



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: Sanitarians TITLE-SERIES: 20-04

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

RULE NAME: 20-04 The Practice Of Public Health Sanitation

PRIMARY CONTACT

NAME: Brad Cochran Board Chair

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CITE STATUTORY AUTHORITY: 30-17-6

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:

The Board shall propose rules for legislative approval in accordance with article 3, chapter 29-A of WV Code to implement the provisions of this article, including: standards and requirements for a license, permit, or certificate; procedures for examinations and reexaminations; requirements for 3rd parties to prepare and/or administer examinations and reexaminations; educational experience and training requirements and the passing grade on the examination; standards for approval of courses; procedures for the issuance and renewal of a license, permit, or certificate; a fee schedule; continuing education requirements; procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee, permittee, or certificate holder; requirements for an inactive or revoked license, permit or certificate; and any other rules to effectuate the provisions of this article.

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: 7/29/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/29/2024

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?

N/A

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 sets forth standards for the conduct of members, records, applications, and examinations for persons employed as public health sanitarians. The includes minor changes to align with NEHA's (National Environmental Health Association) examination requirements to obtain a Registered Environmental Health Specialist/Registered Sanitarian license. An increase in associated license/registration fees is also included.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Alignment with the national testing agency (NEHA) is needed. The increase in license/registration fee is needed because the last fee increase was in 2010 and the Board has been operating at a loss for the last several years. The Board has seen increases in OT, postage, bond/insurance, and other operating costs. An increase in fees is absolutely necessary to maintain solvency and be self-sustaining as mandated by the legislature.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

Minimal impact on State government budgets. Of the 150 licensees, less than 20 are State government employees who are eligible for reimbursement of their license costs from State government budgets.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

Minimal impact to special revenue accounts. Only State sanitarians, which number less than 20, could impact State special revenue accounts.

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

none

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	6,000	6,000
Personal Services	0	500	500
Current Expenses	0	5,500	5,500
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	10,175	10,175

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

Current cash balance of \$1908.02. The EOY balance will be near zero with ongoing operating costs.

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

Yes

Jarold B Cochran -- 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 20
LEGISLATIVE RULE
STATE BOARD OF SANITARIANS

SERIES 4
THE PRACTICE OF PUBLIC HEALTH SANITATION

§20-4-1. General.

1.1. Scope. -- This rule sets forth standards for the regulation and conduct of members, records, applications and examinations for persons employed as public health sanitarians.

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

1.3. Filing Date. -- ~~May 16, 2017~~

1.4. Effective Date. -- ~~May 16, 2017~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on ~~May 16, 2027~~ August 1, 2035.

1.6. Applicability. -- This rule applies to all applicants for permit, certificate or license to practice public health sanitation in this state.

§20-4-2. Definitions.

2.1. Board -- means the State Board of Sanitarians.

~~2.2. Bureau -- means the West Virginia Bureau for Public Health.~~

~~2.3.2.2.~~ Certificate -- means a document issued to a sanitarian under the provisions of this article.

2.4. ~~2.3.~~ Environmental Health Science -- means public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation and rabies control.

~~2.5.~~ ~~2.4.~~ License -- means a document issued to a registered sanitarian under the provisions of this article.

2.6. ~~2.5.~~ NEHA -- means the National Environmental Health Association.

2.7. ~~2.6.~~ Permit -- means a document issued as evidence of qualification to practice as a sanitarian-in-training under this article.

~~2.8.~~ ~~PES -- means the Professional Examination Service.~~

~~2.9.~~ ~~2.7~~ Practice of Public Health Sanitation -- means the consultation, instruction, investigation, inspection or evaluation by an employee of the bureau or municipal or county health department with the primary purpose of improving or conducting administration of enforcement of state laws and rules.

~~2.10.~~ 2.8 Registered Sanitarian -- means a person who is licensed by the board and is uniquely qualified by education, specialized training, experience and examination to assist in the enforcement of public health sanitation laws and environmental sanitation regulations, and to effectively plan, organize, manage, evaluate and execute one or more of the many diverse disciplines comprising the field of public health sanitation.

~~2.11.~~ 2.9 Sanitarian -- means a person who is certified by the board and is uniquely qualified by education in the arts and sciences, specialized training and credible field experience to assist in the enforcement of public health sanitation laws and environmental sanitation regulations, and to effectively plan, organize, manage, evaluate and execute one or more of the many diverse disciplines comprising the field of public health sanitation.

~~2.12.~~2.10 Sanitarian-in-Training -- means a person who is permitted by the board and possesses the necessary educational qualifications for certificate as a sanitarian, but who has not completed the experience requirements in the fields of public health sanitation and environmental health science as required for certificate.

§20-4-3. Standards and requirements for a permit, certificate or license.

3.1. Applications. A person applying to the Board for a permit, certificate or license shall submit to the Board:

3.1.1. A completed application on forms prescribed by the Board;

3.1.2. Payment to the Board of the appropriate application fee; and

3.1.3. Any additional documentation required by the Board.

3.2. Standards for Sanitarian-in-Training. To be eligible to be ~~issues~~ issued a permit as a sanitarian-in-training, an applicant shall:

3.2.1. Be of good moral character;

3.2.2. Be a graduate with a baccalaureate or higher degree from an accredited college or university;

3.2.3. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board within 12 months of being hired.

3.2.4. Practice as a sanitarian-in-training for a period not to exceed three years.

3.3. The Board may waive the requirements of subdivisions 3.2.3 and 3.2.4 for a person who experiences ~~an~~ undue hardship.

3.4. Standards for Sanitarian. To be eligible to be certified as a sanitarian, the applicant shall:

3.4.1. Be of good moral character;

3.4.2. Be a graduate with a baccalaureate or higher degree from an accredited college or university;

3.4.3. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board;

3.4.4. Have at least two years of experience in the field of public health sanitation. An applicant may substitute a successfully completed master's or higher degree in public health, sanitary science, environmental science, community hygiene or other science field as approved by the Board for one of the required years of experience.

3.5. Standards for Registered Sanitarian. To be eligible to be licensed as a registered sanitarian, the applicant shall:

3.5.1. Be of good moral character;

3.5.2. Be a graduate with a baccalaureate or higher degree from an accredited college or university;

3.5.3. Have successfully completed a sanitarian's training course of a minimum of 300 hours as approved by the Board;

3.5.4. Have at least two years of experience in the field of public health sanitation; Provided, That, an applicant may substitute a successfully completed master's or higher degree in public health, environmental science, sanitary science, community hygiene or other science field as approved by the Board for one of the required years of experience; and

3.5.5. Pass an examination as required by the board.

3.6. A person holding a registration issued under a prior enactment of W. Va. Code §30-17-1, et seq., and this rule shall be eligible to renew his or her license in accordance with the provisions of this rule.

§20-4-4. Reciprocity.

4.1. The Board may issue a certificate or a license to practice environmental health science or public health sanitation ~~without requiring an examination~~, to an applicant from another jurisdiction who:

4.1.1. Is of good moral character;

4.1.2. Holds a valid sanitarian license, certificate or other authorization to practice environmental health science or public health sanitation in another jurisdiction and meets requirements which are substantially equivalent to the requirements set forth in W. Va. Code §30-17-1 et seq., and this rule;

4.1.3. Is not currently being investigated by a disciplinary authority, does not have charges pending against his or her license or other authorization to practice environmental health science or public health sanitation, and has never had a license or other authorization to practice environmental health science or public health sanitation revoked;

4.1.4. Has not previously failed an examination for licensure in this state;

4.1.5. Has paid all applicable fees;

4.1.6. Completes food and onsite wastewater training and any additional training as determined by the Board; and

4.1.7. Completes other actions as required by the Board.

§20-4-5. Procedures for Issuance and Renewals.

5.1. A person regulated by this rule shall renew their permit, certificate, or license annually, by completing an application as prescribed in section 3.1 of this rule.

5.2. Permits, certificates, and licenses expire at midnight on December 31st following the date of issuance.

5.3. At least 30 days prior to January 1st of each year, the Board shall mail to every person it regulates an application for renewal.

5.4. A fee of ~~\$50.00~~ \$125.00 shall accompany any application for issuance or renewal of a permit, certificate, or license.

5.5. A late fee of ~~\$15.00~~ \$25.00 shall be assessed by the Board for any renewal that is not received within 30 days of expiration.

5.6. A person applying for a renewal of a permit, certificate or license must show proof of having completed 15 hours of Board approved continuing education within the prior calendar year. The applicant may have an additional 60 days in which to acquire hours but pay an additional \$50.00 late fee. Any hours obtained during the additional 60-day period to meet the prior calendar year requirement shall not be counted toward the current calendar year.

5.7. Expired permits, certificates or licenses may be reinstated only upon the payment of all lapsed renewal fees up to five years and submit to training approved by the board, if in excess of five years.

5.8. Permits, certificates and licenses not renewed for failure to obtain the required 15 hours of continuing education as specified in 5.6. shall not be renewed during the current calendar year.

5.9. The Board may deny an application for renewal for any reason which would justify the denial of an original application for a permit, certificate or license.

5.10. A person regulated by the Board shall carry proof of a valid permit, certificate, or license as required in W. Va. Code §30-17-14.

§20-4-6. Exempt from permit, certificate, or license.

A person or qualified member of other recognized professions practicing environmental health science consistent with the laws of this state, shall be exempt from obtaining a permit, certificate or license under this rule provided the person does not represent themselves as a sanitarian-in-training, sanitarian or registered sanitarian, as defined by W. Va. Code §30-17-3 and this rule.

§20-4-7. Standards for Approval of Courses.

7.1. A person regulated by this rule is responsible for submitting to the Board pertinent information regarding courses attended for continuing education approval.

7.2. Information shall include the following:

7.2.1. Verification of attendance; and

7.2.2. An agenda or outline of the course which includes the date and length of the course.

7.3. The Board reserves the right to request additional information, when necessary.

7.4. A maximum of five hours for conducting food worker training classes may be requested annually in lieu of other course attendance by submitting dates and course length to the Board.

§20-4-8. Examinations.

8.1. Only persons who meet the education requirements in this rule, shall be eligible for examination for registration as a sanitarian.

8.2. A Sanitarian-in-training shall be eligible for admission to examination for registration as a sanitarian after successfully completing a sanitarian's training course of a minimum of 300 hours as approved by the Board. However, the Sanitarian-in-training must have at least two years of experience in the field of public health sanitation prior to obtaining a Registered Sanitarian license. An applicant may substitute a successfully completed master's or higher degree in public health, sanitary science, environmental science, community hygiene or other science field as approved by the Board for one of the required years of experience.

~~8.3. An examination for registration of sanitarians shall be administered not less than once each calendar year in the state at such times and places as may be specified by the Board. The examination may be written, oral, or both written and oral.~~

~~8.4. A registered sanitarian who is a member of the Board or designated by the Board shall be eligible to proctor the examination.~~

~~8.5. The Board shall administer the NEHA examination titled "Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) Exam".~~

~~8.6.~~ 8.3. The applicant requesting the examination shall pay be responsible for ordering and pay the examination fee set forth by NEHA by:

~~8.6.1.~~ 8.3.1. Gathering the electronic version of the Board approval (letter, email, etc.).

~~8.6.2.~~ 8.3.2. Creating an account or sign in to the MyNEHA portal.

~~8.6.3.~~ 8.3.3. Selecting "Credentials & Exams", then "apply for Credential/State Exam"

~~8.6.4.~~ 8.3.4. Await an email from pearson@profesting.com with instructions to schedule the exam

~~8.7.~~ 8.4. The Board shall accept the passing score set by the NEHA Exam Peer Review Committee.

~~8.8.~~ 8.5. The Board shall provide written notification to an applicant that he or she passed or failed the examination.

~~8.9.~~ 8.6. If an applicant fails to meet the minimum grade requirements on his or her examination, he or she may be reexamined at any time and place specified by the Board for the administration of such examination by contacting NEHA and upon resubmitting his or her application accompanied by the prescribed fees, as required in Section 8.3.

~~8.10. The Board shall accept a passing score of 70% on the PES "Registered Sanitarian Proficiency Examination".~~

~~8.11. The Board may contract with a third party to administer the examination which may include an additional administrative fee to be paid by the individual taking the test.~~

§20-4-9. Use of Title.

Only a person who has qualified as a registered sanitarian and who holds a valid current license for use in this state shall have the right and privilege of using the title, "registered sanitarian" and to use the abbreviation, "R.S." after his or her name.

§20-4-10. Suspension or Revocation of Permits, Certificates and Licenses.

10.1. The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the license, permit or certificate of, impose probationary conditions upon, or take disciplinary action against, any licensee, permittee or certificate holder for any of the following reasons:

10.1.1. Obtaining a license, permit or certificate by fraud, misrepresentation or concealment of material facts;

10.1.2. Being convicted of a felony or other crime involving moral turpitude;

10.1.3. Being guilty of unprofessional conduct which placed the public at risk;

10.1.4. Violating this article or lawful order of the board;

10.1.5. Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization denied by the proper authorities of another jurisdiction, irrespective of intervening appeals and stays; or

10.1.6. Engaging in any act which has endangered, or is likely to endanger the health, welfare or safety of the public.

10.2. For the purposes of this section, disciplinary action may include:

10.2.1. Reprimand;

10.2.2. Probation;

10.2.3. Administrative fine, not to exceed \$1,000 per day per violation;

10.2.4. Mandatory attendance at continuing education seminars or other training;

10.2.5. Practicing under supervision or other restriction;

10.2.6. Requiring the licensee, permittee or certificate holder to report to the board for periodic interviews for a specified period of time; and

10.2.7. Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

§20-4-11. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule have the right to request a contested case hearing in a manner pursuant to the provisions of W. Va. Code §29A-5-1, et seq. and legislative rule, State Board of Sanitarians, Rules of Procedure for Contested Case Hearing and Declaratory Rulings, 20CSR01.