WEST VIRGINIA
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ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE 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 §30-3-16 (b), (n) and (w)

AMENDMENT TO AN EXISTING RULE: YES X 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

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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

Type of Rule: [X] Legislative [ ] Interpretive [ ] Procedural

Agency: West Virginia Board of Medicine

Address: 101 Dee Drive Suite 103

Charleston WV 25311

Phone Number: 304-558-2921 Email: deborahrodecker@wvdhhr.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No impact on costs and revenues of state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title:

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

N/A

Date: May 20, 2008

Signature of Agency Head or Authorized Representative

Brett C. Knudsen

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

It has been five years since the physician assistant rule has been amended, and the Legislature enacted statutory changes to West Virginia Code §30-3-16, relating to physician assistants, in its 2008 Regular Session. As a result, throughout the rule, various "clean up" and clarifications to the language are appropriate and necessary.

Also, the proposed rule contains additions to the standard job description which is submitted and provisions identical to those applying to physicians and podiatrists in the Medical Practice Act, pertaining to conviction of drug felonies, and mental and physical examinations, all for the safety of the public. A provision is added requiring the supervising physician to see each regular patient periodically, for example, every third visit. This is consistent with the current similar provision for a satellite clinic.

TITLE 11

LEGISLATIVE RULE

WEST VIRGINIA BOARD OF MEDICINE

SERIES 1B

LICENSURE, DISCIPLINARY AND COMPLAINT PROCEDURES,

CONTINUING EDUCATION, PHYSICIAN ASSISTANTS

§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, W. Va. Code §30-3-16(n) requires the Board to adopt rules governing the eligibility and extent to which a physician assistant may prescribe at the direction of the supervising physician, and W. Va. Code §30-3-16~~(o)~~ (w) requires the Board of Medicine to adopt rules pertaining to written documentation of continuing education required. This rule relates to physician assistants and to their licensing, complaint procedures and professional discipline, and continuing education.

1.2. Authority. -- W. Va. Code §30-3-16(b) and ~~(o)~~ (w).

1.3. Filing Date. --

1.4. Effective Date. --

§11-1B-2. Definitions.

2.1. For purposes of this rule, the following definitions apply:

a. "Licensure" means the approval of individuals by the Board to serve as physician assistants.

b. "Crimes involving moral turpitude" means 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.

c. "NCCPA" means The National Commission on the Certification of Physician Assistants.

d. "Protocol" means 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.

e. "Satellite operation" means an office or clinic separate and apart from the office of the supervising physician, established by the physician and in which a physician assistant will be providing patient care.

f. "Supervision" means 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:

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

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

3. 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;

4. 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.

g. "Alternate supervising physician" means 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.

h. "Legend drug" means a drug that may be dispensed under federal or state law only pursuant to the prescription of an authorized prescriber.

§11-1B-3. Supervision of Physician Assistants by Licensed Physician; Services That May be Performed by Physician Assistants.

3.1. A physician fully licensed under W. Va. Code §§30-3-1 et seq. may submit a job description to the Board to employ a physician assistant.

3.2. 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.

§11-1B-4. Submission of Application; Job Description.

4.1. An application completed by the applicant and a job description signed and dated 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)~~ fifteen (15) 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 Board is the only legal authority for approval and licensure.

4.2. Applications for licensure and the proposed job description shall be accompanied by proof of qualifications as follows:

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, registration, or certification status in all states where he or she was previously licensed, registered, or certified, and

e. documentation that the applicant passed the NCCPA examination. Noncertified physician assistants who are issued a temporary license under W. Va. Code §30-3-16~~(f)~~ (g) 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.

4.3. The Board may provide ~~interim~~ temporary 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.

4.4. Application for changes to the standard approved job description as provided for in subdivision 13.1. of this rule or a previously approved job description shall be made by the

physician assistant or supervising physician ~~thirty (30)~~ fifteen (15) days prior to a Board meeting. The proposed job description shall be signed and dated by the supervising physician and physician assistant.

§11-1B-5. Biennial Report of Physician Assistant's Performance; Biennial Renewal; Biennial Report of the Board.

5.1 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. Biennial renewal for physician assistant shall occur by April 1 every odd year.

5.2 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~~ supervising physician(s) and their location in the state.

§11-1B-6. Supervision and Control of Physician Assistant.

6.1. 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 physician 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.

§11-1B-7. Limitations on Supervision and Scope of Duties of Physician Assistants.

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

7.2. A supervising physician may also serve as an alternate supervising physician in the absence of another supervising physician, however the legal responsibility remains at all times with the supervising physician.

7.3. 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. Where a physician assistant is providing medical services to the alternate physician's patients at his or her direction in these settings, the alternate supervising physician is also legally responsible for the physician assistant.

7.4. 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 14 of this rule.

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

~~7.6. 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.~~

7.~~7~~ 6. A physician assistant shall not perform any services which are not included in his or her job description and approved by the Board.

7.~~8~~ 7. ~~No physician assistant shall be supervised by and work for more than three (3) 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.

7.~~9~~ 8. A supervising physician shall not permit a physician assistant to independently practice medicine. The supervising physician shall supervise the physician assistant at all times.

7.~~10~~ 9. 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.

7.~~11~~ 10. A physician assistant shall not independently bill patients for services provided.

7.~~12~~ 11. A physician assistant shall not independently delegate a task assigned to him or her by his or her supervising physician to another individual.

7.~~13~~ 12. A physician assistant shall not perform acupuncture in any form.

7.~~14~~ 13. 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.

§11-1B-8. Identification of Physician Assistant.

8.1. When functioning as a physician assistant, the physician assistant must wear a name tag which identifies the physician assistant as a physician assistant.

§11-1B-9. Responsibilities of the Supervising Physician.

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

9.2. 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.

9.3. The legal responsibility for any physician assistant remains that of his or her supervising physician at all times. Also, in temporary situations not to exceed twenty one (21) 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.

9.4. 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.

§11-1B-10. Disciplinary Action Against a Physician Assistant; Physical and Mental Examinations.

10.1. 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, if it is found:

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

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

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

d. That the physician 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.

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

f. That the physician 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.

g. That the physician 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

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

1. Misrepresentation or concealment of any material fact in obtaining any certificate or license or a reinstatement of any certificate or license;

2. 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;

3. 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;

4. Conviction of a felony, as defined under the laws of this State or under the laws of any other state, territory or country~~;~~ except as provided in 10.2,

5. 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;

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

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

8. 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;

9. 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;

10. 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~~

11. 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.

12. Administration of anabolic steroids for other than therapeutic purposes;

13. Failing to keep written records justifying the course of treatment of a patient, the records to include, but not be limited to, patient histories, examination and test results and treatment rendered, if any;

14. Exercising influence within a patient-physician assistant relationship for the purpose of engaging a patient in sexual activity; or

15. Failure to report a known or observed violation of this rule, and/or provisions of the West Virginia Medical Practice Act or rules.

10.2 The Board shall deny any application for a license in this state to any applicant who, and shall revoke the license of any physician assistant licensed or otherwise lawfully practicing within this state who, is found guilty by any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other

than generally accepted therapeutic purposes. Presentation to the board of a certified copy of the guilty verdict or plea rendered in the court is sufficient proof thereof for the purposes of this article. A plea of nolo contendere has the same effect as a verdict or plea of guilt. Upon application of the physician assistant that has had his or her license revoked because of a drug related felony conviction, upon completion of any sentence of confinement, parole, probation or other court-ordered supervision and full satisfaction of any fines, judgments or other fees imposed by the sentencing court, the board may issue the applicant a new license upon a finding that the physician assistant is, except for the underlying conviction, otherwise qualified to practice: Provided, that the board may place whatever terms conditions or limitations it deems appropriate upon a physician assistant licensed pursuant to this subsection.

10.3 The board under any circumstances may require a physician assistant or person applying for licensure or other authorization to practice as a physician assistant in this state to submit to a physical or mental examination by a physician or physicians approved by the board. A physician assistant submitting to any such examination has the right, at his or her expense, to designate another physician to be present at the examination and make an independent report to the board. The expense of the examination shall be paid by the board. Any individual who applies for or accepts the privilege of practicing as a physician assistant in this state is considered to have given his or her consent to submit to all examinations when requested to do so in writing by the board and to have waived all objections to the admissibility of the testimony or examination report of any examining physician on the ground that the testimony or report is privileged communication. If a person fails or refuses to submit to any such examination under circumstances which the board finds are not beyond his or her control, failure or refusal is prima facie evidence of his or her inability to practice as a physician assistant competently and in compliance with the standards of acceptable and prevailing practice as a physician assistant.

§11-1B-11. Denial of Licensure of Physician Assistant.

11.1. The burden of satisfying the Board of his or her qualifications for licensure is on the applicant.

11.2. 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 in writing 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, 101 Dee Drive, Charleston, West Virginia 25311. 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. Following the hearing, the Board shall determine on the basis of this rule whether the applicant is qualified to be licensed. The decision of the Board is final as to that application.

§11-1B-12. Complaint and Disciplinary Procedures.

12.1. 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 the Board Procedural Rule 11 CSR 3, 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.

§11-1B-13. Physician Assistant Utilization.

13.1. 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.

13.2. 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, with injection of local anesthesia, if necessary;

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.

p. Prepare patient discharge summaries if physician assistant has been directly involved in patient care;

q. Assist in surgery; and

r. Assist physician under direct supervision in a manner by which to learn and become proficient in new procedures.

13.3. 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.

13.4. 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.

13.5. 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.

13.6 Provision shall be made for the supervising physician to see each regular patient periodically; for example, every third visit.

13.~~6~~ 7. 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.

13.~~7~~ 8. It is the responsibility of the supervising physician to ensure that supervision is maintained in his or her absence.

13.~~8~~ 9. 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 (14) 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.

13.~~9~~ 10. 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.

13.~~10~~ 11. 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.

13.~~11~~ 12. 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.

13.~~12~~ 13. 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.

13.~~13~~ 14. 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 or their equivalent, 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.

13.~~14~~ 15. 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.

c. Write and sign diagnostic and treatment orders to be countersigned later by his or her supervising physician.

13.~~15~~ 16. 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.

13.~~16~~ 17. No physician assistant shall render nonemergency outpatient medical services until the patient has been informed that the individual providing care is a physician assistant.

13.~~17~~ 18. 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.

13.~~18~~ 19. 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.

13.~~19~~ 20. The physician assistant is required to notify the Board of ~~changes in~~ any ending of his or her employment within ~~thirty (30)~~ ten (10) 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.

13.~~20~~ 21. The supervising physician is required to notify the Board of any ~~changes in~~ ending of his or her supervision of a physician assistant within ten (10) days.

11-1B-14. Limited Prescriptive Privileges for Physician Assistants.

14.1. A physician assistant may be authorized by the Board to issue written, electronic, 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~~ application requesting limited prescriptive privileges: Provided, That to meet this condition, the first year of patient care services may be as a student in an approved physician assistant program; Provided further, that immediately preceding means patient care services ending within a year of submission to the Board of the application 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.

14.2. 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.

14.3. The Board is responsible for approving 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 II 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.

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 14.3.a., of this rule. In addition, Section b. drugs may be prescribed by physician assistants only in the following limited situations:

1. 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

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

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

14.5. 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.

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

14.7. ~~The prescription form utilized~~ Prescriptions by a physician assistant approved for limited prescriptive privileges shall contain information including ~~be imprinted with~~ the name of the supervising physician, the name of the approved physician assistant, the physical address of the health care facility, the telephone number of the health care facility, ~~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 name and address and the date the prescription is issued ~~on each prescription form~~. The physician assistant shall sign or electronically affix 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~~.

14.8. Physician assistants authorized to issue prescriptions for Schedules III through V controlled substances shall ~~write on the prescription form~~ include 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.

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

14.10. The Board of Medicine shall provide the Board of Pharmacy with a list of physician assistants with limited prescriptive privileges along with the categories of drugs or drugs within a category that the physician assistant has been authorized to prescribe, and shall update the list within ten (10) days after additions or deletions are made.

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

14.12. 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.

11-1B-15. Continuing Education.

15.1. 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 ~~fifty (50)~~ one hundred (100) hours of continuing education of which a minimum of fifty hours shall be designated as Category I by either the American Medical Association, American Academy of Physician Assistants or the Academy of Family Physicians, and ~~fifty (50) hours of continuing education designated~~ the remaining hours to total one hundred (100) may be obtained from Category I or Category II so designated by the association or either academy. The written documentation may consist of ~~a~~ current NCCPA ~~certificate~~ certification.

15.2. For those individuals who are not NCCPA certified, written documentation shall consist of original certificates from the entities named in subdivision 15.1., of this rule, evidencing participation in and successful completion of the minimum ~~fifty (50)~~ one hundred (100) hours of continuing education ~~and the fifty (50) hours both as described in subdivision 15.1 of this rule of Category II for a total of one hundred (100) hours~~ as described in subdivision 15.1 of this rule.

15.3. 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.

15.4 A physician assistant with prescriptive privileges shall submit documentation of ten (10) hours of continuing education in rational drug therapy in each certification period. The ten (10) hours may be part of the one hundred (100) hours of continuing education required in subdivision 15.1 of this rule.

15.~~4~~5. ~~The Board shall automatically suspend~~ the The license of a physician assistant who fails to timely submit written documentation as set forth in subdivision 15.3. of this rule shall automatically expire until such time as the written documentation is submitted to and approved by the Board.

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 18, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, West Virginia 25311

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

1. Authorizing statute(s) citation W. Va. Code §30-3-16 (h), (n) and (w)

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

   May 20, 2008

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

   Notice of Comment period and proposed rule pasted on website. Letters attached to:

   R. Austin Wallace, President, WVSMA and Kristopher Musick, President of WVAPA

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

   June 27, 2008

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

   Attached X No comments received _____

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

July 18, 2008

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

Robert C. Knittle, Executive Director
WV Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311
304.558.2921, ext. 227 Fax: 304.558.2084
email: bobknittle@wvdhhr.org

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)

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

State of West Virginia
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone 304.558.2921
Fax 304.558.2084

May 21, 2008

Kristopher Musick, P.A.-C
President, WVAPA
3547 Virginia Avenue
Hurricane, WV 25526

Re: Enclosed proposed amendments to 11 CSR 1B, 11 CSR 10

Dear Mr. Musick,

Yesterday, the Board of Medicine filed with the Secretary of State and the Legislative Rule Making Review Committee, the enclosed proposed amendments to the rule governing Physician Assistants and a proposed new rule defining surgery. The rules are on the Board's website, at www.wvdhhr.org/wvbom, and there is a comment period open until June 27, 2008, at 4:30 p.m.

Please don't hesitate to let us hear from you.

Sincerely,

Robert C. Knittle

lab
enclosure

State of West Virginia
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone 304.558.2921
Fax 304.558.2084

May 21, 2008

R. Austin Wallace, M.D.
President, West Virginia Medical Association
Eye & Ear Clinic Physicians, Inc.
1306 Kanawha Boulevard, East
Charleston, WV 25301

Re: Proposed new rules, 11CSR 2, 11CSR 10, and proposed amendments to 11CSR 1B

Dear Dr. Wallace:

On May 20, 2008, the Board of Medicine filed the above proposals with the Secretary of State and the Legislative Rule Making Review Committee. 11 CSR 2 is a new proposed rule mandated by the passage of S.B. 317 during the 2008 regular Legislative Session. 11 CSR 10 is a new proposed rule defining surgery, and 11 CSR 1B proposes needed amendments to the Physician Assistant rule. These are all available on the Board's website, www.wvdhhr.org/wvbom, and written comments may be made until June 27, 2008, at 4:30 p.m. I have also enclosed copies of each with this letter.

The Board looks forward to the comments of the West Virginia Medical Association with regard to these proposals. Thank you for your time and attention.

Sincerely,

Robert C. Knittle

lab
enclosures
pc: The Honorable Evan H. Jenkins, w/enclosures

West Virginia Association of Physician Assistants

June 27, 2008

Mr. Robert Knittle, M.S.
Executive Director
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311

Dear Mr. Knittle,

I am sending you this communication on behalf of the West Virginia Association of Physician Assistants (WVAPA) in response to several proposed Legislative Rules currently under consideration by the Board of Medicine (BOM). As you know, the BOM licenses more than 500 physician assistants (PAs) in this state and the WVAPA very much appreciates the opportunity to comment on the proposals.

After careful consideration, it is the opinion of the WVAPA that the proposed rules could have a significant impact on PAs as licensed health care professionals and their ability to continue to provide high quality health care services to their patients.

In fact, the new rules as proposed could have the unintended consequence of limiting access to care by patients and restricting the professional health care services now available to patients from PAs. It is also appropriate to observe the potential negative impact of the proposed new rules on the professional patient care working relationships by and between supervising physicians and PAs.

For purposes of this communication to the BOM the WVAPA desires to comment on SERIES 10 DEFINITION OF SURGERY & SERIES 1B LICENSURE, DISCIPLINARY AND COMPLAINT PROCEDURES, CONTINUING EDUCATION, PHYSICIAN ASSISTANTS.

Please understand that the submission of this communication to the BOM is in no way intended to limit subsequent communications to the West Virginia Legislative Rule Making Review Committee or the West Virginia Legislature.

The WVAPA deeply appreciates the dedicated service to the medical community provided by the Board of Medicine and its excellent staff. We thank you in advance for your courtesy and consideration of the comments and recommendations expressed in the following pages and again express our commitment to work with you on any unresolved issues.

Respectfully Submitted,

K. M PA-C, MPAS

Kristopher K. Musick, PA-C
WVAPA President
3547 Virginia Avenue
Hurricane, WV 25526

SERIES 1B: LICENSURE, DISCIPLINARY AND COMPLAINT PROCEDURES, CONTINUING EDUCATION, PHYSICIAN ASSISTANTS.

The WVAPA recognizes the need for updates and revisions to the current rules in this series and appreciates the diligence by the BOM in its work. The following recommendations are intended to further enhance these rules.

The proposed new language in 13.6 should be modified to reflect the current language in 13.8.c. The modification should read: *"Provision should be made for the supervising physician to see each regular patient periodically; for example every third visit."*

This modification is absolutely necessary to assure patient access to PAs. Without this modification the proposed new language would mandate a supervising physician to see a patient at least every third visit.

There appears to be no statutory or regulatory requirement in any other state that requires this. It is burdensome on the supervising physician and the PA and may limit patient access to medical care.

For example, what if a PA is treating a patient for a chronic stable illness that may require a couple of office visits and then the patient has an unrelated serious medical condition. In this example the supervising physician would have to see the patient because of the proposed three visit limitation requirement. If the supervising physician was not available then the PA would not be able to provide medical services and patient care would be denied. This is just not the best practice of medicine.

There also is no time limit on when the third visit would apply. Does that mean three visits a month, year or during the entire lifetime of medical services provided to the patient by the PA? That is not an acceptable medical practice.

The same modification should be made to proposed new 13.9.c as outlined in the preceding paragraphs. The current language reads: *"That provision is made for the supervising physician to see each regular patient periodically; for example every third visit . . . . . "*

The proposed new rules for 13.9.c would remove the words "for example" and insert the words "at least." The new proposed rules would mandate the supervising physician to see the patient every third visit while the current language used the third visit only as an example. The current rules language is appropriate and should be returned by the suggested modification.

It should be remembered that under the current rules the BOM has complete control over the protocols for patient visits by supervising physicians through the required approval of the job description developed by and between the supervising physician and the PA. So, if the BOM determined on a case by case basis that specified patient visit limitations were appropriate it currently has this authority.

However, an arbitrary mandated patient visit requirement for all supervising physicians is not in the best interests of patient access to medical care and should be removed from the proposed new rules in 13.6 and 13.9.c.

SERIES 1B: LICENSURE, DISCIPLINARY AND COMPLAINT PROCEDURES, CONTINUING EDUCATION, PHYSICIAN ASSISTANTS.

The WVAPA would like to take this opportunity to recommend that that modifications be made to the proposed rules regarding limited prescriptive authority for PAs as contained in11-1B-14.

This is a timely opportunity to update antiquated and cumbersome procedures currently required in rules regarding pre-printed prescription pads that must be used by PAs.

At issue are the current rules in 14.7 requiring PAs to have imprinted on prescription pads the categories of drugs or drugs within a category which may be prescribed as authorized by a supervising physician and the mandate that these imprinted prescription pads be provided to area pharmacies. These procedures become even more complicated if the PA has more than one supervising physician with differing prescriptive authority requirements.

A big problem with the current rules is that the Legislature recently enacted new statutory provisions authorizing the use of e-prescribing. The current rules in 11-1B-14 conflict with the new e-prescribing statutory provisions in WV CODE 30-5-1b and 30-5-12c because electronic prescribing is not addressed by current BOM rules, and there is absolutely no way to use a mandated pre-printed prescription pad form listing categories or individual drugs required by the BOM rules in e-prescribing. The ability for PAs to utilize electronic prescribing technology enhances medical care to patients by improving accuracy and documentation in the medical record and for the supervising physician. The new rules should provide e-prescribing for PAs.

Another conflict with the current rules in 14.7 now occurs with the federal mandate to use counterfeit-proof prescription pads for any script written for Medicaid patients. The current BOM rules require too much information to be included on the prescription pad to qualify for the type of counter-proof prescription pads now authorized by Medicaid.

The current rules in 14.7 also do not fit with the current issuance of prescription medication by prescribers. Remember that the current BOM rules require the PA to provide the imprinted pads to "area" pharmacies. That might have been appropriate years ago when patients only used local community drug stores. However, in today's mobile society, many prescriptions are filled by pharmacies beyond the local "area.." In addition, a large percentage of prescriptions are now filled by mail-order pharmacies that are not only outside of the local "area," but are often located in other states. Since the patient chooses the pharmacy, how is the PA to know in advance where to provide the pre-printed prescription pads? Finally, what happens under the current rules if the PA does not provide the imprinted scripts to pharmacies? And why is this even necessary when current rules provide in 14.10 that the "Board of Medicine shall provide the Board of Pharmacy with a list of physician assistants with limited prescriptive privileges . . . . .".

It should be noted that these cumbersome and antiquated procedures dictated by BOM current rules in 14.7 are not required by our state statutes or rules for other prescribers such as allopathic and osteopathic physicians, dentists and advanced nurse practitioners.

The WVAPA recommends that BOM current rules 14.1 be modified by including the ability for PAs to use e-prescribing technology by revisions to the current language as follows: *A physician assistant may be authorized by the Board to issue written, electronic, or oral prescriptions of certain medicinal drugs at the direction of his or her supervising physician if all of the following conditions are met."*

SERIES 1B: LICENSURE, DISCIPLINARY AND COMPLAINT PROCEDURES, CONTINUING EDUCATION, PHYSICIAN ASSISTANTS.

The WVAPA recommends a modification that the entire section of current BOM rules 14.7 be deleted and the following language be substituted.

14.7. Prescriptions by a physician assistant approved for limited prescriptive privileges must contain information including the name of the physician assistant, the name of his or her supervising physician, the physical address and telephone number of the health care facility, the name and address of the patient, and the date the prescription is issued. The physician assistant shall sign or electronically affix his or her name to each prescription followed by the letters PA-C."

The WVAPA recommends a modification to current BOM rules 14.8 be approved to delete the words "write on the prescription form" and insert in lieu thereof the words *"include"*.

The WVAPA recommends a modification to current BOM rules 14.10 be approved by inserting after the words "The Board of Medicine shall provide the Board of Pharmacy with a list of physician assistants with limited prescriptive privileges" the following language *"along with the categories of drugs or drugs within a category that the physician assistant has been authorized to prescribe"*.

American Academy of Physician Assistants
950 North Washington Street ■ Alexandria, VA 22314-1552 ■ 703/836-2272 Fax 703/684-1924

June 27, 2008

Mr. Robert C. Knittle, M.S.
Executive Director
West Virginia Board of Medicine
101 Dee Drive Suite 103
Charleston, WV 25311

Dear Mr. Knittle:

The American Academy of Physician Assistants (AAPA) is the only national professional society representing physician assistants in all specialties. In addition to its other duties, the Academy serves as an information resource on state regulation of physician assistant practice. AAPA appreciates the opportunity to submit comments on the Board's proposed rulemaking on physician assistant practice.

AAPA would like to comment on the proposed rules to amend 11 CSR 1B. AAPA requests that the Board reconsider sections related to the requirement that a supervising physician see each regular patient every third visit and the limited prescriptive authority.

Current rules state that a supervising physician must see patients periodically. At present, the time frame during which this must occur is illustrative—every third visit is suggested. We fear that a barrier for access to patient care will result from the proposed mandate of "at least every third visit." Requiring the physician to see a patient normally seen by the PA takes the physician away from other patients who may be more in need of the physician's expertise. This is especially problematic in rural settings where the physician may only visit the office once a week. The implementation of this requirement also affects physicians, PAs and patients by directly impacting patient scheduling and the operation of numerous practices. It can affect a large proportion of a practice's patients, since chronic illnesses like arthritis or hypertension require frequent follow up. For these reasons, the national trend among states has been to remove such restrictions from state law and regulations. In fact, Pennsylvania recently discarded this language from its regulations in 2006. Only eight states have provisions even remotely similar to the type proposed by the Board. Of these, the provisions are only applicable under very limited circumstances such as when a patient fails to improve, is on controlled substance medication or is in a long-term care facility. The overwhelming majority of states permit physicians, PAs, facility policy and patients to determine when physician evaluation should occur. AAPA concurs with this trend. We strongly recommend that the proposed new restriction that the physician see the patient every third visit be removed from the rule under consideration.

AAPA concurs with the Board's desire to "clean up" and "clarify language" presently used in the regulations applicable to physician assistant practice. As a result, AAPA would also like to take

this opportunity to recommend that modifications be made to the proposed rules regarding limited prescriptive authority for PAs as contained in 11-1B-14.

In modern practice, electronic prescribing is widely used as a way to avoid medical errors and improve patient safety. Electronic prescribing technologies enhance medical care to patients by improving the accuracy and documentation in the medical record generally and for subsequent review by the supervising physician. However, the newly enacted statutory provisions in West Virginia Code 30-5-1b and 30-5-12c authorizing electronic prescribing are in direct conflict with the current rules in embodied in 11-1B-14. This disparity exists not only because the current rules do not address electronic prescribing but also because it is impossible for e-prescribing technologies to conform to the current requirement that physician assistant formularies be printed on the reverse of the PA prescription. The present requirement that a listing of categories of drugs be imprinted on the prescription pads used by PAs is cumbersome for those PAs who have more than one supervising physician with different prescriptive authorities. In addition, the mandated distribution of these pads by PAs to area pharmacies is antiquated since many prescriptions are now filled by mail-order pharmacies that are often located in other states. AAPA believes that a modification to current rule 11-1B-14.7 would not only facilitate in the modernization of some of the rule's more burdensome and outdated provisions but also avoid potential conflicts with current WV Code provisions in §§ 30-5-1b and 30-5-12c relating to electronic prescribing.

If amendments to this proposed rule were to be considered, the following language could be employed:

§ 11-1B-13. Physician Assistant Utilization.

13.6 Provision should be made for the supervising physician to see each regular patient periodically; for example every third visit.

13.8 9. 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...**

11-1B-14. Limited Prescriptive Privileges for Physician Assistants.

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

14.7. Prescriptions by a physician assistant approved for limited prescriptive privileges must contain information including the name of the physician assistant, the name of his or her supervising physician, the physical address and telephone number of the health care facility, the name and address of the patient, and the date the prescription is issued. The physician assistant shall sign or electronically affix his or her name to each prescription followed by the letters PA-C.

14.8. Physician assistants authorized to issue prescriptions for Schedules III through V controlled substances shall include 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 unites or a thirty (30) day supply, whichever is less.

14.10. The Board of Medicine shall provide the Board of Pharmacy with a list of physician assistants with limited prescriptive privileges along with the categories of drugs or drugs within a category that the physician assistant has been authorized to prescribe.

The Academy appreciates the opportunity to provide these comments to the Board.

Sincerely,

Ann Davis, PA-C

Ann Davis, PA-C
Director of State Government Affairs

State of West Virginia
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone 304.558.2921
Fax 304.558.2084

July 15, 2008

Kristopher K. Musick, P.A.-C
WVAPA President
3547 Virginia Avenue
Hurricane, WV 25526

Re: Proposed amendments to 11 CSR 1B

Dear Mr. Musick:

Thank you for your comments on the above referenced proposed amendments. They were helpful and I think you will find when the Agency Approved Rule is filed with the Legislature that the Board adopted changes in accordance with your comments. When the proposed rule is filed it will be available on the Board's website.

Your assistance in this matter has been greatly appreciated.

Sincerely,

Robert C. Knittle

lab

State of West Virginia
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone 304.558.2921
Fax 304.558.2084

July 15, 2008

Ann Davis, P.A.-C.
American Academy of Physician Assistants
Director of Government Affairs
950 North Washington Street
Alexandria, VA 22314-1552

Re: Proposed amendments to 11 CSR 1B

Dear Ms. Davis:

Thank you for your comments on the above referenced proposed amendments. The comments were helpful, and I think you will find when the Agency Approved Rule is filed with the West Virginia Legislature that your suggestions were accepted by the Board of Medicine. When it is filed it will be available on our website.

The Board of Medicine appreciates your assistance.

Sincerely,

Robert C. Knittle

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REASONS FOR CHANGES

The West Virginia Association of Physician Assistants and the American Association of Physician Assistants made sense in the comments that were filed. The comments were professional, well explained, and educational. The changes requested were minimal and the Board of Medicine is satisfied that the changes made as a result of the comments are in the public interest, health and safety, and enable the physician assistant to function effectively in a world where statutory authority now exists in West Virginia for electronic prescribing.