

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**  
Form #7 □

Do Not Mark In This Box  
Filing Date

**FILED**

2002 DEC -4 P 12:57

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AN EMERGENCY RULE**

AGENCY: West Virginia Board of Examiners in Counseling TITLE NUMBER: 27

CITE AUTHORITY: 30-31-5(a)(2)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Fees

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

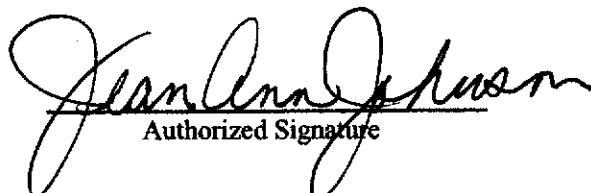
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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:

Please see attached sheet.

Use additional sheets if necessary

  
Authorized Signature

**SCANNED**

\$ 4.80

West Virginia Board of Examiners in Counseling  
Emergency Rule Facts and Circumstances Sheet  
December 4, 2002

Renewal fees supply the majority of the funds through which the Board operates. Licenses are renewed every odd numbered year and these funds are to be utilized over a 24 month period. Even numbered years have always been troublesome financially.

Over the last year the Board has significantly expanded the services offered to maximize the purpose of the Board which is to protect the citizens of West Virginia.

- A new procedure for handling complaints. Complaints have increased significantly.
- A continuing education approval program.
- A website which provides the general public and Licensed Professional Counselors current information about professional counseling in West Virginia.
- A new program for supervising applicants for licensure.
- A restricted licensure program and monitoring thereof.
- Plus all the other functions to be carried out on a daily, weekly and yearly basis.

The Board does not have enough money to operate through the end of December 2002. The hours of the one staff person have been cut. Bills are being paid selectively. Actually, the one staff member has been purchasing needed items and is awaiting reimbursement in 2003 once funds are available. She has done this many times during the even years.

Upon approval of this emergency rule, renewal applications will immediately be mailed to the Licensed Professional Counselors. If the board sends out the renewal applications at the current rate of \$75.00 the financial problems will appear again in the year 2004.

The rule will state: The fee for biennial license renewal shall be an amount up to two hundred and fifty dollars (\$250.00). The board is using the amount of \$250.00 to try to anticipate financial needs over the next ten years and therefore will not have to resort to an emergency rule again.

During the comment period ending December 2, 2002, the board suggested the renewal amount of \$150.00 for the upcoming 2003 renewal cycle. The renewal amount of \$150.00 based on at least 900 counselors renewing their license will provide the board with the appropriate amount of revenue in which to operate for a 24 month period. Other fees received throughout the year will complete the needed budget amount.

- Forty-eight comment letters were received supporting the \$150.00 renewal amount and many suggested the board raise the fee to \$200.00 this cycle.
- Three comment letters received stated that the fee should be raised gradually.
- One letter complained about the cost of everything professionally.
- One letter stated that the fee should remain \$75.00 and obtain supplementary volunteer help as needed.
- Seventy+ individuals attended the November 14, 2002 board meeting at which the fee increase was the main topic. After a thorough discussion about the financial problems the board is experiencing, it appeared through a show of hands that everyone in the room was in agreement that the fee needed to be raised to at least \$150.00 in the 2003 renewal cycle.

West Virginia Board of Examiners in Counseling  
 Emergency Rule Facts and Circumstances Sheet  
 December 4, 2002

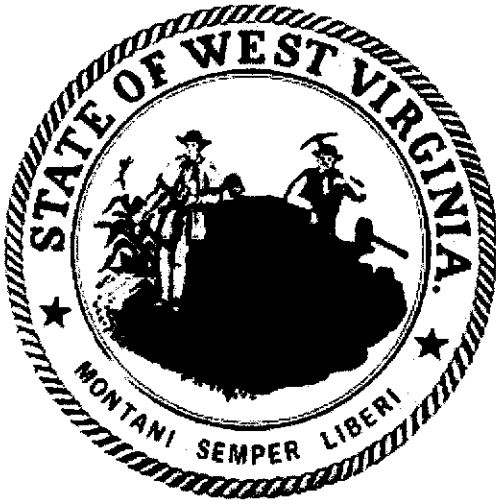
Prior to filing this emergency rule, attempts were made to obtain money from the Budget Digest fund and the Governor's Contingency Fund. The Board was informed that those monies were not for agencies like ours.

Other states were surveyed concerning renewal fees. This comparison is just to show that the WVBE is not out of line with the \$150.00 renewal fee.

State	Biennial Amount	Late Fee	# of Counselors	Amount of Revenue Generated Fee X Number of Counselors
AK	\$530.00			
AL	\$300.00			
AR	\$250.00	\$50.00		
DC	\$85.00		1488	\$126,480.00
FL	\$250.00	\$150.00		
ID	\$120.00	\$25.00		
KS	\$150.00	\$150.00		
KY	\$150.00		1337	\$200,550.00
M&F	\$220.00			
MD	\$200.00	\$50.00		
ME	\$200.00		1231	\$246,200.00
MO	\$100.00			
MS	\$180.00			
MT	\$140.00	\$150.00		
NC	\$100.00			
ND	\$150.00	\$100.00		
OH	\$67.50		6500	\$438,750.00
OR	\$250.00	\$50.00		
PA	Proposed \$120.00		1700	204,000.00
RI	\$250.00			
SC	\$150.00		1400	\$210,000.00
TN	\$190.00			
TX	\$100.00	75.00	10,175	\$763,125.00
UT	\$75.00	\$50.00		
VT	\$270.00			
WI	\$76.00		2406	\$182,856.00

As you can see above, the number of counselors in the state makes a big difference in the amount of revenue generated.

- Effective June 30, 2001, there were 1036 Licensed Professional Counselors eligible to renew their licenses.
- As of this date, 96 out of the 1036 Licensed Professional Counselors have chosen not to renew.
- Since July 1, 2001, the WVBE has credentialed 78 Licensed Professional Counselors.
- As of this date, there are 1018 Licensed Professional Counselors eligible to renew their license.



# State of West Virginia

## Board of Examiners in Counseling

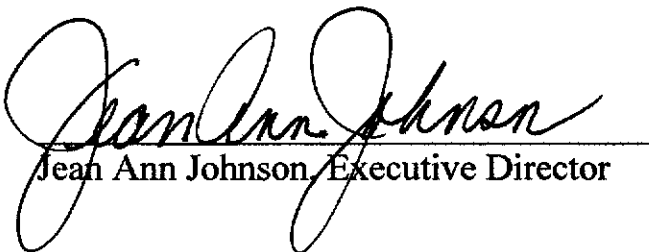
Post Office Box 129  
Ona, West Virginia 25545  
(800) 520-3852 Toll-Free  
(304) 767-3061 (304) 767-3062 Fax  
[jajohnson@marshall.edu](mailto:jajohnson@marshall.edu)  
[www.state.wv.us/wvbec](http://www.state.wv.us/wvbec)

December 4, 2002

Approval of Filing

Fees, Series 2

The Board of Examiners in Counseling has given their approval for the filing of this legislative rule at the November 14, 2002 board meeting.

  
Jean Ann Johnson, Executive Director

**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: December 4, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Board of Examiners in Counseling  
Post Office Box 129  
Ona, West Virginia 25545  
304-767-3061  
800-520-3852

LEGISLATIVE RULE TITLE: Fees

1. Authorizing statute(s) citation 30-31-5(a)(2)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
October 23, 2002

b. What other notice, including advertising, did you give of the hearing?  
The board mailed a letter to each LPC explaining the need for the rule change. We held a comment period not a hearing. The board did hold a board meeting on November 14, 2002 in Morgantown and approximately 70 Licened Professional Counselors were in attendance. The support for the rule change was 100%.

c. Date of Public Hearing(s) or Public Comment Period ended:  
December 2, 2002

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached 53 No comments received \_\_\_\_\_

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

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

Jean Ann Johnson, Executive Director

Post Office Box 129

Ona, West Virginia 25545

800-520-3852

jajohnson@marshall.edu

Fax: 304-767-3062

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)

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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

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b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A



**EMERGENCY RULE QUESTIONNAIRE**

DATE: December 4, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Board of Examiners in Counseling  
Post Office Box 129, Ona, West Virginia 25545  
(304) 767-3061 (800) 520-3852 jajohnson@marshall.edu

EMERGENCY RULE TITLE: Fees

1. Date of filing December 4, 2002

2. Statutory authority for promulgating emergency rule:  
30-31-5(a)(2)

3. Date of filing of proposed legislative rule: December 4, 2002

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?  
Amends a current legislative rule

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.  
Please see #8

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

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No

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8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

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The purpose of the board is to protect the public from improperly trained and/or unethical licensed counselors. Without proper funding, the public is more at risk due to the lack of services. Also, the daily work of the board (verifying licenses, handling complaints, credentialing new counselors, etc.) cannot be achieved in a timely manner.

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# State of West Virginia

## Board of Examiners in Counseling

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Ona, West Virginia 25545  
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(304) 767-3061 (304) 767-3062 Fax  
[jajohnson@marshall.edu](mailto:jajohnson@marshall.edu)  
[www.state.wv.us/wvbec](http://www.state.wv.us/wvbec)

### Statement of Circumstance and Brief Summary

Renewal fees supply the majority of the funds through which the Board operates. Licenses are renewed every odd numbered year and these funds are to be stretched over a 24 month period. Even numbered years have always been troublesome financially.

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□  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fees

Type of Rule:  Legislative     Interpretive     Procedural

Agency: West Virginia Board of Examiners in Counseling

Address: Post Office Box 129, Ona, West Virginia 25545

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>					
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

2. Explanation of Above Estimates:

This rule to raise the renewal fee will not subject the board to any additional costs. The rule change will not increase or decrease any of the above items. The increase requested is to keep the board operating.

3. Objectives of These Rules:

The majority of the Board's revenue is obtained through renewal fees. The current renewal fee needs to be raised so the board can continue to perform its duties over a two year period.

Rule Title: Fees

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

N/A

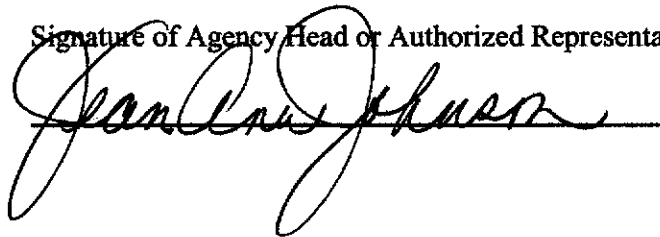
B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: December 4, 2002

Signature of Agency Head or Authorized Representative:

A handwritten signature in black ink, appearing to read "Jean Paul Johnson", is written over a horizontal line.

TITLE 27  
LEGISLATIVE RULE  
BOARD OF EXAMINERS IN COUNSELING

FILED

2002 DEC -4 P 12:57

SERIES 2  
FEES

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§27-2-1. General.**

1.1. Scope. — This rule establishes fee requirements related to the licensing of professional counselors, renewal of the licensee, and application and monitoring of continuing professional education providers and their programs.

1.2. Authority. —W. Va. Code §§30-31-5.

1.3. Filing Date.—

1.4. Effective Date.—

**§27-2-2. Definitions.**

2.1. "Application fee" means a fee that is due at the time the initial application is submitted.

2.2. "Bad check fee" means a fee for a payment made by a check that is returned due to insufficient funds, closed account or similar failure to negotiate payment.

2.3. "Initial licensing fee" means a fee that is due when license is initially issued. This fee shall be based on the date the license is issued and the number of days remaining in the current biennial renewal cycle.

**§27-2-3. Application of Rule.**

This legislative rule applies to all persons applying to become a licensed professional counselor, all licensed professional

counselors and providers of continuing professional education programs.

**§27-2-4. Fee Schedule**

4.1. All fees paid to the Board are not refundable.

4.2. All fees, with the exception of those for examination, are payable to the West Virginia Board of Examiners in Counseling (WVBEC).

4.3. License fees.

4.3.a. The fee for the initial application for licensure is one hundred twenty dollars (\$120.00);

4.3.b. The fee for reciprocity application processing is one hundred twenty dollars (\$120.00);

4.3.c. The fee required for the issuance of the initial license certificate shall be calculated on the current renewal rate set in this rule, the date the license is issued and the number of days remaining in the current biennial renewal cycle;

4.3.d. The fee for biennial license renewal ~~is seventy five dollars (\$75.00)~~ shall be an amount up to two hundred and fifty dollars (\$250.00);

(1). The licensee shall submit the renewal application and documentation of continuing education according to the instructions in the application

provided by the Board at the time of renewal. The Board shall return the licensee's renewal application for, but not limited to, improper documentation and/or inappropriate continuing education. A licensee who has his or her licensure renewal application returned by the Board as incomplete or incorrect shall pay an additional fee of \$75.00 when resubmitting the renewal application for the third (3<sup>rd</sup>) time in one renewal period.

4.3.e. The fee for examination score endorsement is twenty dollars (\$20.00);

4.3.f. The fee for name change of all records is five dollars (\$5.00);

4.3.g. The fee for endorsement to another state or a National and/or State certification is twenty dollars (\$20.00);

4.3.h. The fee for a duplicate certificate is ten dollars (\$10.00);

4.3.i. The fee for filling a request for public information, print or electronic data, and/or other services relating to the Board, its members, or licensed professional counselors, is calculated based on the actual cost of materials, employee time, and/or services required to comply with the request;

4.3.j. The fee for a bad check is twenty dollars (\$20.00); and,

4.3.k. The annual fee for monitoring the Restricted Practice License counselors is twenty-five dollars (\$25.00).

4.4. Continuing professional education provider and programs fees.

4.4.a. The application fee to be certified as an approved provider of continuing professional education biennially is one hundred fifty dollars (\$150.00);

4.4.b. The application fee to be certified as an approved provider of continuing

professional education for one event only is ~~forty~~ fifty dollars (~~\$50.00~~) fifty dollars (\$50.00) per day;

4.4.c. The fee to monitor the continuing professional education records and activities of an approved provider for the purpose of quality assurance is fifty dollars (\$50.00) for one event in each biennial and one hundred dollars (\$100.00) for more than one event in each biennial; and,

4.4.d. The biennial fee to re-certify as an approved provider is one hundred dollars (\$100.00), payable only after the Board has notified the provider that it is eligible to re-certify.

(1). An approved provider who does not pay a fee to re-certify within thirty (30) days of notice shall forfeit all rights and privileges of an approved provider.

4.5. Examination fees.

4.5.a. The fee for the examination required by the Board is established by and payable to the National Board for Certified Counselors (NBCC) or its designee; and,

4.5.b. The additional fee to administer the exam shall be based on the current cost of the facilities, the number of proctors for the exam, and the employee's time to process the exam.