

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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JUL 10 PM 2:37
OFFICE OF THE 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 §30-3-12

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

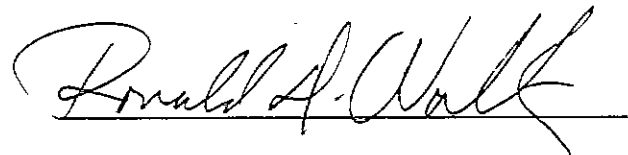
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 6

TITLE OF RULE BEING PROPOSED: Continuing Education for

Physicians and Podiatrists

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.



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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1991 MAY 29 AM 11:08 PB 2:37

Rule Title: Continuing Education for Physicians and Podiatrists

OFFICE OF LEGISLATION, VIRGINIA
SECRET, SECRET STATE, STATE

Type of Rule: X Legislative Interpretive Procedural

Agency West Virginia Board of Medicine Address 101 Dee Drive,
Charleston, West Virginia 25311

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

No increase in state funding will be needed.

3. Objectives of these rules:

To provide for successful completion of a minimum of fifty hours of continuing education every two years, as a condition of relicensure for physicians and podiatrists.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

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

Physicians and podiatrists will pay for attendance at some continuing education classes.

C. Economic Impact on Citizens/Public at Large.

None

Date: May 29, 1991

Signature of Agency Head or Authorized Representative

Ronald J. Walk

FILED

DATE: May 29, 1991

1991 MAY 29 AM 11:16

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FROM: West Virginia Board of Medicine

EMERGENCY RULE TITLE: Continuing Education for Physicians and Podiatrists

1. Date of filing: May 29, 1991

2. Statutory authority for promulgating the emergency rule: West Virginia Code §30-3-12

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
The emergency rule adopts new language.

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
See answer to question 7.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

This emergency rule was promulgated in order to comply with a time limit established in West Virginia Code §30-3-12 specifying that no later than June 1, 1991, the Board shall file rules under Code §29A-3-15.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See answer to question 7.

TITLE 11
LEGISLATIVE RULE
BOARD OF MEDICINE

SERIES 6
CONTINUING EDUCATION FOR
PHYSICIANS AND PODIATRISTS

§11-6-1. General.

- 1.1. Scope. - These legislative rules address requirements for continuing education satisfactory to the Board for physicians and podiatrists.
- 1.2. Authority. - W.Va. Code §30-3-12.
- 1.3. Filing Date. -
- 1.4. Effective Date. -

§11-6-2. Continuing Education Satisfactory to the Board.

- 2.1. Physicians. - Beginning July 1, 1993, successful completion of a minimum of fifty hours of continuing medical education satisfactory to the Board during the preceding two year period is required for medical license biennial renewal.
- 2.2. Continuing medical education satisfactory to the Board means:
 - A. Continuing medical education designated as Category I by the American Medical Association or the Academy of Family Physicians, or
 - B. Medical education courses or lectures in medicine taught to medical students, residents, or licensed physicians, or serving as a preceptor to medical students or residents: Provided, that no more than twenty hours of the required fifty hours of continuing medical education in this category will be considered satisfactory to the Board.
 - C. Sitting for and passing a certification or recertification examination of one of the

american board of medical specialties member boards, and receiving certification or recertification from said board: Provided, that no more than twenty five hours of the required fifty hours of continuing medical education in this category will be considered satisfactory to the Board. Certification or recertification from any board other than one of the american board of medical specialties member boards does not qualify the recipient for any credit hours of continuing medical education satisfactory to the board.

There are no other types or categories of continuing medical education satisfactory to the Board.

- 2.3. Podiatrists. - Beginning July 1, 1993, successful completion of a minimum of fifty hours of continuing podiatric education satisfactory to the Board during the preceding two year period is required for podiatric license biennial renewal.
- 2.4. Continuing podiatric education satisfactory to the Board means:
 - A. Continuing podiatric education approved by the council on podiatric medical education, or
 - B. Continuing podiatric education given under the auspices of the podiatry colleges in the United States, or
 - C. Continuing medical education designated as Category I by the american medical association or the academy of family physicians.
 - D. Continuing podiatric education given under the auspices of the West Virginia podiatric medical association.
 - E. Podiatric education courses or lectures in podiatry taught to podiatric students, residents, or licensed podiatrists, or serving as a preceptor to podiatric students or residents: Provided, that no more than twenty hours of the required fifty hours of podiatric education in this category will be considered satisfactory to the Board.

There are no other types or categories of continuing podiatric education satisfactory to the Board.

- 2.5. Hours; Physicians and Podiatrists - For the purposes of this section, one clock hour of attendance equals one hour of continuing education.

§11-6-3. Certification of Successful Completion of Continuing Education Requirements.

- 3.1. Certification. - Every applicant for licensure renewal shall timely submit to the Board a certification of successful completion of a minimum of fifty hours of continuing education satisfactory to the Board during the preceding two year period. Failure of an applicant to submit such certification in a timely fashion shall result in the automatic suspension of license.

- 3.2. Form of Certification. - The Board shall cause to be imprinted on its biennial renewal application forms a certification wherein the applicant places the applicant's signature and the date after an attestation to the truth and correctness of the applicant's statements pertaining to the successful completion of the required continuing education. The certification shall include a statement that any license issued from the application is based on the truth of the applicant's statements and that if false information is submitted in the application, such an act constitutes good cause for the denial or revocation of the applicant's license to practice in the State of West Virginia.

- 3.3. Timely Submission of Certification. - In order for a certification to be submitted to the Board in a timely fashion, the certification must be received in the Board offices before the first day of July of the year of renewal of the license.

§11-6-4. Written Documentation of Successful Completion of Continuing Education Requirements.

- 4.1. Audits - The Board may conduct such audits and investigations as it deems necessary to determine if licensees are complying with continuing education requirements and if the statements made on the Board's renewal application forms as to continuing education are accurate.

- 4.2. When Written Documentation Requested. - Any licensee is required to provide supporting written documentation of successful completion of the continuing education represented as received on the biennial renewal application form, if the Board requests such written documentation in writing. Upon receipt of such a written request for written documentation of the successful completion of the continuing education received, the licensee shall provide to the Board such written documentation so that it is received by the Board within thirty days of the licensee's receipt of the written request.
- 4.3. Automatic Suspension of License. - When a licensee's license is automatically suspended for failure to timely submit to the Board a certification of successful completion of a minimum of fifty hours of continuing education satisfactory to the Board, the license shall remain suspended until such time as the certification is received by the Board as set forth in section three of these regulations, and until such time as all supporting written documentation is submitted to and approved by the Board.
- 4.4. Failure or Refusal to Provide Written Documentation. - Failure or refusal of the licensee to provide written documentation requested by the Board as set forth in section 4.2 is prima facie evidence of renewing a license to practice medicine or podiatry by fraudulent misrepresentation and may subject the licensee to disciplinary proceedings under section fourteen of article three of chapter thirty of the West Virginia Code.
- 4.5. Inactive License. - Beginning July 1, 1993, in the case of a licensee who holds an inactive license and who makes a written request to the Board for active status, the licensee shall submit written documentation of successful completion of a minimum of fifty hours of continuing education satisfactory to the Board during each preceding two year period. No request for a change from inactive to active license shall be considered by the Board until such written documentation is submitted to and approved by the Board, accompanied by a certification in accordance with section three of these regulations.



Rev. Richard Bowyer
Fairmont

Thomas S. Clark, M.D.
Morgantown

Jesus Tan Ho, M.D.
Moundsville

John J. Mahood, M.D.
Bluefield

Leonard Simmons, D.P.M.
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State of West Virginia

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Martinsburg

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Wheeling

Mrs. Lydia Winfrey
Princeton

SUMMARY OF CONTENT OF LEGISLATIVE RULE AND STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE: CONTINUING EDUCATION FOR PHYSICIANS AND PODIATRISTS

This rule requires that beginning July 1, 1993, successful completion of a minimum of fifty (50) hours of continuing education satisfactory to the Board during the preceding two (2) year period is required for license renewal for physicians and podiatrists. Continuing education considered satisfactory to the Board is specified in the rule for both physicians and podiatrists.

Changes have been made to the rule as a result of comments received by the Board subsequent to the initial filing of the rule on May 29, 1991. These changes are found in the section pertaining to types of continuing education considered satisfactory to the Board, section 2. The types of continuing education considered satisfactory to the Board have been expanded, for both physicians and podiatrists.

The procedure for providing timely information and certification to the Board pertaining to continuing education is set forth, as is permission for the Board to conduct compliance audits and to require written documentation. Licenses are automatically suspended for failure to comply with continuing education requirements and remain suspended until all required material is supplied to the Board. Inactive licensees who wish to change to active status must supply documentation of successful completion of the continuing education hours required.

PRESIDENT Eileen Catterton, M.D. Pineville	VICE PRESIDENT Thomas Harward, P.A.-C. Belington	SECRETARY William T. Wallace, Jr., M.D., M.P.H. Charleston	COUNSEL Deborah Lewis Rodecker Charleston	EXECUTIVE DIRECTOR Ronald D. Walton Charleston
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Attached are copies of letters sent by the West Virginia Board of Medicine inviting comment on the proposed emergency rule and copies of all comments received. As a result of comments, amendments were made by the West Virginia Board of Medicine to the proposed emergency rules filed May 29, 1991.

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May 29, 1991

Eddie Davis, D.P.M.
President
West Virginia Podiatry Association
114 Washington Street West
Charleston, West Virginia 25302

FILE COPY

RE: Proposed Rules:
Continuing Education For Physicians and Podiatrists

Dear Dr. Davis:

Enclosed with this letter, please find a copy of the proposed rules filed by the West Virginia Board of Medicine with the Office of the Secretary of State on May 29, 1991. Please note that a comment period has been established by the Board of Medicine to end June 28, 1991. If members of your organization have comments they wish to make on these proposed rules, we do request that the comments are received at the Board on or before that day.

Thank you for your cooperation.

Sincerely,

Ronald D. Walton

RDW:lsc

Enclosure

PRESIDENT Eileen Catterson, M.D. Pineville	VICE PRESIDENT Thomas Harward, P.A.-C. Beington	SECRETARY William T. Wallace, Jr., M.D., M.P.H. Charleston	COUNSEL Deborah Lewis Rodecker Charleston	EXECUTIVE DIRECTOR Ronald D. Walton Charleston
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May 29, 1991

FILE COPY

Mr. George Rider
Executive Director
West Virginia State Medical Association
4307 MacCorkle Avenue
Charleston, West Virginia 25304

RE: Proposed Rules:
Continuing Education For Physicians and Podiatrists

Dear Mr. Rider:

Enclosed with this letter, please find a copy of the proposed rules filed by the West Virginia Board of Medicine with the Office of the Secretary of State on May 29, 1991. Please note that a comment period has been established by the Board of Medicine to end June 28, 1991. If members of your organization have comments they wish to make on these proposed rules, we do request that the comments are received at the Board on or before that day.

Thank you for your cooperation.

Sincerely,

Ronald D. Walton

RDW:lsc

Enclosure

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EXECUTIVE DIRECTOR
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Charleston

JOHN C. HUNTWORK, M.D., INC.

DIPLOMATE, AMERICAN BOARD OF INTERNAL MEDICINE
DIPLOMATE, AMERICAN BOARD OF RHEUMATOLOGY

June 21, 1991

West Virginia Board of Medicine
101 Dee Drive
Charleston, West Virginia 25311

Sirs:

I would like to request that you review and alter your proposed rules regarding the 50 hours of continuing medical education required by 30-3-12. I would like to make it clear that this letter is written entirely in my capacity as an affected physician rather than as a member of the house of delegates.

First, I would like to point out that the legislation states "...It is in the public interest to encourage alternate categories of continuing education satisfactory to the board for physicians and podiatrists." This statement is not limited to podiatrists. I think that the legislation intends to avoid limiting the form of continuing education to the "talking head"/lecture model that characterizes most category I CME.

Second, it is a very substantial problem for me to get 50 hours of category I CME that is relevant to my practice. I can afford neither the time nor the expense of going to national meetings on a regular basis, and, if I spend 50 relatively unproductive hours attending whatever meetings are available locally, I will, in fact, have less time available to do targeted study than I do now.

Last year, to get a Florida License, after 17 years, I retook part 3 of the National Board Exam, scoring in the 96th percentile. I believe that I would do better than that if tested in my specialty. I do not claim that this is a great score, but it shows that I do "keep up" reasonably well by teaching medical students and residents, giving lectures, reading my journals, etc. For me, these are all far more productive learning situations than attending a traditional lecture. I believe that the arbitrary quest for 50 category I CME hours will detract from, not add to, my educational efforts.

I realize the appeal of recognizing only category I hours--someone else has to regulate and supervise the programs while the board has only to tally the certificates--but under this law, the Board has been given the leeway--and obligation--to promulgate regulations that "encourage alternate categories of continuing education." The above considerations, I believe, point out the wisdom of doing so.

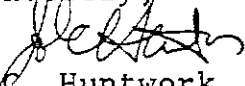
Board of Medicine
June 21, 1991
Page -2-

I would request that you amend the proposed rules to accept CME activities such as those mentioned above and others.

Perhaps you could allow small medical specialties such as my own, for whom it may be very burdensome to find 50 hours of relevant category I CME, to propose to the board alternative forms of CME for their specialty.

I appreciate your consideration.

Sincerely,


John C. Huntwork, M.D.

WEST VIRGINIA PODIATRIC MEDICAL ASSOCIATION

114 Washington Street, West - Suite 200
Charleston, West Virginia 25302



June 12, 1991

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

Dear Mr. Walton:

I received the proposed rules for continuing education for physicians and podiatrists last week and presented the proposed rules for discussion at the West Virginia Podiatric Medical Association meeting of June 9th.

The association, after discussing the rules, approved and support the rules as they stand with only one minor suggestion. On Section 11-6-2, paragraph 2.4, this deals with continuing podiatric education satisfactory to the board. Three categories have been listed as being satisfactory to the board. The members of the West Virginia Podiatric Medical Association suggest the addition of the following category, Category D. Continuing podiatric education given under the auspices of the West Virginia Podiatric Medical Association. Additionally, I would like to point out that in Section A, which refers to continuing podiatric education approved by the Council on Podiatric Education probably should read "continuing podiatric education approved by the Council on Podiatric Medical Education." The Council on Podiatric Medical Education is the accrediting arm of the American Podiatric Medical Association. If I can be of any further assistance, do not hesitate to contact me at 345-3668.

Yours truly,

Eddie Davis, D.P.M., President
West Virginia Podiatric Medical Association

ED/dla