



**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: Respiratory Care TITLE-SERIES: 30-01  
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No  
RULE NAME: 30-01 Criteria for Licensure

**PRIMARY CONTACT**

NAME: WV Board of Respiratory Care  
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CITE STATUTORY AUTHORITY: 30-34-6 & 30-34-6a

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:

§30-34-6. Powers of the board; fund.

(a) The board may:

1) Adopt rules pursuant to article three, chapter twenty-nine-a of the code, as may be necessary to enable it to effect the provisions of this article;

§30-34-6a. Rulemaking authority.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

- (1) Standards and requirements for licensure and permits to practice respiratory care;
- (2) Procedures for examination and reexamination;
- (3) Educational and experience requirements;
- (4) Standards for approval of courses;
- (5) Procedures for the issuance and renewal of licenses and temporary permits;
- (6) Procedures which may be delegated to a student practicing under a temporary student permit;
- (7) A fee schedule;
- (8) Continuing education requirements for licensees;
- (9) The procedure for denying, suspending, revoking, reinstating or limiting the practice of a licensee or permittee;
- (10) Requirements for inactive or revoked licensees or temporary permits; and
- (11) Any other rules necessary to effectuate the provisions of this article.

(b) All rules in effect on the effective date of this section remain in effect until they are amended, repealed or replaced.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/20/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/21/2020

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?

Mailed notice to all licensees and WV Society Respiratory Care and posted entire rule on board's website

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

Setting uniform criteria for licensure for national, other states, and educational instruction.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Respiratory educational programs are teaching to 4 year bachelors degree. Will no longer offer 2 year associates degree.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

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

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
<b>Personal Services</b>	0	0	0
<b>Current Expenses</b>	0	0	0
<b>Repairs and Alterations</b>	0	0	0
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

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

No Effect on Expense or Revenue

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

**Yes**

**Nancy J Massey -- 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 30**

**LEGISLATIVE RULE**

**BOARD OF RESPIRATORY CARE**

**SERIES 1**

**CRITERIA FOR LICENSURE**

**§30-1-1. General**

1.1. Scope. -- This legislative rule establishes criteria for licensure by the West Virginia Board of Respiratory Care.

1.2. Authority. -- W. Va. Code §30-34-6, and W. Va. Code §30-34-6a

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 10 years from its effective date.

**§30-1-2. Definitions**

2.1. "Board" means the West Virginia Board of Respiratory Care established pursuant to W. Va. Code §30-34-1 et seq.

2.2. "Initial License" means obtaining a license in West Virginia for the practice of respiratory care for the first time.

2.3. "Reinstatement of License" means obtaining a license in West Virginia for the practice of respiratory care when the applicant had a previous license.

**§30-1-3. Criteria for Licensure**

3.1. Upon payment of required fees, an applicant for a license to practice respiratory care shall submit to the board official written, verified by oath, evidence that the applicant:

3.1.1. Has completed a board approved respiratory care educational program; and

3.1.2. On or after July 1, 2022 holds a current valid Registered Respiratory Therapist Credential conferred by the National Board of Respiratory Care or its successor organizations.

3.1.3. Prior to July 1, 2022 holds a current valid Certified Respiratory Therapist or Registered Respiratory Therapist credential from the National Board of Respiratory Care or its successor organizations.

3.1.4. Successfully passing an examination administered by the state or by a national agency approved by the board. The board shall set the passing score for the examination.

3.1.5. The board may issue a license to practice respiratory care to an applicant who is currently licensed to practice respiratory care under the laws of another state, territory, or country if the

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qualifications of the applicant are deemed by the board to be equivalent to, or greater than, those required in West Virginia. Applicants applying under this section shall be required to provide official verification of license from the state where they currently hold a valid license directly to this state.

3.1.6. The board may also issue a license to practice respiratory Care by endorsement to respiratory therapists holding valid credentials conferred by the National Board of Respiratory Care, or its successor organizations, if the credentials have not been suspended or revoked. Applicants applying under this section shall be required to provide official verification of valid credentials directly from the National Board of Respiratory Care to this board.

3.1.7. If an applicant fails to complete the requirements for licensure within ninety days from the date of filing, the application is considered abandoned.

#### **§30-1-4. Criteria for Reinstatement of License**

4.1. Respiratory therapists licensed prior to July 1, 2022, whose license has expired and wish to reapply for a license in West Virginia shall provide proof of holding a current valid Certified Respiratory Therapist or Registered Respiratory Therapist credential from the National Board for Respiratory Care or successor organizations within a year of application and completing continuing education credits requirements as set by the board.

4.2. Respiratory therapists licensed after July 1, 2022 reapplying for a new license shall provide proof of holding a current valid Registered Respiratory Therapist credential from the National Board for Respiratory Care or successor organizations within a year of application and completing continuing education credit requirements as set by the board.