

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

Form #3

Do Not Mark In This Box

FILED

2010 JUL 30 PM 5:02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: WV Board of Optometry TITLE NUMBER: 14CSR6

CITE AUTHORITY: §30-8-1, et. seq.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 14CSR6

TITLE OF RULE BEING AMENDED: Examination and Scoring Policy

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 30, 2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* WV Board of Optometry, 179 Summers Street, Charleston, WV 25301, 304-558-5901

LEGISLATIVE RULE TITLE: 14CSR6 Examination and Scoring Policy

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 25, 2010

b. What other notice, including advertising, did you give of the hearing?
A memo was mailed to all licensees directing them to our web site, www.wvbo.org, where the proposed rules were posted. Notice was given by phone and hand delivery of the rules to the West Virginia Optometric Association, and notice was given by phone contact, and an e-mail was sent to the West Virginia Academy of Ophthalmologists informing them of the posting on the web site.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 26, 2010 at noon

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

Attached xx No comments received _____

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

July 30, 2010 at 2:00 p.m.

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

Pamela Carper, 179 Summers Street, Suite 231, Charleston, WV 25301, 304-558-5901 The cell phone number is 304-546-2907.

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Gregory Moore, O.D., President, WV Board of Optometry, 179 Summers Street, Suite 231, Charleston, WV 25301, 304-558-5901 or 304-768-7902 or contact Pam Carper listed above.

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

n/a

b. Date of hearing or comment period:

n/a

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

n/a

d. Attach findings and determinations and reasons:

Attached n/a

WEST VIRGINIA BOARD OF OPTOMETRY

14CSR6

Examination and Scoring Policy

Summary

The amendment brings §14-6 into compliance with the passage of Senate Bill 230, W. Va. Code §30-8, passed during the 2010 Legislative Session.

- The amendment adds a provision that allows the Board to choose a Third Party Administrator to administer the West Virginia Exam. This is in compliance with Senate Bill 230.
- It also lowers the passing score to equal that of the National Board Exam.

WEST VIRGINIA BOARD OF OPTOMETRY

14CSR6
Examination and Scoring Policy

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.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Examination and Scoring Policy, §14-6

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: wbdopt@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 amendment allows the Board to use a Third Party Administrator to administer the West Virginia Exam in compliance with Senate Bill 230.

The Board has no plans to use a third party administrator for at least the next year. Therefore there is no fiscal impact.

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	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Examination and Scoring Policy, §14-6

Rule Title:

Examination and Scoring Policy, §14-6

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

The amendment makes provision for the Board to use a Third Party Administrator administer the West Virginia Examination in compliance with Senate Bill 230.

The Board has no plan to use a Third Party Administrator in the next year. Therefore there is no fiscal impact of the amendment.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: 7/30/10

Signature of Agency Head or Authorized Representative



FILED

TITLE 14
PROCEDURAL RULE
WEST VIRGINIA BOARD OF OPTOMETRY

2010 JUL 30 PM 5: 02

SERIES 6
EXAMINATION AND SCORING POLICY

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§14-6-1. General.

1.1. Scope. -- This rule establishes the procedures that shall be followed in the preparation, administration, and scoring of the examination(s) of The West Virginia Board of Optometry.

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

1.3. Filing Date. -- .

1.4. Effective Date. -- .

§14-6-2. Third Party Administered Exam

2.1. The Board may choose to have the West Virginia examination administered by a third party organization. Such exam shall be prepared, administered, and graded by the National Board of Examiners in Optometry or its successor or other nationally recognized optometric organization as approved by the Board.

2.2. If the Board chooses to have a third party organization administer the West Virginia exam, the procedures of the third party organization shall be used to administer the exam. The Board shall approve all questions in the third party examination.

§14-6-2 3. Anonymity.

The identity of the examinee shall be strictly protected throughout the testing process.

23.1. After the candidates have arrived, the Secretary or his designee shall have each examinee draw a piece of paper that contains a unique number. This number shall be used during the testing procedure to ensure anonymity of the examinee.

23.2. The Secretary, as an added safeguard, shall place the examinee's unique number in a sealed envelope along with the examinee's 7-digit telephone number.

23.3. At the beginning of any video-recorded oral examination, the examinee shall state his or her unique number. The examiners shall question the applicant on any and all topics necessary to evaluate the candidate's competency to practice optometry.

23.4. After the scores have been determined and averaged, the Secretary shall then open the envelope and match the applicants' numbers with their names.

§14-6-3 4. Preparation.

34.1. The President of the West Virginia Board of Optometry shall appoint members to an Examination Committee consisting of two or more Board members (including the Secretary) to prepare examinations deemed appropriate to test those subject areas necessary to ensure the safe practice of optometry.

34.2. Each board member shall prepare questions for the examination(s). The examiner member shall print each question and follow it with the correct response.

§14-6-4 5. Grading.

45.1. The number of points achieved by each examinee for all questions divided by the total number of possible points, expressed as a percentage, shall be the score reported to the Secretary.

§14-6-5 6. Pass-Fail Scoring.

56.1. Scores recorded by each participating

member of the board shall be tabulated and averaged for each examinee. Candidates shall pass the Board examination if they successfully achieve a ~~75%~~ 70% average for the examination.



WEST VIRGINIA BOARD OF OPTOMETRY

179 Summers Street, Suite 231

Charleston, WV 25301

Phone: (304) 558-5901

Fax: (304) 558-5908

e-mail: wvbdopt@verizon.net

MEMORANDUM

TO: All Licensees
FROM: Gregory Moore, O.D., President
DATE: June 28, 2010
RE: Board Rules Filed For Comment Last Week

The Board has been working on rule amendments and two new rules to comply with Senate Bill 230 which passed during the 2010 Legislative Session. The bill completely re-wrote the Board's enabling statute, W. Va. Code, §30-8.

New provisions needed to be written to implement the privileges gained. We have made amendments to the Board's existing rules, §14-1 through §14-8. The Board is also proposing three new rules, §14-9, §14-10 and §14-11. These rules outline the certificate procedure to prescribe contacts lenses that contain and deliver pharmaceutical agents required by SB 230, separate the continuing education provisions currently listed in §14-1 with some modernization of the rule and a new specific procedure for course pre-approval, and a rule outlining the procedures required to obtain the privilege to use injections for substances other than epinephrine as required by SB 230. These provisions are listed in §30-8-15 of SB 230.

The proposed rules are posted on our web site, www.wvbo.org in two places. The first is just under the Board's mission statement beside the Annual Report and Education and Training of Optometrists. The second posting is under "Laws and Regulations Governing Optometry" under proposed rules. We have also posted the full text of SB 230 so you may refer to the requirements listed requiring the changes to the rules. The language to be eliminated is struck through and the new language is underlined. There are no underlines or strike throughs in §14-9 through §14-11 because they are new rules.

The Board welcomes and values your opinion. Please review the proposed rules and let us know of your recommendations or concerns. Please send your written comments to the Board by e-mail to wvbdopt@verizon.net, by postal mail at 179 Summers Street, Suite 231, Charleston, WV 25301, or by fax at 304-558-5908. The Board office phone number is 304-558-5901 if you have any questions.

Once again, we value your opinion. Please review these proposals and give us your input. **The last date we can receive your comments for §14-11, Injection Certificate, is Friday, July 23, at 5:00 p.m. The last day we may receive comments for the rest of the rules is noon on Monday, July 26.** Thank you for your time and attention.

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.

Laws

- Senate Bill 230 Chapter 30-8
- Chapter 30 - Article 8 Optometrists
- 14-1 Rules Of The West Virginia Board of Optometry
- 14-2 Expanded Prescriptive Authority Procedures for Optometrists
- 14-3 Contested Case Hearing Procedure
- 14-4 Disciplinary and Complaint Procedures for Optometrists
- 14-5 Schedule of Fees
- 14-6 Examination and Scoring Policy
- 14-7 Administration and Board Meeting
- 14-8 Licensure by Endorsement

Proposed Rules

- Senate Bill 230 Chapter 30-8
- 14-1 Rules of the West Virginia Board of Optometry
- 14-2 Oral Pharmaceuticals
- 14.3 Contested Case Hearing Procedures
- 14.4 Disciplinary and Complaint Procedures
- 14.5 Schedule of Fees
- 14.6 Examination and Scoring Policy
- 14.7 Administration and Board Meetings
- 14.8 Licensure by Endorsement
- 14.9 Contact Lenses that Contain and Deliver Pharmaceutical Agents Certificate
- 14.10 Continuing Education
- 14.11 Injectable Pharmaceutical Agents Certificate

Optometrist List
 Click here to start, or call the board office for more information

West Virginia Board of Optometry
 179 Summers Street, Suite 231
 Charleston, WV 25301
 Phone: (304) 558-5901
 Fax: (304) 558-5908
 Email: wvbdopt@frontier.com

To view PDF's you will need the free Adobe Acrobat Reader



Adobe Reader
download

Click here to log in to the
Member Account Manager

Website design by Dream Catcher, LLC

West Virginia Board of Optometry

From: West Virginia Board of Optometry [wvbdopt@verizon.net]
Sent: Thursday, June 24, 2010 6:12 PM
To: Nancy Tonkin (nancy.tonkin@wvmtg.com)
Subject: Rules

Attachments: 14-11 Proposed Rule Injections 062410.doc

The injection rule was filed today. All of the rules were sent to our web master to be posted on our web site. Guess which one has a broken link? I have sent an email to Dream Catcher to correct it. They are usually pretty fast. It should be up by tomorrow. Here is a copy until then.

Have a good evening,

Pamela Carper

West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301
Phone: 304-558-5901
Fax: 304-558-5908
E-mail: wvbdopt@verizon.net
Web Site: www.wvbo.org