



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/11/2016 3:12:38 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY **Sanitarians**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **20-04**
RULE NAME **Practice of Public Health Sanitation**

CITE AUTHORITY **§30-17-6**

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 20-04



Rule Id: 10191



Document: 28806



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY Sanitarians
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 20-04
RULE NAME Practice of Public Health Sanitation

CITE AUTHORITY §30-17-6

PRIMARY CONTACT

Lloyd R White
300 Second Street

Fairmont, STATE ZIP

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AUTHORIZING STATUTE(S) CITATION
§30-17-6

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Friday, July 01, 2016

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?
Mr. John Law sent an email to key stakeholders advising that the rule was out for public comment.

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Monday, August 01, 2016

Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

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CITE AUTHORITY **§30-17-6**

ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

No comments received

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Thursday, August 11, 2016

**Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 3)

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RULE NAME **Practice of Public Health Sanitation**

CITE AUTHORITY **§30-17-6**

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. 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.

Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

AGENCY **Sanitarians**
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RULE NAME **Practice of Public Health Sanitation**

CITE AUTHORITY **§30-17-6**

DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
**Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Sanitarians
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RULE NAME Practice of Public Health Sanitation

CITE AUTHORITY §30-17-6

PRIMARY CONTACT

Lloyd R White
300 Second Street

Fairmont, STATE ZIP

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CITE AUTHORITY **§30-17-6**

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

It will have 0 cost to state government.

Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

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CITE AUTHORITY **§30-17-6**

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
--------------------	--	---------------------------------------	---

**ESTIMATED
TOTAL COST**

PERSONAL SERVICES

CURRENT EXPENSES

**REPAIRS AND
ALTERATIONS**

ASSETS

OTHER

**ESTIMATED
TOTAL REVENUES**

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CITE AUTHORITY **§30-17-6**

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.

Rule will not have an impact because it deals only with late fees charged to registrants.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Sanitarians**
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RULE NAME **Practice of Public Health Sanitation**

CITE AUTHORITY **§30-17-6**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

The proposed rule extends by 60 days the time a person applying for renewal of a permit, certificate, or license must show proof of having completed 15 hours of Board approve continuing education within the prior calendar year. The rule also simplifies the requirements for passing an examination, noting "The Board shall accept a passing score of 70% on the Registered Sanitarian Proficiency Examination.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Lloyd R White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 20-04



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TITLE 20
LEGISLATIVE RULE
STATE BOARD OF SANITARIANS

SERIES 4
THE PRACTICE OF PUBLIC HEALTH SANITATION

§20-4-1. General.

1.1. Scope. -- This rule sets forth standards for the regulation and conduct of members, records, applications and examinations for persons employed as public health sanitarians. This rule is binding upon persons applying and registered under W. Va. Code §30-17-1, et seq. and is applicable to individuals practicing public health sanitation and holding a permit, certificate or license of authorization.

1.2. Authority. -- W. Va. Code §30-17-6.

1.3. Filing Date. -- ~~March 31, 2014.~~

1.4. Effective Date. -- ~~April 30, 2014.~~

1.5. Applicability. -- This rule applies to all applicants for permit, certificate or license to practice public health sanitation in this state.

§20-4-2. Definitions.

2.1. Board -- means the State Board of Sanitarians.

2.2. Bureau -- means the West Virginia Bureau for Public Health.

2.3. Certificate -- means a document issued as evidence of qualifications to practice public health sanitation under the provisions of the law and this rule.

2.4. Environmental Health Science -- means public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation and rabies control.

2.5. License -- means a document issued as evidence of knowledge ~~and the qualification to practice~~ of environmental health science and the qualifications to practice public health sanitation under this article.

2.6. NEHA -- means the National Environmental Health Association.

2.7. Permit -- means a document issued as evidence of qualification to practice as a sanitarian-in-training under this article.

2.8. PES -- means the Professional Examination Service.

2.9. Practice of Public Health Sanitation -- means the consultation, instruction, investigation, inspection or evaluation by an employee of the bureau or municipal or county health department with the primary purpose of improving or conducting administration of enforcement of state laws and rules.

2.10. Registered Sanitarian -- means a person who is licensed under the provisions of this rule who has successfully passed a national examination and who possesses the educational qualifications and experience requirements to be a Registered Sanitarian.

2.11. Sanitarian -- means a person who is certified by the board as being qualified by education in the arts and sciences, specialized training, and credible field experience to assist in the enforcement of public health laws and environmental sanitation regulations, and to effectively plan, organize, manage, evaluate and execute one or more of the many diverse disciplines comprising the field of public health sanitation.

2.12. Sanitarian-in-Training -- means a person who possesses the necessary educational qualifications as prescribed in this rule for certification as a sanitarian, but who has not completed the experience requirements in the fields of public health sanitation as required for certification.

§20-4-3. Standards and requirements for a permit, certificate or license.

3.1. Applications. A person applying to the Board for a permit, certificate or license shall submit to the Board:

- 3.1.1. A completed application on forms prescribed by the Board;
- 3.1.2. Payment to the Board of the appropriate application fee; and
- 3.1.3. Any additional documentation required by the Board.

3.2. Standards for Sanitarian-in-Training. To be eligible to be issues a permit as a sanitarian-in-training, an applicant shall:

- 3.2.1. Be of good moral character;
- 3.2.2. Be a graduate with a baccalaureate or higher degree from an accredited college or university;
- 3.2.3. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board within 12 months of being hired.
- 3.2.4. Practice as a sanitarian-in-training for a period not to exceed three years.

3.3. The Board may waive the requirements of subdivisions 3.2.c. and 3.2.d. for a person who experiences an undue hardship.

3.4. Standards for Sanitarian. To be eligible to be certified as a sanitarian, the applicant shall:

- 3.4.1. Be of good moral character;
- 3.4.2. Be a graduate with a baccalaureate or higher degree from an accredited college or university;
- 3.4.3. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board;
- 3.4.4. Have at least two years of experience in the field of public health sanitation, Provided, That an applicant may substitute a successfully completed master's or higher degree in public health,

sanitary science, environmental science, community hygiene or other science field as approved by the Board for one of the required years of experience.

3.5. Standards for Registered Sanitarian. To be eligible to be licensed as a registered sanitarian, the applicant shall:

3.5.1. Be of good moral character;

3.5.2. Be a graduate with a baccalaureate or higher degree from an accredited college or university;

3.5.3. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board;

3.5.4. Have at least two years of experience in the field of public health sanitation; Provided, That, an applicant may substitute a successfully completed master's or higher degree in public health, environmental science, sanitary science, community hygiene or other science field as approved by the Board for one of the required years of experience; and

3.5.5. Pass an examination as required by the board.

3.6. Any person holding a registration issued under a prior enactment of W. Va. Code §30-17-1, et seq., and this rule shall be eligible to renew his or her license in accordance with the provisions of this rule.

§20-4-4. Reciprocity.

4.1. The Board may issue a certificate or a license to practice environmental health science or public health sanitation in this state, without requiring an examination, to an applicant from another jurisdiction who:

4.1.1. Is of good moral character;

4.1.2. Holds a valid sanitarian license, certificate or other authorization to practice environmental health science or public health sanitation in another jurisdiction and meets requirements which are substantially equivalent to the requirements set forth in W. Va. Code §30-17-1 et seq., and this rule;

4.1.3. Is not currently being investigated by a disciplinary authority of this state or another jurisdiction, does not have charges pending against his or her license or other authorization to practice environmental health science or public health sanitation, and has never had a license or other authorization to practice environmental health science or public health sanitation revoked;

4.1.4. Has not previously failed an examination for licensure in this state;

4.1.5. Has paid all applicable fees;

4.1.6. Completes food and onsite wastewater training and any additional training as determined by the Board; and

4.1.7. Completes other action as required by the Board.

§20-4-5. Procedures for Issuance and Renewals.

5.1. Any person regulated by this rule shall renew their permit, certificate or license annually, by completing an application as prescribed in section 3.1 of this rule.

5.2. Permits, certificates and licenses expire at midnight on the thirty-first day of December following the date of issuance.

5.3. At least 30 days prior to the first day of January of each year, the Board shall mail to every person regulated by this rule an application for renewal.

5.4. A fee of \$50.00 shall accompany any application for issuance or renewal of a permit, certificate, or license.

5.5. A late fee of \$15.00 shall be assessed by the Board for any renewal that is not received within 30 days of expiration.

5.6. Any person applying for a renewal of a permit, certificate or license must show proof of having completed 15 hours of Board approved continuing education within the prior calendar year. Provided the applicant has an additional 60 days in which to acquire hours and be required to pay an additional \$50.00 late fee. Any hours obtained during the additional 60 day period to meet the prior calendar year requirement shall not be counted toward the current calendar year.

5.7. Expired permits, certificates or licenses ~~for failure to pay renewal fees~~ may be reinstated only upon the payment of all lapsed renewal fees up to five years and submit to training approved by the board, if in excess of five years.

5.8. Permits, certificates and licenses not renewed for failure to obtain the required 15 hours of continuing education as specified in 5.6. shall not be renewed during the current ~~fiscal~~ calendar year.

5.9. The Board may deny an application for renewal for any reason which would justify the denial of an original application for a permit, certificate or license.

5.10. Any person regulated by the Board shall carry proof of a valid permit, certificate, or license as required in W. Va. Code §30-17-14.

§20-4-6. Exempt from permit, certificate, or license.

Any person or qualified member of other recognized professions practicing environmental health science consistent with the laws of this state, shall be exempt from obtaining a permit, certificate or license under this rule provided the person does not represent themselves as a sanitarian-in-training, sanitarian or registered sanitarian, as defined by W. Va. Code §30-17-3 and this rule.

§20-4-7. Standards for Approval of Courses.

7.1. All persons regulated by this rule are responsible for submitting to the Board pertinent information regarding courses attended for continuing education approval.

7.2. Information shall include the following:

7.2.1. Verification of attendance; and

7.2.2. An agenda or outline of the course which includes the date and length of the course.

7.3. The Board reserves the right to request additional information, when necessary.

7.4. A maximum of five hours for conducting food worker training classes may be requested annually in lieu of other course attendance by submitting dates and course length to the Board.

§20-4-8. Examinations.

8.1. Only persons who meet the education requirements in this rule, shall be eligible for admission to examination for registration as a sanitarian.

8.2. A Sanitarian-in-training shall be eligible for admission to examination for registration as a sanitarian after successfully completing a sanitarian's training course of a minimum of 300 hours as approved by the Board.

8.3. Examination for registration of sanitarians shall be administered not less than once each calendar year in the state at such times and places as may be specified from time to time by the Board. Such examination may be written, oral, or both written and oral.

8.4. Any registered sanitarian who is a member of the Board or designated by the Board shall be eligible to proctor the examination.

8.5. The Board shall administer the NEHA examination titled "Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) Exam".

8.6. It is the responsibility of the applicant requesting the examination to pay the examination fee set forth by NEHA.

8.7. The Board shall accept the passing score set by the NEHA Exam Peer Review Committee.

8.8. The Board shall provide written notification to an applicant that he or she passed or failed the examination.

8.9. If an applicant fails to meet the minimum grade requirements on his or her examination, he or she may be reexamined at any time and place specified by the Board for the administration of such examination and upon resubmitting his or her application accompanied by the prescribed fees.

8.10. The Board shall accept a passing score of 70% on the PES "Registered Sanitarian Proficiency Examination" ~~in lieu of a passing score on the NEHA "REHS/RS" Exam with proper documentation.~~

8.11. The Board, at its discretion, may contract with a third party to administer the examination which may include an additional administrative fee to be paid by the individual taking the test.

§20-4-9. Use of Title.

Only a person who has qualified as a registered sanitarian and who holds a valid current license for use in this state shall have the right and privilege of using the title, "registered sanitarian" and to use the abbreviation, "R.S." after his or her name.

§20-4-10. Suspension or Revocation of Permits, Certificates and Licenses.

10.1. The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the license, permit or certificate of, impose probationary conditions upon, or take disciplinary action against, any licensee, permittee or certificate holder for any of the following reasons:

10.1.1. Obtaining a license, permit or certificate by fraud, misrepresentation or concealment of material facts;

10.1.2. Being convicted of a felony or other crime involving moral turpitude;

10.1.3. Being guilty of unprofessional conduct which placed the public at risk;

10.1.4. Violating this article or lawful order of the board;

10.1.5. Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization denied by the proper authorities of another jurisdiction, irrespective of intervening appeals and stays; or

10.1.6. Engaging in any act which has endangered, or is likely to endanger the health, welfare or safety of the public.

10.2. For the purposes of this section, disciplinary action may include:

10.2.1. Reprimand;

10.2.2. Probation;

10.2.3. Administrative fine, not to exceed \$1,000 per day per violation;

10.2.4. Mandatory attendance at continuing education seminars or other training;

10.2.5. Practicing under supervision or other restriction;

10.2.6. Requiring the licensee, permittee or certificate holder to report to the board for periodic interviews for a specified period of time; and

10.2.7. Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

§20-4-11. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule have the right to request a contested case hearing in a manner pursuant to the provisions of W. Va. Code §29A-5-1, et seq. and legislative rule, State Board of Sanitarians, Rules of Procedure for Contested Case Hearing and Declaratory Rulings, 20CSR01.