



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: Registered Nurses WV Board of TITLE-SERIES: 19-08
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 19-08 Limited Prescriptive Authority for Nurses in Advanced Practice

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 30-7-15a

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:

This rule establishes the requirements whereby the board authorizes advanced practice registered nurse to prescribe certain prescription drugs in accordance with the provisions of W.V. code 30-7-15a

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: 5/16/2022

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 6/15/2022

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?

Emailed organizations interested in the 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:

This rule establishes the requirements whereby the board authorizes advanced practice registered nurse to prescribe certain prescription drugs in accordance with the provisions of W.V. code 30-7-15a

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

House Bill 214 of the 2022 First Special Session expanded prescriptive authority of W.V. Code 30-7-15a necessitating changes to this rule.

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 ON SPECIAL REVENUE ACCOUNTS:

None

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

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 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

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

None

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

Yes

Sue Ann Painter -- 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 19
LEGISLATIVE RULE
REGISTERED PROFESSIONAL NURSES

SERIES 8
LIMITED PRESCRIPTIVE AUTHORITY FOR NURSES IN ADVANCED PRACTICE

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§19-8-1. General.

1.1. Scope. -- This rule establishes the requirements whereby the board authorizes qualified advanced practice registered nurses to prescribe prescription drugs in accordance with the provisions of W. Va. Code §§30-7-15a, 15b, and 15c.

1.2. Authority. -- W. Va. Code §30-7-15a.

1.3. Filing Date. -- ~~April 25, 2022.~~

1.4. Effective Date. -- ~~May 1, 2022.~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on August 1, ~~2027~~33.

§19-8-2. Definitions.

2.1. "Actively prescribe prescription medication" means the Advanced Practice Registered Nurse currently holds active prescriptive authority.

2.2. Advanced Practice Registered Nurse means a registered nurse who has acquired advanced clinical knowledge and skills preparing him or her to provide direct and indirect care to patients, as a certified nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist, or clinical nurse specialist, who has completed a board-approved graduate-level education program and who has passed a board approved national certification examination.

~~2.3. "Antineoplastics" means chemotherapeutic agents in the active treatment of current cancer.~~

~~2.4. "Chronic Condition" means a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions with the exception of chronic pain, include but are not limited to anemia, anxiety, arthritis, asthma, bladder outlet obstruction, cardiovascular and pulmonary disease, cancer, diabetes, epilepsy and seizures, thyroid disease, and obesity, and do not include any condition which requires antineoplastics, all subject to the scope of practice of the advanced practice registered nurse with limited prescriptive authority privilege W.Va. Code §30-7-15(a)(b)(c) and this rule.~~

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§19-8-3. Application and Eligibility for Limited Prescriptive Authority.

3.1. The board shall grant prescriptive authority to an advanced practice registered nurse applicant who meets all eligibility requirements specified in W. Va. Code §30-7-15b and the following:

3.1.a. Successfully complete an advanced pharmacotherapy graduate level course approved by the board of not less than 45 pharmacology contact hours;

3.1.b. Provide documentation of the use of pharmacotherapy in clinical practice in the education program;

3.1.c. Provide evidence of 15 graduate level pharmacology contact hours in advanced pharmacotherapy completed within 2 years prior to application for prescriptive authority;

3.1.d. Submit official graduate level transcripts or certificates documenting completion of pharmacology and pharmacotherapy course work.

3.1.e. The board may request ~~course outlines and/or descriptions of courses~~ documents if necessary to evaluate the pharmacology course content and objectives.

3.1.f. The advanced practice registered nurse shall submit a notarized application for prescriptive authority on forms provided by the Board with the following:

3.1.f.1. A fee set forth in the board's Fees rule, 19CSR12.

3.1.f.2. When required, written verification of an agreement to a collaborative relationship with a licensed physician holding an unencumbered West Virginia license or with a licensed physician holding an unencumbered license from a contiguous state or the Veterans Administration for prescriptive practice on forms provided by the board containing the following:

3.1.f.2.A. Mutually agreed upon written guidelines or protocols for prescriptive authority as it applies to the advanced practice registered nurse's clinical practice;

3.1.f.2.B. Statements describing the individual and shared responsibilities of the advanced practice registered nurse and the physician pursuant to the collaborative agreement between them;

3.1.f.2.C. A provision for the periodic and joint evaluation of the prescriptive practice; and,

3.1.f.2.D. A provision for the periodic and joint review and updating of the written guidelines or protocols.

3.1.f.2.E. Additional documentation at the request of the board.

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3.1.f.3. The Advanced Practice Registered Nurse may have limited prescriptive authority without a collaborative agreement after meeting the following outlined requirements:

3.1.f.3.A. Have practiced at least three years in a documented collaborative relationship with prescriptive authority;

3.1.f.3.B. Be licensed in good standing with the board;

3.1.f.3.C. Submit a completed application on forms developed by the board and pay an application fee.

3.1.f.4. The Board will identify and maintain data designating those Advanced Practice Registered Nurses approved to prescribe without a collaborative agreement.

3.2. If the board obtains information that an applicant for prescriptive authority was previously addicted to or dependent upon alcohol or the use of controlled substances, the board may grant prescriptive authority with limitation. The limitations may include, but are not limited to, restricting the types of schedule drugs a nurse may prescribe.

3.3. The board shall forward a copy of the verified collaborative agreement specified in Subdivision 3.1.f.2. of this rule to the Board of Medicine or to the Board of Osteopathy, whichever is indicated.

3.4. Upon satisfactory evidence that the advanced practice registered nurse applicant has met all above requirements for prescriptive authority, the Board shall assign an identification number to that nurse.

~~3.5. The board shall notify the Board of Pharmacy of those advanced practice registered nurses who have been granted prescriptive authority, and shall also provide the prescriber's identification number and effective date of prescriptive authority.~~

~~3.6~~5. The advanced practice registered nurse shall file with the board any restrictions on prescriptive authority that are not imposed by W. Va. Code §60A-3-301 *et seq.*, or this rule, but which are within the written collaborative agreement and the name of the collaborating physician for each advanced practice registered nurse on the approved list.

~~3.7~~6. The advanced practice registered nurse with prescriptive authority who wishes to prescribe Schedules III through V drugs shall comply with federal Drug Enforcement Agency requirements prior to prescribing controlled substances.

~~3.8~~7. The advanced practice registered nurse shall immediately file any and all of his or her Drug Enforcement Agency registrations and numbers with the board.

~~3.9~~8. The board shall maintain a current record of all advanced practice registered nurses with Drug Enforcement Agency registrations and numbers.

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3.109. Any information filed with the board under the provisions of this rule shall be available, upon request, to any pharmacist, regulatory agency or board or shall be made available pursuant to other state or federal law.

3.140. The APRN shall maintain with the board a current mailing and, if available, a current e-mail address.

§19-8-4. Renewal of Prescriptive Privileges.

4.1. An applicant for renewal of prescriptive authority shall be licensed as an advanced practice registered nurse and shall:

4.1.a. Maintain an active, uninterrupted national certification as an advanced practice registered nurse and maintain this information on file in the Board Office.

4.1.b. Submit to the board all documentation evidencing national certification as an advanced practice registered nurse and subsequent, uninterrupted renewal of national certification thereof.

4.2. The board shall consider the national certification as an advanced practice registered nurse of a licensee to be lapsed where such licensee fails to renew his or her national certification prior to its expiration dates, or fails to provide to the board, at the office of the board, all proper documentation and evidence of an uninterrupted renewal of such national certification prior to its expiration date.

4.3. The applicant shall complete during the 2 years prior to renewal a minimum of 8 contact hours of pharmacology education that has been approved by the board which may be part of the same 12 contact hours of advanced pharmacotherapeutics submitted for the advanced practice registered nurse license renewal requirement.

4.4. The board shall renew prescriptive authority for advanced practice registered nurses biennially on a date determined by the Board.

4.5. The application must be notarized, and the fee set forth in the board's rule, Fees For Services Rendered by the board, 19CSR12 must accompany the application.

§19-8-5. ~~Drugs Excluded from Prescriptive Authority; Prescriptive Authority Requirements~~ Prescriptive authority for prescription drugs.

5.1. The advanced practice registered nurse shall not prescribe from the following categories of drugs:

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~~5.1.a. Schedules I and II of the Uniform Controlled Substances Act~~ An advanced practice registered nurse may not prescribe a Schedule I controlled substance as provided in §60A-2-204 et seq. of this code;

~~5.1.b. Antineoplastics~~ An advanced practice registered nurse may prescribe up to a three-day supply of a Schedule II narcotic as provided in §60A-2-206 et seq. of this code;

~~5.1.c. Radio pharmaceuticals~~ There are no other limitations on the prescribing authority of an advanced practice registered nurse, except as provided in §16-54-1 et seq. of this code; ~~or~~

~~5.1.d. General anesthetics.~~

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~~5.1.e. Drugs listed under Schedule III are limited to a 30 day supply without refill.~~

5.2. Each prescription and subsequent refills given by the advanced practice registered nurse shall be entered on the patient's chart.

~~5.3. An advanced practice registered nurse may administer local anesthetics.~~

5.43. An advanced practice registered nurse who has been approved for prescriptive authority by the board may sign for, accept, and provide to patients samples of drugs received from a drug company representative.

5.54. The prescription authorized by an advanced practice registered nurse shall comply with the requirements of the West Virginia Board of Pharmacy, other applicable state and federal laws, rules and regulations all applicable standards of care; must be signed by the prescriber with the legal designation or the designated certification title of the prescriber and must include the prescriber's identification number assigned by the board.

5.54.a. All prescriptions shall:

5.54.a.1. Meet all requirements issued by the Center for Medicare and Medicaid Services for a written prescription for controlled substances as required by Section 2002(b) of PL. 110-28 of the Iraq War Supplemental Appropriations Bill enacted by the United States Congress in 2007;

5.54.a.2. Contain six (6) quantity check-off boxes printed on the form and in the following quantities shall appear:

- (1) 1-24;
- (2) 25-49;
- (3) 50-74;
- (4) 75-100;
- (5) 101-150; and
- (6) 151 and over:

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Provided That, if the blank has the quantity prescribed electronically printed in both numeric and word format, then the quantity check-off boxes shall not be necessary;

5.54.a.3. Contain space for the prescriber to indicate the date of the prescription, the full name of the drug, the dosage, the route of administration and directions, for its use and number of refills, if any, or to indicate no refills;

5.54.a.4. Provide space for the patient's name and address, and the prescribing practitioner's signature;

5.54.a.5. Provide space for the preprinted, stamped, typed, or manually printed name, address and telephone number of the prescribing practitioner, and the practitioner's DEA registration number and NPI number; Provided that, if a practitioner does not have authority to prescribe controlled substances, then no DEA number shall be required, and, instead, the following statement shall be printed: "No Controlled Substances Authority";

5.54.a.6. Contain the following statement printed on the bottom of the prescription blank: "This prescription may be filled with a generically equivalent drug product unless the words 'Brand Medically Necessary' are written in the practitioner's own handwriting, on this prescription form."

5.54.b. An advanced practice registered nurse shall at the time of the initial prescription record in the patient record the plan for continued evaluation of the effectiveness of the controlled substances prescribed.

§19-8-6. Termination of Limited Prescriptive Privileges.

6.1. The board may deny or revoke privileges for prescriptive authority if the applicant or licensee has not met conditions set forth in the law or this rule, or if the applicant has violated any part of W. Va. Code §30-7-1 et seq.

6.2. The board shall notify the Board of Pharmacy within 24 hours after the termination of, or a change in, an advanced practice registered nurse's prescriptive authority.

6.3. If the board finds that the public health, safety and welfare requires emergency action and incorporates a finding to that effect into its order, the board shall order summary suspension of the prescriptive authority privilege pending proceedings for other action. The board shall promptly institute and determine further disciplinary action.

6.4. The board shall immediately terminate prescriptive authority of advanced practice registered nurse if disciplinary action has been taken against his or her license to practice registered professional nursing in accordance with W. Va. Code §30-7-11.

6.5. Prescriptive authority for the advanced practice registered nurse terminates immediately if either the license to practice registered professional nursing or the Advanced Practice Registered Nurse license in the State of West Virginia lapses.

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6.6. Prescriptive authority is immediately and automatically terminated if national certification as an advanced practice registered nurse lapses or if the advanced practice registered nurse fails to provide the board evidence of current certification or re-certification of national certification before the expiration of the last certification on record with the board.

6.7. If authorization for prescriptive authority is not renewed by the expiration date which appears on the document issued by the board reflecting approval of prescriptive authority, the authority terminates immediately on the expiration date.

6.8. An advanced practice registered nurse shall not prescribe controlled substances for his or her personal use or for the use of members of his or her immediate family.

6.9. An advanced practice registered nurse shall not provide controlled substances or prescription drugs for other than therapeutic purposes.

6.10. An advanced practice registered nurse with prescriptive authority may not delegate the prescribing of drugs to any other person.

6.11. When applicable, prescriptive authorization shall be terminated if the advanced practice registered nurse has not filed a current verified collaborative agreement with the board. Upon dissolution of a collaborative agreement, if there is no other current collaborative agreement the advanced practice registered nurse shall cease prescribing immediately, prescribing privileges will be terminated, and the advanced practice registered nurse shall have 60 days to provide the board a verified current collaborative agreement to reinstate the prescribing privilege, after 60 days a reinstatement application must be completed and submitted for reinstatement of the prescribing privilege.

§19-8-7. Reinstatement of Lapsed or Terminated Limited Prescriptive Privileges.

7.1. An advanced practice registered nurse whose prescriptive authority has lapsed or been terminated for failing to maintain an active West Virginia license as a registered nurse or for failing to maintain or provide the Board proof of active national certification or recertification as an advanced practice registered nurse or failing to maintain prescriptive authority granted by the Board may have the prescriptive authority reinstated upon submission of the application for prescriptive authority with the required fee and a satisfactory explanation for the lapse or termination.