

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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2010 JUN 25 AM 11:06

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Optometry TITLE NUMBER: 14-2

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code 30-8

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 14-2

TITLE OF RULE BEING AMENDED: Expanded Prescriptive Authority

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 26, 2010 AT noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Board of Optometry

179 Summers Street, Suite 231

Charleston, WV 25301

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WEST VIRGINIA BOARD OF OPTOMETRY

14CSR2

Amendment to Expanded Prescriptive Authority

Summary

The amendment brings §14-2 into compliance with the passage of Senate Bill 230, W. Va. Code §30-8, passed during the 2010 Legislative Session.

- The amendment clarifies the application process for an oral pharmaceutical certificate.
- It increases the amount of liability insurance required from \$1,000,000 to \$1,000,000 per occurrence and \$3,000,000 aggregate coverage.
- It includes oral nonsteroidal anti-inflammatory drugs and oral carbonic anhydrase inhibitors in the formulary as listed in Senate Bill 230.
- It adds new drugs or drug indications to the formulary from Schedules III, IV and V of the Uniform Controlled Substances Act, regardless of their listed categories, which have been shown to be effective in the treatment and management of abnormalities of the eye or its appendages which may be approved by the Board as listed in §§30-8-9 and 30-8-14 as part of Senate Bill 230.

WEST VIRGINIA BOARD OF OPTOMETRY

14CSR2

Expanded Prescriptive Authority

Circumstances

The amendment is written in order to comply with the requirements of Senate Bill 230 passed during the 2010 Legislative Session rewriting the Board's enabling statute, W. Va. Code §30-8.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Expanded Prescriptive Authority

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Optometry

Address: 179 Summers Street, Suite 231
Charleston, WV 25301

Phone Number: 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.

The bill has a neutral effect on revenue and expenditures. It only adds requirements for the licensees. ~~Administrative costs are covered by the current \$200 processing fee.~~ The certificate takes about 2% of the Board's resources.

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.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	2,340.00	0.00	2,340.00
Personal Services	760.00	0.00	760.00
Current Expenses	782.00	0.00	782.00
Repairs & Alterations	8.40	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	2,340.00	0.00	2,340.00

Rule Title: §14.2 Expanded Prescriptive Authority

Rule Title:

Expanded Prescriptive Authority

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

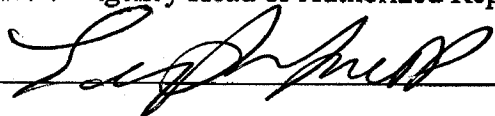
The bill has a neutral effect on revenue and expenditures. It only adds requirements for the licensee and no new costs for the Board. The certificate takes about 2% of the Board's resources. 2% of the Board's revenues equals the expense.

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: 6/25/10

Signature of Agency Head or Authorized Representative



TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

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SERIES 2
EXPANDED PRESCRIPTIVE AUTHORITY-ORAL PHARMACEUTICAL CERTIFICATE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§14-2-1. General.

1.1. Scope. -- This legislative rule establishes the requirements, procedures and standards for the certification and re-certification of individual optometrists with ~~expanded prescriptive oral pharmaceutical prescriptive drug formulary~~ authority, by the West Virginia Board of Examiners in Optometry, regarding prescriptive authority and expanded oral pharmaceutical prescriptive authority, as defined in W. Va. Code §§~~30-8-2a. and 30-8-2b~~ §§30-8-6, 30-8-9 and 30-8-14.

1.2. Authority. -- W. Va. Code §§~~30-8-2a and 30-8-2b~~ §§30-8-1 et. seq.

1.3. Filing Date. -- .

1.4. Effective Date. -- .

§14-2-2. Certification Requirements For Oral Pharmaceutical Certificate.

2.1. In order to be permitted to prescribe oral drugs under the provisions of W. Va. Code §§~~30-8-2a and 30-8-2b~~ §§30-8-9 and 30-8-14, a ~~registered optometrist licensee~~ shall apply to the Board for certification. In order to qualify for certification, ~~an optometrist a licensee:~~

2.1.a. Shall have previously attained topical therapeutic certification;

2.1.b. Shall satisfactorily complete, ~~and pass an examination in,~~ a course in clinical pharmacology as applied to optometry. This course shall have particular emphasis on the administration of oral pharmaceutical agents for the ~~purpose of examination of the human eye, and analysis of ocular functions~~ diagnosis and treatment of visual defects or abnormal conditions of the human eye and its ~~adnexa~~ appendages. In addition, the course shall

include instruction on the clinical use of Schedule III, IV, and V agents. This course shall consist of a minimum of thirty (30) hours in clinical systemic pharmacology. The course shall be taught by:

2.1.b.1.(1) a school or college of optometry or a medical school, accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education;;

2.1.b.2.(2) a federally sponsored health education center; or

2.1.b.3.(3) other non-profit continuing education agencies in cooperation with appropriate optometry or medical school faculty. All courses of instruction shall be approved by the Board; and

2.1.c. Shall pass an examination relating to the treatment and management of ocular disease, which is prepared, administered, and graded by the West Virginia Board of Optometry or its designee through the National Board of Examiners in Optometry or other nationally recognized optometric organization as approved by the board.

§14-2-3. Certificate Application.

3.1. The licensee shall complete the prescribed oral pharmaceutical certificate application form.

3.2. The licensee shall ensure that a certificate of successful completion by the licensee for the course listed in 2.1.b. of this rule will be submitted by the course provider directly to the Board.

3.3. The licensee shall ensure that the

passing score report for the exam listed in 2.1.c of this rule will be submitted by the examiner directly to the Board.

3.4. The licensee shall submit a copy of a liability insurance certificate in an amount of not less than One Million Dollars (\$1,000,000) per occurrence and Three Million (\$3,000,000) aggregate coverage.

3.5. The licensee shall submit the fee listed in the Board's rule, Schedule of Fees, 14CSR5.

§14-2-34. Re-certification.

34.1. Each optometrist licensee applying for re-certification shall have available for the Board, satisfactory evidence that he or she has acquired the continuing education hours required under the Board of Optometry Rule, Rules of the West Virginia Board of Optometry, 14CSR10 and this rule, to renew his or her biennial annual registration license. Of those required hours, an optometrist certified under the provisions of this rule shall furnish the Board satisfactory evidence that at least six (6) hours of the required hours were acquired in educational optometric programs in ocular pathology or therapeutic pharmacological agents.

§14-2-45. Insurance.

45.1. All optometrists licensees certified under this rule shall carry liability insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate coverage. No optometrist licensee shall practice under the provisions of this rule unless and until he or she has submitted to the board evidence of the liability insurance coverage in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate coverage.

4.5.2. It is the responsibility of each individual optometrist licensee to furnish proof of current liability insurance coverage to the Board upon application for certification and re-certification.

§14-2-5. Procedures for Certification.

~~5.1. The educational and training requirements for certification by the Board shall be from taught by a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education.~~

§14-2-6. Fees.

~~6.1. The administrative fee for the certification of an individual optometrist for an expanded scope of practice prescriptive authority is \$200.~~

§14-2-76. Drug Formulary.

76.1. Optometrists Licensees certified under the provisions of this rule may prescribe the drugs set forth in W. Va. Code §30-8-2a §§30-8-9, 30-8-14 and this section.

76.2. W. Va. Code §30-8-2b §30-8-6, authorizes the Board to develop a formulary of categories of oral drugs to be considered rational to the diagnosis and treatment of visual defects or abnormal conditions of the human eye and its appendages from Schedules III, IV and V of the Uniform Controlled Substances Act. The categories include:

6.2.a. Oral Antibiotics;

6.2.b. Oral Nonsteroidal Anti-inflammatory Drugs;

6.2.c. Oral Carbonic Anhydrase Inhibitors;

76.2.a d. Antihistamines;

76.2.b-e. Oral Corticosteroids, may be prescribed for a duration of no more than six days;

7-6.2.ef. Analgesics, provided that no oral narcotic analgesic may be prescribed for a duration of more than three days; and

76.2.dg. Nutritional Supplements.

6.2.e h. New drugs or new drug indications from Schedules III, IV and V of the Uniform Controlled Substances Act, regardless of their listed categories, which have been shown to be effective in the treatment and management of abnormalities of the eye or its appendages may be approved by the Board according to the provisions of W. Va. Code §§30-8-9 and 30-8-14.

§14-2-87. Restrictions.

~~87.1. An optometrist~~ A licensee may not establish a pharmacy in an optometric office or sell oral or topical pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff and present when the prescriptions are filled.

7.1.a. ~~However, n~~Nothing in this section or in any other provision of law prohibits ~~an optometrist a licensee~~ who is certified under the provisions of this rule from administering or supplying oral or topical pharmaceutical agents to a patient, without charge for the pharmaceutical agents, to initiate appropriate treatment.

7.1.b. Nothing within this rule or the W.Va. Code prohibits the direct sale to the patient of of pharmaceuticals by injection or contact lenses that deliver pharmaceutical agents that have been approved by the Food and Drug Administration as a drug.

~~87.2. Any optometrist licensee~~ practicing under the authority of this rule shall be held to the same standards of care as that of other health care practitioners providing similar services.

~~87.3. No optometrist licensee~~ shall practice under the provisions of this rule unless and until he or she submits to the board evidence of satisfactory completion of all of the education and examination requirements of sub-divisions 2.1.a., 2.1.b. and 2.1.c. of this rule and has been certified by the board as educationally qualified.