



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

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

AGENCY: Medicine TITLE-SERIES: 11-13  
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No  
RULE NAME: 11-13 Waiver of Initial Licensing Fees for Certain Initial Licensure Applicants

**PRIMARY CONTACT**

NAME: Mark A Spangler Executive Director  
ADDRESS: 101 Dee Drive Suite 103  
Charleston, WestVirginia 25311  
EMAIL: mark.a.spangler@wv.gov  
PHONE NUMBER: 304-558-2921 70005

CITE STATUTORY AUTHORITY: W. Va. Code §30-1-22.

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §30-1-22.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/19/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/19/2019

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

The Board publicized notice of the proposed rule change by: including a notice of the proposed amendments and comment period on the Board of Medicine website with a link to the proposed rule; published an article with a link to the proposed rule in the Board's newsletter which is provided to Board licensees; and sending an email notification to licensees of the Board with a link to the proposed rule.

**SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:**

The rule establishes the process and procedure for first time licensure applicants that qualify as a low-income individual or military family to seek a waiver of the initial licensing fee. The rule defines terms, establishes the process for applying for the initial licensing fee waiver, sets forth the eligibility requirements, and describes the necessary information and documents that must be submitted to the Board to process the waiver request and determine eligibility.

**STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:**

Senate Bill 396 was enacted during the 2019 regular session. This bill enacted a new law, set forth in W. Va. Code §30-1-22, which established a waiver of initial licensing fees for certain low-income individuals and military families. The bill applies to all state occupational licensing boards governed under Chapter 30 of the West Virginia Code. The bill directed all Chapter 30 Boards to submit rules for legislative approval that implement the provisions of the bill.

**SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:**

**A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:**

The Board licenses medical physicians, podiatric physicians and physician assistants. The Boards initial licensing fee is \$400 for both medical physicians and podiatric physicians, and \$200 for physician assistants. The Board anticipates it will incur a loss in revenues due to initial licensing fee waivers. The Board has not collected income or military information from applicants for licensure, therefore, it is not possible to estimate the reduction in revenue resulting from the low-income and military waiver. Notwithstanding, the revenue loss is not expected to be overly substantial or impact the Boards financial stability.

**B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:**

The Board has not collected income or military information from applicants for licensure, therefore, it is not possible to estimate the economic impact this rule will have on the state or its residents.

C. FISCAL NOTE DETAIL:

| Effect of Proposal                 | Fiscal Year                            |                                        |                                              |
|------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------------|
|                                    | 2019<br>Increase/Decrease<br>(use "-") | 2020<br>Increase/Decrease<br>(use "-") | Fiscal Year (Upon<br>Full<br>Implementation) |
| <b>1. Estimated Total Cost</b>     |                                        |                                        |                                              |
| Personal Services                  |                                        |                                        |                                              |
| Current Expenses                   |                                        |                                        |                                              |
| Repairs and Alterations            |                                        |                                        |                                              |
| Assets                             |                                        |                                        |                                              |
| Other                              |                                        |                                        |                                              |
| <b>2. Estimated Total Revenues</b> |                                        |                                        |                                              |

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

**Yes**

**Mark A Spangler -- 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 11  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF MEDICINE

SERIES 13  
WAIVER OF INITIAL LICENSING FEES FOR CERTAIN INITIAL  
LICENSURE APPLICANTS

**§11-13-1. General.**

1.1. Scope. -- This rule establishes procedures for waiving the initial licensing fee for low-income individuals and military families.

1.2. Authority. -- W. Va. Code §30-1-22.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

**§11-13-2. Definitions.**

2.1. For purposes of this rule, the following words and terms mean:

2.1.1. “Below 130 percent of the poverty line” means below 130 percent of the poverty line pursuant to the most recent annual poverty guidelines released by the United States Department of Health and Human Services.

2.1.2. “Initial license” means the first license approved by the Board and issued to an applicant:

To practice medicine and surgery;

To practice podiatric medicine and surgery; or

To practice as a physician assistant in collaboration with physicians in West Virginia.

Initial license does not include permits to participate in graduate medical training which are issued by the Board.

2.1.3. “Initial licensing fee” only means a fee directly assessed, collected and retained by the Board in connection with:

An application for an initial medical license;

An application for an initial podiatric license; or

An application for an initial physician assistant license.

This term does not include fees assessed by third parties which may be necessary to obtain documentation and/or information needed to complete an applicant's initial application.

2.1.4. "LIW" means the Low-Income Waiver application used to request a waiver of the initial licensing fee for low-income individuals.

2.1.5. "Local labor market" means every county in West Virginia, and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia, pursuant to W. Va. Code §21-1C-2.

2.1.6. "Low-income individual" means an individual who resides in the local labor market whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in the Temporary Assistance for Needy Families Program (TANF), Medicaid, the Supplemental Nutrition Assistance Program (SNAP) or other state or federal public assistance program with substantially equivalent low-income eligibility requirements.

2.1.7. "Military family" means any person who serves as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U.S.C. §101, honorably discharged veterans of those forces, and their spouses. This term also includes surviving spouses of deceased service members who have not remarried.

2.1.8. "MFW" means the Military Family Waiver application used to request a waiver of the initial licensing fee for military service members and eligible spouses.

### **§11-13-3. Application for Waiver of Initial Licensure Fees.**

3.1. An individual applying for an initial license who seeks a waiver of the initial licensing fee pursuant to the low-income or military family waiver shall apply to the Board on the appropriate fee waiver application and provide all required documentation and information.

3.2. The Board shall provide the LIW and MFW initial licensing fee waiver applications and instructions on what documentation is necessary to submit when an individual is seeking the low-income or military family initial licensing fee waiver.

3.3. The Board shall process the initial licensing fee waiver application and notify the individual whether he or she meets the eligibility requirements for an initial licensing fee waiver within thirty days of receipt of all required information and documentation. The thirty-day processing period shall not commence until the Board has received a completed LIW or MFW application and the individual has provided all required documentation and information needed to process the request.

3.4. Approval of the initial licensing fee waiver for an individual does not entitle the individual to receive a West Virginia license. An individual granted an initial licensing fee waiver must still apply for licensure and meet the qualifications and criteria for licensure as set forth in W. Va. Code §30-3-1, *et seq.*, or W. Va. Code §30-3E-1, *et seq.*, and the Board's corresponding legislative rules.

3.5. An applicant who receives an initial licensing fee waiver pursuant to this rule must apply for a license no later than sixty days after the initial licensing fee waiver is granted or the waiver shall expire.

3.6. An applicant shall only be eligible for one initial licensing fee waiver from the Board.

3.7. The Board shall deny an application for an initial licensing fee waiver if the applicant:

3.7.1. Has previously held a license in this state for the same occupation;

3.7.2. Does not meet the eligibility criteria for a low-income or military family waiver;

3.7.3. Submits false or fraudulent information in association with the initial licensing fee waiver application; or

3.7.4. Has previously received an initial licensing fee waiver from the Board for the same occupation.

3.8. If a physician who has been granted an initial licensing fee waiver is approved for licensure, any assessment that may be required for the Patient Injury Compensation Fund pursuant to W. Va. Code §29-12D-1a shall also be waived until the physician's first license renewal.

**§11-13-4. Required Documentation for a Waiver of Initial Licensing Fees for Low-Income Individuals.**

4.1. An individual requesting a waiver of the initial licensing fee as a low-income individual shall submit a completed LIW application and all appropriate documentation and information specified in this section.

4.2. To establish eligibility for a waiver of an initial licensing fee based upon low-income, the applicant must either:

4.2.1. Be in the local labor market and submit the appropriate Federal Income Tax returns for the preceding year which verifies that the applicant has a household adjusted gross income below 130 percent of the federal poverty line; or

4.2.2. Submit certified documents or other documents satisfactory to the Board which verifies that the individual is enrolled in the Temporary Assistance for Needy Families Program (TANF), Medicaid, the Supplemental Nutrition Assistance Program (SNAP) or other state or federal public assistance program with substantially equivalent low-income eligibility requirements.

**§11-13-5. Required Documentation for a Waiver of Initial Licensing Fees for Military Families.**

5.1. An individual requesting a military family waiver of the initial licensing fee shall submit a completed MFW application and all appropriate documentation and information specified in this section.

5.2. To establish eligibility for a military family waiver of the initial licensing fee, an individual shall submit the following documentation to the Board:

5.2.1. If the applicant is the service member, the applicant's DD-214 form, NGB-22 form or a copy of the applicant's current military orders.

5.2.2. If the applicant is the spouse of a service member, the applicant must submit:

5.2.2.a. The service member's DD-214 form, NGB-22 form or a copy of the service member's current military orders; and

5.2.2.b. A copy of the certificate of marriage between the applicant and the service member.

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5.2.3. If the applicant is the surviving spouse of a service member and has not remarried, the applicant must submit:

5.2.3.a. The decedent service member's DD-1300 form, or a certified copy of the death certificate for the decedent service member plus the decedent service member's DD-214 form or NGB-22 form;

5.2.3.b. A copy of the certificate of marriage between the applicant and the decedent service member; and

5.2.3.c. A notarized affidavit from the applicant verifying that the applicant has not remarried.