

West Virginia Healthcare Workforce Professional Licensing Board Guidance

(UPDATED: April 8, 2020)

WV BOARD OF MEDICINE

Licensure and Continuing Education:

To assist the West Virginia Board of Medicine in relieving regulatory burdens on practitioners who are responding to the COVID 19 pandemic, the Governor has suspended certain provisions of the Medical Practice Act to give the Board flexibility regarding license expiration and renewal during the current State of Emergency. This has allowed the Board to extend the expiration date of all licenses, permits, registrations and authorizations which are scheduled to expire between now and June 30. Relatedly, renewal for all such credentials will also be extended. Renewal will begin as scheduled at 8 30 am EDT on May 6 but will be extended until 4 30 pm EDT on Sept 30. This also will apply to all PLLCs and, upon request, to any Medical Corporations which are scheduled to expire between now and June 30. Additional information will be provided via eblast to affected credential holders in April 2020.

Emergency Registration to Practice:

Eligible physicians and/or physician assistants licensed in another state, or who are inactive or retired from West Virginia practice, may provide medical care in West Virginia under special provisions during the State of Emergency, subject to such limitations and conditions as the Governor may prescribe. The West Virginia Board of Medicine has promulgated an emergency rule to create a [registration process](#) for eligible physicians and PAs. Practitioners must register to provide medical services in West Virginia, including services via telemedicine. By registering for limited authority to practice in West Virginia during the COVID-19 emergency, practitioners in bordering states can conduct routine patient encounters with their WV patients via telehealth technologies.

Telemedicine:

To ensure maximum flexibility for our licensees and to surge response to COVID-19 the Board encourages the use of telemedicine technologies, consistent with the standard of care, and where appropriate for patients. Executive Order 7-20 as amended by Executive Order 10-20, suspends certain provisions of the Medical Practice Act to facilitate the use of telemedicine technologies.

Use of Audio Only Telemedicine Technologies During the duration of the COVID-19 emergency, the prohibition on establishing a provider patient relationship is temporarily suspended. If audio only communication satisfies the standard of care for a particular patient presentation, it may be used to establish a provider patient relationship and to provide patient care. This regulatory suspension does not address the reimbursement of audio only patient encounters. While there have been some reimbursement changes implemented by CMS, it generally requires telehealth to include audio and video components. However, on March 26, 2020, Cabinet Secretary Bill Crouch of the WV Department of Health and Human Services indicated that the WV Bureau for Medical Services is allowing telehealth for non-emergency visits, and that this allowance includes audio only encounters.

OCR to Exercise Discretion in Telemedicine Related HIPAA Enforcements The US Department of Health and Human Services Office for Civil Rights (OCR) has announced that during the COVID-19 public health emergency it will exercise its enforcement discretion and will not impose penalties for HIPAA rules violations by providers who are engaging in good faith efforts to respond to the COVID-19 emergency via telehealth.

Physician Assistants Physician assistants with authorized Practice Agreements or active Practice Notifications may practice via telemedicine, where appropriate and in collaboration with physicians, even if the PA's Practice Agreement and/or Practice Notification does not specifically identify telemedicine as an authorized practice modality.

WV BOARD OF OSTEOPATHIC MEDICINE

Applications for Emergency Temporary Permit for DOs and PAs-

To maximize the number of healthcare providers available during the State of Emergency declared by Governor Jim Justice regarding the COVID-19 pandemic, the Board has developed procedures for emergency temporary permits for the following practitioners:

1. Out-of-State Practitioners: DOs and PAs who have no pending complaints, investigations, consent orders, board orders, or pending disciplinary proceedings and who possess valid, unrestricted medical licensure in another state, district, or territory of the United States; and
2. Retired or Inactive Practitioners: DOs and PAs who, at one time, possessed a license issued by the West Virginia Board of Osteopathic Medicine which was not revoked by the Board, but who are now retired or in inactive status.

The DO Emergency Temporary Permit Application can be found [here](#).

The PA Emergency Temporary Permit Application can be found [here](#).

Individuals seeking an emergency temporary permit may not begin practicing in West Virginia until they have received authorization from the Board.

Individuals obtaining an emergency temporary permit shall be subject to the Board's jurisdiction for all purposes set forth in or related to the Board's rules and Chapter 30 of the West Virginia Code.

Emergency Temporary Permits will remain valid until terminated by the Board or the State of Emergency is lifted, whichever occurs first.

Individuals seeking full licensure by the Board, including retired and inactive licensees, must complete the appropriate application process and satisfy all applicable requirements. For more information regarding licensing, please utilize the licensing tab on the Board's website.

WV RN BOARD

Approved changes for practice in response to COVID-19

The West Virginia Board of Examiners for Registered Professional Nurses at the emergency meeting on April 3, 2020 reviewed, considered and approved changes for RN and APRN practice in response to the COVID-19 pandemic.

Pursuant to the [Governor's Executive Order 17-20](#) permitting the West Virginia Board of Examiners for Registered Professional Nurses, in their discretion, to suspend or modify the requirements for the administration of anesthesia, the Board suspends and modifies the requirement contained in W. Va. Code §30-7-15 as follows:

Requirements for supervision or presence of any other healthcare provider when anesthesia is administered by a certified registered nurse anesthetist (CRNAs) (WV Code §30-7-15) is suspended.

Pursuant to the Governor's Executive Order 17-20 permitting the West Virginia Board of Examiners for Registered Professional Nurses, in their discretion, to temporarily suspend or modify the requirements for the authorization for prescriptive authority, collaborative requirements for prescriptive authority, prescriptive formulary limitations, prescriptive refill and supply limitations, and other prescriptive limitations including continuing education and renewal requirements, contained in W. Va. Code §30-7-15a, §30-7-15b, §30-7-15c), the Board suspends and modifies the requirements as follows:

1. The advanced practice registered nurse shall practice in conformity with the advanced practice registered nurse's education, training, and certification and in accord with the delineation of privileges granted to the advanced practice registered nurse by the hospital/facility to use the advanced practice registered nurse to the fullest extent possible.
2. For West Virginia APRNs, who have been approved to practice in West Virginia during the State of Emergency, the requirement for collaborative agreements with physicians for the prescribing of medications is suspended and automatically reinstated when the declared emergency is lifted.
3. For West Virginia APRNs with prescriptive authority, who have been approved to practice in West Virginia during the State of Emergency, Schedule II drugs of the Uniform Controlled Substances Act and antineoplastics, if the patient has been on these medications, are permitted to be refilled if the refill is required during the declared emergency. The prescribing physician's name must be written on the prescription as well as the last date the prescription was filled. The Board of Pharmacy requests the name of practitioner and prescription number of the original prescription the APRN is refilling. They suggest notifying that practitioner as well. The implementation date with the DEA is pending. The Board will announce the details when they become available.
4. For West Virginia APRNs with prescriptive authority, who have been approved to practice in West Virginia during the State of Emergency, the Drugs listed under Schedule III shall not be limited to a thirty day supply and are permitted to be refilled if the refill is required during the declared emergency.
5. The fee for initial prescriptive authority shall be waived until 30 days after the state of emergency is lifted by the Governor.
6. The APRN certifications renewal extension is based on certifying body policy.

Pursuant to the Governor's Executive Order 10-20 on Monday, March 23, 2020, the suspension and/or modifications remain effective:

1. If a person is licensed in another state as a RN or APRN a WV license is NOT required to practice in WV as long as disciplinary action the license is unencumbered or no complaints are pending.
2. There is no renewal of licenses.
3. Disciplinary timelines for hearings are waived and may be conducted by telephone at the discretion of the agency.

The Board voted on Friday, March 20, 2020, to suspend the following rules:

1. A Criminal Background Check (CBC) will still be required. However, if the facility where the

applicant would go is closed and there isn't one within a 50 mile radius then the applicant does NOT have to get the CBC. The applicant would have to get the CBC as soon as other fingerprinting resources are available or within 30 days of the lifting of the State of Emergency, whichever comes first.

2. The temporary permit (TP) is extended for more than 90 days. Therefore, the applicant would be able to have a temporary permit for more than 90 days. This applies to both exam applicants and endorsement applicants.
3. Verifications do not have to be requested by applicants through NURSYS. The Board will utilize Nurses and individual state websites.
4. For limited prescriptive authority, the applicant does not have to provide documentation of pharmacotherapy in the clinical practice.
5. Reinstatement applicants will not have to provide continuing education.

Out of State RN, APRN and DT Notification of Practice in WV During State of Emergency

If you would like to work in West Virginia during the State of Emergency, fill out this form, scan and email to rnboard@wv.gov

[COVID State of Emergency Notification of Practice Form](#)

The following spreadsheet contains notifications of individuals working in West Virginia on an active out-of-state license during the State of Emergency:

[COVID Emergency Notifications](#)

WV BOARD OF RESPIRATORY CARE

- All license renewals are waived.
- Continuing Education requirements are waived.
- Out-of-state Licensees may work in West Virginia by completing the Temporary License Application available on the board's website and providing a copy of a government issued Photo ID. The board will verify the applicants NBRC credentials and check for any completed or pending discipline in other states. The applicant will be assigned a temporary number. License fee and continuing education requirement is waived.
- Inactive or retired respiratory therapists may work in West Virginia by completing the Temporary License Application available on the board's website. The board will verify the applicants NBRC credentials and the applicants employer shall verify practice competency. The applicant will be assigned a temporary number. License fee and continuing education requirement is waived.
- Respiratory Students scheduled to graduate in 2020 may work in West Virginia by completing the Temporary License Application available on our website. The applicant must provide a copy of his or her Student ID with the application. The applicants employer shall verify practice competency. Employers needing students to perform procedures beyond student limitations must provide the board with documented competency for each procedure.
- The requirement for completing and submitting the information to the Board is waived if the respiratory therapist is a member of the National Disaster Medical System under the Office of Emergency Preparedness, United States Department of Health and Human Services, and submits to the board a copy of his/her NDMS photo identification with the Temporary License Application.
- The Board encourages its licensees to utilize telemedicine, when possible and practicable, so

as to avoid unnecessary patient travel and interaction. Please note that services provided via telecommunication must still meet the applicable community standard of care and patient confidentiality requirements.

WV BOARD OF PHARMACY

Changes to Schedule II Prescribing

On March 31, 2020 [Governor Justice](#) waived the requirement that for chronic pain patients there must be an in-person physical examination every 90 days prior to prescribing a refill for a Schedule II opioid medication to an existing patient for chronic pain treatment (WV Code §16-54-4(h)) provided that the provider utilizes other appropriate tools to evaluate the patient at these intervals, and assesses whether continuing the course of treatment would be safe and effective for the patient.

On March 30, 2020 the DEA provided [the Guidance](#) allowing two exceptions enabling greater flexibility for oral Schedule II prescribing. However, because WV rules contain the same language, before the DEA exceptions could be enacted, WV emergency rules had to be filed permitting the same exceptions. The exceptions are to §15-1-17.1.6.c and §15-2-8.9.2 and are as follows:

8.9.2. In the case of an emergency situation, a practitioner may communicate a prescription for a Schedule II controlled substance orally or by way of electronic transmission other than electronic prescribing, provided that if the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a registered practitioner, which may include a call-back to the practitioner using the practitioner's phone number as listed in the telephone directory and other good faith efforts to insure his or her identity; and:

8.9.2.a. the quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period. Dispensing beyond the emergency period shall be pursuant to a prescription issued in the normal course of practice as authorized in subsection 8.9.1. of this rule.

8.9.2.b. the orally communicated prescription is immediately reduced to writing by the pharmacist, or, if necessary, the prescription communicated by way of electronic transmission other than electronic prescribing is immediately reduced to a hard copy;

8.9.2.c. within seven fifteen days after authorizing an emergency oral prescription, the practitioner delivers a valid paper or electronic prescription for the emergency quantity prescribed to the dispensing pharmacist. The practitioner may send the follow-up prescription to the pharmacy via facsimile, or take a photograph or scan of this follow-up prescription and send the photograph or scan to the pharmacy in place of the paper prescription. It is the responsibility of the practitioner to ensure that, whichever method the practitioner uses, the prescription contains all of the required information outlined in 21 CFR 1306.05 and 1306.11(d), including the statement that the prescription is "Authorization for Emergency Dispensing. The prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the orally or electronically transmitted prescription. The paper prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it shall be postmarked within the seven fifteen day period; if sent by electronic prescription, it must be transmitted by the prescriber within the seven fifteen day period. Upon receipt, the dispensing pharmacist shall attach this written prescription to the emergency oral prescription which had earlier been reduced to writing or to the hard copy of the electronically transmitted prescription. The pharmacist shall notify the nearest office of the U.S. Drug Enforcement Administration and the Board if the prescribing practitioner fails to deliver a written prescription.

To summarize the changes:

1. The DEA reiterates that there is not a defined time for “amount adequate to treat the emergency.” Please see further discussion on the DEA Guidance.
2. The practitioner must speak to the pharmacist. This cannot be done via an agent of the physician. (See 8.9.2 above)
3. The pharmacist must get an “original” prescription within FIFTEEN days, instead of the original seven.
4. The “original” may come in one of four methods to be filed with the verbal prescription by the pharmacist: 1) paper prescription with a wet signature mailed within 15 days 2) sent via fax 3) sent as a photograph 4) sent as a scan
5. The prescribing practitioner is responsible for ensuring that all of the information is on the prescription, including “Authorization for Emergency Dispensing” and maintaining the original prescription.

APRN Prescribing of Controlled Substances including Schedule IIs

Governor Justice has provided an Executive Order that permits [the Board of Nursing](#), at their discretion, to temporarily suspend or modify the requirements for the authorization of prescriptive authority, prescriptive formulary limitations, prescriptive refill and supply limitations, and other prescriptive limitations. The WV BOP has contacted the BON for information on the BON’s plans. There is a BON meeting scheduled for April 3, 2020. Continue to watch for updates on the WV BOP website as this situation progresses.

WV Insurance Commissioner Update

The WV Insurance Commissioner has provided some waivers pertinent to pharmacy these can be found at [here](#).