

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

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JUL 31 10 01 AM '00

Form #3

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Board of Medicine TITLE NUMBER: 11

CITE AUTHORITY: West Virginia Code § 30-3-16(b) and § 30-1-8(h)

AMENDMENT TO AN EXISTING RULE: YES NO

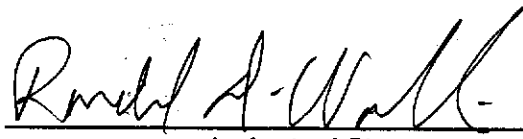
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1B

TITLE OF RULE BEING AMENDED: Licensure, Disciplinary and Complaint
Procedures, Continuing Education, Physician Assistants

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature



R. Curtis Arnold, D.P.M.
South Charleston

Rev. Richard Bowyer
Fairmont

Ahmed D. Faheem, M.D.
Beckley

Mr. Roger Foster
Morgantown

Angelo N. Georges, M.D.
Wheeling

J. David Lynch, Jr., M.D.
Morgantown

Phillip B. Mathias, M.D.
Glen Dale

Mr. Jewel F. McClanahan
Nitro

Carmen R. Rexrode, M.D.
Moorefield

Lee Elliott Smith, M.D.
Princeton

S. Kenneth Wolfe, M.D.
Huntington

Kenneth Dean Wright, P.A.-C.
Huntington

State of West Virginia

West Virginia Board of Medicine

101 Dee Drive

Charleston, WV 25311

Telephone (304) 558-2921

Fax (304) 558-2084

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE AND SUMMARY OF CONTENT OF PROPOSED RULE

The filing of the rule is necessitated by the provisions of H.B. 4062 enacted during the 2000 Legislative Session. H.B. 4062 requires in pertinent part that on or before July 1, 2000, every board referred to in chapter thirty (30) "shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, which shall specify a procedure for the investigation and resolution of all complaints against persons licensed under this chapter."

The Board of Medicine's complaint procedure for complaints against physician assistants is at page nine, and refers to 11 CSR 1A, the rule containing complaint procedures against physicians and podiatrists, at 14, pages fifteen (15) – eighteen (18). (The reference to that complaint procedure results from the fact that a complaint against a physician assistant is automatically also a complaint against the supervising physician, as the supervising physician is responsible for all acts of the physician assistant.)

PRESIDENT
Sarjit Singh, M.D.
Weirton

VICE PRESIDENT
Leonard Simmons, D.P.M.
Fairmont

SECRETARY
Henry G. Taylor, M.D., M.P.H.
Charleston

COUNSEL
Deborah Lewis Rodecker
Charleston

EXECUTIVE DIRECTOR
Ronald D. Walton
Charleston

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 31, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Medicine

101 Dee Drive

Charleston, West Virginia 25311 (304) 558-2921

LEGISLATIVE RULE TITLE: Licensure, Disciplinary and Complaint Procedures,
Continuing Education, Physician Assistants

1. Authorizing statute(s) citation West Virginia Code § 30-3-16(b) and § 30-1-8(h)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 28, 2000

b. What other notice, including advertising, did you give of the hearing?

Attached letter.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 28, 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached XX No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 31, 2000

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Ronald D. Walton, Executive Director

West Virginia Board of Medicine

101 Dee Drive

Charleston, West Virginia 25311 (304) 558-2921 Ext. 227

FAX (304) 558-2084

- g. **IF DIFFERENT FROM ITEM 'F'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

N/A

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



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Fax (304) 558-2084

June 28, 2000

FILE COPY

Ms. Ginger Boles, President
WVAPA
4905 Noyes Avenue
Charleston, West Virginia 25304

Dear Ms. Boles,

Enclosed please find a proposed rule filed by the West Virginia Board of Medicine. The only proposed change in this rule is found on page 9. The proposed rule is filed as a result of the passage in the 2000 Legislative Session of H.B. 4062, which states that proposed legislative rules must be filed on or before July 1, 2000, which "shall specify a procedure for investigation and resolution of all complaints" against persons under the Board of Medicine's jurisdiction. Because of the reference on page 9 of this rule to rule 11 CSR 1A, I am enclosing that for you too.

Please note there is a comment period ending July 28, 2000, at 4:30 p.m. Comments from the West Virginia Association of Physician Assistants are welcome. Thank you for your attention.

Sincerely,

Ronald D. Walton

RDW/wds

Enclosures

pc: Chris Hall, Coordinator, WVAPA

PRESIDENT
Sarjit Singh, M.D.
Weirton

VICE PRESIDENT
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COUNSEL
Deborah Lewis Rodecker
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EXECUTIVE DIRECTOR
Ronald D. Walton
Charleston

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensure, Disciplinary and Complaint Procedures, Continuing Education,
Physician Assistants

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Medicine

Address: 101 Dee Drive
Charleston, West Virginia 25311

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

No increase in state funding will be needed.

3. Objectives of These Rules:

To specify a procedure for the investigation and resolution of all complaints filed against physician assistants under the jurisdiction of the Board of Medicine.

Rule Title: Licensure, Disciplinary and Complaint Procedures, Continuing Education,
Physician Assistants

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: June 27, 2000

Signature of Agency Head or Authorized Representative:

Ronald D. Wall

TITLE II
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE

SERIES 1B

LICENSURE, DISCIPLINARY AND COMPLAINT PROCEDURES,
CONTINUING EDUCATION, PHYSICIAN ASSISTANTS

FILED

JUL 31 10 01 AM '00

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

§11-1B-1. General.

1.1. Scope. -- W. Va. Code §30-3-16(b) requires the Board of Medicine to adopt rules governing the extent to which physician assistants may function in this State and W. Va. Code §30-3-16 (o) requires the Board of Medicine to adopt rules pertaining to written documentation of continuing education required.

1.2. Authority. - W. Va. Code §30-3-16(b) and (o), §30-1-8(h).

1.3. Filing Date. -

1.4. Effective Date. -

§11-1B-2. Rules For Physician Assistants.

2.1. For purposes of this section, the following definitions are in effect:

2.1.1. Licensure -- The approval of individuals by the Board to serve as physician assistants.

2.1.2. Crimes involving moral turpitude. -- Those crimes which have dishonesty as a fundamental and necessary element; including, but not limited to, crimes involving theft, embezzlement, false swearing perjury, fraud or misrepresentation.

2.1.3. NCCPA. - The National Commission on the Certification of Physician Assistants.

2.1.4. Protocol. -- Written treatment instructions prepared by a supervising physician for use by a physician assistant. The instructions should be flexible, in accordance with the setting where the physician assistant is employed.

2.1.5. Satellite operation. -- An office or clinic separate and apart from the office of the supervising physician, established by the physician and manned in part by a physician assistant.

2.1.6. Supervision. -- The opportunity or ability of the physician to provide or exercise control and direction over

the services of physician assistants. Constant physical presence of the supervising physician of a physician assistant certified by the NCCPA is not required so long as the supervising physician and the physician assistant are or can easily be in contact with each other by radio, telephone or telecommunication. Supervision requires the availability of the supervising physician. An appropriate degree of supervision includes:

a. The active and continuing overview of the physician assistant's activities to determine that the supervising physician's directions are being implemented;

b. The availability of the supervising physician to the physician assistant for all necessary consultations;

c. Personal and regular (at least monthly) review by the supervising physician of selected patient records upon which entries are made by the physician assistant. The supervising physician shall select patient records for review on the basis of written criteria established by the supervising physician and the physician assistant and shall be of sufficient number to assure adequate review of the physician assistant's scope of practice, and;

d. Periodic (at least monthly) education and review sessions discussing specific conditions, protocols, procedures and specific patients, held by the supervising physician for the physician assistant under his or her supervision.

2.1.7. Alternate supervising physician. -- A permanently licensed physician designated by the supervising physician in his or her absence who has agreed to provide medical direction and advice to a licensed physician assistant.

2.2. Supervision of physician assistants by licensed physician; services that may be performed by physician assistants.

2.2.1. A physician fully licensed under chapter thirty of the Code of West Virginia may submit a job description to the Board to employ a physician assistant.

2.2.2. The delegation of certain acts to a physician assistant shall be stated on the job description in a manner consistent with sound medical practice and with the protection of the health and safety of the patient in mind. The services shall be limited to those which are educational, diagnostic, therapeutic or preventive in nature and may, according to the standards set by his or her supervising physician, allow the physician assistant to formulate a provisional diagnosis and treatment plan which may be

set by standard protocols of his or her supervising physician and are under his or her direction.

2.3. Submission of application; job description. -- An application completed by the applicant and a job description signed by the supervising physician listing in numerical order the duties which will be performed by the physician assistant must be in the office of the Board of Medicine, 101 Dee Drive, Charleston, West Virginia 25311, thirty (30) days prior to a Board meeting. Meetings are held bimonthly or as needed, beginning in January. The filing of an application and job description does not entitle a physician assistant to licensure. The only legal authority for such approval must be given by the Board.

2.3.1. Proof of qualifications -- Applications for licensure and the proposed job description shall be accompanied by:

a. documentation that the applicant graduated from an approved program,

b. documentation that the applicant attained a baccalaureate or masters degree,

c. the required fee,

d. documentation that the applicant has unencumbered licensure or certification status in all states where he or she was previously licensed or certified, and

e. documentation that the applicant passed the NCCPA examination. Noncertified physician assistants who are issued a temporary license shall sit for and obtain a passing score on the examination next offered following graduation from an approved program. No applicant shall receive a temporary license who, following graduation from an approved program, has sat for and not obtained a passing score on the NCCPA examination.

2.3.2. Change of supervising physician -- The Board may provide interim approval to a physician to supervise a currently licensed physician assistant provided that:

a. A completed application and proposed job description has been received at the office of the Board of Medicine;

b. The skills and training of the prospective supervising physician are appropriate to supervise the range of medical services provided for in both the proposed and previously

approved job descriptions;

c. The physician assistant is limited to performing those medical services provided for in the previously approved job description, until the Board has approved the proposed job description; and

d. The licenses of the prospective supervising physician and the physician assistant are in good standing.

2.3.3 Changes to an approved job description -- Application for changes to the standard job description as provided for in subdivision 2.12.1. of this rule or a previously approved job description shall be made by the physician assistant or supervising physician thirty (30) days prior to a Board meeting. The proposed job description shall be signed by the supervising physician and physician assistant.

2.4. Biennial report of physician assistant's performance; biennial report of the Board. -- Physician assistants and their supervising physicians must submit to the Board biennial signed reports either individually or combined, on the professional conduct, capabilities and performance of the physician assistant. The report shall accompany each application for licensure and shall be submitted to the office of the Board by April 1. In addition to the report, the Board shall compile and publish an annual report that includes a list of currently licensed physician assistants, their employers and their location in the state.

2.5. Supervision and control of physician assistant. -- The physician assistant, whether employed by a health care facility or the supervising physician, shall perform only under the supervision and control of the supervising physician. Supervision and control of a physician assistant certified by the NCCPA requires the availability of a physician for consultation and direction of the actions of the physician assistant. It does not necessarily require the personal presence of the supervising physician at the place or places where services are rendered, if the physician assistant certified by the NCCPA is performing (specified) duties at the direction of the supervising physician. In the case of a physician assistant who has not been certified by the NCCPA, the presence of the supervising physician or alternate supervising physician on the premises where the noncertified assistant performs delegated medical tasks is required. The physician assistant may function in any setting within which the supervising physician routinely practices, but in no instance shall a separate place of work for the physician assistant be established. The supervising physician shall be a physician permanently licensed in this State.

2.6. Limitations on supervision and scope of duties of physician assistants.

2.6.1. A supervising physician may not supervise more than three (3) physician assistants at any one time, except that a physician may supervise up to four (4) hospital employed physician assistants.

2.6.2. A supervising physician may also serve as an alternate supervising physician in the absence of another supervising physician. The supervising physician is legally responsible. Alternate supervising physicians also are legally responsible for a physician assistant where the physician assistant is providing medical services to the alternate physician's patients at his or her direction in settings such as a health care facility, partnerships, group practices, and other mutually agreed on patient coverage arrangements.

2.6.3. It is appropriate for a physician assistant to provide medical services to an alternate physician's patients at his or her direction in settings such as a health care facility, partnerships, group practices and other mutually agreed on patient coverage arrangements.

2.6.4. A physician assistant shall not sign prescriptions except in the case of certain physician assistants authorized to do so by the Board in accordance with the provisions of subsection 2.13 of this rule.

2.6.5. A physician assistant shall not perform any services which his or her supervising physician is not qualified to perform.

2.6.6. A physician assistant may sign orders to be countersigned later by his or her supervising physician: Provided, That they are not in conflict with hospital regulations.

2.6.7. A physician assistant shall not perform any services which are not included in his or her job description and approved by the Board.

2.6.8. No physician assistant shall be supervised by and work for more than three supervising physicians at one time. Physician assistants who are supervised by more than one supervising physician shall be those whose scope of professional duties require multiple physician supervisors or who have more than one employer.

2.6.9. A supervising physician shall not permit a physician assistant to independently practice medicine. The supervising physician shall supervise the physician assistant at all times.

2.6.10. A physician assistant shall not maintain an office separate and apart from the supervising physician's primary office for treating patients, unless the Board has granted the supervising physician specific permission to establish a satellite operation.

2.6.11. A physician assistant shall not independently bill patients for services provided.

2.6.12. A physician assistant shall not independently delegate a task assigned to him or her by his or her supervising physician to another individual.

2.6.13. A physician assistant shall not perform acupuncture in any form.

2.6.14. In the case of a physician assistant who has not been certified by the NCCPA, the presence of the supervising physician or alternate supervising physician is required on the premises where the noncertified physician assistant performs delegated medical tasks.

2.7. Identification of physician assistant. -- When functioning as a physician assistant, the physician assistant shall wear a name tag which identifies the physician assistant as a physician assistant.

2.8. Supervising physician; responsibilities.

2.8.1. The supervising physician is responsible for observing, directing and evaluating the work, records and practices performed by the physician assistant.

2.8.2. The supervising physician shall notify the Board in writing of any termination of the employment of his or her physician assistant within ten (10) days of the termination.

2.8.3. The legal responsibility for any physician assistant remains that of his or her supervising physician at all times. However, in temporary situations not to exceed twenty one days, when a licensed and fully qualified physician assistant is substituting for another licensed physician assistant, the acts and omissions of the substituting physician assistant are the legal responsibility of the absent physician assistant's

designated supervising physician.

2.8.4. The temporary change in supervisory responsibility shall be provided to the Board in writing, within ten (10) days of the effective date of the substitution, signed by the affected supervising physicians and physician assistants, and clearly specifying the dates of substitution.

2.9. The license of a physician assistant shall be restricted, suspended or revoked by the Board in accordance with all the alternatives set out at W. Va. Code §30-3-14(i) when, after due notice and a hearing in accordance with the manner and form prescribed by the contested case hearing procedure, W. Va. Code §29A-5-1 et seq. and rules of the Board set out in Procedural Rule 11 CSR 3 it is found:

2.9.1. That the assistant has held himself or herself out or permitted another person to represent him or her as a licensed physician;

2.9.2. That the assistant has in fact performed other than at the direction and under the supervision of a supervising physician licensed by the Board;

2.9.3. That the assistant has been delegated and performed a task or tasks beyond his or her competence and not in accordance with his or her job description as approved by the Board;

2.9.4. That the assistant is a habitual user of intoxicants or drugs to such an extent that he or she is unable to safely perform as an assistant to the physician.

2.9.5. That the assistant has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;

2.9.6. That the assistant has been adjudicated a mental incompetent or his or her mental condition renders him or her unable to safely perform as an assistant to a physician.

2.9.7. That the assistant has failed to comply with any of the provisions of this rule or the West Virginia Medical Practice Act; W. Va. Code §30-3-1 et seq.; or

2.9.8. That the assistant is guilty of unprofessional conduct which includes, but is not limited to, the following:

a. Misrepresentation or concealment of any material

fact in obtaining any certificate or license or a reinstatement of any certificate or license;

b. The commission of an offense against any provision of state law related to the practice of physician assistants, or any rule promulgated under the law;

c. The commission of any act involving moral turpitude, dishonesty or corruption, when the act directly or indirectly affects the health, welfare or safety of citizens of this State. If the act constitutes a crime, conviction of the crime in a criminal proceeding is not a condition precedent to disciplinary action;

d. Conviction of a felony, as defined under the laws of this State or under the laws of any other state, territory or country;

e. Misconduct in his or her practice as a physician assistant or performing tasks fraudulently, beyond his or her authorized scope of practice, with incompetence or with negligence on a particular occasion or negligence on repeated occasions;

f. Performing tasks as a physician assistant while the ability to do so is impaired by alcohol, drugs, physical disability or mental instability;

g. Impersonation of a licensed physician or another certified or licensed physician assistant;

h. Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine; treating or prescribing for any human condition by a method, means or procedure which the physician assistant refuses to divulge upon demand of the Board; or using methods or treatment processes not accepted by a reasonable segment of the medical profession.

i. Prescribing a prescription drug, including any controlled substance under state or federal law, other than in good faith and a therapeutic manner in accordance with accepted medical standards;

j. Prescribing a controlled substance under state or federal law, to or for himself or herself, or to or for any member of his or her immediate family; or

k. Prescribing a prescription drug, including any controlled substance under state or federal law, which is not included in the approved job description for that physician

assistant or which is not included in the approved state formulary for physician assistants.

2.10. Denial of licensure of physician assistant. Whenever the Board determines that an applicant has failed to satisfy the Board that he or she should be licensed, the Board shall immediately notify the applicant of its decision and indicate in what respect the applicant has failed to satisfy the Board. The applicant shall be given a formal hearing before the Board upon request of the applicant filed with or mailed by registered or certified mail to the Secretary of the Board at Charleston, West Virginia. The request must be filed within thirty (30) days after receipt of the Board's decision, stating the reasons for the request. The Board shall within twenty (20) days of receipt of the request, notify the applicant of the time and place of a public hearing, which shall be held within a reasonable time. The burden of satisfying the Board of his or her qualifications for licensure is on the applicant. Following the hearing, the Board shall determine on the basis of this rule whether the applicant is qualified to be licensed, and this decision of the Board is final as to that application.

2.11. Complaint and Disciplinary procedures. -- The complaint and disciplinary process and procedures set forth in the contested case hearing procedure, W.Va. Code §29A-5-1 et seq. and in rules of the Board set out in Procedural Rule 11 CSR 3 and in Legislative Rule 11 CSR 1A at 14, also apply to the complaint process for physician assistants, and to disciplinary actions instituted against physician assistants with the same provisions regarding the appeal of decisions made to circuit courts.

2.12. Physician assistant utilization.

2.12.1 The tasks a physician assistant may perform are those which require technical skill, execution of standing orders, routine patient care tasks and those diagnostic and therapeutic procedures which the supervising physician may wish to delegate to the physician assistant after the supervising physician has satisfied himself or herself as to the ability and competence of the physician assistant. The supervising physician may, with due regard for the safety of the patient and in keeping with sound medical practice, delegate to the physician assistant those medical procedures and other tasks that are usually performed within the normal scope of the supervising physician's practice, subject to the limitations set forth in this section and the West Virginia Medical Practice Act, W. Va. Code §30-3-1 et seq., and the training and expertise of the physician assistant.

2.12.2 The physician assistant shall, under appropriate

direction and supervision by a physician, augment the physician's data gathering abilities in order to assist the supervising physician in reaching decisions and instituting care plans for the physician's patients. A physician assistant shall have, as a minimum, the knowledge and competency to perform the following functions and may under appropriate supervision perform them; this standard job description is not intended to be specific or all-inclusive:

- a. Screen patients to determine the need for medical attention;
- b. Review patient records to determine health status;
- c. Take a patient history;
- d. Perform a physical examination;
- e. Perform development screening examinations on children;
- f. Record pertinent patient data;
- g. Make decisions regarding data gathering and appropriate management and treatment of patients being seen for the initial evaluation of a problem or the follow-up evaluation of a previously diagnosed and stabilized condition;
- h. Prepare patient summaries;
- i. Initiate requests for commonly performed initial laboratory studies;
- j. Collect specimens for and carry out commonly performed blood, urine and stool analyses and cultures;
- k. Identify normal and abnormal findings in history, physical examination and commonly performed laboratory studies;
- l. Initiate appropriate evaluation and emergency management for emergency situations; for example, cardiac arrest, respiratory distress, injuries, burns and hemorrhage;
- m. Perform clinical procedures such as:
 - A. Venipuncture;

- B. Electrocardiogram;
- C. Care and suturing of minor lacerations;
- D. Casting and splinting;
- E. Control of external hemorrhage;
- F. Application of dressings and bandages;
- G. Removal of superficial foreign bodies;
- H. Cardiopulmonary resuscitation;
- I. Audiometry screening;
- J. Visual screening; and
- K. Carry out aseptic and isolation

techniques;

n. Provide counseling and instruction regarding common patient problems; and

o. Execute documents at the direction of and for the supervising physician.

2.12.3. A physician assistant making application to the Board for job description changes or additions shall document that his or her training and competency supports the request.

2.12.4. A physician assistant may pronounce death provided that:

a. It is contained in his or her job description;

b. The physician assistant has a need to do so within his or her scope of practice; and

c. That the pronouncement is in accordance with applicable West Virginia law and rules.

2.12.5. The supervising physician shall monitor and supervise the activities of the physician assistant and require appropriate documentation, including organized medical records with symptoms, pertinent physical findings, impressions and treatment plans indicated. The supervising physician may also provide written protocols for the use of the physician assistant in the performance of delegated tasks. The established protocols shall be

available for public inspection upon request and may be reviewed by the Board as required.

2.12.6. If the supervising physician absents himself or herself in such a manner or to such an extent that he or she is unavailable to aid the physician assistant when required, the supervising physician shall not delegate patient care to his or her physician assistant unless he or she has made appropriate arrangements for an alternate supervising physician. The legal responsibility for the acts and omissions of the physician assistant remains with the supervising physician at all times.

2.12.7. It is the responsibility of the supervising physician to ensure that supervision is maintained in his or her absence.

2.12.8. No physician assistant may be utilized in an office or clinic separate and apart from the supervising physician's primary place for meeting patients unless the supervising physician has obtained specific approval from the Board. A supervising physician may supervise only two (2) satellite operations. The criteria for granting the approval is that the supervising physician demonstrate the following to the satisfaction of the Board:

a. That the physician assistant will be utilized in a designated manpower shortage area or an area of medical need as defined by the Board;

b. That there is adequate provision for direct communication between the physician assistant and the supervising physician and that the distance between the main office and the satellite operation is not so great as to prohibit or impede appropriate emergency services;

c. That provision is made for the supervising physician to see each regular patient periodically; for example, every third visit; and

d. That the supervising physician visits the remote office at least once every fourteen days and demonstrate that he or she spends enough time on site to provide supervision and personal and regular review of the selected records upon which entries are made by the physician assistant. Patient records shall be selected on the basis of written criteria established by the supervising physician and the physician assistant and shall be of sufficient number to assure adequate review of the physician assistant's scope of practice.

2.12.9. The supervising physician shall maintain appropriate records of supervisory contact and shall make them available for Board review if required. A supervising physician who fails to maintain the standards required for a satellite operation may lose the privilege to maintain a satellite operation.

2.12.10. Designated representatives of the Board are authorized to make on-site visits to the offices of supervising physicians and medical care facilities utilizing physician assistants to review the following:

- a. The supervision of physician assistants;
- b. The maintenance of and compliance with, any protocols;
- c. Utilization of physician assistants in conformity with the provisions of this section;
- d. Identification of physician assistants; and
- e. Compliance with licensure and registration requirements.

2.12.11. The Board reserves the right to review physician assistant utilization without prior notice to either the physician assistant or the supervising physician. It is a violation of this rule for a supervising physician or a physician assistant to refuse to undergo a review by the Board.

2.12.12. The provisions of this section shall not be construed to require medical care facilities to accept physician assistants or to use them within their premises. It is appropriate for the physician assistant to provide services to the hospitalized patients of his or her supervising physician under the supervision of the physician, if the medical care facility permits it.

2.12.13. Physician assistants employed directly by medical care facilities shall perform services only under the supervision of a clearly identified supervising physician, and the physician shall supervise no more than three (3) physician assistants, except that a supervising physician may supervise up to four (4) hospital employed physician assistants. Medical facility staff and attending physicians who provide medical direction to or utilize the services of physician assistants employed by a health care facility shall be considered to be alternate supervising physicians.

2.12.14. So long as the facility permits, a physician

assistant may:

a. Assess and record the patient's progress within the parameters of an approved job description and report the patient's progress to the supervising physician; and

b. Make entries in medical records and patient charts so long as an appropriate mechanism is established for authentication by the supervising physician through countersignature.

2.12.15. A physician assistant may provide medical care or services in an emergency department so long as he or she has training in emergency medicine, is subject to standard emergency protocols, functions within the parameters of an approved job description which govern his or her performance and is under the supervision of a physician with whom he or she has ready contact and who is willing to assume full responsibility for the physician assistant's performance.

2.12.16. No physician assistant shall render nonemergency outpatient medical services until the patient has been informed that the individual providing care is a physician assistant.

2.12.17. It is the supervising physician's responsibility to be alert to patient complaints concerning the type or quality of services provided by the physician assistant.

2.12.18. In the supervising physician's office and any satellite operation, a notice plainly visible to all patients shall be posted in a prominent place explaining the meaning of the term "Physician Assistant". The physician assistant's license must be prominently displayed in the office and any satellite operation in which he or she may function. A physician assistant may obtain a duplicate license from the Board if required.

2.12.19. The physician assistant is required to notify the Board of changes in his or her employment within thirty (30) days. The physician assistant must provide the Board with his or her new address and telephone number of his or her residence, address and telephone number of employment and name of his or her supervising physician.

2.12.20. The supervising physician is required to notify the Board of any changes in his or her supervision of a physician assistant within ten (10) days.

2.13. Limited prescriptive privileges for physician

assistants.

2.13.1. A physician assistant may be authorized by the Board to issue written or oral prescriptions for certain medicinal drugs at the direction of his or her supervising physician if all of the following conditions are met:

a. The physician assistant has performed patient care services for a minimum of two (2) years immediately preceding the submission to the Board of the job description requesting limited prescriptive privileges;

b. The physician assistant has successfully completed an accredited course of instruction in clinical pharmacology approved by the Board of not less than four (4) semester hours. The course of instruction may be completed within an approved undergraduate or graduate program for physician assistants. Physician assistants who have not met this requirement shall complete an additional course of study approved by the Board in which fifteen (15) contact hours equals one (1) semester hour. The Board may, at its discretion, grant up to fifteen (15) contact hours for two or more years of prescribing experience in other jurisdictions;

c. The physician assistant obtains Board approval of his or her job description which includes the categories of drugs the physician assistant proposes to prescribe at the direction of his or her supervising physician; and

d. The physician assistant continues to maintain national certification as a physician assistant, and in meeting the national certification requirements, completes a minimum of ten (10) hours of continuing education in rational drug therapy in each certification period.

2.13.2. Evidence of completion of all conditions for the granting of limited prescriptive privileges shall be included with the physician assistant's biennial renewal application and report to the Board.

2.13.3. The Board shall approve a formulary classifying pharmacologic categories of all drugs which may be prescribed by a physician assistant authorized by the Board to prescribe drugs. The formulary shall exclude Schedules I and H of the Uniform Controlled Substances Act, anticoagulants, antineoplastics, radio-pharmaceuticals, general anesthetics and radiographic contrast materials. The formulary may be revised annually, and shall include the following designated sections:

a. Section a. -- A choice of drugs commonly used in primary care outpatient settings to be prescribable by physician assistants who have completed an accredited course of study in clinical pharmacology approved by the Board of not less than four (4) semester hours;

b. Section b. -- Additional drugs used less commonly in primary care outpatient settings to be prescribable by physician assistants who have satisfied the requirements to prescribe Section a. drugs set forth under paragraph 2.13.3.a, of this rule. In addition, Section b. drugs may be prescribed by physician assistants only under the following limited situations:

A. On a direct order from the supervising physician to the physician assistant during consultation at the time of the patient's examination by the physician assistant, which is specifically noted in the patient's chart; or

B. On a refill prescription for a previously diagnosed and stable patient whose prescription was initiated by the supervising physician.

2.13.4. A prescription drug not included in the approved formulary shall not be contained in the job description of any physician assistant.

2.13.5. Prescriptions issued by a physician assistant shall be issued consistent with the supervising physician's directions or treatment protocol provided to his or her physician assistant. The maximum dosage shall be indicated in the protocol and in no case may the dosage exceed the manufacturer's recommended average therapeutic dose for that drug.

2.13.6. Each prescription and subsequent refills given by the physician assistant shall be entered on the patient's chart.

2.13.7. The prescription form utilized by a physician assistant approved for limited prescriptive privileges shall be imprinted with the name of the supervising physician, the name of the approved physician assistant, the address of the health care facility, the telephone number of the health care facility, the categories of drugs or drugs within a category which the assistant may prescribe and the statement, "Physician Assistant Prescription -it is a violation of state law to dispense drugs not imprinted on this prescription." The physician assistant shall write the name of the patient, the patient's address and the date on each prescription form. The physician assistant shall sign his or her name to each prescription followed by the letters "PA-C." The supervising physician shall provide the Board with a copy of the

prescription form used by his or her physician assistant prior to its use. A copy of this prescription form shall be provided by the physician assistant to area pharmacies where the physician assistant may issue a prescription by word of mouth, telephone or other means of communication in his or her name at the direction of the supervising physician.

2.13.8. Physician assistants authorized to issue prescriptions for Schedules III through V controlled substances shall write on the prescription form the Federal Drug Enforcement Administration number issued to that physician assistant. Prescriptions written for Schedule III drugs shall be limited to a seventy-two (72) hour supply and may not authorize a refill. The maximum amount of Schedule IV or Schedule V drugs shall be no more than ninety (90) dosage units or a thirty (30) day supply, whichever is less.

2.13.9. Prescriptions for other legend drugs shall not be prescribed or refillable for a period exceeding six (6) months.

2.13.10. The Board of Medicine shall provide the Board of Pharmacy with a list of physician assistants with limited prescriptive privileges and shall update the list within ten (10) days after additions or deletions are made.

2.13.11. Nothing in this rule shall be construed to permit any physician assistant to independently prescribe or dispense drugs.

2.13.12. Physician assistants given limited prescriptive privileges under this subsection may accept professional samples as defined in Board of Medicine Rules for Dispensing of Legend Drugs by Physicians and Podiatrists, 11 CSR 5 2.10, on behalf of their respective supervising physician.

2.14. Continuing Education.

2.14.1. Beginning the first day of April, 1993, each physician assistant, as a condition of his or her biennial renewal of physician assistant license, shall provide to the Board written documentation of participation in and successful completion during the preceding two (2) year period of a minimum of forty (40) hours of continuing education designated as Category I by either the American Medical Association, American Academy of Physician Assistants or the Academy of Family Physicians, and sixty (60) hours of continuing education designated as Category II by the association or either academy. The written documentation may consist of a current NCCPA certificate.

2.14.2. For those individuals who are not NCCPA certified, written documentation shall consist of original certificates from the entities named in subdivision 2.14.1 of this rule, evidencing participation in and successful completion of the forty (40) hours and the sixty (60) hours both as described in subdivision 2.14.1 of this rule.

2.14.3. A physician assistant shall submit all written documentation to the Board, with the completed biennial renewal form, so that the completed biennial renewal form and all written documentation is received prior to the first day of April of the year of renewal of the physician assistant license.

2.14.4. The Board shall automatically suspend the license of a physician assistant who fails to timely submit written documentation as set forth in subdivision 2.14.3 of this rule until such time as the written documentation is submitted to and approved by the Board.



July 21, 2000

Mr. Ronald D. Walton
Executive Director
West Virginia Board of Medicine
101 Dee Drive
Charleston, WV 25311

Mr. Walton;

Thank you very much for the information provided to the WVAPA concerning the Proposed Rule that "shall specify a procedure for investigation and resolution of all complaints".

At a recent West Virginia Association of Physician Assistants Board Meeting, the Board of Directors reviewed the information you provided to us. We support the proposed rule as it pertains to Physician Assistants.

If you have any further questions or require further information, please feel free to contact me at (304) 965-6348.

Respectfully,

Ginger R. Boles, PA/C
President
WVAPA