

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

Form #3 ■

Do Not Mark In This Box

FILED

2002 JUN -5 A 9:41
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: 14

CITE AUTHORITY: Chapter 30-8-5c

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 8

TITLE OF RULE BEING PROPOSED: Licensure by Endorsement

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.

Clayton Hays, III
Authorized Signature

SCANNED



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

March 13, 2002

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

RE: Title 14- Series 8
Licensure by Endorsement
Legislative Rule

Attention: Judy Cooper, Director
Administrative Law

Dear Mrs. Cooper:

The Board has approved Title 14-Series 8-Licensure by Endorsement as a legislative rule. This rule establishes the requirements for Licensure by Endorsement for Doctors of Optometry by the West Virginia Board of Optometry.

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

Sincerely,

A handwritten signature in cursive script that reads "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.

**Summary Of Proposed Rule, 14-8
Licensure by Endorsement**

This rule establishes requirements for licensure by endorsement for Doctors of Optometry by the West Virginia Board of Optometry.

**Circumstances Requiring Rule 14-8
Licensure by Endorsement**

To establish requirements of the West Virginia Board of Optometry for licensure by endorsement for doctors of optometry.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule.)

DATE: March 13, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Board of Optometry,
101 Michael Street, Clarksburg, WV 26301-3937 (304)627-2106

LEGISLATIVE RULE TITLE: 14-8 Licensure by Endorsement

1. Authorizing statute(s) citation Chapter 30-8-5c

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
March 20, 2002

- b. What other notice, including advertising, did you give of the hearing?
N/A

- c. Date of Public Hearing(s) or Public Comment Period ends:
April 22, 2002 at 4:30 PM

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

14-8 Licensure by Endorsement

Attached

No comments received

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

- f. 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)

Dr. Clifton Hyre, President

WV Board of Optometry

115 Wilton Avenue

Elkins, WV 26241-3260 Phone: (304) 636-9111

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

Barbara L. Palmer, Administrative Secretary

WV Board of Optometry

101 Michael Street

Clarksburg, WV 26301-3937 (304)627-2106

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.

- b. Date of hearing or comment period:

March 20, 2002

■
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 14-8 Licensure by Endorsement

Type of Rule: X Legislative _____ Interpretive _____ Procedural

Agency: West Virginia Board of Optometry

Address: 101 Michael Street

Clarksburg, WV 26301-3937

1. Effect of Proposed rule: None

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of Above Estimates: None

3. Objectives of These Rules: To set regulations for Licensure by Endorsement for Doctors of Optometry by the West Virginia Board of Optometry.

Rule Title: 14-8 Licensure by Endorsement

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government: *None*

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large.

None

Date: 3/13/02

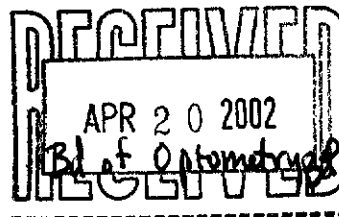
Signature of Agency Head or Authorized Representative:

Clifton Hyatt, OD

WEST VIRGINIA OPTOMETRIC ASSOCIATION, INC.

815 Quarrier Street, Suite 345
Charleston, WV 25301
Telephone: (304) 345-4710 – Fax: (304) 346-6416
E-mail: RPrice0851@aol.com – Website: www.wvoa.com

April 15, 2002



Dr. E. Clifton Hyre, President
West Virginia Board of Optometry
101 Michael Street
Clarksburg, WV 26301-3937

Dear Dr. Hyre:

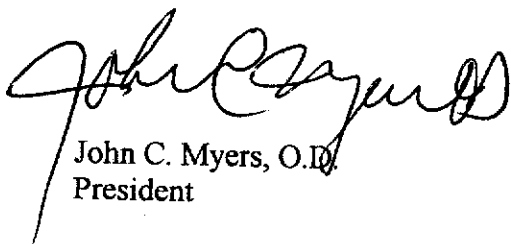
This letter is in response to the open comment period relative to Legislative Rule Title 14, Series 8 (14-8) regarding licensure by endorsement.

The Executive Committee of the West Virginia Optometric Association is submitting the following comments:

- 1) 8.6.1.g – The oral examination should be exempted if the candidate is licensed in a state with a minimum equivalent to or greater than West Virginia standards for licensure.
- 2) 8.7.1 – It is recommended that this section relative to the ten year Rule be removed.

Thank you for your consideration of our comments.

Sincerely,



John C. Myers, O.D.
President

JCM/scp

cc: Roger K. Price, Executive Director



Affiliated with American Optometric Association



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

May 31, 2002

John C. Myers, O.D.
President, West Virginia Optometric Association
815 Quarrier Street
Charleston, WV 25301

SUBJ: Optometry Title 14-8

The West Virginia Board of Optometry is in receipt of your letter of April 15, 2002, detailing your comments for the proposed amendments to Title 14-Series 8, Licensure by Endorsement.

The Board would like to thank you for taking the time to express your thoughts on the issue of obtaining a licensure by endorsement in the state of West Virginia. As you are aware, numerous states have used various models to effect endorsement. In particular, the American Optometric Association has provided support to this effort. In fact, Ms. Sherry Cooper reviewed and made extensive suggestions to the proposed language and content before it was submitted for legislative review.

The Board would like to comment on each of your points:

1). 8.6.g: Submit to an oral examination and interview as deemed necessary by the Board before such persons and at a time and place as prescribed by the Board; and

The West Virginia Board of Optometry feels that it is appropriate for it to maintain the authority to require an oral examination on an INDIVIDUAL basis IF a red flag is raised by a candidate and the Board has legitimate public safety concerns about that person's ability to competently practice optometry. Hence, this is why the proposed rule reads "...as deemed necessary..." The Board anticipates that the requirement to undergo an oral examination will be handled on a case-by-case and very infrequent basis.

2). 8.7.1: An applicant will not be considered for licensure by endorsement in the state of West Virginia if he or she has failed the West Virginia Optometry Board Examination within ten (10) years preceding the date on which the application for endorsement is filed.

The purpose for this clause is self-evident. The Board is concerned that an applicant who does not satisfactorily pass the West Virginia Board's oral examination will gain a license in another state and, then, merely return around and apply for a license by endorsement in West Virginia.

MISSION STATEMENT

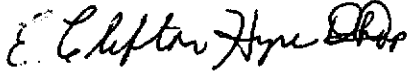
To ensure that all applicants for licensure and all Doctors of Optometry currently licensed, practice their profession in a manner that benefits and protects the public, and to ensure that the highest quality optometric eye and vision care is provided in a professional, competent, and ethical manner.

The public is not well-served with a system in which the process can be "gamed" in such a manner. As you are aware, in some states if a candidate has EVER failed their state exam they cannot apply for licensure by endorsement. Obviously, such a candidate who has failed the exam more recently than ten years can always apply to come in the 'front door.'

The Board very much appreciates the considered input of the West Virginia Optometric Association.

If the West Virginia Board of Optometry can provide any additional information to you, please feel free to contact us at: (304) 627-2106

Sincerely,



E. Clifton Hyre, O.D.

President, West Virginia Board of Optometry

cc: Mr. Roger K. Price, Executive Director,
West Virginia Optometric Association

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

**SERIES 8
LICENSURE BY ENDORSEMENT**

FILED
2002 JUN -5 A 9:42
OFFICE WEST VIRGINIA
SECRETARY OF STATE

Title 14-8-1. General.

8.1. Scope—This rule establishes requirements of the West Virginia Board of Optometry for licensure by endorsement for doctors of optometry.

8.2. Authority. W. Va. Code 30-8-5c et. seq.

8.3. Filing Date – March 20, 2002

8.4. Effective Date --

8.5.1. Applicants for licensure by endorsement must meet the following requirements:

5.1.a. Hold a current optometry license in good standing from another state based upon examination;

5.2.b. Have proof submitted directly from the optometry board in each state where you currently hold a license that it is in good standing and from each state where you have held a license that it was in good standing at the time the license was not renewed;

5.3.c. Pay the fees established by rule.

8.6.1. Unless waived by the Board, all applicants for licensure by endorsement must:

6.1.a. Apply for the highest level of therapeutic licensure in this state;

6.1.b. Be current in the continuing education requirements of their current state(s) of licensure;

6.1.c. Have engaged in the active practice of optometry (or on the faculty of a school or college of optometry or in active federal service) for at least five (5) of the seven (7) years immediately preceding his or her application;

6.1.d. Have not committed any act that would constitute grounds for disciplinary action under this chapter or rule and regulations of the Board;

6.1.e. Have a current copy of your record from the National Practitioner Data Bank (NPDB) and the Healthcare Integrity & Protection Data Bank (HIP-DB) submitted directly to the Board;

6.1.f. Not be subject to any unresolved disciplinary action;

6.1.g. Submit to an oral examination and interview as deemed necessary by the Board before such persons and at a time and place as prescribed by the Board; and

6.1.h. Pass a West Virginia optometry law examination as required by the Board to be given at such times and places as prescribed by the Board.

8.7.1. An applicant will not be considered for licensure by endorsement in the state of West Virginia if he or she has failed the West Virginia Optometry Board Examination within ten (10) years preceding the date on which the application for endorsement is filed.