed learning units, and are not approved by an approved provider.

4.4.b. The board shall base contact hour equivalents for self study on the actual time spent by the licensee.

4.4.c. The board shall permit credit of a total of five (5) contact hours of self study toward the continuing education requirement for any two (2) year reporting period.

4.5. Continuing Education Subjects

4.5.a. Continuing education offerings shall reflect the educational needs for the licensee in order to meet the health care needs of the consumer and may consist of one or more of the following subject areas:

4.5.a.1. Nursing practice areas and special health care problems;

4.5.a.2. The biological, physical, social and behavioral sciences;

4.5.a.3. The legal aspects of health care;

4.5.a.4. Management of health care personnel and patient care;

4.5.a.5. Teaching and learning process for health care personnel and patients; and

4.5.a.6. Subjects relating to nursing practice which are required as part of a formal nursing program and which are more advanced than those completed for original licensure.

4.5.b. The following activities are not acceptable for continuing education credit:

4.5.b.1. job related clinical practice;

4.5.b.2. development and presentation of programs as part of the licensee's on-going job responsibilities;

4.5.b.3. orientation and update of policies and procedures specific to the licensee's employing facility; and

4.5.b.4. activities which are part of a licensee's usual job responsibility.