

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED

JUL 16 9 42 AM '97

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: West Virginia Board of Medicine TITLE NUMBER: 11

CITE AUTHORITY West Virginia Code §30-3-7(a)(1) and §30-3-16(b)

AMENDMENT TO AN EXISTING RULE: YES NO

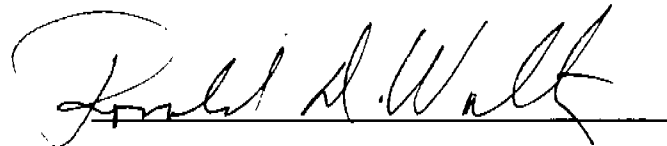
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1B

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

IF NO, SERIES NUMBER OF NEW 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.



TITLE II
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE

SERIES 1B

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

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§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~~(a)~~(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 ~~(a)~~(o).

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. ~~It also means the approval of programs by the Board for the training and education of 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. Such 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. Patient records shall be selected 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.

~~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.~~

2.1.7. 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. ~~Employment~~ 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. Such 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 ~~written and signed~~ by the supervising physician listing in numerical order the duties which will be performed by the 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 proposed job description shall be accompanied by:

a. documentation of graduation from an approved program, and

b. documentation of having attained a baccalaureate or masters degree, and

c. the required fee, and

d. documentation of unencumbered licensure or certification status in all states where previously licensed or certified, and

e. documentation of passing 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 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; and

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; and

c. The physician assistant shall be 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 2.12.1. or a previously approved job description shall be made 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 biennial signed reports either individually or combined, on the professional conduct, capabilities and performance of the physician assistant. The report must accompany each application for licensure and must be submitted to the office of the Board by April 1. In addition thereto, the Board shall compile and publish an annual biennial report that includes a list of currently licensed physician assistants, their employers and location in the state, ~~and a list of approved programs in West Virginia, the number of graduates per year of the approved programs and the number of physician assistants from other states' approved programs practicing in West Virginia.~~

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 assistant, but 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 ~~employment~~ and scope of duties of physician assistants.

2.6.1. A supervising physician shall not supervise ~~employ~~ at any one time more than two (2) physician assistants-provided that:

a. A physician may supervise up to four (4) hospital employed physician assistants; and

b. A supervising physician may also serve as an alternate supervising physician in the absence of another supervising physician; and

c. The supervising physician is legally responsible for a physician assistant at all times. 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; and

d. 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.

2.6.2. 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 2:13 of this rule.

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

2.6.4. 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.

2.6.5. A physician assistant shall not perform any services which are not included in his or her job description and

approved by the Board.

2.6.6. 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.

2.6.7. A supervising physician shall not permit a physician assistant to independently practice medicine. Supervision must be maintained at all times. [Formerly Section 2.12.3]

2.6.8. 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. [Formerly Section 2.12.4.a.]

2.6.9. A physician assistant shall not independently bill patients for services provided. [Formerly Section 2.12.4.b.]

2.6.10. A physician assistant shall not independently delegate a task assigned to him or her by his or her supervising physician to another individual. [Formerly Section 2.12.4.c.]

2.6.11. A physician assistant shall not perform acupuncture in any form. [Formerly Section 2.12.14.d.]

2.6.12. 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. [Formerly Second Paragraph of Section 2.1.6.d.]

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 shall be 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, except in temporary situations not to exceed twenty one days, in cases 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. 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 regulations of the Board set out at 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.

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 thereof;

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

c. The commission of any act involving moral turpitude, dishonesty or corruption, when such act directly or indirectly affects the health, welfare or safety of citizens of this State. If the act constitutes a crime, conviction thereof 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, 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 such 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;

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, which 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 shall be upon 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. Disciplinary procedures. -- The disciplinary process and procedures set forth in the contested case hearing procedure, W.Va. Code §29A-5-1 et seq. and in regulations of the Board set out at 11 CSR 3 also apply 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.

~~2.12.2.~~ 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 such diagnostic and therapeutic procedures as 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 such medical procedures and other tasks as 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.

~~2.12.1.~~ 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 ~~list~~ 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.

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

~~2.12.3. A supervising physician shall not permit a physician assistant to independently practice medicine. Supervision must be maintained at all times. 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 shall not:~~

~~a. Maintain or manage 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;~~

~~b. Independently bill patients for services provided;~~

~~c. Independently delegate a task assigned to him or her by his or her supervising physician to another individual;~~

~~d. Perform acupuncture in any form; or~~

~~e. Pronounce a patient dead, except in a setting~~

~~where state or federal government regulations permit a registered nurse or a physician assistant to do so.~~

2.12.4. A physician assistant may pronounce death provided that:

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

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 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. Such 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 such 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.

d. That the supervising physician visit 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. Appropriate records of supervisory contact must be maintained and made available for Board review if required. Failure to maintain the standards required for such an operation may result in the loss of the privilege to maintain a satellite operation.

2.12.10. Designated representatives of the Board will be 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 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 two (2) 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 established protocol or regimen 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, ~~functions under specific protocols~~ 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. Duplicate licenses may be obtained 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 residence, address and telephone number of employment and name of 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 be required to 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;

d. The physician assistant continues to maintain national certification as a physician assistant, and in meeting such 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 ~~additional~~ 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 set forth under 2.13.3.a, Section 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, and 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 must 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. Other prescription 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 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 biennial renewal of physician assistant license, shall provide 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 such 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 subsection 2.14.1, evidencing participation in and successful completion of the forty (40) hours and the sixty (60) hours both as described in subsection 2.14.1.

2.14.3. All written documentation must be submitted to and received by the Board, with the completed biennial renewal form, prior to the first day of april of the year of renewal of the physician assistant license.

2.14.4. Failure to timely submit written documentation as set forth in subsection 2.14.3 shall result in the automatic suspension of the license of a physician assistant until such time as the written documentation is submitted to and approved by the Board.

§11-2B-3. Severability.

If any provision of these rules or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions or application of these rules which can be given effect without the invalid provisions or application and to @ end the provisions of these rules are declared to be severable.

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, WV 25311

1. Effect of Proposed Rule

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

2. Explanation of above estimates:

No increase in state funding will be needed.

3. Objectives of these rules:

To define and clarify the responsibilities of an alternate supervising physician, to clarify the provisions of West Virginia Code 30-3-16(f), and specifically that temporary licensure may not be provided to persons who have failed the national certifying examination, to permit physician assistants to pronounce death if it is contained in the job description and the physician assistant has a need to do so, and to clarify what may be considered as the equivalent of four (4) semester hours of a course in clinical pharmacology of not less than four (4) semester hours.

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.

Not aware that there will be any.

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

Not aware that there will be any.

C. Economic Impact on Citizens/Public at Large.

Not aware that there will be any.

Date: July 19, 1997

Signature of Agency Head or Authorized Representative

Ronald A. Walk



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

Bruce L. Berry, M.D.
Charleston

Ahmed D. Faheem, M.D.
Beckley

Mr. Stephen P. Goodwin
Charleston

Michael Grome, P.A.-C.
Hamlin

Mr. George G. Guthrie
Charleston

Mrs. Mary Boyd Kears
Martinsburg

Phillip B. Mathias, M.D.
Glen Dale

Stephen Perkins, M.D.
Charleston

Carmen R. Rexrode, M.D.
Moorefield

Leonard Simmons, D.P.M.
Fairmont

Lee Elliott Smith, M.D.
Princeton

State of West Virginia

WEST VIRGINIA BOARD OF MEDICINE
101 Dee Drive
Charleston, West Virginia 25311
Telephone (304) 558-2921
Fax (304) 558-2084

Statement of Circumstances Which Require the Rule Summary of Content of Rule

This rule is promulgated pursuant to provisions of West Virginia Code §30-3-7(a)(1) and West Virginia Code §30-3-16(b).

The rule defines and clarifies the responsibilities of alternate supervising physicians in order to provide guidance to such individuals. The rule clarifies the ambiguity found in West Virginia Code §30-3-16(f) regarding when temporary licensure may be given and the meaning of the phrase "next offered examination", in order to ensure that temporary licensure of physician assistants who have failed the national certifying examination is not permissible.

The rule permits physician assistants to pronounce death if it is contained in the job description and the physician assistant has a need to do so, in order to avoid unnecessary and expensive alternative actions. For physician assistants applying for prescriptive privileges, the rule details what may be considered as the equivalent of four (4) semester hours of a course in clinical pharmacology of not less than four (4) semester hours, for those physician assistants who did not have the opportunity in any undergraduate or graduate program to obtain such coursework. The rule clarifies an apparent conflict in the present rule, at 11 CSR 1B 2.13.1(b) and 2.13.3(a).

PRESIDENT
A. Paul Brooks, Jr., M.D.
Parkersburg

VICE PRESIDENT
Sarjit Singh, M.D.
Weirton

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

COUNSEL
Deborah Lewis Rodecker
Charleston

EXECUTIVE DIRECTOR
Ronald D. Walton
Charleston

DATE: July 16, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Board of Medicine

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

1. Authorizing statute(s) citation _____

West Virginia Code §30-3-7(a)(1) and §30-3-16(b)

2. a. Date filed in State Register with ~~Notice of Hearing~~ Notice
of Comment Period to end June 30, 1997 at 4:30 p.m. (See attached Notice)
May 20, 1997

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

Letter to West Virginia Association of Physician Assistants

dated May 20, 1997 (attached)

c. Date of Hearing(s) N.A.

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

Attached _____ No comments received X

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

July 16, 1997

f. Name and phone number(s) of agency person(s) to
contact for additional information:

Ronald D. Walton, Executive Director 558-2921

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: 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.



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

Russ L. Berry, M.D.
Charleston

Ahmed D. Faheem, M.D.
Beckley

Mr. Stephen P. Goodwin
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State of West Virginia

WEST VIRGINIA BOARD OF MEDICINE
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Charleston, West Virginia 25311
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May 20, 1997

Mrs. Mary Boyd Keane
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George Thomas Harward, P.A.-C.
West Virginia Association of Physician Assistants
210 Sturmer Street
Belington, West Virginia 26250

FILE COPY

Dear Mr. Harward:

Enclosed with this letter please find a copy of a proposed rule filed by the West Virginia Board of Medicine with the Office of the Secretary of State and the Legislative Rule-Making Review Committee today. Please note that this rule relates to physician assistants and that a comment period has been established by the Board of Medicine to end June 30, 1997, at 4:30 p.m. If members of the West Virginia Association of Physician Assistants have comments they wish to make on this proposed rule, we request that the comments are received at the Board on or before that time on that day.

Thank you for your cooperation and assistance.

Sincerely,

Ronald D. Walton

RDW/ks

Enclosure

PRESIDENT
A. Paul Brooks, Jr., M.D.
Parkersburg

VICE PRESIDENT
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Weirton

SECRETARY
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