

# WEST VIRGINIA SECRETARY OF STATE

BETTY IRELAND

## ADMINISTRATIVE LAW Division

Form #3~

Do Not Mark In This Box

FILED

2005 JUL 29 P 4: 05

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: WV Board of Optometry TITLE NUMBER: 14-1

RULE TYPE: Legislative CITE AUTHORITY: Chapter 30-8

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 14-1

TITLE OF RULE BEING AMENDED: RULES OF THE WEST VIRGINIA BOARD OF OPOTMETRY

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 PROMULGTING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Authorized Signature 

**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: 7/29/05

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, address, & phone no.) WV Board of Optometry

723 Kanawha Boulevard, Suite 804

Charleston, WV 25301-2733 304-558-5901

LEGISLATIVE RULE TITLE: §14-1 Rules of the West Virginia Board of Optometry

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1. Authorizing statute(s) citation §30-8

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

06/27/05

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

E-mail to the Governor's Office, Roger Price, WVOA, Posted on the website, [www.wvbo.org](http://www.wvbo.org), newspaper advertisements in the Charleston Gazette, Parkersburg Sentinel, Beckley Herald, Clarksburg Telegram, Morgantown Dominion Post

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

7/27/05 at 12:00 p.m.

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

Attached \_\_\_\_\_ No comments received XX

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

7/29/05

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

Pamela Carper, Executive Administrator

723 Kanawha Boulevard East, Suite 804

Charleston, WV 25301-2733

(p) 304-558-5901, (f) 304-558-5908, email: wvbdopt@verizon.net

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 determination 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 evidency and a general description of the issues to be decided.

The Board chose a comment period.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Date of hearing or comment period:

\_\_\_\_\_ 6/27/04 – 7/27/04 at 12:00 p.m. \_\_\_\_\_

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

\_\_\_\_\_ no comments, no change \_\_\_\_\_

e. Attach findings and determinations and reasons:

Attached \_\_\_\_\_

WEST VIRGINIA BOARD OF OPTOMETRY

Proposed Rule Amendment §14-1

**Summary**

The purpose of the rule is to add use of a credit card as an additional method of payment for license renewal.

APPENDIX B  
**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Rules of the West Virginia Board of Optometry

Type of Rule: Legislative

Agency: WV Board of Optometry

Address: 723 Kanawha Boulevard, Suite 804

Charleston, WV 25301-2733

Phone: 304-558-5901 Email: wvbdopt@verizon.net

**Fiscal Note Summary**

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

There will be no additional cost to state government. The bill only adds a credit card as an additional method of payment.

**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.

<b>FISCAL YEAR</b>			
Effect of Proposal	2005 Increase (use “”)	2006 Increase/Decrease (use “”)	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Equipment	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: §14-1 Rules of the WV Board of Optometry

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

The Board is formalizing the use of credit card payment on its web site. The only cost is the 2% fee the Board pays to the State Treasurer's Office. The Board has already been paying this fee. Therefore there will be no increase in cost.


The fees collected will be the same, they may only be received more rapidly than check-by-mail.

#### 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.

Date: 7/29/05

Signature of Agency Head or Authorized Representative



TITLE 14  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 1  
RULES OF THE WEST VIRGINIA BOARD OF OPTOMETRY

FILED  
2005 JUL 29 P 4: 06  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§14-1-1. General.**

1.1. Scope. -- This rule establishes the operation of the West Virginia Board of Optometry and the requirements, procedures and responsibilities for licensure as an optometrist.

1.2. Authority. W. Va. Code §30-8-1 et. seq.

1.3. Filing Date. --

1.4. Effective Date. --

**§14-1-2. Applications And Examinations.**

2.1. Before any person may take the examination for a license to practice optometry in this State he or she shall submit a written application on the Board's application form, which will be supplied by the secretary of the Board upon written request, setting forth his or her name, address, date and place of birth, citizenship and a detailed history of his or her educational qualifications, showing the name, the place where and the length of time which the applicant attended pre-optometry and optometry schools. The applicant shall also state in the application whether he or she has taken any other State Board examinations and the results of the examinations and whether or not he or she has actively engaged in practice of optometry in any other state. With the application he or she shall include two (2) current photographs of himself or herself, not to exceed 2 inches by 2 inches in size.

2.2. In the application the applicant shall state that he or she will abide by the laws of this State regulating the practice of optometry and by the Rules adopted by the Board.

2.3. The application shall be subscribed by the applicant and sworn by him or her before any officer legally qualified to administer oaths.

2.4. The Board shall deny the right to take the examination to any person furnishing false information in the application, or if the applicant has been licensed before it is made known to the Board of the falseness of the information, the license is subject to suspension, revocation or cancellation.

2.5. Certified copies of the transcripts of records from pre-optometry and optometry colleges attended by the applicant shall accompany each application. The certified transcripts of record shall show the total number of hours of attendance, the subjects studied, the grades given and the date of graduation.

2.6. Passing all parts of the National Board Examination (and the TMOD prior to 1996) is a prerequisite for taking the West Virginia Examination, to be confirmed by receipt of a passing grade report from the National Board of Examiners' office.

2.7. The applicant shall file the completed application and examination fee with the secretary of the Board not later than thirty (30) days prior to the first day of the examination dates. In the event an applicant intends to retake the examination, the fee and the notice of his or her intention to retake the examination shall also be in the secretary's office thirty (30) days prior to the examination dates. The completed application, records and fees are to be mailed to the secretary in one (1) parcel and all transcripts are to be left sealed.

2.8. The fee for taking the examination shall be determined by the Board's rule, Schedule of Fees, 14CSR5.

2.9. Receipt of an application by the secretary, the processing of records for an applicant's qualification to take the examination, and an examination prepared, the same as taking



the examination without grades when an applicant fails to appear. This section does not apply if an applicant has notified the secretary of his or her inability to appear for examination due to acceptable extenuating circumstances.

### **§14-1-3. Rules For Examination.**

3.1. The Board shall conduct, examinations for a license to practice optometry in this State by any means the Board determines adequate to ascertain the qualifications of the applicant. The Board shall give each applicant due notice of the date, time and place of the examination and advise that his or her records have been received and are complete. If the applicant's records are incomplete the Board shall advise the applicant as to what records are missing or improper.

3.2. Prior to an examination the secretary of the Board or a member of the Board designated by the president, if the secretary is absent, shall prepare a tentative schedule showing the time allotted to each subject and the order in which they will be given. The schedule shall meet the approval of a majority of the members of the Board. The secretary shall make the approved schedule available to the applicants taking the examination.

3.3. The examinations shall start on the second Sunday of February and July unless otherwise directed by the president.

3.4. When examination papers are delivered to the secretary or presiding examiner, they become the property of the Board and shall not be returned to the applicant or delivered to any other person. Each Board member shall be custodian of his or her own examination papers which must be preserved for a period of thirty (30) days after final grading and the results are announced to the applicant.

3.5. At the direction of the president, the secretary or his or her appointed representative may conduct the examination without a quorum of the Board being present.

### **§14-1-4. Colleges Of Optometry.**

4.1. A college of optometry, to be approved by the Board, shall maintain high scholastic and

professional standards and be approved by the Council on Optometric Education (COE) of the American Optometric Association.

4.2. The secretary shall keep an up-to-date list of all Colleges of Optometry approved by the Board, and make the list available upon request.

### **§14-1-5. Licenses.**

5.1. When an applicant is examined by the Board and found qualified to practice the profession of optometry in this State he or she shall be notified by letter by the secretary. In this letter the secretary shall also advise the applicant of the required certificate fee and the annual renewal fee. If the applicant fails to pay the required fees within ninety (90) days, his or her records shall be so marked and he or she shall not be listed as a registered optometrist in this State. The secretary shall make every effort to locate the applicant and shall send a registered letter with receipt requested to the address given by the applicant.

5.2. The Board shall issue a license to practice the profession of optometry in this State to any person who passes the examination and meets the requirements of the Board, or is approved by endorsement. The fee for issuing this license is to be paid by check or money order made payable to the West Virginia Board of Optometry.

5.3. The Board shall issue a certificate to include the licensee's name in full, a certificate registration number, the Board seal, the effective date of the certificate and the signatures of the Board members. One photograph shall be affixed to the large certificate and one shall remain in the permanent file.

### **§14-1-6. Renewals.**

6.1. A registered optometrist who desires to continue in active practice shall, biennially, on or before the thirty first day of July, of the year of expiration, renew his or her certificate of registration and pay a biennial renewal fee and maintain proof of acquisition of all required continuing education hours for random audit. Any certificate of registration which has not

been renewed during the month of August expires on the first day of September.

6.2. Renewal fees shall be paid by check or money order or credit card made payable to the West Virginia Board of Optometry.

6.3. Upon receipt of the renewal fee the secretary shall issue a biennial renewal certificate card bearing the number of the license, the years for which renewed and any other information the Board considers necessary.

6.4. When an optometrist has failed to pay his or her biennial renewal fee by July 31<sup>st</sup> of that year, it is the duty of the secretary to notify the optometrist by registered mail at his or her last known address that the fee is due and unpaid and cite the penalties of practicing optometry without the renewal. The secretary shall further advise the optometrist that his or her license to practice optometry expires on the following first day of September.

6.5. The secretary of the Board shall make every effort to notify all optometrists that they are required to renew their registration. Failure to receive the notification does not relieve a registered optometrist of the duty to renew his or her registration.

6.6. Every optometrist shall display his or her renewal certificate in a conspicuous place in the principal office where he or she practices optometry. If an optometrist practices his or her profession in more than one (1) office (branch office) he or she shall have an additional renewal card for each office, obtained upon request to the secretary. Every optometrist shall notify the secretary of any branch office and address.

#### **§14-1-7. Unlawful Use Of The Prefix "Doctor" Or "Dr."**

7.1. Under West Virginia Code §61-10-21, it is unlawful for any person to use the prefix "Doctor" or "Dr." in connection with his or her name in any letter, postcard, advertisement, sign or public display of any nature whatsoever, without affixing thereto suitable words or letters designating the degree which he or she holds.

#### **§14-1-8. Continuing Education.**

8.1. The following rule governs the attendance of educational optometric programs for annual license renewal:

8.2. It is the responsibility of a registered optometrist to maintain evidence of meeting the education requirements when he or she applies for renewal of his or her license.

8.3. The evidence shall show his or her attendance for a minimum of forty hours during the preceding two years at educational optometric programs covering one or more of the subjects approved by the Optometry Board including the following requirements:

(a) a minimum of twelve (12) hours of study in pharmacology or therapeutics courses;

(b) a maximum of six (6) hours of study in practice management;

(c) a maximum of ten (10) hours of optometric study may be taken by correspondence, or via the Internet;

(d) all continuing education study must be sponsored by one of the organizations listed in sub-section 8.4 of this section or pre-approved by the Board as outlined in subsection 8.6 of this section;

8.4. Educational programs sponsored by the following organizations approved as meeting the minimum standards are:

(a) Educational meetings of the American Optometric Association;

(b) Educational meetings of the West Virginia Optometric Association and other state Optometric Association educational meetings;

(c) Scientific sections of the American Academy of Optometry;

(d) International Optometric sponsored meetings;

(e) Regional Optometric Extension Program congresses;

(f) Postgraduate courses offered at any approved College of Optometry;

(g) Southeastern Educational Congress;

(h) National Contact Lens Congress;

(i) Optometric Center of New York;  
and

(j) Council on Optometric Practitioner Education (COPE).

8.5. Evidence of attendance shall be furnished by the sponsoring organization to each registrant at the program, signed by its secretary or chairman showing the date and place of meeting, speaker or instructor and hours in attendance. The registrant shall maintain evidence of attendance, subject to random audit by the Board, for renewal of his or her license. To be granted exemption from the required attendance, a registrant shall file a sworn affidavit containing reasons acceptable to the Board for noncompliance with the Secretary of the West Virginia State Board of Optometry when he or she applies for renewal of his or her license.

8.6. Upon request for approval from the registrant at least thirty (30) days prior to the meeting or seminar, the Board may approve meetings or seminars either within or without the State of West Virginia.