

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

**FILED**

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia Board of Optometry TITLE NUMBER: 14

RULE TYPE: Legislative CITE AUTHORITY: Chapter 30-8 & 14-1

AMENDMENT TO AN EXISTING RULE: YES  NO

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

TITLE OF RULE BEING AMENDED: Continuing Education

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 25, 2003 AT 9:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Board of Optometry

723 Kanawha Blvd., Suite 804

Charleston, WV 25301-2733

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**CIRCUMSTANCES REQUIRING LEGISLATIVE RULE AMENDMENT  
TITLE 14-SERIES-1-8 CONTINUING EDUCATION**

The continuing education section is too general in its requirements. The amendment is needed to conform education requirements to optometric standards of practice. The Board wants these requirements to have the force and effect of law to protect the public interest.

**SUMMARY OF PROPOSED RULE AMENDMENT 14-1-8.3  
CONTINUING EDUCATION**

The amendment establishes minimum standards for the forty required hours of continuing education for licensed optometrists during a two-year period. The hours will include a minimum of twelve hours of pharmacology or therapeutic courses, a maximum of six hours of study in practice management and a maximum of ten hours of optometric study by correspondence or via the Internet.

The amendment also lists a new subsection, 8.3a that gives permissive authority to the Board to update continuing education requirements to meet accepted standards of practice by a majority vote of the Board. The Board desires that this majority vote of the Board to have the force and effect of law.

□  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Continuing Education

Type of Rule: X Legislative    \_\_\_\_\_ Interpretive    \_\_\_\_\_ Procedural

Agency: West Virginia Board of Optometry

Address: 723 Kanawha Blvd., Suite 804  
Charleston, WV 25301-2733

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	0	0	0	0	0
<b>PERSONAL SERVICES</b>	0	0	0	0	0
<b>CURRENT EXPENSE</b>	0	0	0	0	0
<b>REPAIRS &amp; ALTERATIONS</b>	0	0	0	0	0
<b>EQUIPMENT</b>	0	0	0	0	0
<b>OTHER</b>	0	0	0	0	0

2. Explanation of Above Estimates:

The rule amendment outlines minimum subject content for a rule already in effect.

3. Objectives of These Rules:

The amendment outlines minimum standards of subject areas of the required 40 yours of continuing education. These minimums are set to conform with optometric standards of Practice.

Rule Title: Continuing Education

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

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

None

C. Economic Impact on Citizens/Public at Large.

None

Date:

06/23/03

Signature of Agency Head or Authorized Representative:

Jack E. Seymour

**TITLE 14  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF OPTOMETRY**

**SERIES 1  
RULES OF THE WEST VIRGINIA BOARD OF OPTOMETRY**

**§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. -- June 21, 2002.

1.4. Effective Date. -- June 21, 2002.

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

2.1. Before any person shall be permitted to 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, or which hereafter are 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 unsealed.

2.8. The fee for taking the examination shall be determined by rule.

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 his or her records are incomplete he or she will be advised 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 results 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 will 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 such applicant and will 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. All registered optometrists who desire 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 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 his or her 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 be required to 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 hours of studying pharmacology or therapeutic courses;
- (b) a maximum of six hours of study in practice management;
- (c) a maximum of ten 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 sub-section 8.6 of this section;

8.3.a. The Optometry Board may update the continuing education requirements to meet accepted standards of optometric practice by a majority vote of the Optometry Board.

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, the Board may approve meetings or seminars either within or without the State of West Virginia, at least thirty (30) days prior to the meeting or seminar.



# WEST VIRGINIA BOARD OF OPTOMETRY

723 Kanawha Blvd., Suite 804

Charleston, WV 25301

Phone: (304) 558-5901

Fax: (304) 558-5908

e-mail: [wvbdopt@verizon.net](mailto:wvbdopt@verizon.net)

June 25, 2003

Ms. Judy Cooper  
Team Leader  
Administrative Law  
Office of the Secretary of State  
Building 1, Suite 157-K  
Charleston, WV 25305-0770

Dear Ms. Cooper:

I have enclosed two rules for the comment period: Title 14-7-3.5, a Procedural Rule, and title 14-1-8.3, a Legislative Rule. Our comment period will end at 9:00 a.m. on July 25, 2003.

If you have any questions or problems, please contact me at 558-5901. Thank you for your help.

Sincerely,

A handwritten signature in black ink, appearing to read "Pamela Carper".

Pamela Carper  
Executive Secretary

Enclosures: rule packet for 14-7-3.5 and rule packet for 14-1-8.3

## MISSION STATEMENT

To ensure that all applicants for licensure and all Doctors of Optometry currently licensed, practice their profession in a manner that benefits and protects the public, and to ensure that the highest quality optometric eye and vision care is provided in a professional, competent, and ethical manner.