

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

Form #4 □

Do Not Mark In This Box

**FILED**

2001 NOV 19 A 10:30

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: WV Board of Optometry TITLE NUMBER: 14

CITE AUTHORITY: Chapter 30-Article 8

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Rules of the West Virginia Board  
of Optometry

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

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

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

E. Clifton Hyre, OD  
Authorized Signature

Date: November 8, 2001



# West Virginia Board Of Optometry

101 Michael Street

Clarksburg, West Virginia 26301-3937

Phone: (304) 627-2106

Fax: (304) 627-2282

e-mail: wvbdopt@westvirginia.net

June 5, 2001

Secretary of State  
State of West Virginia  
Building 1, Suite 157K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0771

RE: Title 14- Series 1  
Legislative Rule

Dear Sirs:

The Board has approved the filing of Title 14-Series 1- Rules of the West Virginia Board of Optometry as a legislative rule to remove fees and to update language

Please fax us the cover page for this rule when the comment period begins.

Sincerely,

*E. Clifton Hyre, O.D.*

Clifton Hyre, O. D.  
President

Enclosure  
CH/bp

## 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.

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

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

FILED

2001 NOV 19 A 10:30

OFFICE OF 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. -- June 8, 2001

1.4. Effective Date. --

**§14-1-2. Definitions.**

2.1. The secretary-treasurer shall keep true records of all general and special acts of the Board and all appears of value, shall preserve a record of all individuals licensed by the Board and all individuals disciplined by the Board. The secretary-treasurer shall be responsible for all Board money and shall present a financial statement at the regular annual meeting of the board in July each year. In addition to this financial statement, he or she shall have a regular audit by a representative of the Auditor's Office of West Virginia every three (3) years or when turning over the records of the secretary-treasurers office to the a successor.

2.2. The secretary-treasurer shall furnish any essential document or information at his or her command to members appointed to any committee by the president. Under the direction of the president, he or she shall serve as chairperson of the committee on examinations and shall designate the subjects for on examinations to the members of the board.

2.3. He or she shall represent the Board in attempting to eliminate a violation of the Code governing the practice of optometry, and shall perform any other duties that may come with this office.

2.4. The Secretary-treasurer shall sign certificates issued by the Board and shall perform all such duties that pertain to this office. He or she shall also receive office expenses which have been presented and allowed by the WV dept. of Finance and Administration

2.5. The board may employ an administrative secretary who shall work under the immediate supervision of the president and secretary-treasurer in administering the day-to-day activities of the Board.

### **§14-1-3. Applications And Examinations.**

3.1. 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. The application shall set forth the applicant's name, address, date and place of birth, citizenship and a detailed history of his or her educational qualifications. The educational qualifications shall include 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.

3.2. 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.

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

3.4. The Board shall deny the right to take the examination to any applicant 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 Board may suspend, revoke or cancel the license.

3.5. 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.

3.6. An applicant shall pass all parts of the National Board Examination (and the TMOD prior to 1996) prior to taking the West Virginia Board Examination. The applicant's eligibility shall be confirmed by receipt by the Board of a passing grade report from the National Board of Examiners' office.

3.7. 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.

3.8. The fee for taking the examination is set further in the Board rule, Schedule of Fees, 14CSR5.

3.9. An applicant who fails to take the board examination after being qualified by the processing of records and preparation of the examination constitutes the same as taking the examination, but without grades. This subsection does not apply if an applicant has notified the secretary of his or her inability to appear for examination due to acceptable extenuating circumstances.

#### **§14-1-4. Rules For Examination.**

4.1. 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 the applicant that his or her records have been received and are complete. If the applicant's records are incomplete the board shall inform the applicant as to what records are missing or improper.

4.2. 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 it 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.

4.3. The examination shall begin on the second Sunday of February and July, unless otherwise directed by the president.

4.4. 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 is custodian of his or her own examination papers which he or she shall preserve for a period of thirty (30) days after final grading and results announced to the applicant.

4.5. 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.

#### **§14-1-5. Colleges Of Optometry.**

5.1. 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.

5.2. 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.

#### **§14-1-6. Licenses.**

6.1. The secretary shall notify an applicant who is qualified to practice the profession of optometry in this State by letter of the required certificate fee and the annual renewal fee set forth in 14CSR5. The Board shall not register an applicant who fails to pay the required fees within ninety (90) days of notification of passage of the examination. The secretary shall make every effort to locate each applicant and shall send a registered letter with receipt requested to the address given by the applicant.

6.2. 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 set forth in 14CSR5 and shall be paid by check or money order made payable to the West Virginia Board of Optometry.

6.3. The Board shall issue a certificate which includes the licensee's name, a certificate registration number, the Board seal, the effective date of the certificate and the signatures of the Board members. The Board shall affix one of the photographs required by subsection 2.1 of this rule to the large certificate and the other one shall remain in the permanent file.

#### **§14-1-7. Renewals.**

7.1. A registered optometrist who desires to continue in active practice shall biennially, on or before the thirty first day of July of the year the license expires, renew his or her license, pay the biennial renewal fee set forth in 14CSR5, and maintain proof of acquisition of all required continuing education hours for random audit. Any license which has not been renewed during the month of August expires on the first day of September.

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

7.3. The secretary shall issue a biennial renewal license card bearing the number of the license, the years for which the license is renewed and any other information as the Board considers necessary upon receipt of the renewal fee.

7.4. When an optometrist has failed to pay his or her biennial renewal fee by July thirty-first of the year his or her license expires, the secretary shall 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 the following first day of September.

7.5. 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.

7.6. An 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 its address.

#### **§14.1-8. Unlawful Use Of The Prefix "Doctor" Or "Dr."**

8.1. 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 to the document or display suitable words or letters designating the degree which he or she holds.

#### **§14-1-9. Continuing Education.**

9.1. A registered optometrist shall retain evidence for a minimum of four years that he or she has met the required education requirements when he or she applies for renewal of his or her license. Proof of attendance shall be sent to the Board upon request.

9.2. The evidence shall show the applicant's 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 Board. Ten (10) of the required forty (40) continuing education hours related to the practice of optometry can be at the doctor's discretion, i.e. internet, correspondence, ophthalmologist-sponsored, etc.

9.3. Educational programs sponsored by the following organizations approved by the Board 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).

9.4. Evidence of attendance for continuing education hours shall be furnished by the sponsoring organization to each registrant at the program, and signed by its secretary or chairman showing the date and place of meeting, speaker or instructor and hours in attendance. A registrant shall file a sworn affidavit containing ~~valid~~ reasons acceptable to the Board for noncompliance with the Secretary to be granted exemption from the required attainment of continuing education hours, when he or she applies for renewal of his or her license.

9.5. The Board may approve meetings or seminars either within or without the State of West Virginia upon request from the registrant at least thirty (30) days prior to the meeting or seminar.



# West Virginia Board Of Optometry

101 Michael Street

Clarksburg, West Virginia 26301-3937

Phone: (304) 627-2106

Fax: (304) 627-2282

e-mail: wvbdopt@westvirginia.net

November 8, 2001

Judy Cooper, Director  
Administrative Law  
Secretary of State's Office  
Building 1, Room 157-K  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0770

Dear Mrs. Cooper:

Enclosed is a copy of Title 14-Series 1-Rules of the West Virginia Board of Optometry. The Board has approved it as modified.

Ten copies have been sent to Ms. Teri Anderson, Administrative Assistant, Legislative Rule-Making Review Committee.

Sincerely,

A handwritten signature in black ink that reads "E. Clifton Hyre, O.D." with a stylized flourish at the end.

E. Clifton Hyre, O.D.  
President

ECH/bp  
Enclosure

#### 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.

TITLE 14  
LEGISLATIVE RULES  
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 1  
RULES OF THE WEST VIRGINIA BOARD OF OPTOMETRY

FILED  
2001 DEC -3 A 10:13  
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. -- June 8, 2001

1.4. Effective Date. --

14.1.2. **Definitions.**

2.1. "Board" means the West Virginia Board of Optometry established in Chapter 30, Article 8, of the State Code of West Virginia.

2.2. "Practice of optometry" means individual primary healthcare practices whose providers examine, diagnose, treat, prescribe, and manage diseases and disorders of the visual system, the eye, and associated structures as well as diagnose related systemic conditions.

2.3. "TMOD" means Treatment and Management of Ocular Disease.

**§14-1-3. Applications And Examinations.**

3.1. Before any person ~~shall be permitted to~~ 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. The application shall set setting forth his the applicant's name, address, date and place of birth, citizenship and a detailed history of his or her educational qualifications. The educational qualifications shall include 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. The application shall contain the signatures of three (3) individuals who attest to the good moral character of the applicant and in addition to these signatures a letter from each of these individuals shall accompany the application form. Each signature on the application form shall be sworn to before any officer legally qualified to administer oaths.~~

3.2. 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.

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

3.4. The Board shall deny the right to take the examination to any person applicant 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 Board may suspend, revoke or cancel the license. ~~is subject to suspension, revocation or cancellation.~~

3.5. ~~A certification of graduation from a high school, or its equivalent, and~~ 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.

3.6. An applicant shall pass all parts of the National Board Examination (and the TMOD prior to 1996) prior to taking the West Virginia Board Examination. The applicant's eligibility shall be confirmed by receipt by the Board of a passing grade report from the National Board of Examiners' office.

3.7. The applicant shall file the completed application and examination fee with the secretary of the Board not later than ~~ten (10)~~ thirty (30) days prior to the first day of the examination dates. ~~However, it is recommended that applications be in the hands of the secretary thirty (30) days prior to the examination dates to facilitate processing time and assurance of permission of the applicant to take the examination.~~ In the event an applicant intends to retake the examination, the fee (if applicable) and the notice of his or her intention to retake the examination shall also be in the secretary's office ~~ten (10)~~ 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 ~~when so designated~~ are to be left unsealed.

3.8. The fee for taking the examination is set further in the Board rule, Schedule of Fees, 14CSR5. ~~is fifty dollars (\$50.00).~~ ~~An applicant failing to pass an examination satisfactory to the Board shall, at either the first or second succeeding examination conducted by the Board, be entitled to a reexamination without further cost, but one (1) such reexamination shall exhaust his privilege under his or her original application. (West Virginia Code section six, article one, chapter thirty.)~~

~~2.9.~~ 3.9. If an application has been received by the secretary, and the records processed for an applicant's qualification to take the examination, and if an examination has been prepared, failure of the applicant to appear will constitute the same as taking the examination but without grades. An applicant who fails to take the board examination after being qualified by the processing of records and preparation of the examination constitutes the same as taking the examination, but without grades. The applicant will be entitled to take a second examination at no cost. This subsection 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. 14-1-4. Rules For Examination.**

~~3-1.~~ 4.1. The Board shall conduct ~~in writing~~ examinations for a license to practice optometry in this State and by any other means as the Board shall determines adequate to ascertain the qualifications of the applicant. ~~All applicants examined at the same time shall be given the same written examination.~~ The Board shall give each applicant due notice of the date, time and place of the examination and advised the applicant that his or her records have been received and are complete. ~~If his or her the applicant's records are incomplete he or she will also be so advised the board shall inform the applicant as to what records are missing or improper.~~

~~3-2.~~ 4.2. 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 it 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 ~~the approved schedule~~ taking the examination. ~~The secretary shall caution all applicants taking the examination to use good English and write in a legible manner.~~

~~3-3.~~ 4.3. The ~~written~~ examination shall ~~start~~ begin on the second Sunday of February and July at ~~nine a.m.~~, unless otherwise directed by the president. ~~and each applicant will shall register with the secretary or his or her representative, at eight thirty a.m. This pre-examination time will be used familiarizing the applicants with the examination procedure, scheduling and answering any questions put by the applicants. Once an examination starts no questions will be permitted by the applicant until his paper has been turned over to the secretary.~~

~~3-4.~~ The examination shall be divided into six written parts. Each member of the Board will shall be given one or more subjects to prepare for each examination and the questions for these subjects are to be submitted to the secretary at least thirty (30) days prior to the examination. The secretary or his or her appointed representative will shall then have all subjects prepared in individual jackets for uniform examinations. The examination subjects will include: Anatomy and Physiology, Pathology, Theoretical Optometry, Pharmacology and Contact Lenses, or any other subject deemed considered necessary by the Board. Applicants will shall also be given an oral examination by the Board during the period of the personal interview. An applicant must pass each examination subject must be passed with a minimum grade of seventy five percent (75%): ~~Provided, That if three (3) subjects are eighty percent (80%) or higher and the failed subjects are not lower than seventy percent (70%), the applicant will only be required to retake the two (2) examination subjects failed.~~ Provided, that if the applicant achieves a minimum grade of eighty percent (80%), he or she is only required to retake the two (2) examination subjects failed. ~~If three (3) subjects are failed the entire examination must be retaken. If the applicant fails three (3) subjects, he or she shall retake the entire examination.~~

~~3-4.~~ 4.4. 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~~ is custodian of his or her own examination papers which ~~must be preserved~~ he or she shall preserve for a period of thirty (30) days after final grading and results announced to the applicant.

~~3-5.~~ ~~3-6.~~ 4.5. 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.~~ 14-1-5. Colleges Of Optometry.

~~4.1.~~ 5.1. A college of optometry, to be approved by the Board, ~~must~~ shall maintain high scholastic and professional standards and ~~must also~~ be approved by the Council on Optometric Education (COE) of the American Optometric Association.

~~4.2. No College of Optometry shall be approved by the Board unless the college requires at least two (2) years of pre-optometry work at the college or university level and at least three (3) years work in the College of Optometry, or at least one (1) year pre-optometry work at the college or university level at least four (4) years work in the College of Optometry, West Virginia Code section five, article eight, chapter thirty~~

~~4.2-3.~~ 5.2. 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 ~~to anyone~~ desiring it.

**§14-1-5; 14-1-6. Licenses.**

~~5.1. When 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 five dollar (\$5.00) certificate fee and the annual twenty dollar (\$20.00) renewal fee. If the applicant who 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.~~

6.1. The secretary shall notify an applicant who is qualified to practice the profession of optometry in this State by letter of the required certificate fee and the annual renewal fee set forth in 14CSR5. The Board shall not register an applicant who fails to pay the required fees within ninety (90) days of notification of passage of the examination. The secretary shall make every effort to locate each applicant and shall send a registered letter with receipt requested to the address given by the applicant.

~~5.2.~~ 6.2. 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 ~~five dollars (\$5.00)~~ set forth in 14CSR5 and shall ~~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 which to include the licensee's name in full, the name of the county of the licensee's choice, a certificate registration number, the Board seal, the effective date of the certificate and the signatures of the Board members. The picture sent by the applicant in the application requirements will be returned and may be used in connection with the certificate. The picture sent by the applicant in the applicant requirements will be returned and may be used in connection with the certificate.~~

6.3. The Board shall issue a certificate which includes the licensee's name, a certificate registration number, the Board seal, the effective date of the certificate and the signatures of the Board members. The Board shall affix one of the photographs required by subsection 2.1 of this rule to the large certificate and the other one shall remain in the permanent file.

~~5.4. Every person practicing optometry in this State shall display his or her license renewal and certificate in his or her principal office.~~

**§14-1-6; 14-1-7. Renewals.**

~~6.1. All registered optometrists who desire to continue in active practice shall, annually, on or before the thirty first day of August, of each year, renew his or her certificate of registration and pay an annual renewal fee of twenty dollars (\$20.00) and submit proof of acquisition of all required continuing education hours. Any certificate of registration which has not been renewed during the month of August in any one year shall expire on the first day of September of that year.~~ 7.1. A registered optometrist who desires to continue in active practice shall biennially, on or before the thirty first day of July of the year the license expires, renew his or her license, pay the biennial renewal fee set forth in 14CSR5, and maintain proof of acquisition of all required continuing education hours for random audit. Any license which has not been renewed during the month of August expires on the first day of September.

~~6.2. All~~ 7.2. Renewal fees shall be paid by check or money order made payable to the West Virginia Board of Optometry secretary-treasurer of the Board.

~~6.3~~ 7.3. The secretary shall issue ~~an annual~~ a biennial renewal ~~certificate~~ license card bearing the number of the license, the years for which the license is renewed and any other information as the Board considers necessary upon receipt of the renewal fee.

~~6.4. When an optometrist has failed to pay his or her annual biennial renewal fee by July 31<sup>st</sup> August 15 of any one 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.~~ 7.4. When an optometrist has failed to pay his or her biennial renewal fee by July thirty-first of the year his or her license expires, the secretary shall 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 the following first day of September.

~~6.5.~~ 7.5. The secretary of the Board shall make every effort to notify all optometrists that they are required to renew ~~his or her~~ 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~~ 7.6. An 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 its address.

#### ~~§14-1-7.~~ 14.1-8. Unlawful Use Of The Prefix "Doctor" Or "Dr."

~~7.1.~~ 8.1. 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~~ to the document or display suitable words or letters designating the degree which he or she holds.

#### ~~§14-1-8.~~ 14-1-9. Continuing Education.

~~8.1. The following rule governs the attendance of educational optometric programs for annual license renewal:—~~ 9.1. A registered optometrist shall retain evidence for a minimum of four years that he or she has met the required education requirements when he or she applies for renewal of his or her license. Proof of attendance shall be sent to the Board upon request.

~~8.2. 9.2. The evidence shall show his or her the applicant's attendance for a minimum of eight (8) forty hours during the preceding two years at educational optometric programs covering one or more of the subjects taught in optometry colleges approved by the Optometry Board. Ten (10) of the required forty (40) continuing education hours related to the practice of optometry can be at the doctor's discretion, i.e. internet, correspondence, ophthalmologist-sponsored, etc.~~

~~8.4. Speakers, lecturers and others participating in the presentation of the program must be recognized as possessing requisite qualifications and being expert and of recognized repute in their field.~~

~~—8.5. Instruction courses sponsored by individuals or institutions for commercial purposes are not recognized; nor are any programs in which the speaker advertises or urges the use of any particular ophthalmic product or appliance.~~

8.6. 9.3. Educational programs sponsored by the following organizations approved by the Board 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).

~~8.4 7. 9.4. Evidence of attendance for continuing education hours shall be furnished by the sponsoring organization to each registrant at the program, and signed by its secretary or chairman showing the date and place of meeting, speaker or instructor and hours in attendance. The registrant shall submit evidence of attendance with the application for renewal of his or her license, to the Board. A registrant shall file a sworn affidavit containing valid reasons acceptable~~

to the Board for noncompliance with the Secretary to be granted exemption from the required attainment of continuing education hours, of the ~~West Virginia State Board of Optometry~~ when he or she applies for renewal of his or her license.

~~8.5~~ 8. 9.5. The Board may approve meetings or seminars either within or without the State of West Virginia upon request from the registrant at least thirty (30) days prior to the meeting or seminar.

**~~§14-1-9. Diagnostic and Therapeutic Pharmaceutical Agents.~~**

~~9.1. In recognition of the special course of study in pharmacology taken by those optometrists licensed to practice in West Virginia, the West Virginia Board of Optometry recognizes as certification to utilize diagnostic and therapeutic pharmaceuticals the satisfactory completion of those courses given by the Pennsylvania College of Optometry in West Virginia during the periods of February through May 1975 and February through June 1976.~~

~~9.2. Any optometrist licensed to practice in West Virginia shall satisfactorily complete a Board approved course in pharmaceuticals. The optometrist shall obtain written approval from the Board prior to taking the course.~~

~~9.3~~ 2. All optometrists who qualify and become certified to use pharmaceutical agents must also provide a notarized statement verifying that they have, a Slit Lamp and Visual Field Testing Device, as a part of their office testing equipment.

~~9.4 A drug log, to be specified by the Board, shall be maintained by any optometrist utilizing pharmaceuticals. The log shall include the following in order: the patient's name, date of treatment, drug, dosage and purpose of application and shall be available to the Board at any and all times.~~

~~9.5. It shall be is unlawful for any optometrist certified by the Board to utilize pharmaceuticals to, in any way whatsoever, hold himself or herself forth as being superior or different from any optometrist not so certified, violation of said this rule to be punishable by revocation of the right to use pharmaceuticals.~~

~~12.8. These rules shall become effective May 20, 1976, in compliance with Enrolled Committee Substitute for House Bill No. 1005 and upon individual receipt of written certification by the Secretary of the Board.~~

~~12.9. If any article, section, subsection, sentence, clause or phrase of these Rules and~~

~~Regulations be held invalid, the same shall not affect the validity of any other article, section, subsection, sentence, clause or part thereof.~~



WEST VIRGINIA BOARD OF EXAMINERS IN OPTOMETRY

101 Michael Street

Clarksburg, West Virginia 26301-3937

Phone: (304) 627-2106

Fax: (304) 627-2282

e-mail: wvbdopt@westvirginia.net

November 30, 2001

Ms. Judy Cooper, Director  
Administrative Law  
Secretary of State's Office  
Building 1, Suite 157K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

Dear Ms. Cooper:

Enclosed is one copy of the revised 14CSR1. Please remove the original cover sheet from the one you have on file and attached it to this copy.

Teri Anderson, LRMC, is going to do the same with her 10 copies.

Thank you for your continued patience and help with this process.

Sincerely,

A handwritten signature in cursive script that reads "Barbara L. Palmer".

Barbara L. Palmer  
Administrative Secretary

Enclosure

ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** West Virginia Board of Optometry

**Subject:** Rules of the West Virginia Board of Optometry, 14CSR1

PERTINENT DATES

Filed for public comment: June 11, 2001  
Public comment period ended: July 16, 2001  
Filed following public comment period: July 18, 2001  
Filed LRMRC: July 18, 2001  
Filed as emergency:

Fiscal Impact: None

FILED  
2001 JUL 25 A 9 10  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 2 relating to applications and examinations has been amended to delete the requirement that an application contain the signature of three individuals attesting to the good moral character of the applicant as well as letters from these individuals. It requires an applicant to pass all parts of the National Board Examination prior to taking the West Virginia Examination.

The current rule requires that applications be filed with the Board no later than 10 days prior to the first day of the examination. The proposed rule increases the time to 30 days. The \$50 examination fee has been deleted.

Section 3 relates to rules for examination. The current rule provides for examinations in February and July. The proposed rule eliminates the February examination. Language relating to subject matter for the examination has been deleted.

Section 4 relates to colleges of optometry. Language has been deleted containing requirements for approval of colleges.

Section 5 relating to licenses has been amended to remove fees.

Section 6 relating to renewals has been amended to reflect the statutory change from an annual to a biennial renewal and to remove the fees. Currently, the rule requires renewal fees to be paid by August 15. The proposed rule requires the fees to be paid by July 31.

Section 8 relates to continuing education. Currently, applicants for annual renewal are required to have 8 hours of continuing education during the preceding year. The proposed rule requires an applicant for biennial registration to obtain 40 hours of continuing education during the preceding two years. The proposed rule also requires the registrant to maintain evidence of continuing education, rather than submit the evidence as currently required.

Section 9 relating to diagnostic and therapeutic pharmaceutical agents has been deleted.

**AUTHORITY**

Statutory authority: W.Va. Code, §30-8-3, which provides, in part, as follows:

...The board shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, which are not inconsistent with any other provision or section of this article:

(a) For the proper performance of its duties;

(b) To govern the ethical practice of optometry for the safety, protection and welfare of the public; and

(c) To provide for examinations, licensure requirements, continuing education requirements, fees, and to further effectuate the provisions of this article, article one of this chapter, and any other provisions set forth in state or federal law.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.