

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

Form #7

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2009 JUN -1 PM 1:50

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Board of Osteopathy TITLE NUMBER: 24

CITE AUTHORITY: West Virginia Code sections 30-1-4, 30-14-4(e)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: LICENSING PROCEDURES FOR OSTEOPATHIC PHYSICIANS

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Senate Bill 526 amended the license and educational permit requirements for Osteopathic Physicians and Surgeons and became effective on passage during the 2009 Regular Session of the Legislature. This rule is being amended to conform to this legislation and give effect to the policy underlying the bill. The bill specifically authorized the Board of Osteopathy to promulgate emergency rules to carry out the legislation.

NOTE: Only the amendments to sections 24-1-4, 24-1-6, 24-1-13 and the new definition appearing in subsection 24-1-3.3 are to be effective as emergency provisions. Other amendments appearing in the attached rule are proposed for consideration by the Legislature pursuant to the regular schedule for legislative rules.


Authorized Signature

Use additional sheets if necessary

WEST VIRGINIA BOARD OF OSTEOPATHY

LICENSING PROCEDURES FOR OSTEOPATHIC PHYSICIANS

Title 24, Series 1

SUMMARY AND CIRCUMSTANCES FOR FILING AS AN EMERGENCY RULE

A bill passed during the 2009 Regular Session of the Legislature (S.B. 526) changed the requirements to be licensed as an osteopathic physician in West Virginia. This legislation, in West Virginia Code 30-14-4(e), specifically authorized the Board of Osteopathy to propose emergency rules to implement these changes to the licensing and permitting requirements. In the attached rule, the Board of Osteopathy requests that the amendments appearing in the following subsections be considered for emergency application: §24-1-4, §24-1-6, and §24-1-13, as well as the new definition added at subsection 24-1-3.3. (Other amendments appearing in the attached rule are not requested for emergency consideration.)

Under this new law, osteopathic physicians may complete post-doctoral clinical training in a program approved by an alternate accreditation agency, the Accreditation Council for Graduate Medical Education, along with continuing education classes in osteopathic manipulative treatment. This rule is being amended to bring all of the Board's licensing requirements and procedures into conformity with the new law. The proposed amendments provide greater detail as to what education options are acceptable as license qualifications and explain how an applicant may complete the continuing education classes necessary under the alternate admission option.

The new law also provides for a renewable, educational permit to be used for the registration of physician interns and residents while they are completing their required post-doctoral clinic training. This rule will update the requirements for these permits and for their renewal. These provisions specify the requirement for documentation of participation in an approved program of postdoctoral training, the circumstances under which an educational permit may be restricted, suspended or revoked, and the persons who are eligible to receive an educational permit.



EMERGENCY RULE QUESTIONNAIRE

DATE: June 1, 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Board of Osteopathy
334 Penco Road
Weirton, WV 26062

EMERGENCY RULE TITLE: Licensing Procedures for Osteopathic Physicians

1. Date of filing June 1, 2009

2. Statutory authority for promulgating emergency rule:
West Virginia Code §30-14-4(e)

3. Date of filing of proposed legislative rule: June 1, 2009

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Amends current rule.
NOTE: Only the amendments to sections 24-1-4, 21-1-6, 24-1-13 and the new definition appearing in subsection 24-1-3.3 are proposed for emergency provisions. The other amendments will be offered for authorization through the normal legislative rule process

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.
~~Senate Bill 526 amended the license and educational permit requirements for osteopathic physicians and surgeons and became effective upon passage during the 2009 regular Session of the Legislature. This rule is being amended to conform to this legislation and to give effect to the policy underlying the bill. The Board anticipates that some individuals will apply for permits under the provisions of this law as soon as July 1, 2009. The bill specifically authorized the Board of Osteopathy to promulgate emergency rules to carry out the legislation.~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensing Procedures for Osteopathic Physicians

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Osteopathy

Address: 334 Penco Road
Weirton, WV 26062

Phone Number: 304-723-4638 Email: bdosteo@mail.wvnet.edu

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The proposed amendments to the rule will not have any fiscal impact on the general revenues of the State.

The West Virginia Board of Osteopathy operates solely from funds in a special revenue account generated from fees charged by the agency. This proposed rule changes the requirements for training and licensure, which are likely to cause an initial drop in revenue, but the increased opportunities created by the rule changes should increase the overall number of osteopathic physicians licensed in this state, and thereby offset the initial loss in subsequent years.

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	4,000.00	2,000.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title: Licensing Procedures for Osteopathic Physicians

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

All operating funds for the Board of Osteopathy come from fees charged for services rendered by the Board.

Since the proposed amendments in this rule will allow resident physicians to pay a less-expensive educational permit in lieu of licensure, the Board of Osteopathy anticipates that approximately 40 resident physicians will pay the lesser fee in the first year that the rule becomes effective. This number of residents is likely to stay the same in subsequent years, but as a greater overall number of physicians become fully licensed, there will be a corresponding increase in revenue generated from fees for unrestricted licenses. The net effect over time becomes an even balance in revenue.

MEMORANDUM

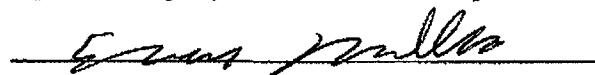
Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Under prior law, the Board required physicians in residency programs to be fully licensed. As a result of changes to the W.Va. Code in the 2009 Regular Session of the Legislature, those physicians may practice within the scope of their residency program under an educational permit. Since the fee for a permit is lower than the fee for an unrestricted license, there is a potential for the Board revenue to decrease. However, since the legislation and this rule open up licensing opportunities to more physician residents, the net effect on the Board's revenue is likely to be even once the rule is fully implemented.

NOTE: The West Virginia Board of Osteopathy operates entirely under a special revenue account. This rule will not have any affect on the General Revenue of the State.

Date: 6/1/09

Signature of Agency Head or Authorized Representative



FILED

TITLE 24
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OSTEOPATHY

2009 JUN -1 PM 1:50

SERIES 1
LICENSING PROCEDURES FOR OSTEOPATHIC PHYSICIANS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§24-1-1. General.

- 1.1. Scope. -- This rule establishes the operation of the Board and the regulation and licensing of osteopathic physicians.
- 1.2. Authority. -- W. Va. Code §30-1-4.
- 1.3. Filing Date. --
- 1.4. Effective Date. -- .

§24-1-2. Application and Enforcement.

This rule implements W. Va. Code §30-14-1, et seq.

§24-1-3. Definitions.

3.1. Affiliate. -- A member of a group of two (2) or more fully accredited health care institutions legally united by an agreement of affiliation, conceived to enhance the potential of all participants in the provision of health care and medical education.

3.2. AOA. -- American Osteopathic Association

3.3. Approved program of post-graduate clinical training -- a program of clinical training approved by, or subject of approval by, the American Osteopathic Association or approved by the Accreditation Council for Graduate Medical Education for the purposes of intern or resident training;

3.3. Board. -- The West Virginia Board of Osteopathy established in W. Va. Code §30-14-1.

3.4. Crimes involving moral turpitude. -- Those crimes which have dishonesty as a fundamental and necessary element; including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud or misrepresentation.

3.5. Immediate family -- a person within one degree of kinship of a physician or any relative living in the physician's household.

3.5. 3.6 Medicine. -- Osteopathic medicine

3.6. 3.7. State Boards Examination. -- The examination sponsored and administered by the West Virginia Board of Osteopathy.

~~3.7.~~ 3.8. NBOME. -- The National Board of Osteopathic Medical Examiners.

~~3.8.~~ 3.9. Probation. -- Conditions and requirements imposed upon a licensee for a period of time that the Board, in its discretion, determines to be justified under any provision of law. A licensee placed on probation may continue to practice subject to limitations imposed by the Board, including the requirement that the licensee appear before the Board, or an officer or agent of the Board at such times and places as are designated by the Board. A licensee may be placed on probation without a previous or concurrent suspension or revocation of his or her license.

§24-1-4. Qualifications and Application for a License to Practice Medicine and Surgery.

4.1. An applicant for a license to practice osteopathic medicine and surgery shall complete an application provided by the Board. The applicant shall complete the application in full prior to the Board's consideration of the application.

4.2. An application for a license to practice medicine and surgery shall include the following:

4.2.1. A photograph taken within the previous 60 days which resembles the applicant;

4.2.2. Evidence of graduation from a medical school approved by the American Osteopathic Association;

4.2.3. A sworn and notarized statement on a form provided by the Board from another physician stating that the applicant is of good moral character, and that the applicant is physically and mentally capable of engaging in the practice of medicine;

4.2.4. Evidence of the completion of a minimum of one (1) year of postgraduate clinical training approved by the American Osteopathic Association under either of the following options:

a. Post-graduate, clinical training in a program approved by the American Osteopathic Association, which may also include a program approved under the Association's Resolution 42 procedure;

or

b. Post-graduate, clinical training in a program approved by the Accreditation Council for Graduate Medical Education and forty hours of continuing medical education in osteopathic medicine and osteopathic manipulative treatment in courses approved, and classified as Category 1A, by the American Osteopathic Association.

4.2.5. ~~A non-refundable cashier's check, money order or personal check payable~~ Complete payment to the Board ~~in~~ of the amount established by the Board under the West Virginia Board of Osteopathy rule Fees for Services Rendered By the Board of Osteopathy, Title 24 CSR 5. If the licensure fee is paid by personal check, the licensing process is not considered complete until the check has cleared the bank;

4.2.6. Any other documents as may be required by the Board.

4.3. An applicant for a license to practice medicine and surgery is required to obtain a passing score on all levels of the NBOME Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA). ~~or the State Board sponsored exam.~~

4.4. The Board may accept an equivalent exam given by another Osteopathic State Board if the Board determines it to have equivalent standards to the NBOME ~~or the State Board sponsored exam~~ Comprehensive Osteopathic Medical Licensing Examination. The Board is not required, however, to

accept these exams in lieu of the ~~NBOME~~ Comprehensive Osteopathic Medical Licensing Examination.

~~4.5.~~ License applicants, who have obtained post-doctoral, clinical training in an ACGME program, are not required to complete the forty hours of continuing medical education in one continuous course or unbroken series of courses. A trainee may attend courses at his or her own pace as time and course opportunities may allow; provided that, a minimum of forty hours shall have been completed prior to submitting the application for a license.

~~4.5.~~ ~~4.6.~~ All applicants for licensure to practice osteopathic medicine and surgery shall demonstrate their ability to communicate in the English language to the satisfaction of the Board.

~~4.6.~~ ~~4.7.~~ An applicant shall arrange for a personal interview with a member of the Board prior to his or her application being considered by the Board. The Board may require any applicant to appear before the Board at the meeting at which his or her application is to be considered. The purpose of the interview or required attendance at a Board meeting is ~~to verify the existence and identity of all required documents and information and to enable the Board~~ to clarify information contained in the application. The Board may require production of original documents at the interview or required attendance at a Board meeting.

~~4.7.~~ ~~4.8.~~ The application, together with all photocopied documents submitted with the application, become the property of the Board and shall not be returned.

~~4.8.~~ ~~4.9.~~ The burden of satisfying the Board of the applicant's qualifications for licensure is upon the applicant.

~~4.9.~~ ~~4.10.~~ A license to practice medicine and surgery in this State is valid for a term of two (2) years and shall be renewed by June 30 of the second year. The license shall be renewed upon the receipt of a non-refundable fee, established by the Board, together with an application provided by the Board.

~~§24-1-5. Application for State Board Examination.~~

~~5.1.~~ An applicant for the state board exam shall complete an application on a form provided by the Board. The applicant shall complete the application in full prior to the examination.

~~5.2.~~ An application for the state board exam must be received by the Board not later than sixty (60) days prior to the date of the examination.

~~5.3.~~ The Board shall provide procedures for the state board exam to each approved applicant at least fifteen (15) days prior to the examination.

§24-1-5. Duties of Licensees and Permit Holders.

5.1. All licensees and holders of permits issued by the Board have a duty to provide valid contact information, consisting of a telephone number and a residence address where official notifications may be delivered. If any of the contact information changes, the person must notify the Board of the change in writing within thirty (30) days of the change.

5.2. A licensee or permit holder may also provide an alternate address, such as a business address, to the

Board to serve as a public address of record, but the person must still provide a valid residential address.

5.3. The holder of an educational permit has a duty to notify the Board in writing within five (5) days if he or she leaves the registered program of post-doctoral, clinical training.

§24-1-6. Qualifications for the Issuance of a License to Practice Medicine and Surgery by Reciprocal Endorsement.

6.1. An applicant for a license to practice osteopathic medicine and surgery by reciprocal endorsement from another state, or the District of Columbia, shall provide proof of licensure in that jurisdiction under licensure requirements substantially similar to those existing in this State, and proof that he or she has the requisite qualifications to provide the same standard of care as a physician initially licensed in this State. These requirements and qualifications are specifically enumerated in this section. An applicant for a license to practice osteopathic medicine and surgery by reciprocal endorsement shall:

6.1.1 Provide evidence of graduation from an AOA accredited medical school;

6.1.2. Provide proof of successful completion of ~~at least one (1) year of postgraduate clinical training in a program approved by the AOA either:~~

a. A minimum of one year of post-doctoral, clinical training in a program approved by the American Osteopathic Association (including programs approved by the Association under its Resolution 42 procedure);

or

b. A minimum of one year of post-doctoral, clinical training in a program approved by the Accreditation Council for Graduate Medical Education and forty hours of continuing medical education in osteopathic medicine and osteopathic manipulative treatment in courses approved, and classified as Category 1A, by the American Osteopathic Association.

6.1.3. Provide a sworn notarized statement from another physician that the applicant is of good moral character and is physically and mentally capable of engaging in the practice of medicine and surgery; and

6.1.4. Have successfully passed all levels of the NBOME exam Comprehensive Osteopathic Medical Licensing Examination, or equivalent state osteopathic exam.

6.2. License applicants, who have obtained post-doctoral, clinical training in an ACGME program, are not required to complete the forty hours of continuing medical education in one continuous course or unbroken series of courses. A trainee may attend courses at his or her own pace as time and course opportunities may allow; provided that, a minimum of forty hours shall have been completed prior to submitting the application for a license.

§24-1-7. License to Practice Medicine and Surgery by Reciprocal Endorsement; Application Required.

7.1. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall complete an application on forms provided by the Board. The applicant shall complete all parts of the application, in full, prior to being reviewed by the Board.

7.2. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall provide a statement that he or she is in good standing in the jurisdiction in which he or she is licensed, and that he or

she has no medical disciplinary action pending against him or her.

7.3. An application for a license to practice medicine and surgery by reciprocal endorsement must be received by the Board no later than thirty (30) days prior to the meeting of the Board at which the application will be reviewed.

7.4. An applicant shall arrange for a personal interview with a member of the Board prior to the meeting during which his or her application is to be considered. The purpose of the interview or required attendance at a Board meeting is to verify the existence and the identity of all required documents and information and to enable the Board to clarify any information contained in the application. The Board may require production of original documents at the interview or required attendance at a Board meeting.

7.5. An applicant shall have available for review by a Board member, or by the Board, if the applicant appears at the meeting, the following original documents:

7.5.1. His or her medical school diploma;

7.5.2. A document attesting to the successful completion of the required minimum of one (1) year AOA approved postgraduate clinical training;

7.5.3. A certified copy of the scores attained by the applicant on the NBOME or State Board; the scores shall meet the requirements established in subsection 4.4 of this rule.

7.5.4. A sworn notarized statement on a form provided by the Board stating that the applicant is of good moral character, and is physically and mentally capable of engaging in the practice of medicine and surgery;

7.5.5. A statement that the applicant is in good standing in each jurisdiction in which he or she is licensed to practice and that he or she has no medical disciplinary action pending; and

7.5.6. Any other documents required by the Board.

7.6. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall provide all photocopied documents to the Board. The photocopies shall be attached to the application and made a part of the application. The application, together with all photocopied documents submitted with the application, become the property of the Board and shall not be returned.

7.7. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall submit a ~~cashier's check, money order, or personal check payable to the Board;~~ payment of a non-refundable fee, in an amount as established by the Board under the West Virginia Board of Osteopathy rule Fees for Services Rendered By the Board of Osteopathy Title 24 CSR 5. If it is paid by personal check, licensing process is not considered complete until the check has cleared the bank.

~~7.8. An applicant for a license to practice medicine and surgery by reciprocal endorsement whose application is complete, may request a temporary license to practice until the next regular meeting of the Board, by meeting the qualifications of the Board, by paying an additional non-refundable fee in an amount established, by the Board, and by appearing before a member of the Board for a personal interview.~~

~~7.9.~~ ~~7.8.~~ An applicant for a license to practice medicine and surgery by reciprocal endorsement has the burden of demonstrating to the satisfaction of the Board that the applicant has the requisite qualifications of a

physician initially licensed in this State.

§24-1-8. Temporary Permit to Practice Osteopathic Medicine and Surgery; Qualifications.

8.1. An applicant for a temporary permit to practice medicine and surgery:

8.1.1. Shall submit evidence that he or she is a graduate of a medical school approved by the AOA;

8.1.2. Shall be able to demonstrate to the satisfaction of the Board the ability to communicate in the English language;

8.1.3. Shall submit evidence that he or she is of good moral character and that he or she is physically and mentally capable of engaging in the practice of medicine;

8.1.4. Shall have completed one year of postgraduate education approved by the AOA; and

8.1.5. Shall practice in an area of need. The Board may consider specialty need in a given area.

8.2. The issuance of a temporary permit shall not be interpreted or construed as the Board's approval of the applicant for licensure. Each person who seeks licensure shall meet all regular licensure requirements established by law in order to be licensed.

§24-1-9. Temporary Permit to Practice Osteopathic Medicine and Surgery; Application Required.

9.1. An applicant for a temporary permit to practice medicine and surgery in West Virginia shall submit an application on a form prescribed and provided by the Board. The form shall be completed and submitted at least thirty (30) days in advance of the date on which the expected practice will begin, together with the following documents:

9.1.1. Evidence of graduation from a medical school accredited by the AOA;

9.1.2. A photograph taken within 60 days which resembles the applicant;

9.1.3. A letter from a physician fully licensed to practice osteopathic medicine and surgery in West Virginia who has agreed to supervise the applicant, if considered necessary by the Board;

9.1.4. A non-refundable fee in an amount established by the West Virginia Board of Osteopathy rule Fees for Services Rendered By the Board of Osteopathy, Title 24 CSR 5.

9.1.5. A sworn and notarized statement on a form provided by the Board from another physician stating that the applicant is of good moral character, and is physically and mentally capable of engaging in the practice of medicine and surgery;

9.1.6. Proof of completion of an AOA approved internship; and

9.1.7. Any other documents required by the Board.

9.2. The application, together with all photocopied documents submitted with it, become the property of the Board and shall not be returned.

9.3. An applicant for a temporary permit shall arrange for a personal interview with a member of the Board prior to the meeting at which his or her application is to be considered. The Board may require that an applicant be present at the meeting during which his or her application will be reviewed. The purpose of that interview or required attendance at a Board meeting is to ~~verify the existence and the identity of all required documents and to enable the Board~~ to clarify any information contained in the application. The Board may require production of original documents at the interview or required attendance at a Board meeting.

§24-1-10. Temporary Permit to Practice Osteopathic Medicine and Surgery; Conditions of Practice.

10.1. A physician granted a temporary permit to practice osteopathic medicine shall abide by all acceptable Rules and laws of the State of West Virginia governing the practice of osteopathic medicine and surgery in this State.

10.2. Physicians granted a temporary permit to practice osteopathic medicine and surgery shall practice only in the location specified by the Board.

10.3. A physician who has been issued a temporary permit to practice osteopathic medicine and surgery may apply to the Board for a new temporary permit if the permit holder wishes to change the conditions of the practice as specified in the original application and as further specified in the permit. The Board considers the application for a new temporary permit a transfer, and the application shall be accompanied by letters setting forth any and all reasons for change in conditions. The required documents shall be completed by all parties as in the original application and shall be sent to the Board, together with the application and a non-refundable fee.

§24-1-11. Temporary Permit to Practice Osteopathic Medicine and Surgery; Examination Required.

11.1. Every physician who holds a temporary permit to practice osteopathic medicine and surgery in the State of West Virginia ~~shall take the State Board Exam or and who has not satisfactorily completed all levels of the NBOME Comprehensive Osteopathic Medical Licensing Examination, or equivalent state osteopathic exam, shall take and pass all uncompleted portions of the COMLEX-USA examination at the next scheduled exam available examination date following after~~ issuance of the temporary permit.

11.2. If the holder of the temporary permit fails to take the ~~State Board Exam~~ required examinations within the time specified in the section, the Board shall revoke his or her temporary permit to practice medicine and surgery.

§24-1-12. Application Forms and Processing.

12.1. Application forms for licensure may include, but not be limited to, requirements for the following information; as considered necessary by the Board:

12.1.1. An AOA bibliographical printout;

12.1.2. A Federation of State licensing Boards derogatory information sheet regarding other state Board actions;

12.1.3. A list of all states where the physician has had a license, even if the license is not active;

12.1.4. A list of all hospitals where the physician has had privileges in the last five (5) years;

12.1.5. The applicant's medical school;

12.1.6. A list of all training programs, including post graduate training programs;

12.1.7. The state from which the physician is requesting endorsement, with specific references to that state's examination and grades;

12.1.8. A copy of the individual's birth certificate, passport or baptismal, to be used in identifying the applicant and the appropriate spelling of his or her name;

12.1.9. A copy of a marriage license, divorce decree or court order, to document a name change; and

12.1.10. The place and date of the applicant's birth.

12.2. In the event the Board's staff finds derogatory information during the processing of an application, the information shall be presented to the Board for its review and the determination as to whether an individual should be scheduled for an interview during a regular Board meeting or if the staff should obtain additional information.

12.3. It is the applicant's responsibility to mail all necessary forms to selective institutions for response to the Board.

12.4. Completed verification forms shall be mailed directly from institutions.

12.5. The Board reserves the right to obtain additional information through oral or written examinations, psychiatric evaluation, physical examination or other tests as may be necessary to determine the competency of the applicant. Any additional tests, exams etc., are the financial responsibility of the applicant.

12.6. The Board reserves the right to require applicants who have not sat for or passed a written examination for licensure in the past ten (10) years to take an oral competency or practical skills examination in their field practice prior to issuing a license or to retake a written exam if considered necessary.

§24-1-13. Educational Training Permits.

13.1. ~~All A graduate medical trainees who seeks to participate in a post-doctoral, clinical program involving osteopathic practice in this State shall secure an educational training permit. The permit grants the graduate medical trainee permission to participate in the training program and restricts him or her to the confines of the training institution, its affiliates and affiliated community hospitals. The permit may grant to those graduates who are enrolled in an AOA approved institution a rotating internship; or those that have fulfilled the rotating internship requirement may apply to continue practicing under the educational training permit only until the next available date to take the licensing exam. A graduate medical trainee may not use an educational permit to practice outside of the scope of the training program. Outside practice may only be conducted under a regular license to practice osteopathic medicine and surgery.~~

13.2. The permits are not a license to practice, nor a promise by the Board to issue a license upon completion of training.

13.3. Specific requirements for an educational ~~training~~ permit are as follows:

13.3.1. The applicant shall submit a completed application for an educational ~~training~~ permit to the Board sixty (60) days in advance of July 1, or by another date by special permission;

13.3.2. An application for an educational ~~training~~ permit shall include proof that the applicant is a graduate of a medical school approved by the AOA;

13.3.3. An application for an educational ~~training~~ permit shall include a sworn and notarized statement from another physician that the applicant is of good moral character, and that he or she is physically and mentally capable of engaging in the practice of osteopathic medicine and surgery;

13.3.4. An applicant for an educational ~~training~~ permit shall be able to demonstrate to the satisfaction of the Board his or her ability to communicate in the English language; and

13.3.5. An application for an educational ~~training~~ permit shall be accompanied by a non-refundable fee in an amount established by the Board under the West Virginia Board of Osteopathy rule Fees for Services Rendered By the Board of Osteopathy Title 24 CSR 5.

~~13.3.6. A graduate of a United States AOA approved medical school who does not have a license without restriction in West Virginia and who has been accepted into an approved program of graduate medical education in this State shall have an initial interview with a member of the Board or the Board's designated representative.~~

13.3.6. An application for an educational permit, or renewal of an educational permit, shall include verification or written acknowledgment from the director of an approved program of post-graduate clinical training that the applicant is a current participant, in good standing, in the program.

~~13.4. The educational training permit is valid only for twelve (12) consecutive months, but the Board may extend the permit when an extension is warranted. An educational permit expires on the last day of June following issuance of the permit. The permits automatically expire and become void if the trainee leaves the training program for any reason.~~

~~13.5. Approval of participation in graduate medical education for all qualified applicants shall be made by the Board on an annual basis. Educational permits may also be suspended or revoked by the Board at any time upon the same grounds as an osteopathic license may be suspended or revoked, as specified in section 24-1-18 of this rule.~~

13.6. The application, together with the photocopied documents submitted with the application, become the property of the Board and shall not be returned.

13.7. The issuance of an educational ~~training~~ permit shall not be interpreted or construed as the Board's approval of an applicant for licensure upon the applicant's completion of the educational training program. Each person who seeks licensure shall fulfill all requirements established by law in order to be licensed.

13.8. An educational permit is only available for graduates who have never previously been licensed to practice osteopathic medicine in any jurisdiction.

§24-1-14. Written Examination; Examinee Conduct.

~~14.1. An applicant for license who requires a written examination shall take the NBOME or State Board sponsored examination, as required by the Board.~~

~~14.2. The conduct of examinees during the examination is governed by written guidelines issued by the NBOME or the State Board.~~

§24-1-15. License Renewal; Renewal Applications Form.

15.1. A licensee shall renew his or her license every two (2) years, by submitting a renewal application form and paying a non-refundable renewal fee in an amount established by the Board under the West Virginia Board of Osteopathy rule Fees for Services Rendered By the Board of Osteopathy Title 24 CSR 5. The Board shall mail forms to each known licensee at his or her last known address. However, licensees are solely responsible for acquiring and submitting renewal application forms. A physician who fails to acquire and submit a renewal application may not practice on an expired license. The renewal application, together with all documents submitted with the application, become the property of the Board and shall not be returned.

15.2. The Board's renewal application form shall include a request for the following information:

15.2.1. The applicant's name, date of birth, home and principal business address and telephone numbers;

~~15.2.2. Personal characteristics of the applicant, such as sex and race;~~

~~15.2.3. 15.2.2. A statement of the applicant's medical training and work experience;~~

~~15.2.4. 15.2.3. A statement concerning any disciplinary action taken against the applicant in the last two (2) years;~~

~~15.2.5. 15.2.4. A statement concerning any civil litigation related to the practice of medicine or any criminal litigation commenced against the applicant in the last two (2) years;~~

~~15.2.6. 15.2.5. A statement describing the applicant's present ability to possess or dispense controlled substances;~~

~~15.2.7. 15.2.6. A statement regarding disciplinary actions of the other jurisdictions in which the applicant is licensed to practice medicine;~~

~~15.2.8. 15.2.7. Documentation of a minimum of thirty-two (32) hours of AOA approved Continuing Medical Education, of which at least 50% must be category 1 or CME hours in standard heart saver courses obtained during the preceding two (2) year licensing period pursuant to W. Va. Code §30-14-10.~~

~~15.2.9. 15.2.8. The number of malpractice settlements made or judgments against the applicant in the last two (2) five (5) years;~~

~~15.2.10. 15.2.9. Any treatment received for mental illness, chemical substance, alcohol dependency or other impairment in the last two (2) years; and~~

~~15.2.11.~~ 15.2.10. Any limitations of hospital privileges in the last two (2) years.

15.3. A licensee who fails to timely renew his or her license shall submit a new application with required documentation in order to reinstate his or her license pursuant to W.Va.Code §30-14-10.

15.4. A licensee who is deployed outside of the United States on active duty in the armed forces of the United States for six months or more of his or her most recent license period may be exempted from the continuing medical education requirement for that license period and his or her application for renewal of license will not be denied for failure to satisfy this requirement.

15.5. A licensee participating in a clinical residency program for more than nine months out of his or her most recent licensing period may substitute a verification of his or her participation in lieu of documentation of the Continuing Medical Education hours specified in subdivision 15.2.8 of this rule.

§24-1-16. Policy Regarding License Applicants for New Licensure, License Renewal, or License Reactivation Who Have Had a License Revoked or Surrendered in Another State.

16.1. If an osteopathic physician has had his or her license revoked or surrendered in another state, the Board shall may not issue or reactivate a license until the physician shows that he or she is eligible for licensure in the state where the action was taken. This does not include licenses which were not renewed at renewal times and were in good standing.

16.2. This policy is also applicable to physicians applying for a training an educational permit.

§24-1-17. License Exemptions.

17.1. In addition to exemptions provided by law, any duly licensed nonresident physician who participates in a continuing medical education course within the State is not required to be licensed in this state.

17.2. Physicians duly licensed in another state may transmit medical instructions by radio to personnel in this State in emergency situations.

§24-1-18. Causes For Denial, Probation, Limitation, Discipline, Suspension Or Revocation of Licenses of Osteopathic Physicians.

18.1. The Board may deny an application for a license, place a licensee on probation, suspend a license, limit or restrict a license or revoke any license issued by the Board, upon satisfactory proof that the licensee has:

18.1.1. Knowingly made, or presented or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other material in connection with an application for a license;

18.1.2. Been or is involved in fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license;

18.1.3. Become addicted to a controlled substance;

18.1.4. Become a chronic or persistent alcoholic;

18.1.5. Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member of the public;

18.1.6. Willfully violated a confidential communication;

18.1.7. Had his or her license to practice osteopathic medicine in any other state, territory, jurisdiction or foreign nation revoked, suspended, restricted or limited, or otherwise acted against, or has been subjected to any other disciplinary action by the licensing authority thereof, or has been denied licensure in any other state, territory, jurisdiction, or foreign nation;

18.1.8. Been or is unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals or any other type of substance, or by reason of any physical or mental abnormality;

18.1.9. Demonstrated a lack of professional competence to practice osteopathic medicine with a reasonable degree of skill and safety for patients. In this connection, the Board may consider repeated acts of a physician indicating his or her failure to properly treat a patient and may require the physician to submit to inquiries or examinations, written or oral, by members of the Board, or by other physicians licensed to practice medicine in this State, as the Board considers necessary to determine the professional qualifications of the licensee;

18.1.10. Engaged in unprofessional conduct, including, but not limited to, any departure from, or failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the osteopathic medical profession, irrespective of whether or not a patient is injured by the conduct, or has committed any act contrary to honesty, justice or good morals, whether the act is committed in the course of his or her practice and whether committed within or without this State;

18.1.11. Been convicted of or found guilty of a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine. Any plea of nolo contendere is considered conviction for purposes of this rule;

18.1.12. Advertised, practiced or attempted to practice under a name other than his or her own;

18.1.13. Failed to report to the Board any person whom the licensee knows is in violation of this rule or of provisions of W. Va. Code §30-14-3, or 30-14A-1;

18.1.14. Aided, assisted, procured or advised any unlicensed person to practice medicine contrary to this rule or the W. Va. Code §30-14-3, or 30-14A-1;

18.1.15. Failed to perform any statutory or legal obligation placed upon a licensed physician;

18.1.16. Made or filed a report which the licensee knows to be false; intentionally or negligently failed to file a report or record required by state or federal law or willfully impeded or obstructed the filing or induced another person to do so. The reports or records shall include only those which are signed in the capacity as a licensed physician;

18.1.17. Paid or received any commission, bonus, kickback or rebate, or engaged in any split-fee arrangement in any form whatsoever with a physician, podiatrist, organization, agency or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not

limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The provisions of this subdivision shall not be construed to prevent a physician from receiving a fee for professional consultation services;

18.1.18. Engaged in sexual contact with a current patient who is not a spouse of the physician or exercised influence within a patient-physician relationship for purposes of engaging a patient in sexual activity;

18.1.19. Made deceptive, untrue or fraudulent representations in the practice of osteopathic medicine or employed a trick or scheme in the practice of osteopathic medicine when the trick or scheme fails to conform to the generally prevailing standards of treatment in the medical community;

18.1.20. Solicited patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or by overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate response from the recipient;

18.1.21. Failed to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results and test results and treatment rendered, if any;

18.1.22. Exercised influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs and the promoting or advertising on any prescription form of a community pharmacy. For the purposes of this subdivision, it is legally presumed that prescribing, dispensing, administering, mixing or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities, is not in the best interests of the patient and is not in the course of the physician's professional practice, without regard to his or her intent;

18.1.23. Prescribed, dispensed or administered any medicinal drug appearing on any schedule set forth in W. Va. Code §§60A-1-101 to 60A-7-707 by the physician to himself or herself, except one prescribed, dispensed or administered to the physician by another practitioner authorized to prescribe, dispense or administer medicinal drugs;

18.1.24. Engaged in malpractice or failed to practice medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent physician engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances;

18.1.25. Performed any procedure or prescribed any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed and written consent from the patient;

18.1.26. Practiced or offered to practice medicine and surgery beyond the scope permitted by law or accepted and performed professional responsibilities which the licensee knows or has reason to know he or she is not competent to perform;

18.1.27. Delegated professional responsibilities to a person whom the licensee knew or had reason to know is not qualified by training, experience or licensure to perform the responsibilities;

18.1.28. Violated or attempted to violate any law or lawfully promulgated rule or regulation of this State, any other state, the Board, the United States or any other lawful authority (without regard to whether the violation is criminally punishable), which relates to or in part regulates the practice of osteopathic

medicine, when the licensee or applicant knows or should know that the action is violative of the law, rule or regulation; or has violated a lawful order of the Board; or has failed to comply with a lawfully issued subpoena of the Board; or has violated an order of any court entered pursuant to any proceedings commenced by the Board;

18.1.29. Presigned blank prescription forms;

18.1.30. Prescribed, ordered, dispensed, administered, supplied, sold or given any drug which is an amphetamine or sympathomimetic amine drug and a compound designated as a Schedule II controlled substance under W. Va. Code §60A-1-101 to 60A-1-707, to or for any person except for;

a. The treatment of narcolepsy; attention deficit disorder, which is a behavioral syndrome characterized by inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional liability and impulsivity; or drug-induced brain dysfunction;

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression or the treatment of depression shown to be refractory to other therapeutic modalities;

c. The clinical investigation of the effects of the drugs or compounds when an investigative protocol for the drugs or compounds is submitted to, reviewed and approved by the Board before the investigation is begun; or

d. The treatment of obesity, when consistent with excessive appetite, for periods not to exceed two weeks per six week period;

18.1.31. Knowingly maintained a professional connection or association with any person who is in violation of the W. Va. Code §§30-14-3 or 30-14A-1 or the rules of the Board; or has knowingly aided, assisted, procured or advised any person to practice medicine contrary to the W. Va. Code §§30-14-3 or 30-14A-1 or to the Rules of the Board; or knowingly performed any act which in any way aids, assists, procures, advises or encourages any unlicensed person or entity to practice osteopathic medicine; or has divided fees or agreed to divide fees received for professional services with any person, firm, association, corporation or other entity for bringing or referring a patient; or has engaged in the practice of medicine as an officer or employee of any corporation other than one organized and existing pursuant to the W. Va. Code §30-14-3, except as a licensed physician, intern or resident of a hospital or teaching institution licensed by this State;

18.1.32. Offered, undertaken or agreed to cure or treat disease by a secret method, procedure, treatment or medicine; or has treated, operated or prescribed for any human condition, by a method, means, or procedure which the licensee has refused to divulge upon demand of the Board;

18.1.33. Engaged in false or deceptive advertising. "False or Deceptive Advertising" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results or includes representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or be deceived; or

18.1.34. Engaged in advertising that is not in the public interest. Advertising that is not in the public interest includes the following, with the exceptions specifically listed:

a. Advertising that has the effect of intimidating or exerting undue pressure;

- b. Advertising that uses testimonials;
- c. Advertising which is false, deceptive, misleading, sensational or flamboyant;
- d. Advertising which guarantees satisfaction or a cure;
- e. Advertising which offers gratuitous services or discounts, the purpose of which is to deceive the public. This subdivision does not apply to advertising which contains an offer to negotiate fees, nor to advertising in conjunction with an established policy or program of free care for patients; and
- f. Advertising which makes claims of professional superiority which a licensee is unable to substantiate.

18.2. As used in section 18.1.5. of this rule, "Dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" includes, but is not limited to:

18.2.1. Prescribing or dispensing any "Controlled Substance" as defined in W. Va. Code §§60A-1-101 to 60A-1-707:

- a. With the intent or knowledge that a controlled substance will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose;

- b. With the intent to evade any law with respect to the sale, use or disposition of the controlled substance;

- c. For the licensee's personal use,

- d. ~~or~~ For the use of his or her immediate family when the licensee knows or has reason to know that an abuse of the controlled substance is occurring, or may result from the practice; or for any period of treatment, or sequence of such periods, exceeding three days;

- e. Without making an in-person examination of the patient or without making and keeping written records of the findings of the examination, diagnosis and basis for treatment;

- ~~f.~~ In amounts that the licensee knows or has reason to know, under the attendant circumstances, that the amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards; or

- g. When the licensee knows, or has reason to know, that an abuse or improper diversion of the controlled substance is occurring or is likely to occur.

18.2.2. Issuing or publishing in any manner whatsoever, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member of the public, including, but not limited to:

- a. Any representation in which the licensee claims that he or she is able to cure or treat manifestly incurable diseases, ailments or infirmities by any method, procedure, treatment or medicine which the licensee knows or has reason to know has little or no therapeutic value; or

- b. Any representation in which the licensee claims that he or she is able and willing to treat diseases, ailments or infirmities under a system or school of practice; other than that for which he or she holds

a certificate or license granted by the Board; other than that for which he or she holds a degree or diploma from a school otherwise recognized as accredited by the Board; or which he or she professes to be self-taught;

18.2.3. A serious act, or a pattern of acts committed during the course of his or her medical practice which, under the attendant circumstances, would be considered to be gross incompetence, gross ignorance, gross negligence or malpractice, including the performance of any unnecessary service or procedure;

18.2.4. Conduct which is calculated to bring or has the effect of bringing the osteopathic medical profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing medical practice within the state, and any departure from or failure to conform to the principles of medical ethics of the AOA. For the purposes of this subsection, actual injury to a patient need not be established;

18.2.5. Any charges or fees for any type of service rendered within 72 hours of the initial visit, if the licensee advertises free service, free examination or free treatment;

18.2.6. The administration of anabolic steroids for other than therapeutic purposes;

18.2.7. The use of chelation therapy for diseases and conditions other than acute hypercalcemia, lead poisoning, and intoxications caused by some other heavy metals;

18.2.8. Charging or collecting an excessive, unconscionable fee.

a. The Board shall take into account the following factors:

1. The time and effort required for performing services rendered;
2. The novelty and difficulty of the procedure or treatment;
3. The skill required to perform the procedure or treatment properly;
4. Any requirements or conditions imposed by the patient or circumstances;
5. The nature and length of the professional relationship with the patient;
6. The experience, reputation, and ability of the licensee; and
7. The nature of the circumstances under which the services are provided.

b. In any case where it is found that an excessive, unconscionable fee has been charged, in addition to any actions taken, the Board may require the licensee to reduce or pay back the fee.

18.2.9. Failure by a licensee to report a known or observed violation of this rule, and/or the provisions of the W. Va. Code §§30-14-3, or 30-14A-1.

18.3. When the Board finds that any applicant is unqualified to be granted a license or finds that any licensee should be disciplined pursuant to the W. Va. Code §30-14-3 or 30-14A-1 or rules of the Board, the Board may proceed as described in the West Virginia Board of Osteopathy rule Disciplinary and Complaint Procedures Title 24 CSR 6.

§24-1-19. Severability.

19.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions or application of this rule which can be given effect without the invalid provisions or application and to this end the provisions of this rule are declared to be severable.

FILED

2009 JUL 10 AM 11:07

OFFICE WEST VIRGINIA
SECRETARY OF STATE

The West Virginia Secretary of State
Honorable Natalie E. Tennant
Building 1, Suite 157K
State Complex
Charleston, WV 25305

Suzanne Williams, M.Div., D.O.
117D Shoestring Trail
Clintonville, WV 24931
(304) 392-5623 (h); 646-1236 (c)
July 7, 2009

Dear Secretary of State Tennant:

Enclosed please find the comments I sent to the Board of Osteopathy concerning the emergency provisions under the amendments to sections 24-1-4, 24-1-6 and 24-1-13.

Advocating for my patients and their needs was a big part of what I did as a Family Physician. Although I have not been in clinical practice since mid-2005, my role as an advocate continues and is expanding as I see the need for working with others in a concerted effort to work for changes different from the scope of the doctor-patient relationship. I am active in offering community education about mental health and the need for improvements in that area of healthcare. I am active in and through our local group of the National Alliance on Mental Illness and have relied on the expertise of individuals at the national level who are involved with Policy-Making and Legislative changes. I hope to be appointed to the committee within the West Virginia chapter of the American Academy of Family Physicians that looks at proposed changes in health care.

I believe that the Board of Osteopathy has not proven in any way that a situation exists necessitating passage of the emergency rules (24-1-4, 24-1-6, 24-1-13 and 24-1-3.3) for the **immediate** preservation of public peace, health, safety or welfare. In fact, you will note by my comments that I believe the emergency rules proposed might function in a manner detrimental to the public health.

I have included information that is/was available directly through the American Osteopathic Association (AOA) website. (See "Osteopathic Graduate Medical Education OGME 1 Year Training Options through "Appendices"). As you can see, many of the

one year post-graduate training options available through OGME 1 have nothing to do with a generalist's practice. Under AOA Resolution 42 amending Title 24-1-4 and 24-1-6, a postgraduate can cite "special circumstances" as a reason for attending an ACGME program that is from the OGME Option 1 list for one year and return to West Virginia to practice in an area of need as a generalist. (See "For Training on or After July 1, 2008" The complete form of Resolution 42 was removed from the AOA website shortly after I made the copy I have enclosed.)

My concern is the quality of care that people in this State may receive as a result of the "flexibility" resulting from the application of Rule 42 and the utilization of OCGME Option 1, along with language changes in 24-1-13. I believe the Board has overstepped the boundaries of SB 526. Instead, the Board, in its proposed changes, might have said, as applying to SB 526 30-14-4 (b) (4) (A), "in a program approved by the AOA that provides the best training for an Osteopathic Generalist Physician". This would provide that there be an excellent match between training and practice. The Title 24 wording applying to (B) would then be "in a program approved by the American Council for Graduate Medical Education that would provide the best training as an Osteopathic Generalist Physician."

I believe, based on my research into the content of various training programs, that programs well-aligned with a generalist's practice besides Family Practice might include Pediatrics potentially Internal Medicine, possibly Emergency Medicine. Nationwide there appear to be sufficient training programs already in existence (AOA and ACGME) in these fields to provide the training needed for well-trained Osteopathic Generalists this State is in need of. (I fail to see how, under OGME Option 1, one year in Orthopedic Surgery etc. could qualify an individual to practice as a generalist.) Unfortunately the need for well-trained primary care physicians has existed for such a long time that the Board cannot prove that a public health emergency exists right now. A well-deliberated plan needs to be formulated to enact SB 526.

The utilization of Resolution 42 contradicts what Counsel for the Osteopathic Board said to me in a phone conversation, June 29, 2009. Mr. Burrell's statement was that the State was in need of graduates of, in the case of Family Practice, 3 (three) year programs. These programs are requisite for Board certification, which then allows for

hospital privileges, assuming positions as Directors of Medical Education and so on. Indicating a need for graduates of multi-year programs flies in the face of the implementation of Resolution 42 which focuses on single year training for Osteopathic Generalists.

Moving on to changes in the language of 24-1-13 in which the word “**training**” has been deleted in all instances, despite the fact that:
the individual is a trainee
the individual is “**seeking** to participate in a post-doctoral clinical program involving osteopathic practice in this state”
along with the fact that 24-1-3.3 is being requested for emergency passage, a program of clinical training approved by or **subject of approval** by the AOA”, (a change regrettably allowed by SB 526)
along with the fact that I have already seen signs posted in one clinic: “Students, Interns and Residents are working **in conjunction with** (not “under the supervision of”) a “Physician on Staff” and that
nowhere in Resolution 42 nor in any of the language used under 24-1-13 is included passage of the National Board of Osteopathic Medical Examiners (NBOME) Part 3 which is necessary for full licensure,
Then, in effect, the individual may be functioning with an educational permit as a fully licensed Osteopathic Physician.

There are many Osteopathic Postdoctoral Training Institutions (OPTI). Whether or not the OPTI can further blur differences between fully licensed Osteopathic physicians and those with an Educational (training) permit (24-1-13) is worrisome. (See OPTI information). For the sake of argument: Let’s say that the D.O. intern is functioning in conjunction with Dr. Black or is seeking to participate in the educational (training) program of which Dr. Black is a staff member. Dr. Black may also be on staff of an educational training program that is not yet approved by the AOA. Let us say that an outlying clinic (OPTI) is a satellite of this educational training program so it is theoretically Dr. Black’s clinic. The unlicensed intern or resident who is functioning with an educational (training) permit or “in conjunction with” Dr. Black is functioning on his/her own. Dr. Black is not on-site. Since prescriptions are most commonly called in

from outlying clinics, the nurse might say, "Hello, this is Dr. Black's office", because, in fact, it is a satellite clinic of the educational training program where Dr. Black is located. The prescription is called in as Dr. Black's.

Although 24-1-13.4 has been revised to say, "An educational (training) permit expires on the last day of June following issuance of the permit.", the May 8, 2009 Board Newsletter stated: "The original educational permit may be valid for a period of fifteen months and subsequent educational permits issued to the same person for not more than twelve months. Watch for information on the new Rules."

Again, I can find nothing in the language of the proposed rule changes pertaining to the passage of NBOME part 3, a requisite for full licensure. The language of 24-1-13 is in essence the same as what is to be found in 24-1-8 and 24-1-9. This then seems to be creating under emergency proposed Rule changes that category of Osteopathic physicians called "Temporary Permit Holders", a category described in 24-1-11 and objected to by any number of individuals who signed petitions and wrote letters to the Board of Osteopathy.

Secretary of State, my training in a three year Family Practice program taught me to think "worst case scenario" in order to protect my patients from worst case outcomes. If I don't think about the worst case scenarios that might play out as a result of applying the Emergency Rules proposed, I believe I am failing to uphold the Oath I made when I graduated from the West Virginia School of Osteopathic Medicine in 1992: "I will be mindful always of my great responsibility to preserve the health and life of my patients and to retain their confidence and respect both as a physician and a friend... I will be ever vigilant in aiding the general welfare of the community".... I recognize that what I have sent you is quite lengthy. I hope it provides the background I thought to be relevant to the proposed Rule changes and how they might function within our State. I am

Sincerely yours,



Suzanne Williams M.Div., D.O.



AMERICAN OSTEOPATHIC ASSOCIATION

Osteopathic Graduate Medical Education (OGME) 1 Training Year Options

1. **OPTION 1 (OGME-1 Resident)**, programs will grant residency credit for the 1st postdoctoral year of training. Students will "Match" directly into the residency and the 1st postdoctoral year will be considered the first year of residency training.

Anesthesiology, Emergency Medicine, Family Practice and OMT, Family Practice/Emergency Medicine, Family Practice Integrated NMM, General Surgery, Internal Medicine, Internal Medicine/Emergency Medicine, Internal Medicine/Pediatrics, Neurological Surgery, Neurology*, Obstetrics and Gynecology, Orthopedic Surgery, Otolaryngology/Facial Plastic Surgery, Otolaryngology, Pediatrics, Psychiatry* and Urological Surgery have chosen this option.

2. **OPTION 2 (OGME-1 Preliminary)**, this option will require a preliminary internship. Programs will not grant residency credit but indicate completion of designated preliminary year curricular rotations, as prerequisites for entry into the 1st year of residency in the 2nd postdoctoral year of training. Matching successfully assures entry into both the preliminary year and the subsequent 2nd year in residency training. In most cases both preliminary year and residency will be offered in the same institution, however, in a few instances a residency may have an affiliation with another institution for the preliminary internship year.

Diagnostic Radiology, Neuromuscular Medicine and OMT, Ophthalmology, Pathology and Radiation Oncology have chosen this option.

3. **OPTION 3 (OGME-1 Traditional)**, this option represents a traditional rotating internship and stands alone. Specialties that have chosen this option prefer residents in their specialty to have completed a traditional rotating internship. In addition, this option is available to students who are undecided on future plans or for students planning on entering ACGME training. Students completing a traditional rotating internship and then desire to enter option 1 or 2 specialties must contact that specialty college to determine whether advanced standing will be granted. This option will depend on available residency positions since most will be filled with first year matched trainees advancing to the OGME-2 year.

Dermatology, Physical Medicine and Rehabilitation**, Proctologic Surgery, and Public Health and Preventive Medicine have chosen this option.

* Specialty will become Option 1 effective July 1, 2009. Current applicants for the 2009-2010 academic year will match directly into the first year of the residency.

** Specialty will become Option 2 effective July 1, 2010. Matching successfully assures entry into both the preliminary year and the subsequent 2nd year of residency training.

AMERICAN OSTEOPATHIC ASSOCIATION

**ACCREDITATION DOCUMENT FOR OSTEOPATHIC
POSTDOCTORAL TRAINING INSTITUTIONS**

AND

**THE BASIC DOCUMENT FOR POSTDOCTORAL TRAINING
PROGRAMS**

APPENDICES

Appendix 1: OGME-1 Options Grid

Option 1 (OGME-1R)	Option 2 (OGME-1P)	Option 3 (OGME-1T)
Anesthesiology	Diagnostic Radiology	Dermatology
Emergency Medicine	Neurology *	Physical Medicine and Rehabilitation
Family Practice and OMT	Neuromusculoskeletal Medicine and OMT	Public Health and Preventive Medicine
Family Practice/ Emergency Medicine	Ophthalmology	Proctologic Surgery
Integrated Family Practice / NMM	Pathology	
General Surgery	Psychiatry *	
Internal Medicine	Radiation Oncology	
Internal Medicine / Emergency Medicine		
Internal Medicine / Pediatrics		
Neurological Surgery		
Obstetrics and Gynecology		
Orthopedic Surgery		
Otolaryngology/Facial Plastic Surgery		
Pediatrics		
Urological Surgery		

*Note: Neurology and Psychiatry will be Option 2 specialties only for the 2008-2009 training year, after which they will become Option 1 specialties.

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Password:

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About OPTI

Osteopathic Postdoctoral Training Institution (OPTI)

Recognizing the need for a new system to structure and accredit osteopathic graduate medical education, the American Osteopathic Association established the Osteopathic Postdoctoral Training Institution (OPTI) in 1995.

Each OPTI is a community-based training consortium comprised of at least one college of osteopathic medicine and one hospital. Other hospitals and ambulatory care facilities may also partner within an OPTI. Community-based healthcare facilities such as ambulatory care clinics, rehabilitation centers and surgicenters may now have the resources and support necessary to provide physician training with an OPTI's assistance.

OPTIs are recognized for providing a comprehensive, seamless model of education for physician training—from colleges of osteopathic medicine through graduate medical education programs and beyond. An OPTI adds value to medical training by assuring the osteopathic concepts of holism, wellness and prevention, caring for the patient's individual health needs, environment and ability to access quality health care.

OPTI Tools

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What is an OPTI?

The Osteopathic Postdoctoral Training Institution, or OPTI, is a system for structuring and accrediting osteopathic graduate medical education established by the American Osteopathic Association (AOA) in 1995.

OPTIs are community based healthcare consortia consisting of at least one college of medicine accredited by the AOA and one or more AOA-accredited hospitals, and may include other hospitals and ambulatory healthcare facilities.

The OPTI structure was established to assure the highest quality of osteopathic medical education, to facilitate changes in graduate medical education curricula, to promote partnerships and collaboration between academic medicine and community healthcare facilities, to more effectively utilize healthcare resources, and to meet the new demands of managed care systems.

The Mountain State OPTI

Mountain State Osteopathic Postdoctoral Training Institutions, Inc. (MSOPTI) or Mountain State OPTI was accredited by the American Osteopathic Association in June, 1999. The consortium is comprised of a central member, the West Virginia School of Osteopathic Medicine, located in Lewisburg, West Virginia, and its partner hospitals. See [Affiliated Hospitals](#) for a list and locations of the MSOPTI partners.

While varied in size and scope, each MSOPTI partner hospital offers unique training opportunities for both pre and postdoctoral trainees. At the present time, postdoctoral training opportunities in the MSOPTI consortium include: traditional osteopathic internship programs, and residency programs in family practice, emergency medicine, internal medicine (with fast track internship), combined internal medicine/emergency medicine and pediatrics (with fast track internship). The consortium aims to establish additional primary care residencies and to expand the consortium by exploring potential new training sites.

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over

4. Ohio Valley Medical Center*
8. West Virginia University Hospitals
Camden-Clark Memorial Hospital
(Parkersburg, WV)

3. Logan Regional Medical Center*
5. Princeton Community Hospital*
9. Beckley VA Medical Center

**Emergency Medicine / Internal Medicine
Combined Residency**

4. Ohio Valley Medical Center*

**Pediatrics Residency
(with specialty track internship)**

1. Charleston Area Medical Center*

*Indicates a WVSOM Statewide Campus Site. These sites offer all or most of the required rotations for selected third and fourth year WVSOM students participating in the Statewide Campus program.

Sports Medicine Fellowship available through Michigan State University Statewide Campus System.



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For Training On or After July 1, 2008 | Resolution 42

Resolution 42 (A/00) "Approval of ACGME Training as an AOA-Approved Internship"

Submitted by: Bureau of Osteopathic Education / COPT
Referred to: AOA Board of Trustees



WHEREAS, the American Osteopathic Association (AOA) has had a mechanism for granting approval of Accreditation Council for Graduate Medical Education (ACGME) training as an AOA-approved internship since the late 1980s, and

WHEREAS, the current mechanism to accomplish this is Resolution 42 (A-2000), and

WHEREAS, under Resolution 42, applicants must provide a evidence of a special circumstance why they could not complete AOA accredited training and then must complete the curricula specified by the AOA as required for an osteopathic internship, and

WHEREAS, current data suggest that ninety-nine percent of applicants have their special circumstance approved, and

WHEREAS, current data suggests that over eighty percent of applicants that apply eventually have their entire training approved, and

WHEREAS, the current geographic diversity of AOA accredited programs is limited, and

WHEREAS, the AOA does not currently have training programs in several specialties (i.e., Pathology) and has very limited programs in others (i.e., Psychiatry and Internal Medicine/Pediatrics), and

WHEREAS, one goal of AOA accredited training is to provide a broad base of knowledge under the supervision of osteopathic physicians, and

WHEREAS, the AOA, through Resolution 56, provides a simplified pathway for ABMS certified osteopathic physicians to become AOA board certified, and

? →

WHEREAS, changes in the current osteopathic internship structure make amendment of Resolution 42 necessary to create an objective process, therefore be it

RESOLVED, that Resolution 42 (A/00) "Approval of ACGME Training as an AOA-Approved Internship" be substituted and revised as follows:

- A. All training submitted for review under this resolution must have been received in an ACGME-approved program.
- B. Application: A D.O. who wishes to obtain AOA OGME-1 approval for training taken in an ACGME-approved training program may request the opportunity to do so under the following special circumstances:
 - 1. There will be no special fees assessed to the applicant throughout the approval review.
 - 2. Application is made to the Secretary to the AOA Council on Postdoctoral Training.
- C. Eligibility Criteria: A D.O. participating in an ACGME program or who has completed an ACGME program is eligible to apply for approval of that training as AOA OGME-1 training when the applicant complies with program requirements listed in D.
- D. Program Requirements: To complete the approval process, the eligible D.O. must comply with the following criteria:

1. For those currently enrolled in an ACGME-approved program

- A. The applicant maintains trainee membership status in the AOA.
- B. The applicant must apply to the AOA for special consideration during his or her ACGME residency training, with notice to the appropriate AOA-recognized specialty college.
- C. Complete all the rotational curricular requirements of AOA-approved OGME-1 year within the ACGME program. This may be the requirements of a traditional internship (option 3), a preliminary internship (option 2) or other OGME-1 year (option 1).
- D. Attend no less than 8 credit hours of an AOA-approved osteopathic meeting(s). This may include a regional or national meeting of the AOA, an AOA-affiliated specialty society or an AOA-affiliated state society. This may also include an educational activity sponsored by a COM, an OPTI or a hospital with AOA-approved graduate medical education training program(s).
- E. Develop and present a lecture on osteopathic medicine or osteopathic principles and practice in their home training program.

2. Those who have completed an ACGME-approved first year of postgraduate training prior to July 1, 2008 must apply for approval under the provisions of resolution 42 (a/00).

3. Those who matriculated into an ACGME-approved first year of postgraduate training after July 1, 2008 and did not complete the following requirements from

D.1.B. (Apply to the AOA for special consideration during his or her ACGME residency training, with notice to the appropriate AOA-recognized specialty college);

D.1.D. (Attend no less than 8 credit hours of an AOA-approved osteopathic meeting(s). This may include a regional or national meeting of the AOA, an AOA-affiliated specialty society or an AOA-affiliated state society. This may also include an educational activity sponsored by a COM, an OPTI or a hospital with AOA-approved graduate medical education training program(s));

D.1.E. (Develop and present a lecture on osteopathic medicine or osteopathic principles and practice in their home training program); must complete the following requirements:

A. Maintain membership status in the AOA.

→ B. Show evidence of completion of all the current rotational curricular requirements of AOA-approved OGME-1 year within the ACGME program. This may be the requirements of a traditional internship (option 3), a preliminary internship (option 2) or other OGME-1 year (option 1).

C. Use an alternative pathway (resolution 56) to obtain AOA board certification in their primary specialty; and be it further

RESOLVED, that the COPT and its subcommittees, and staff, shall review and update the approved activities listed in D.1.c and D.3.b above, as may be determined; and be it further

RESOLVED, that the administrative staff of the department of education shall review applications under this program and act on approval, or other status if deficiencies are identified. All staff recommendations of an OGME-1 application will be referred to the executive committee of the program and trainee review council (ECPTRC) for decision. Regular reports will be prepared for review by the PTRC. All ECPTRC recommendations for denial of an OGME-1 application will be referred to the program and trainee review council (PTRC) for decision; and be it further

RESOLVED, that the following administrative guidelines be approved:

- A. The applicant must comply with the provisions of this resolution.

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given p3
exception G

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B. All DOs participating in ACGME training, who have not completed an AOA approved OGME-1, and who meet the Eligibility Criteria provisions are eligible to apply under the provisions of this program.

C. The applicant must complete a one-page AOA form, and place this on file in the AOA Department of Education, with a copy to the relevant specialty college.

D. The AOA Education Department/Trainee Services will assess each application within 30 days of receipt to determine that the application is in order and complete. If the application is determined not to be complete, the AOA staff will notify the applicant within 7 working days.

C ← E. If the application is complete, the applicant will be notified of such within 7 working days.

F. Of training under this resolution will be granted only after the applicant completes their first year of post-graduate training. ?

G. The PTRC may waive the curricular requirements in D. 1. C. And D. 3. B. If it is determined that there are not sufficient AOA approved training opportunities in a particular specialty.

H. The applicant must complete all training within two calendar years of the application date. If this does not occur, the application will be considered closed.

I. This process may not supplant the advanced standing requirements of any specialty college.

J. Proof of all missing requirements must be submitted to the AOA no later than 90 days after the completion of a trainee's postdoctoral education.

ex: 2009 / Send off Peds
ACGME
1st yr. Peds
strict
states rotating internship

I thought I could run more copies of this, so tore off the bottom for a note to myself to check another site. Now the Resol as an ~~entire~~ page entire document has been removed 2/2/09

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For Physicians

Resolution 42 Summary

Basic Criteria

- A. There will be no special fees assessed to the applicant throughout the approval review.
- B. A D.O. participating in an ACGME program or who has completed an ACGME program is eligible to apply for approval of that training as AOA OGME-1 training when the applicant complies with program requirements
- C. The applicant must complete all training within two calendar years of the application date. If this does not occur, the application will be considered closed.

Requirements of Approval

- A. The applicant must complete a one-page AOA form, and place this on file in the AOA Department of Education
- B. Maintain membership status in the AOA.
- C. Complete all the rotational curricular requirements of AOA-approved OGME-1 year within the ACGME program. This may be the requirements of a traditional internship (option 3), a preliminary internship (option 2) or other OGME-1 year (option 1).
 - 1. Graduates in 2008 or after: choose the method of comparison for their rotations: OGME-1 specialty year or traditional rotating internship
 - 2. Graduated prior to 2008 rotations are compared to the traditional rotating internship
- D. Attend no less than eight credit hours of an AOA-approved osteopathic meeting(s). This may include a regional or national meeting of the AOA, an AOA-affiliated specialty society or an AOA-affiliated state society. This may also include an educational activity sponsored by a COM, an OPTI or a hospital with AOA-approved graduate medical education training program(s).

OR

Develop and present a lecture on osteopathic medicine or osteopathic principles and practice in their home training program.

Review Process

- A. Administrative staff of the AOA department of education shall review applications under this program and act on approval, or other status if deficiencies are identified.
- B. All staff recommendations of an OGME-1 application will be referred to the executive committee of the program and trainee review council (ECPTRC) for decision.
- C. All ECPTRC recommendations for denial of an OGME-1 application will be referred to the program and trainee review council (PTRC) for decision
- D. The AOA Education Department/Trainee Services will assess each application within 30 days of receipt to determine that the application is in order and complete.
- E. If the application is determined not to be complete, the AOA staff will notify the applicant within 7 working days.
- F. Proof of all missing requirements must be submitted to the AOA no later than 90 days after





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ACGME Training On or After July 1, 2008

Helpful Tips (Resolution 42)

Timing:

- A trainee interested in completing Resolution 42 should apply for consideration of their training during their PGY1 year.
- The Program and Trainee Review Council meets three times a year to review applications.
- An application will not be reviewed until the AOA has received proof that the trainee has completed his/her PGY1 year.
- Mail transit and processing can add a week or more to the amount of time elapsed before the AOA receives your application.
- Applicants, who are approved pending completion of requirements, should submit verification of completion within ninety (90) days of completing the requirement.
- A trainee who is approved pending completion of a requirement must submit proof of completion of the missing requirement(s) within ninety (90) days of completing his/her postdoctoral training.

duff?

Requirements:

- The trainee must be a member in good standing of the AOA.
- Trainees are responsible for negotiating rotational changes with their programs.
- A trainee may attend an AOA annual meeting, state osteopathic annual meeting, specialty college annual meeting or prepare and conduct an osteopathic clinical presentation to satisfy the educational activity requirement.
- All osteopathic clinical presentations are reviewed and subject to approval or disapproval by a representative of the Program and Trainee Review Committee.

Documentation:

- In order to ensure the correct information is requested and received from your training program, applicants must fill out the Resolution 42 application and Release of Information Authorization form.
- If a trainee applies during his/her PGY1 year, the AOA must receive proof that the trainee successfully completed his/her PGY1 year before the PTRC can issue a final decision.
- Applicants, who choose the Osteopathic Clinical Presentation option, must submit a hard copy (i.e. printout) of the presentation. A letter signed by the trainee's Program Director or DME must be sent along with the presentation verifying the date and title of the presentation.
- Applicants who choose to attend the AOA Annual Convention and Scientific Seminar, or the annual meeting of the relevant osteopathic specialty college or AOA-affiliate divisional society are responsible for obtaining a certificate of attendance. The educational activity must be submitted to the AOA Division of Certification and Trainee Services for verification.

Contact info

Barbara Coleman
Intern Trainee Coordinator
bcoleman@osteopathic.org

OR

Tom Duffy
Manager, OPTI & Trainee Services
tduffy@osteopathic.org

Phone: (800) 621-1773 x8276
Fax: (312) 202-8203

Mail
Division of Certification and Trainee Services
American Osteopathic Association
142 East Ontario Street
Chicago, IL 60611



West Virginia Board of Osteopathy
NEWSLETTER

334 Penco Road
Weirton WV 26062

(304) 723-4638

May 8, 2009

IMPORTANT

FOR YOUR INFORMATION—PLEASE READ AND KEEP—DO NOT RETURN TO OUR OFFICE

West Virginia Board of Osteopathy is Moving

After 23 years of service to the WV Board of Osteopathy, Mrs. Cheryl Schreiber, Executive Secretary will be retiring this fall. Mrs. Schreiber has devoted much of her time, knowledge and expertise to keeping the public aware of the osteopathic profession and we thank her for that. Cheryl was recently presented with the George S. Palmer, MD Award for Excellence by the Administrators in Medicine organization. We wish her the best as she continues in her work as a CPA. A search is currently being conducted to find a replacement for this position, with over 60 candidates applying.

The Board office will also be moving to Charleston, WV. At this time, a location has not been found; but, more information will be sent to you as it becomes available.

Legislative Changes to be Made

Senate Bill 526 was passed by the WV Legislature. This bill revises requirements for post-doctoral training as a requirement for licensure and provides for educational permits for post-doctoral clinical training. The changes have been made to our law and an emergency legislative rule with further details and explanations will be introduced in the near future.

Under the new law an applicant for licensure must complete a minimum of one year of postdoctoral, clinical training in a program approved by the AOA, OR, a minimum of one year of postdoctoral, clinical training in a program approved by the ACGME and forty hours of CME in OMM and OMT in courses approved, and classified as Category 1A, by the AOA.

The original educational permit issued may be valid for a period of fifteen months and subsequent educational permits issued to the same person may be valid for not more than twelve months. Watch for information on the new rules.

National Plan and Provider Enumeration System (NPPES)

The Administrative Simplification provisions of HIPAA mandated the adoption of standard unique identifiers for health care providers and health plans - a NPI number. All health care providers are eligible for NPIs and may apply for them. Because medical students, interns, residents and fellows are health care providers, they are eligible for NPIs. If interns or residents prescribe medications for patients whose prescriptions are filled by pharmacies, refer patients to other health care providers, or order tests for patients from other health care providers, they will need to be identified as prescribers or providers, and it may be necessary for them to have NPIs so the pharmacies and providers may be reimbursed by health plans. A health care provider should deactivate its NPI in certain situations, such as retirement or death of an individual, disbandment of an organization, or fraudulent use of the NPI. To deactivate an NPI, you must complete a CMS-10114 and mail it to the NPI Enumerator. For more information, please go to www.nppes.cms.hhs.gov.

Prescription Drug Abuse is on the Rise in WV

- In 2006, drug overdoses were the leading cause of death for adults under the age of 45. These rates were the highest in the country.
- In 2005, approximately 250,000 West Virginians were using some sort of prescription drugs for non-medical reasons. These facts are from the WV Prescription (Rx) Drug Abuse Quitline (1-866-WV QUITT) This organization received a grant to provide service, outreach and research on prescription drug abuse in WV. Check out their website at www.wvrxabuse.org.

WEST VIRGINIA SCHOOL OF OSTEOPATHIC MEDICINE

10th Consecutive Year of being ranked as a Top Medical School in the Nation by US News & World Report

Comments re Changes Proposed on an Emergency Basis re Series 1

SB 526 does not mandate the use of Resolution 42 (R42) of the American Osteopathic Association (AOA). The Summary of Proposed Rules “opens up the requirements for admission to practice in this State.” Opening up requirements should never be confused with a change in standards such as Resolution 42 allows.

Re: 24-1-4 and 24-1-6

In my conversations with the AOA “Intern Training Program” about the application of R42, it allows for Osteopathic medical school graduates (whether an in- or out-of-state graduate) to obtain the minimum of one (1) year of post-graduate training in an AOA or ACGME (i.e. American College of General Medical Examiners – Allopathic or M.D.) program along with programs approved under AOA R42. AOA R42 approval can be granted to either AOA or ACGME programs. (Parenthetically, it is regrettable that SB 562 passed unchallenged with respect to “programs subject of approval by the AOA.” Training programs do fail to be approved, making the quality of training received suspect)

Resolution 42 allows a medical school graduate to state that they are in the post-graduate program they are “due to need”. How clearly that “need” has to be spelled out is a matter of debate.

Per my conversation with the AOA “Intern Training Program”, R42 also allows an Osteopathic medical school graduate to begin their post-graduate training in a field such as Psychiatry or Pathology. Neither of these fields (among many others) offer the content in training that has parity with post-graduate programs geared towards the Osteopathic Generalist Practitioner.

Thus, my concern, along with the Osteopathic Licensing Board members of other states is that R42 allows a mechanism by which 1. the authority to grant approval of a training program’s parity to that of a generalists’ is granted to the AOA, and not the Licensing Board, that 2. it allows the trainee to invoke “special needs circumstances” without being detailed about that, 3. the Board utilizes the term “area of need”, not Health Professional Shortage Area, nor Medically Underserved Area/Population to determine where physicians are to go AND 4. that it allows an individual to return to the State to practice with one year of training that is inadequate to that of a General Practitioner’s and

inadequate to the needs of patients an Osteopathic Generalist is likely to see.. It is the case that other Osteopathic Licensing Boards are looking carefully at the inclusion and application of R42 due to its potential ramifications for quality healthcare in their states.

SB526 (which the Osteopathic Board actively sought introduction and passage of) gives a definition of "Permit" that opens a door insofar as it states "practice osteopathic medicine and surgery in the State while serving under special circumstances..." That sentence goes on in such a way that it is apparently the reason for the Board seeking to pass 24-1-13 on an emergency basis. I will address this later. The fact that this definition invokes "special circumstances", not at all defined, and that the Board is attempting to include R42 which also invokes, in effect, "special circumstances" ("need" – again without defining what constitutes the need and the Board uses the term "area of need" – which is almost all of the counties in West Virginia, see comments re HPSA, MUA/P) makes this quite a slippery slope towards healthcare of patients that is likely to be: 1. of lesser quality than that obtainable otherwise, due to the manner in which it was obtained (using R42), 2. fraught with the likelihood of increased litigation due to the circumstances of training acquired under R42 , 3. a cause of increased referrals and testing due to a lower "comfort level" because of the lack of a generalist's training, 4. resulting in increased healthcare costs, and 5. of minimal relevance to Osteopathy as a unique profession, particularly in regard to the use of Osteopathic Manipulative Treatment (OMT), also referred to as Osteopathic Manipulative Medicine. While 40 hours of continuing medical education classified as AOA 1A is required (24-1-6.2b and 24-1-4b), typically those only contain 6 - 9 hours of OMM/OMT.

The 3 entire portions of the Rule being considered for emergency passage seem to blur the lines considerably between what a Permit Holder is and a fully licensed Osteopathic physician. In reading through the proposed changes, because of how language is used, it would appear that those coming to practice in West Virginia under R42 might in fact be on par with a "Temporary Permit Holder" and those receiving an "Educational (Training) Permit" be able to practice in clinics outlying from their supervising programs' location. I will make the comment here re 24-1-13 that in ALL instances where the word "Training" has been struck, it should continue in usage. Since section 1-13 has to do with "trainees"

they are clearly in a training program. If for no other reasons than internal consistency, the word "training" should be retained. It needs to be clear as to when a post-graduate Osteopathic Physician's services can be billed for independently of their supervising physician in their training program.

Lastly, nowhere can I see that the Licensing Board has proven, with facts, statistics or data the need for implementation of 24-1-4, 24-1-6 and 24-1-13 on an emergency basis to **immediately** preserve the public peace, health, safety or welfare of the citizens of this State. While it is unfortunate to say the least that there is a dire shortage of physicians in the State, that has been true for a number of years and little has changed to make it an emergency state of affairs necessitating immediate or emergency change.

In fact, it is my belief that, if implemented as written, 24-1-4, 24-1-6, and 24-1-13 actually represent more of a risk to health of the people in West Virginia than a benefit. It is NOT true, as one Senator told me as we spoke about this legislation that "Some healthcare is better than no health care." All West Virginians deserve quality healthcare with means for ensuring that quality, not potentially eroding it with these emergency rules' passage.

Respectfully submitted,

Suzanne D. Williams M.Div. D.O.

June 30, 2009 15:37 PM (3:37 PM)

License #1632

West Virginia School of Osteopathic Medicine 1992

Board Certified: American Academy of Family Physicians and American Academy of Osteopathic Family Physicians