

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

Do Not Mark In This Box

**FILED**

2001 APR 26 A 9 23

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Board of Optometry TITLE NUMBER: 14

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Rules of the WV Board of Optometry

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

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

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S. B. 299

SECTION 64-9-15, PASSED ON April 13, 2001

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: APRIL 26, 2001

L. L. Lipton, OD  
Authorized Signature



# West Virginia Board Of Optometry

101 Michael Street

Clarksburg, West Virginia 26301-3937

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April 24, 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  
Rules for the WV Board of Optometry

Dear Sirs:

The Board has approved Title 14-Series 1 Rules for the West Virginia Board of Optometry as a legislative rule which establishes the operation of the West Virginia Board of Optometry and the requirements, procedures and responsibilities for licensure as an optometrist.

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**

**§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. --

**FILED**  
2001 APR 26 A 9:23  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§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 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 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.

2.3. 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.

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

2.5. 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.

2.6. 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.

2.7. The applicant shall file the completed application and examination fee with the secretary of the Board not later than ten (10) 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 examinations. 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) 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 is fifty dollars (\$50.00). An applicant failing to pass an examination satisfactory to the Board is, at either the first or second succeeding examination conducted by the Board, be entitled to a reexamination without further cost, but one (1) reexamination exhausts his or her privilege under his or her original application

2.9. If an application has been received by the secretary and the records processed for applicant's qualification to take the examination and if an examination has been prepared, failure of the applicant to appear constitutes the same as taking the examination but without grades. The applicant is entitled to take a second examination at no cost. 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, in writing, examinations for a license to practice optometry in this State and by any other means as the Board shall determine 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 and place of the examination and advised that his or her records have been received and are complete. If his or her records are incomplete he or she will also be so 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 available, to the applicants taking the examination, the approved schedule. The secretary shall caution all applicants taking the examination to use good English and write in a legible manner.

3.3. The written examinations shall start on the second Sunday of February and July at nine a.m., unless otherwise directed by the president, and each applicant shall register with the secretary or his or her representative, at eight thirty a.m.

3.4. The examination shall be divided into six written parts. Each member of the Board 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 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 considered necessary by the Board. Applicants shall also be given an oral examination by the Board during the period of the personal interview. An applicant must pass each examination subject with a minimum grade of seventy-five percent (75%): 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 the applicant fails three (3) subjects, he or she shall retake the entire examination.

3.5. 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 must be preserved for a period of thirty (30) days after final grading and results announced to the applicant.

3.6. 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, must shall maintain high scholastic and professional standards and must shall also be approved by the Council on Education 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 preoptometry work at the college or university level at least four (4) years work in the College of Optometry.

4.3. The secretary shall keep an up-to-date list of all Colleges of Optometry approved by the Board, and make the list available to anyone desiring it.

#### **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 five dollar (\$5.00) certificate fee and the annual twenty dollar (\$20.00) renewal fee. If the applicant fails to pay the required fees after 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 applicants 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. The fee for issuing this license is five dollars (\$5.00) to be paid by check or money order made payable to the West Virginia Board of Optometry. There is a five dollar (\$5.00) charge for a duplicate certificate.

5.3. The Board shall issue a certificate which includes 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.

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. Renewals.**

6.1. All registered optometrists who desire to continue in active practice shall, annually, on or before the 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 expires on the first day of September of that year.

6.2. All renewal fees shall be paid by check or money order made payable to the secretary-treasurer of the Board.

6.3. Upon receipt of the renewal fee the secretary shall issue an annual renewal certificate card bearing the number of the license, the year for which renewed and any other information as the Board considers necessary.

6.4. When an optometrist has failed to pay his or her annual renewal fee by August 15 of any one 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 ~~—clause as set—~~ 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 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 the registered optometrist to show 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 eight (8) hours during the preceding year at educational optometric programs covering one or more of the subjects taught in optometry colleges approved by the Optometry Board.

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. 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) Counsel on Optometric Practitioner Education (COPE).

8.7. 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 submit evidence of attendance with the application for renewal of his or her license, to the Board. To be granted exemption from the

required attendance, a registrant shall file a sworn affidavit containing valid reasons 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.

8.8. 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.

#### **§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. All optometrists who qualify and become certified to use pharmaceutical agents shall 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 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 rule to be punishable by revocation of the right to use pharmaceuticals.

# ***West Virginia State Medical Association***

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## **WRITTEN COMMENTS**

To: The West Virginia Board of Examiners in Optometry  
From: The West Virginia State Medical Association  
The West Virginia Academy of Ophthalmology  
Date: July 19, 2000  
Re: Written Comments to Legislative Rules - Title 14 - Series 1 and 4  
Sent Via Facsimile

Thank you for providing the opportunity to submit comments and suggestions to the proposed legislative rules the Board of Optometry has filed with the Secretary of State. These comments are being filed jointly on behalf of the West Virginia State Medical Association and the West Virginia Academy of Ophthalmology.

We hope the Board carefully considers the following comments.

### **Title 14 - Series 1**

4.1 – The rule should be amended to require additional background information on the applicant. In particular, an applicant should be required to provide a complete practice history that includes information on any license suspension, revocation or other disciplinary action taken against the applicant in another state. Detailed information of any criminal history should also be required.

5.4 – Is there available a national examination for Optometrists similar to the United States Medical Licensing Examination (physicians) or the National Bar Examination (lawyers) which utilizes a standardized test that could be used as part of the applicant's licensing process in West Virginia?

6.2 – The meaning and scope of the word "work" as used here is vague and ambiguous. The word should be more clearly defined to mean, at a minimum, the satisfactory completion of the course work with a passing grade and a minimum number of credit hours completed. Alternatively, the Board may wish to upgrade the educational requirements to mandate the completion of a Baccalaureate Degree prior to admission to a college of optometry.

7.2 and 8.1 – The fee structure (\$20.00 annually) seems insufficient to generate adequate revenues to pay for a fully staffed and operational governing board.

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CHARLES T. VOIGT, MD  
WEST VIRGINIA STATE MEDICAL ASSOCIATION

**WVSMA**

**Committed to Excellence**



no Jul 19, 2000 10:19 AM

The Board of Medicine collects a \$300 bi-annual fee on over 3,000 active practicing physicians in West Virginia to cover its costs.

9.1 – The rule should be amended to prohibit any person from using the title or designation "physician." This would help alleviate the problem that arose in Morgantown where several Optometrists listed themselves in the telephone Yellow Pages under "Physicians."

10.4 – The continuing education requirement (8 hours) is low in comparison to the educational requirements required by many other professional governing boards. The total hours required should be increased. A restriction, however, should be inserted permitting only a small portion of the total hours required be obtained in non-clinical education such as office management programs. A certain number of hours should be required in the area of pharmacological therapeutics.

Title 14, Series 4

5.1.3, 5.1.4 – It is unclear the reasoning behind the required disclosure of the name of any person who "may" have "treated" the patient after the alleged incident. A similar disclosure applies to health care institutions. The use of the word "may" seems vague and the extent to which the word "treated" applies to any medical treatment would lead to the disclosure of irrelevant information.

Thank you again for the opportunity to submit these comments. We appreciate the important responsibility the Board has to help maintain the highest level of professional standards to ensure patient safety for the benefit of every West Virginian.

AUG. 07 2000



## WEST VIRGINIA BOARD OF EXAMINERS IN OPTOMETRY

101 Michael Street  
Clarksburg, West Virginia 26301-3937  
(304) 627-2106  
Fax: (304) 627-2106

August 5, 2000

A handwritten signature in cursive, appearing to read "C. Toliver", written over a horizontal line.

Mr. Evan Jenkins  
Executive Director  
West Virginia State Medical Association  
P.O. Box 4106  
Charleston, WV 25364

Re: Comments on Title 14 - Series 1 and 4

Dear Mr. Jenkins:

Following are written comments in follow up of my conversation with your government relations specialist, Ms. Amy K. Tolliver.

Generally, the proposed modification of the Title 14 rules is an attempt to comply with HB 4062, passed by the legislature last session, i.e., a standardization of complaint procedures across all state boards.

It is the Board's intent to modify the remaining rules after changing our law in the next session of the legislature. The changes we intend are strictly technical in nature in that we wish to transfer such things as our license fee, scheduled meeting dates, fines, etc. from our law into rules where they will be easier to modify. We specifically intend to address several of the issues you raise, i.e., license fee, continuing education requirements, etc.

We appreciate your comments and I must admit that you raised some points we need to examine more closely, i.e., 4.1, and 6.2.

The answer to 5.4 is yes. We currently require the passage of all three parts of the National Board of Optometry in lieu of the itemization in 5.4.