



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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: Pharmacy TITLE-SERIES: 15-16
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Regulations Governing Pharmacists

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 30-5-7

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:

Passage of new bill last session changed felony conviction provisions

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 8/15/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 9/16/2019

COMMENTS RECEIVED: No

(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?

none

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

Rule deals with licensure of pharmacists. Changes are regarding the impact a felony conviction has on someone's pharmacist application.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

new bill passage

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

none

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

none

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	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

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

none

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

Yes

Ryan L Hatfield -- 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 15
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF PHARMACY

SERIES 16
REGULATIONS GOVERNING PHARMACISTS

§15-16-1. General.

- 1.1. Scope. -- Licensure and practice of pharmacist care.
- 1.2. Authority -- W. Va. Code §§ 30-5-7.
- 1.3. Filing date -- ~~April 26, 2019~~
- 1.4. Effective date -- ~~April 26, 2019~~
- 1.5. Sunset Date -- This rule shall terminate and have no further force or effect upon ~~April 26, 2024~~.

§ 15-16-2. Examination for Licensure and Registration and Annual Renewal Requirements.

2.1. Application – An applicant for examination to become a licensed pharmacist shall apply in writing to the Board at least 15 days before the date of examination is to be conducted and shall transmit with the application the prescribed fee of \$125.00. The application shall be made on a form provided by the Board.

2.2. The requirements for application as a pharmacist are as follows:

2.2.1. An applicant shall be 18 years of age or older, proof of which shall be shown by birth certificate or other acceptable document.

2.2.2. An applicant shall present to the Board satisfactory evidence that he or she is a person of good moral character and has not been convicted of a felony involving controlled substances or violent crime and has not been addicted to alcohol or controlled substances; unless:

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

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

2.2.2.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 individual board.

2.2.3. An applicant shall present to the Board satisfactory evidence that he or she is a graduate of an approved school of pharmacy, or has met the requirements for educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee Certification through the program administered by the National Association of Boards of Pharmacy (NABP).

2.2.4. An applicant shall have acquired 1500 hours of internship under the supervision of a licensed pharmacist.

2.2.5. An applicant shall complete a criminal history records check as prescribed in § 29.

§ 15-16-3. Examinations.

3.1. State and national examinations required for licensure are administered on behalf of the Board by NABP.

3.2. Examinations for the North American Pharmacist Licensure Examination (NAPLEX), the Multistate Pharmacy Jurisprudence Examination for West Virginia (MPJE), and as part of the Foreign Pharmacy Graduate Examination Committee Certification shall be done in accordance with the processes and procedures required by NABP.

3.3. An applicant for licensure as a pharmacist shall pass the NAPLEX and the MPJE, administered by NABP.

3.4. An applicant failing to achieve the required grades may repeat the failed examination or examinations one time without re-applying to the board within 6 months of the date of the original application, but one re-examination exhausts the applicant's privilege to sit for the examinations under the current application.

3.5. An applicant failing to achieve the required grade on each examination a second time may apply for licensure a second time, and again have two chances to pass the examinations.

3.6. An applicant failing to achieve the required grade on each examination a third time must petition the board before making reapplication a third or any subsequent time. At this time the board may require the applicant to complete a remediation evaluation and/or program before the applicant may reapply for licensure and sit for the examinations.

§ 15-16-4. Certificate of Licensure.

4.1. An applicant for licensure who has successfully passed all the required examinations may receive a letter signed by the Secretary prior to preparation of a permanent certificate, or a permanent certificate evidencing that he or she is a licensed pharmacist. The permanent certificate of licensure shall bear a serial number, the full name of the applicant, the date of its issuance, the seal of the Board, and shall be signed by at least four (4) member of the Board, and attested by the President and Secretary. For any duplicate of this certificate the Board shall charge \$25.00. A certificate is not assignable.

§ 15-16-5. License and registration renewal.

5.1. The board shall charge and collect the following fees:

5.1.1. Biennial renewal of license of pharmacist: \$100.00;

5.1.2. License of pharmacy intern: \$10.00 for the original license; \$5.00 for each renewal for the remaining periods of his or her internship;

5.1.3. Registration of a consultant pharmacist: \$20.00 for each application; and

5.1.4. Registration of a pharmacy technician: \$25.00 for the original registration; \$20.00 for each biennial renewal

5.2. All licenses of pharmacists and registrations of pharmacy technicians expire on the thirtieth day of June, 2002. After the thirtieth day of June, 2002, one half of all licenses for pharmacists and registrations for pharmacy technicians shall be renewed for a period of one year to expire on the thirtieth day of June, and shall be biennially thereafter. The Board shall renew one half of all licenses for pharmacists and registrations for pharmacy technicians for a period of two years, to expire on the thirtieth day of June, and shall renew those licenses and registrations biennially thereafter: Provided That, registrations of pharmacy interns shall continue to be renewed annually. Every licensed pharmacist, pharmacy intern or pharmacy technician who desires to renew his or her license or registration shall apply to the state board of pharmacy for renewal of his or her license or registration, and shall transmit with his or her application the fee prescribed. The renewal application may be sent by the board at least thirty days prior to expiration of the license or permit. The notification may be sent electronically to an e-mail or be mailed to the last known address of each pharmacist, pharmacy intern or pharmacy technician, in the discretion of the board and as shown on record with the Board. The Board has until August 31 of each year to issue the license or registration and no license or registration shall be considered lapsed until September 1. It is the responsibility of the applicant to make timely application for renewal, and if he or she has not received an application by June 1 of the year in which his or her authorization expires, the applicant should request one from the Board. Applications for renewal received in the office after June 30 of the year in which his or her authorization expires will require the payment of a late fee equal to the amount of the renewal application fee, as well as the regular renewal fee. If the applicant submitted a renewal application by June 30, and has not received his or her license or registration by July 31, the applicant should contact the Board.

5.3. If any pharmacist, pharmacy intern, or pharmacy technician whose license or registration has expired fails to apply to the board for a renewal of his or her license or registration by August 31 of the year in which his or her authorization expires, the Board shall remove his or her name from the register of pharmacists, pharmacy interns, and pharmacy technicians.

5.4. In order for any pharmacist, pharmacy intern, or pharmacy technician whose name has been removed from the register of the board to again become licensed or registered, the pharmacist, pharmacy intern or pharmacy technician shall petition the board, or an authorized committee of the board, for reinstatement, in writing, to show cause for permitting the license or registration to lapse. If his or her license or registration has been expired for one year or less (i.e., the petition for reinstatement is received on or before June 30 of the year after his or her authorization expired), and if the board finds the person otherwise eligible and qualified to practice, the Board shall reinstate that person upon payment of reinstatement fee of \$250.00 for a pharmacist plus the renewal fee of \$100.00, or upon payment of a reinstatement fee of \$50.00 for a pharmacy technician plus the renewal fee of \$20.00. If the pharmacist license or pharmacy technician registration has been expired for more than one year (i.e., the petition is received after June 30 of the year after his or her authorization expired), the board finds the person has submitted to the board satisfactory reasons for allowing the license or registration to lapse, and satisfies the board as to his or her qualifications to practice the profession by successfully passing the examinations administered or otherwise required by the board for reinstatement, the Board shall reinstate that person upon payment of reinstatement fee of \$250.00 for a pharmacist plus the renewal fee of \$100.00, or upon payment of a reinstatement fee of \$50.00 for a pharmacy technician plus the renewal fee of \$20.00. If a pharmacy intern's license has been expired for more than a year, he or she must make new application as an intern and pay the required application fee for an initial pharmacy intern license.

§ 15-16-6. Reciprocity; Licensure of Pharmacists From Other States or Countries.

6.1. The Board may license and admit to practice pharmacists in this state that have been legally

licensed or registered as pharmacists in other states or countries if:

6.1.1. The applicant is at least 18 years of age;

6.1.2. The applicant is in good standing in the state or country from which he is seeking to transfer his or her licensure or registration;

6.1.3. The applicant is in fact, competent and physically and mentally qualified to function as a pharmacist;

6.1.4. The applicant is of good moral character and not addicted to alcohol or a controlled substances;

6.1.5. The applicant has not been convicted, or had his or her license in any other state or country suspended or revoked for violation of pharmacy, liquor, controlled substance, or food and drug laws; unless;

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

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

6.1.5.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 individual board.

6.1.6. The applicant originally passed a written examination in subjects determined by the Board as being reasonable; and

6.1.7. The applicant passes the West Virginia MPJE.

6.1.9. The applicant must complete a criminal history records check as prescribed in § 29

6.2. An applicant may serve all or part of his or her internship in another state and up to one-third (1/3) of his or her internship in another country. In order to receive credit for that service an affidavit shall be signed by the supervising pharmacist and attested by the secretary of the board of pharmacy of the state or country where the internship was served.

6.3. Applicants for licensure by reciprocity shall not work as pharmacists until they receive a certificate of licensure from the board.

6.4. A foreign pharmacy graduate whose undergraduate pharmacy degree was conferred by a school of pharmacy outside of the United States, and its territories, may establish educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee Certificate (FPGEC) from the National Association of Boards of Pharmacy (NABP). An applicant for licensure who receives FPGEC certification meets the educational requirement for licensure and may sit for the NAPLEX and MPJE examinations provided he or she has completed 1500 hours of internship, of which 500 hours may have been earned in a foreign country, as certified on a letter of credit or certification from the Board of Pharmacy or other regulatory body of the foreign state, province, or country responsible for regulation of the practice of pharmacy in the foreign location, and must complete a criminal history records check as prescribed in § 29.

§ 15-16-7. Application.

7.1. The applicant shall complete a preliminary application form obtained from the National Association of Boards of Pharmacy and return it to that organization. After the preliminary application data has been verified by the National Association of Boards of Pharmacy and the Board receives notification to that effect, the Board shall supply the applicant who possesses the necessary qualifications with application forms. An applicant must complete the forms and submit a fee of \$250.00.

7.2. The application shall include the following provided by the applicant:

7.2.1. A certified copy of proof of experience, or the original pharmacist preceptor's affidavit proving experience, that was filed by the applicant when he or she took the examination in the state or country in which he or she is licensed or registered;

7.2.2. A recent head shot photograph with a statement signed by the applicant that it is a photograph of the applicant and has been made within the previous twelve (12) months; and

7.2.3. A signed waiver from the applicant allowing the Board to obtain a certified criminal records check on the applicant.

7.3 Appearance before the Board – Applicants for licensure by reciprocity shall appear before the Board or its designated agent at the time specified, for checking of credentials, an interview and examination as may be necessary to determine the fitness of the applicant to practice in West Virginia. The Board may revoke any applicant who misrepresents himself or herself to the Board.