

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

Form #3

Do Not Mark In This Box

FILED

2009 JUL 31 PM 12: 18

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

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

CITE AUTHORITY: 30-31-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Licensed Professional Counselor Fees

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 Board of Examiners in Counseling

Post Office Box 129

Ona, West Virginia 25545

800-520-3852

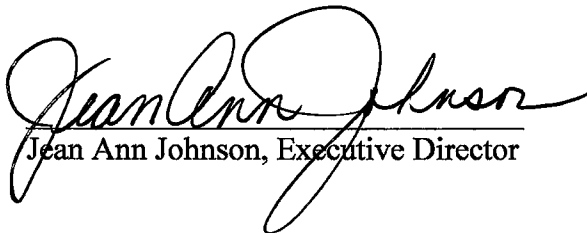
www.wvbec.org

counselingboard@msn.com

Approval of Filing

Licensed Professional Counselor Fees Rule, Series 2

During the July 24, 2009 board meeting, members voted unanimously to approve and file this proposed legislative rule.



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: 07/29/09

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
304-733-5494

LEGISLATIVE RULE TITLE: Licensed Professional Counselor Fees Rule, Series 2

1. Authorizing statute(s) citation 30-31-6

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 16, 2009 Public Comment Period

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

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 17, 2009

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

Attached 2 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)

Jean Ann Johnson, Executive Director, Post Office Box 129, Ona, WV 25545
Phone 304-733-5494 Fax 304-733-4172 email counselingboard@msn.com

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.

DID NOT INCLUDE PAGE 3 AS IT WAS BLANK

West Virginia Board of Examiners in Counseling

Post Office Box 129
Ona, West Virginia 25545
800-520-3852
www.wvbec.org
counselingboard@msn.com

Statement of Circumstances

Licensed Professional Counselor (LPC) Rule Series 2

- ❖ Current budgetary needs will not be met if the fees are not increased.
- ❖ WVBECC has obtained a public office and along with the reoccurring and rising costs of daily operations, a fee increase is necessary.
- ❖ The majority of the expenses WVBECC occur from different WV agencies (BRIM, Auditor, ISC fees, etc) have increased by varying degrees
- ❖ As the work load has increased tremendously since 2001 due to the implementation of more monitoring procedures for the protection of the public, an additional staff member was hired.
- ❖ Now in addition to the current work load, the board will be responsible for licensing marriage and family therapists. This task will have to be completed without an additional staff member as the revenue to be generated from this license over the next five years will be minimal at best.
- ❖ But our most unpredictable expense is the Attorney General services. To carry out the provisions of WV Code 30-30-7, a hearing must be afforded to the individual charged with violations of ethical conduct. WVBECC has had at least two complaints that have been over \$4000.00 in costs and more that range in the area of \$600.00-\$15000.00 each. We have been overextended in this area many times. The addition of the marriage and family therapist license will also increase the Attorney General services as there will be complaints resulting from the MFT licensees.

Brief Summary

- ❖ Based on our current numbers, WVBECC needs to generate an additional \$50,000.00 **biennially**. Approximately 65-70% of our revenue is generated through **renewal fees** on a biennial basis. Our biennial renewal cycle runs from July 1, odd numbered year through June 30, odd numbered year. Non-renewal income has been consistently the same every year for the last four years.
- ❖ **The proposed renewal fee will not take effect until the renewal cycle of July 2011.** Therefore, it is necessary to also raise many of the non-renewal operating fees to maintain the sufficiency of the board. The last renewal fee increase occurred in 2004.
- ❖ Currently, WV has 1083 Licensed Professional Counselors. WVBECC is proposing a biennial renewal fee of \$220.00 (currently \$150.00). In evaluating some of our surrounding states that are somewhat comparable in size with the number of licensees, the WVBECC proposed increase is realistic. Kentucky (761 licensees) has a renewal fee of \$300.00 biennially, Maryland's (2845 licensees) biennial renewal fee is \$232.00, while Virginia (2781 licensees) has a \$210.00 biennial renewal fee.
- ❖ Bottom line: This Board has always operated "close to the vest" financially. Fees must be increased to maintain our sufficiency to operate.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 2 - Licensed Professional Counselor Fees

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Examiners in Counseling

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

Jean Ann Johnson

Phone Number: 304-733-5494 Email: counselingboard@msn.com

Fiscal Note Summary

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

No impact on state government as the Board of Counseling is a non-appropriated board. WVBECE operates solely on the fees generated thru the collection of counseling licensure fees.

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

Rule Title: _____

Rule Title: Series 2 - Licensed Professional Counselor Fees

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

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.

Office rent and daily operations cost this Board approximately \$10000.00 to \$12000.00 yearly. The Board has not had these types of costs in the past. The additional staff member hired to take care of detailed work (not clerical) is costing the Board approximately \$32000.00 yearly. The board until last year has only had one full time employee with very limited part-time help.

The Board's main revenue comes from renewal fees collected every two years. The non-renewal fees collected on a yearly basis have basically been the same for the last four years.

This proposed renewal fee increase will not be effective until July 2011.

Date: 06/15/09

Signature of Agency Head or Authorized Representative

Jean Ann Johnson

TITLE 27
LEGISLATIVE RULE
BOARD OF EXAMINERS IN COUNSELING

FILED

2009 JUL 31 PM 12:18

SERIES 2
LICENSED PROFESSIONAL COUNSELOR
FEES RULE

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 licenses, and application and monitoring of continuing professional education providers and their programs.

1.2. Authority. —W. Va. Code §§30-31-5. §30-31-6.

1.3. Filing Date.— June 16, 2009

1.4. Effective Date.—

§27-2-2. Definitions.

2.1. "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.

§27-2-2. 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. §27-2-3 Fee Schedule

4.1. 3.1. All fees paid to the Board are not refundable.

~~4.2. 3.2.~~ All fees, with the exception of those for examination, are payable to the West Virginia Board of Examiners in Counseling (WVBEC).

~~4.3. 3.3.~~ License fees.

~~4.3.a. 3.3.a.~~ The fee for the initial application for licensure is ~~one hundred twenty dollars (\$120.00);~~ \$200.00;

~~4.3.a.1. 3.3.a.1~~ 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.b. 3.3.b.~~ The fee for reciprocity application processing is ~~one hundred twenty dollars (\$120.00);~~ \$200.00;

~~4.3.c. 3.3.c.~~ The fee for biennial license renewal is ~~one hundred and fifty dollars (\$150.00).~~ \$220.00;

~~(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 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 (3rd) time in one renewal period.

4.3.d. ~~3.3.d.~~ The fee for late renewal during the 60 day grace period is \$50.00;

4.3.e. ~~3.3.e.~~ The reinstatement fee for licensure renewal after the end of the 60 day grace period or reinstatement following revocation or suspension of license is \$250.00;

4.3.f. ~~3.3.f.~~ The fee for examination score endorsement is ~~twenty dollars (\$20.00)~~; \$25.00;

4.3.g. ~~3.3.g.~~ The fee for name change on all records is ~~five dollars (\$5.00)~~ \$5.00;

4.3.h. ~~3.3.h.~~ The fee for endorsement to another state or a National or State certification is ~~twenty dollars (\$20.00)~~; \$25.00;

4.3.i. ~~3.3.i.~~ The fee for a duplicate certificate is ~~ten dollars (\$10.00)~~ \$10.00;

4.3.j. ~~3.3.j.~~ The fee for filling a request for public information, print or electronic data, 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 services required to comply with the request; and,

4.3.k. ~~3.3.k.~~ The fee for a bad check is ~~twenty dollars (\$20.00)~~; \$25.00. ; and,

4.3.l. ~~The annual fee for monitoring the Restricted Practice License eounselors 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)~~ \$150.00;

4.4.b. The application fee to be certified as an approved provider of continuing professional education for one event ~~only~~ is ~~fifty dollars (\$50.00)~~ \$50.00 per day of event;

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)~~ \$50.00 for one event in each biennial year cycle and ~~one hundred dollars (\$100.00)~~ \$100.00 for more than one event in each biennial year cycle; and,

4.4.d. The biennial fee to re-certify as an approved provider is ~~one hundred dollars (\$100.00)~~, \$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)~~ 30 days of notice forfeits 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.

West Virginia Board of Examiners in Counseling

Post Office Box 129

Ona, West Virginia 25545

800-520-3852

www.wvbec.org

counselingboard@msn.com

Response to Comments

Licensed Professional Counselor (LPC) Rule Series 2

The board received two comments concerning the fee increase for LPC.

- One reflected that the increase was too high.
- The other one, while stating it was a significant increase, also stated that it appears to be justified.
 - The person making this comment also offered a suggestion that the board felt was amicable. The renewal rule requires 40 contact hours in continuing education. Suggestion was to lower the contact hour requirement therefore offsetting the change in renewal fees for the LPC.

The Board unanimously voted to lower the contact hour requirement for LPC to 35 hours.

- It was discussed at length that this would not be in anyway a detriment to our mission to protect the public. The continuing education contact hour requirement in all the other states range between 25, 30, 35, and 40. Neighboring state Ohio has a 30 contact hour requirement.

The contact hour change was added to the proposed rule Series 3.

ORIGINAL

June 19, 2009

WVBEC
PO Box 129
Ona, WV 25545

Patricia K. Haddix
RR 1 Box 59
Beverly, WV 26253

Dear Board Members,

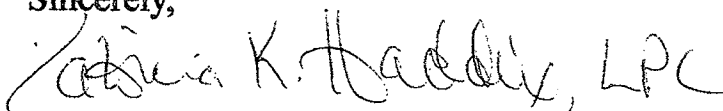
I believe the fee increase is too high. The argument that surrounding states have higher fees is not a good justification. These states have a different cost of living. Additionally, the fee for Virginia is \$210.00 which would be less than the proposed \$220.00 for West Virginia, and residents in VA make more money than residents of WV.

I received my license in January 2001. I did not work from February 2002 to August 2007, and since August 2007 I have only worked part-time. I decided to keep my license renewed so I did not have to go through the process of obtaining the license again. With fees for CEU's (which are generally much higher for LPC than others), plus renewal fees this was difficult to afford.

Additionally, the laws and policies for LPC practice are not commensurate with others such as, LSW. I would believe that the WV BEC would be trying to increase the effective practices of LPC holders to be commensurate with others.

Finally, I believe these fees are too enormous you are asking for a 47% percent increase in fees. I am not receiving any kind of raise in my job that is near 47%, most employees are lucky to get a 3% increase every two years.

Sincerely,



Patricia K. Haddix

ORIGINAL

Sincerely,
Lynn

Thank you for the opportunity to submit comments on the proposed change to the licensing fee.

Regarding the fee increase, it appears to be justified. However, it is a 47% increase to the current license fee. This is coming at a time when our nation is undergoing the most extreme financial situation since the 1920s. Increasing unemployment of large sections of our society have decreased the tax base, and therefore, there are planned cutbacks in federal and state services. It is only a matter of time before there are cuts in social services. (Don't be expecting a pay raise anytime soon.)

Counseling is not a highly paid field. Many are already struggling to make ends meet. The financial pressure will increase due to inevitable inflationary factors that result in all of us having to pay more for everything (food, energy to heat our homes, etc., and, as soon as OPEC can justify it, gas prices will again be well over \$3.00 per gallon). I closely monitor interest rates. Within the last forty days, rates for 30 year home mortgages jumped a percentage point from about 4.8 percent to about 5.8. As the federal reserve tries to avert hyperinflation as a result of the economic stimulus package (and now, they are talking about another stimulus), interest rates will continue to rise. Undoubtedly, businesses will be passing on these costs to consumers. As previously stated, for those in social services pay raises are very unlikely, and all Americans are going to be paying more for goods and services within the next few years. Simply put, our current income will be squeezed even tighter as we try and meet personal expenses while sweating bullets over future needs, for example, paying kids college costs, new roof on house, trying to set aside a little

1 of 2

7/15/2009

money for retirement, etc.

Your office has given tremendous support, and all of us want to see the current level of service continue. So, how can the counseling board get the revenue it needs while minimizing the impact on counselors? I propose that costs to counselors in other areas be decreased, specifically, CEUs. This can be accomplished by either reducing the number of required CEUs from 40 to, let's say, 30, or allowing counselors to get the majority of the CEUs online. Having to travel to get CEUs adds to our costs. Right now, we can get 20 of the required CEUs through correspondence. Consider increasing this number in a financially meaningful way. This would facilitate a "win-win" situation. The Board gets needed revenue while the overall costs to licensees stay about the same.

With great appreciation for the outstanding work of your office,
Lynn Lewis, LPC
License #1455

2012

7/15/2009