



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Sanitarians TITLE-SERIES: 20-05

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Waiver of Initial Application Fees and Criteria For Initial Licensure

CITE STATUTORY AUTHORITY: §30.17.6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING: 09/30/2019 09:00 AM

LOCATION OF PUBLIC HEARING:

Marion County Health Department

DATE WRITTEN COMMENT PERIOD ENDS: 09/29/2019 09:00 AM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Lloyd R White, RS

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The rule is mandated by legislative action and it provides for the waiver of initial licensure fees for certain individuals, as well criteria regarding initial licensure, namely taking into account prior criminal convictions in determining initial licensure.

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

The rule is mandated by legislative action and it provides for the waiver of initial licensure fees for certain individuals, as well criteria regarding initial licensure, namely taking into account prior criminal convictions in determining initial licensure.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No Impact on State Government

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

No Impact on State Government or its residents.

C. FISCAL NOTE DETAIL:

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

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

No Economic Impact

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS 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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TITLE 20
LEGISLATIVE RULE
STATE BOARD OF SANITARIANS

SERIES 5
WAIVER OF INITIAL APPLICATION FEES AND CRITERIA FOR INITIAL LICENSURE

§20-5-1. General.

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

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

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 ten (10) years from final filing date.

§20-5-2. Definitions.

2.1. "Initial" means obtaining a license in West Virginia for the practice of environmental health science or public health sanitation for the first time.

2.2 "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.

2.3. "Low-income individual" means an individual in the local labor market as defined in W. Va. Code §21-1C-2, whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a state or federal public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program (TANF), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP).

2.4. "Military families" 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.

2.5. "Unreversed", as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged

§20-5-3. Application for Waiver of Initial Licensure Fees.

3.1. The Board may issue a license to an applicant who meets the requirements of W. Va. Code

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§30-17-1 et seq. and the rules promulgated by the Board, and the Board shall waive the initial licensure fee if the applicant qualifies as a “low-income individual” or as a member of one or more “military families” as defined in this rule.

3.2. Low-income individuals, as defined in this rule, may seek a waiver of the initial licensure fee for licensure as a Sanitarian by submitting with their complete application a low-income waiver of initial licensure fee form, provided by the Board, and all required verification documents as prescribed by the Board. The Board shall review the application and issue a decision within 30 days of receipt of the complete application.

3.3. Military families, as defined in this rule, may seek a waiver of the initial licensure fee for licensure as a Sanitarian submitting with their complete application a military service verification form, provided by the Board, and all required verification documents as prescribed by the Board. The Board shall review the application and issue a decision within 30 days of receipt of the complete application.

§20-5-4. Rational nexus to the practice Public Health Sanitation.

4.1. The board may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the practice of public health sanitation In determining whether a criminal conviction bears a rational nexus to public health sanitation, the board shall consider at a minimum:

4.1.a. The nature and seriousness of the crime for which the individual was convicted;

4.1.b. The passage of time since the commission of the crime;

4.1.c. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of a public health sanitarian; and

4.1.d. Any evidence of rehabilitation or treatment undertaken by the individual.

§20-5-5. Application after denial.

5.1. Notwithstanding any other provision of the W. Va. Code to the contrary, if an applicant has been denied licensure because of a prior criminal conviction, the board shall permit the applicant to apply for initial licensure if:

5.1.a. A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

5.1.b. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

5.1.c. The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the board on a case by case basis.

§20-6-1. Petition for licensure eligibility determination.

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6.1. An individual with a criminal record who has not previously applied for licensure may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license.

6.2. The petition shall be submitted on an application form prescribed by the board and shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction, the date of the release from incarceration if applicable, and the specific nature of the conviction. Where the records are sealed, the applicant shall sign a waiver authorizing the board to access the criminal records of the applicant in order for the board to make the eligibility determination.

6.3. The applicant may submit with the petition for licensure eligibility evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice as a Sanitarian.

6.4. The board shall provide the determination within 60 days of receiving the petition and the applicable fee from the applicant.

6.5. The fee for an applicant petitioning for a licensure eligibility determination shall be \$25.00 and upon acknowledgement of eligibility by the board and upon the submission of an application for licensure, the eligibility fee shall be deducted from the applicable initial licensure application fee.