

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

Form #2

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2010 JUN 25 AM 11:08

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Optometry TITLE NUMBER: 14-7

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

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 14-7

TITLE OF RULE BEING AMENDED: Administration and Board Meetings

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

14CSR7

Administration and Board Meetings

Summary

The amendment brings §14-7 to into compliance with the passage of Senate Bill 230, W. Va. Code §30-8, passed during the 2010 Legislative Session.

- The amendment adds a second Board meeting per year in compliance with Senate Bill 230.
- The amendment brings the Board Member per diem rate into compliance with the W. Va. Code §30-1.
- The amendment gives more flexibility in giving the exam by eliminating the references to certain days and cites the second week in July and February.
- The amendment allows a meeting to be called by written request of two Board Members. This reduces the criteria from a majority of the Board.
- The amendment broadens provisions in the Board's Guest Protocol allowing the Board a greater time for guests to speak. It also allows the Board President's designee to administer the protocol as well as the Board President.

WEST VIRGINIA BOARD OF OPTOMETRY

14CSR7

Administration and Board Meetings

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: Administration and Board Meetings, §14-7

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 amendment adds a second required Board meeting to its rule. It also brings the §14-7 into compliance with Board Member per diem rates as required in W. Va. Code §30-1.

The Board already meets 4 or more times per year in person and more times by conference call. The Board also has been in compliance paying the Board Members the current \$150 per day per diem.

Therefore there is no fiscal impact for this amendment.

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: Administration and Board Meetings, §14-7

Rule Title:

Administration and Board Meetings, §14-7

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

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

The amendment adds a second required Board meeting to this rule in compliance with Senate Bill 230 passed during the 2010 Legislative Session. It also adds a provision to bring the Board Member per diem rate into compliance with W. Va. Code §30-1.

The Board already meets 4 or more times in person and more times by conference call. The Board has been paying the required \$150 per day rate for per diem for Board Members.

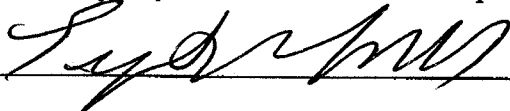
Therefore there is no fiscal impact for the amendment.

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: 6/25/10

Signature of Agency Head or Authorized Representative



TITLE 14
PROCEDURAL RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 7
ADMINISTRATION AND BOARD MEETINGS

FILED

2010 JUN 25 AM 11:09

OFFICE WEST VIRGINIA
SECRETARY OF STATE**§14-7-1. General.**

1.1. Scope. -- This rule establishes the procedures for the administration and operation of meetings for 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. -- .

§14-7-2. Administration.

2.1. At the annual meeting in July of each year the Board shall elect a president and secretary. Any vacancy in the officers of the Board may be filled at any duly convened meeting of the Board.

2.2. The president has power to appoint committees from the Board membership and the duties of the committees shall be to consider such matters, pertaining to the enforcement of the Optometry Laws of this State and the rules promulgated in accordance with the laws, as shall be referred to the committees and they shall make recommendations to the Board. The president shall preside over all meetings of the Board and shall be ex officio chairman of all committees.

2.3. The secretary-treasurer shall make and keep records of all meetings, keep records of examination results on the applicants, receive all moneys due the Board and account with a financial statement at the regular annual meeting in July of 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 the State of West Virginia every three (3) years or when turning over the records of the secretary's

office to his successor and he or she shall ~~executive~~ execute a bond as required by law. Under the direction of the president he or she shall serve as chairman of the Committee on Examinations and shall designate the subjects on examinations to members of the Board. He or she shall represent the Board in attempting to eliminate a violation of the Code governing the practice of Optometry and she or she shall perform any other duties that may come with his office. He or she shall also receive office expenses which have been presented and allowed by the West Virginia Department of Finance and Administration.

2.4. Compensation of members: expenses - Every member of the Board shall receive ~~\$100.00~~ the amount of compensation as designated in W. Va. Code §30-1 for each day actually spent in attending the sessions of the Board or of its committees and the travel necessary thereto. Every member shall be similarly reimbursed at the stated per diem amount plus expenses for attending all activities approved by the Board and while performing all activities which are pertinent to the operation and function of the Board, and for all reasonable and necessary expenses incurred in carrying out the provisions of W. Va. Code §§30-10-1 et seq.

2.5. The Board may, in its discretion, employ an executive secretary, or any other administrative staff member(s) as the Board may consider necessary. These Board employees shall be empowered to perform those activities and discharge duties required of the Board and the secretary-treasurer of the Board pursuant to West Virginia law and these rules.

2.6. Location of office - The official office of the Board is, unless otherwise designated by the Board, located at the office of the executive secretary.

§14-7-3. Meetings of the Board.

3.1. The Board shall hold at least two meetings per year. The Board shall hold a regular meeting at least once a year at which time an examination of applicants for license shall be given. This meeting will be held ~~on in~~ the second ~~Sunday, Monday and Tuesday~~ the week of July, unless otherwise directed by the president, ~~but Tuesday is to be applicable when the president of the Board deems it advisable for purpose of further business session or the secretary for purpose of further examination of applicants taking the Board examinations or by majority vote of the members of the Board.~~

3.2. Special meetings of the Board shall be held upon written request of ~~a majority of the two~~ members of the Board or upon the call of the secretary as directed by the president. The meetings may be held in person or by teleconference. A minimum of five (5) days notice of such meeting shall be given in writing setting forth the time and place of such meeting.

3.3. Quorums - Before any action can be taken on any matter properly before the Board, at least a majority of the current members must be in attendance at the place and time set for the meeting of the Board. A majority vote of the members in attendance is required before any motion is passed.

3.4. Whenever there are matters requiring action by the Board in the interim between meetings, the president may submit such matters to all members of the Board by postal mail or e-mail and, if a vote is required, members may cast their votes by mail, facsimile, or e-mail ballots and such votes shall be recorded and shall have the same force and effect as if cast in a regular or special meeting. The president shall have authority to submit matters to the Board by mail, facsimile, or e-mail at any time, at his discretion, and shall do so upon the written request of one or more members of the Board.

3.5. The following procedure ~~will~~ shall be followed to permit guests to address the Board at meetings:

(a) all guests ~~will~~ shall sign the guest sign-in sheet; if there are written materials for the Board members, the guests ~~will~~ shall leave them on the sign-in table; guests ~~will~~ shall not distribute materials to Board members;

(b) at the time designated for speakers to address the Board, guests ~~will~~ shall be called upon to speak one at a time using the guest sign-in sheet;

(c) each guest ~~will~~ shall be allotted ~~five minutes a time period determined by the Board~~ to speak; a member of the Board may move that additional time be allotted to a guest ~~up to a maximum of an additional ten minutes~~; if the motion is approved by a majority of the Board, the speaker may proceed for the period of time described in the motion;

(d) questions may be asked by any Board member of any guest speaker; the speaker will be recognized for a response;

(e) the Board ~~will~~ shall not enter into a discussion or debate with any guest speaker;

(f) the Board President or his or her designee ~~will~~ may take the matter(s) presented under advisement, and if appropriate, refer the matter to ~~the Executive~~ a Committee for review;

(g) if any guest disrupts the meeting so that orderly conduct of the meeting is compromised, the Board President or his or her designee all ask that the guest be removed from the room;

(h) if any guest continues to interrupt the orderly conduct of the meeting, the Board President or his or her designee will advise the guest that he/she may be arrested for committing a misdemeanor crime with a possible penalty of a \$100 fine an/or imprisonment in the county jail of up to six months as listed in the W. Va. Code §61-6-19, Willful disruption of governmental processes;

(i) if the guest persists in his/her disruptive behavior, the Board President or his or her designee shall ask that the guest be

arrested for violating the W. Va. Code §61-6-19,
~~W~~willful disruption of governmental processes.

§14-7-4. Severability.

4.1. If any rule or regulation promulgated pursuant to W. Va. Code §§30-10-1, et seq., or the application thereof to any person or circumstance is held unconstitutional or invalid, unconstitutionality or invalidity shall not affect other provisions or applications of these rules and regulations, and to this end the complete rules and regulations of the Board are severable.