

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

Form #8

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE

AGENCY: West Virginia Board of Osteopathy TITLE NUMBER: 24

DATE EMERGENCY RULE WAS ORIGINALLY FILED: June 14, 2010

FIRST EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

SECOND EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

DATE OF FIRST EMERGENCY AMENDMENT: _____

SERIES NUMBER OF RULE: 2

TITLE OF RULE: Osteopathic Physician Assistants

THE ATTACHED IS AN EMERGENCY AMENDMENT TO AN EXISTING EMERGENCY RULE. THIS EMERGENCY AMENDMENT BECOMES EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY AMENDMENT ARE AS FOLLOWS:

Following the original filing of the Emergency Rule, the WV Board of Osteopathy put its proposed Legislative Rule out for public comment. As a result of comments received, the Board amended the rule that it proposed to the Legislature. Since there is a significant difference between the existing Emergency Rule and the proposed Legislative Rule relating to prescription privileges, there is now a time window in which applicants are subject to more stringent application requirements than those that the Legislature is likely to approve.

For this reason, the West Virginia Board of Osteopathy seeks to amend section 24-4-8 of the Rule to conform to the requirements now proposed in the Legislative Rule submitted to the Legislative Rule-Making Review Committee. The principal effects of these amendments is to reduce the amount of classroom instruction in pharmacology that is required to qualify for prescription privileges and to eliminate the requirement for written prescriptions to contain a complete list of authorized pharmaceuticals.

Use additional sheets if necessary


Authorized Signature

**TITLE 24
LEGISLATIVE RULES
WEST VIRGINIA BOARD OF OSTEOPATHY**

**SERIES 2
OSTEOPATHIC PHYSICIAN ASSISTANTS**

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SECRETARY OF STATE

§24-2-1. General.

1.1. Scope. -- This rule establishes requirements and procedures for the licensing, employment and discipline of osteopathic physician assistants in this State. This rule also establishes the scope of practice of osteopathic physician assistants, the extent to which osteopathic physician assistants may function and the responsibilities of osteopathic physicians in supervising physician assistants.

1.2. Authority. -- WEST VIRGINIA CODE §30-14A-1.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule -- This legislative rule repeals and replaces WV 24CSR2, "Osteopathic Physician Assistants," filed May 1, 2007, and effective May 1, 2007.

§24-2-2. Definitions.

As used in this rule, these terms shall have the following meanings:

2.1. Assistant -- An osteopathic physician assistant licensed by West Virginia Board of Osteopathy or applying to the Board for a license.

2.2. Board -- The West Virginia Board of Osteopathy

2.3. Health care facility -- Any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic or physician's office.

2.4. Licensure -- The Board's authorization of individuals to practice as osteopathic physician assistants and the process of application and consideration for this authorization.

2.5. NCCPA. -- The National Commission on the Certification of Physician Assistants.

2.6. Osteopathic physician assistant -- A person trained as a physician assistant who practices, or proposes to practice at the direction, and under the supervision of, a doctor of osteopathic medicine and surgery.

2.7. Protocol. -- Written treatment instructions prepared by a supervising osteopathic physician for use by a physician assistant.

2.8. Satellite operation. -- An office or clinic separate and apart from the office of the supervising osteopathic physician, established by the osteopathic physician and staffed, in part, by a physician assistant.

2.9. Supervising physician – A doctor of osteopathic medicine and surgery, or a designated alternate doctor, who has been approved by the Board to supervise and direct an osteopathic physician assistant.

2.10. Supervision. -- The opportunity or ability of the osteopathic physician to provide or exercise control and direction over the services of an osteopathic physician assistant.

§24-2-3. Licenses and Qualifications for Practice as an Osteopathic Physician Assistant.

3.1. In order to practice as a physician assistant to an osteopathic physician in this state, a person must be licensed by the West Virginia Board of Osteopathy. The Board is authorized to grant two types of licenses: a regular or “full” license and a temporary license.

3.2. The minimum requirements for a regular license are as follows:

a. Graduation from a program, approved by the Board, of instruction in primary health care or surgery;

b. A passing score on an examination for a primary care or surgery physician assistant administered by, or on behalf of, the National Commission on Certification of Physician Assistants;

c. Demonstration of good moral character; and

d. A written job description, filed with, and approved by, the Board.

3.3. The minimum requirements for a temporary license are as follows:

a. Graduation from a program, approved by the Board, of instruction in primary health care or surgery;

b. Demonstration of good moral character; and

c. A written job description, filed with, and approved by, the Board.

§24-2-4. Osteopathic Physician Assistant's Scope of Practice.

4.1. A person may only practice as an osteopathic physician assistant in this state under license granted by the West Virginia Board of Osteopathy, under the supervision of an osteopathic physician holding a full, unrestricted license from this Board, and may only perform those services for which he or she has been trained and authorized, as specified in a written job description filed with, and approved by, the Board.

4.2. The osteopathic physician assistant may, under appropriate direction and supervision by an osteopathic physician, augment the osteopathic physician's data gathering abilities in order to assist the supervising osteopathic physician in reaching decisions and instituting care plans for the osteopathic physician's patients. An osteopathic physician assistant should have, as a minimum, the knowledge and competency to perform the following functions and may, under appropriate supervision, perform them:

- a. Screen patients to determine the need for medical attention;
- b. Review patient records to determine health status;
- c. Take a patient history;
- d. Perform a physical examination;
- e. Perform development screening examinations on children;
- f. Record pertinent patient data;
- g. Make decisions regarding data gathering and appropriate management and treatment of patients being seen for the initial evaluation of a problem or the follow-up evaluation of a previously diagnosed and stabilized condition;
- h. Prepare patient summaries;
- i. Initiate requests for commonly performed initial laboratory studies;
- j. Collect specimens for, and carry out, commonly performed blood, urine and stool analyses and cultures;
- k. Identify normal and abnormal findings in patient history and physical examination and in commonly performed laboratory studies;
- l. Initiate appropriate evaluation and emergency management for emergency situations; for example, cardiac arrest, respiratory distress, injuries, burns and hemorrhage; and
- m. Provide counseling and instruction for common patient questions.

4.3. An osteopathic physician assistant may sign orders to be countersigned later by his or her supervising osteopathic physician: Provided, That they are not in conflict with rules or regulations of the facility in which the osteopathic physician assistant practices.

4.4. Identification of osteopathic physician assistant. -- When functioning as an osteopathic physician assistant, the osteopathic physician assistant shall wear a name tag that identifies the wearer as an osteopathic physician assistant.

4.5. Practice within Emergency Departments

a. An osteopathic physician assistant may provide medical care or services in an emergency department as long as he or she has training in emergency medicine, functions under specific protocols which govern his or her performance, and is under the supervision of an osteopathic physician with whom he or she has ready contact and who is willing to assume full responsibility for the osteopathic physician assistant's performance.

b. An osteopathic physician assistant shall identify him- or herself to the patient as a physician assistant and shall not render non-emergency outpatient medical services until the patient has been informed of this fact.

4.6. Limitations on employment and scope of duties of osteopathic physician assistants.

a. No osteopathic physician assistant shall be supervised by, or work for, more than three supervising physicians at one time.

b. An osteopathic physician assistant shall not perform any services that are not included in his or her job description and approved by the Board.

c. An osteopathic physician assistant shall not perform any services that his or her supervising osteopathic physician is not qualified to perform.

d. An osteopathic physician assistant shall not maintain an office separate and apart from the supervising osteopathic physician's primary office for treating patients, unless the Board has granted the supervising osteopathic physician specific permission to establish a satellite operation.

e. An osteopathic physician assistant shall not sign prescriptions except in the case of certain osteopathic physician assistants authorized to do so by the Board in accordance with the provisions of section 8 [§24-2-8] of this rule.

f. An osteopathic physician assistant may not independently bill patients for services provided.

g. An osteopathic physician assistant may not independently delegate a task assigned to him or her by his or her supervising osteopathic physician to another individual; or

h. An osteopathic physician assistant may not pronounce a patient dead, except in a setting where state or federal government rules or regulations permit a registered nurse or an osteopathic physician assistant to do so.

4.7. The osteopathic physician assistant shall notify the Board of any change in his or her employment within ten days of that change.

§24-2-5. Supervision of Osteopathic Physician Assistants.

5.1. An osteopathic physician may *only* practice under the supervision and control of a physician who holds a full, unrestricted license to practice in this state. It is a necessary element of "supervision" that the supervising physician be available to the osteopathic physician assistant. This supervision must be maintained at all times. The osteopathic physician assistant may function in any setting within which the supervising osteopathic physician routinely practices, but in no instance shall a separate place of work for the physician assistant be established.

5.2. Requirements and Scope of Supervision

a. For an osteopathic physician assistant with a Temporary License, the supervising physician must be present on the premises where the osteopathic physician assistant practices at all times while the assistant is working.

b. For an osteopathic physician with a regular License, the supervising physician must be available for consultation and have the ability to direct the actions of the assistant, but the supervising physician's physical presence is not required. For a regularly licensed osteopathic physician assistant, this requirement may be satisfied if the physician and assistant are, or can easily be, in contact with each other by radio, telephone or telecommunication.

c. An appropriate degree of supervision includes:

1. The active and continuing overview of the osteopathic physician assistant's activities to determine that the supervising osteopathic physician's directions are being implemented;

2. The availability of the supervising osteopathic physician to the osteopathic physician assistant for all necessary consultations;

3. Personal and regular (at least monthly) review by the supervising osteopathic physician of selected patient records upon which entries are made by the osteopathic physician assistant. The supervising osteopathic physician shall select patient records for review on the basis of written criteria established by the supervising osteopathic physician and the osteopathic physician assistant and these records shall be of sufficient number to assure adequate review of the osteopathic physician assistant's scope of practice, and;

4. Periodic (at least monthly) education and review sessions discussing specific

conditions, protocols, procedures and specific patients, held by the supervising osteopathic physician for the osteopathic physician assistant under his or her supervision.

5.3. Responsibilities of the Supervising Osteopathic Physician.

a. The supervising osteopathic physician is responsible for observing, directing and evaluating the work, records and practices performed by the osteopathic physician assistant.

b. A supervising osteopathic physician shall not permit an osteopathic physician assistant to practice medicine independently.

c. The supervising osteopathic physician shall notify the Board in writing of any termination of the employment of his or her osteopathic physician assistant within ten days of the termination.

d. The supervising osteopathic physician is legally responsible at all times for patient care and services provided by the osteopathic physician assistant.

e. It is the supervising osteopathic physician's responsibility to be alert to patient complaints concerning the type or quality of services provided by the osteopathic physician assistant.

f. The supervising osteopathic physician shall monitor and supervise the activities of the osteopathic physician assistant and require documentation, including organized medical records. The supervising osteopathic physician may also provide written protocols, consistent with sound practices of evidence-based medicine, for the use of the osteopathic physician assistant in the performance of delegated tasks. The established protocols shall be available for public inspection upon request and may be reviewed by the Board as required.

g. The supervising osteopathic physician shall maintain appropriate records of supervisory contact and make them available for Board review if required.

h. In the supervising osteopathic physician's office and any satellite operation, a notice plainly visible to all patients shall be posted in a prominent place explaining the meaning of the term "Osteopathic Physician Assistant". The osteopathic physician assistant's license must be prominently displayed in the office and any satellite operation in which he or she may function. Duplicate licenses may be obtained from the Board if required.

5.4. Designation of an alternate supervising physician.

a. It is the responsibility of the supervising osteopathic physician to ensure that supervision is maintained in his or her absence. The supervising osteopathic physician may designate, to the Board, one or two other licensed physicians to serve as alternate supervising physicians in the absence of the primary supervisor. The supervising osteopathic physician shall not delegate patient care to his or her osteopathic physician assistant unless he or she has made appropriate arrangements for an alternate supervising physician.

b. The legal responsibility for the acts and omissions of the osteopathic physician assistant remains with the supervising osteopathic physician at all times.

c. A supervising osteopathic physician may designate an allopathic physician (or M.D.) as an alternate supervising physician; however, the physician and the physician assistant should consult the West Virginia Board of Medicine to determine the extent to which an M.D. may serve as an alternate supervising physician and the requirements of that agency for licensure and supervision of physician assistants. The designation of an M.D. as alternate supervisor for an osteopathic physician assistant does *not* release or relieve a physician assistant or a physician from responsibility for complying with the rules of the West Virginia Board of Medicine.

§24-2-6. Application for License.

6.1. An application for an osteopathic physician assistant license consists of a completed application form designated by the Board, a written job description, documentation of meeting the statutory requirements for licensure, and payment of the appropriate license fee. The applicant shall verify that the application is true and accurate.

6.2. Job description – The delegation of certain acts to a physician assistant shall be stated on the job description in a manner consistent with sound medical practice and with the protection of the health and safety of the patient in mind. The services shall be limited to those which are educational, diagnostic, therapeutic or preventive in nature and may, according to the standards set by his or her supervising osteopathic physician, allow the osteopathic physician assistant to formulate a provisional diagnosis and treatment plan which may be set by standard protocols of his or her supervising osteopathic physician and are under his or her direction.

6.3. If approved by the Board, the job description serves as a condition upon the license of the osteopathic physician assistant and a boundary on the scope of that person's practice. These limitations shall carry through when a license is renewed for the duration of licensure, unless the Board approves an amendment to, or modification of, the job description.

6.4. The filing of an application does not entitle an osteopathic physician assistant to practice. Authorization to practice is granted solely through the Board's approval of the application and issuance of a license.

6.5. It is the applicant's responsibility to provide all documentation required by the Board and the WEST VIRGINIA CODE. Where the Board may be required to obtain documentation from the original source of the information, the applicant shall execute any authorization that is required by that source to disclose or release that information.

6.6. The Board will not consider an application or decide upon the issuance of a license to an applicant until the complete application, including all third-party documentation or verification, is on file with the Board and the board has had at least fifteen days to review the application.

6.7. When the Board considers an application for license or a challenge to the Board's denial of license, the applicant bears the burden of proving that he or she is qualified to practice as an osteopathic physician assistant in this state.

§24-2-7. Renewal of License; Responsibilities for Maintenance of License.

7.1. An application for renewal of an osteopathic physician assistant license consists of a completed application form designated by the Board, a report of the assistant's activity during the previous licensing period, a report of continuing medical education undertaken by the licensee, documentation of meeting the statutory requirements for licensure, and payment of the appropriate license fee. The applicant shall verify that the application is true and accurate.

7.2. An osteopathic physician assistant and the supervising osteopathic physician shall prepare a written report on the professional conduct, capabilities, and performance of the osteopathic physician assistant during the preceding license period. This report must be signed by the assistant and the supervising osteopathic physician and it must accompany the application for renewal of license.

7.3. All regular licenses issued by the Board expire on the second March 31st following the issuance of the license. The Board is not authorized to grant a temporary extension of a license or allow a grace period to complete an application for renewal. To maintain licensure without lapse or interruption, the osteopathic physician assistant shall ensure that all application materials are received at the Board's office on or before March 31st of the year when the current license is due to expire. The Board will not give immediate or expedited consideration to any application received after that date.

7.5. Continuing Education -- For renewal of a regular osteopathic physician assistant licensee, the licensee shall provide written documentation of participation in, and successful completion of, a minimum of one hundred hours of continuing education in courses approved by the Board during the preceding two-year period.

7.6. The osteopathic physician assistant shall provide the Board with the address of his or her residence, a personal telephone number, the address of his or her place of employment and a telephone number where he or she may be reached while working as an osteopathic physician assistant. A licensed osteopathic physician assistant has a duty to notify the Board of any changes to this information within ten days of the change.

§24-2-8. Limited Prescriptive Privileges for Osteopathic Physician Assistants.

8.1. The Board shall approve a formulary classifying pharmacologic categories of all drugs which may be prescribed by an osteopathic physician assistant who is authorized by the Board to prescribe drugs. The formulary shall exclude Schedules I and II of the Uniform Controlled Substances Act, anticoagulants, anti-neoplastics, radiopharmaceuticals, general anesthetics and

radiographic contrast materials. The formulary may be revised annually, and shall include the following designated sections:

- a. Section A. -- A selection of drugs commonly used in primary care, outpatient settings; and
- b. Section B. -- Additional drugs, used less commonly in primary care, outpatient settings, to be prescribed only under the following limited situations:

- 1. On a direct order from the supervising osteopathic physician to the osteopathic physician assistant during consultation at the time of the patient's examination by the osteopathic physician assistant, and specifically noted in the patient's chart; or

- 2. On a refill prescription for a previously diagnosed and stable patient whose prescription was initiated by the supervising osteopathic physician.

8.2. An osteopathic physician assistant may apply for the authority to issue written, oral and electronic prescriptions for drugs specified in the formulary if all of the following conditions are met:

- a. The osteopathic physician assistant has performed patient care services for a minimum of two years immediately preceding the application for limited prescriptive privileges;
- b. The osteopathic physician assistant has successfully completed an accredited course of instruction in clinical pharmacology, comprised of weekly instruction over a total period – though not necessarily a contiguous block of instruction- at least one academic year, for a minimum of four semester hours or the equivalent thereof;
- c. The osteopathic physician assistant has a current, valid national certification, issued by the NCCPA, including the completion of a minimum of ten hours in continuing education in rational drug therapy for each period of national certification; and
- d. The supervising osteopathic physician specifies the drugs or classes of drugst hat the osteopathic physician assistant will utilize for care and treatment of patients.

8.3. To apply for limited prescription-writing privileges, an osteopathic physician assistant shall complete an application form, designated by the Board, and submit a description of the physician assistant's work experience, a transcript showing completion of the required classes in clinical pharmacology, an exemplar of a prescription form to be used by the osteopathic physician assistant, a designation of the drugs to be prescribed if privileges are granted, and information sufficient to allow the Board to verify that the applicant has completed all statutory requirements.

8.4. Drugs to be prescribed by an individual osteopathic physician assistant must be designated for the Board on a form signed by the supervising osteopathic physician and countersigned by the osteopathic physician assistant. If the prescription writing privilege is

granted, this form shall be incorporated as part of the job description of the osteopathic physician assistant. A prescription drug that is not included in the Board's approved formulary shall not be contained in the job description of any osteopathic physician assistant

8.5. Content and Use of Prescription Form

a. The prescription used by an osteopathic physician assistant approved for limited prescriptive privileges shall include the name of the supervising osteopathic physician, the name of the osteopathic physician assistant, the address of the health care facility or office where the osteopathic physician assistant is employed, and the telephone number of the facility or office.

b. For each prescription, the osteopathic physician assistant shall write the name of the patient, the patient's address and the date on each prescription form. Then the osteopathic physician assistant shall sign his or her name to the prescription, followed by the letters "PA-C." No written prescription is valid without this signature and designation. If the osteopathic physician assistant is authorized to issue prescriptions for Controlled Substances listed on Schedules III, IV or V of the Uniform Controlled Substances act, the osteopathic physician assistant shall include his or her Federal Drug Enforcement Administration number on any prescription for one of these substances.

c. An osteopathic physician assistant may prescribe, and issue refill orders for, drugs that are not Controlled Substances for a period of up to six months. An osteopathic physician assistant may not prescribe Schedule III drugs in an amount or duration exceeding a seventy-two hour supply and no refills may be prescribed by the osteopathic physician assistant. The maximum amount of Schedule IV or Schedule V drugs shall be no more than a thirty-day supply.

d. Each prescription and subsequent refills given by the osteopathic physician assistant shall be entered on the patient's chart.

e. Prescriptions issued by an osteopathic physician assistant shall be issued consistent with the supervising osteopathic physician's directions or treatment protocol provided to his or her osteopathic physician assistant. The maximum dosage shall be indicated in the protocol and in no case may the dosage exceed the manufacturer's recommended therapeutic dose for that drug.

8.6. An osteopathic physician assistant's limited prescriptive privileges are incidental to, and expire with, the physician assistant's license. In order to maintain limited prescriptive privileges, the osteopathic physician assistant shall include evidence of completion of all conditions for the granting of limited prescriptive privileges with his or her biennial renewal application and report to the Board.

8.7. The Board shall deny any application for limited prescriptive privileges to an applicant who, and shall revoke the prescription writing privileges of any osteopathic physician assistant licensed or otherwise lawfully practicing within this state who, is found guilty by any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing,

mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law.

8.8. The Board shall provide the West Virginia Board of Pharmacy with a list of osteopathic physician assistants with limited prescriptive privileges and shall update the list within ten days after additions or deletions are made.

8.9. Nothing in this rule shall be construed to permit any osteopathic physician assistant to prescribe or dispense drugs independently of his or her practice under the supervising osteopathic physician.

§24-2-9. Denial of License; Disciplinary Actions.

9.1. Grounds for Denial or Disciplinary Sanction - The board may deny an application for license, place a licensee on probation, suspend, limit, restrict or revoke any license or privilege issued under this rule for any of the following reasons:

a. Any of the grounds cited in section 18 of the Board's rule 24CSR1, "Licensing Procedures for Osteopathic Physicians;

b. Failure to comply with any portion of this rule or the provisions of WEST VIRGINIA CODE §30-14A-1 *et seq.*;

c. Impersonation of a licensed osteopathic physician or another certified or licensed osteopathic physician assistant;

d. Misrepresentation that the osteopathic physician assistant is an osteopathic physician or that the osteopathic physician assistant holds any position for which he or she is not qualified by license, training, or experience;

e. Permitting another person to represent him or her as a licensed osteopathic physician;

f. Misrepresentation or concealment of any material fact in obtaining any certificate or license or privilege, or a reinstatement thereof, or misrepresentation or concealment of any material fact in obtaining any certification, examination or documentation required for licensure or maintenance of license;

g. Performing services as an osteopathic physician assistant without the supervision, or outside the direction, of a supervising osteopathic physician approved by the Board or of a properly designated alternate supervising physician;

h. Performing a task, or attempting to perform a task, that is beyond the competence or training of the osteopathic physician assistant, or that is not in accordance with his or her job

description as approved by the Board, including prescribing any drug that is not included in the approved job description for that osteopathic physician assistant or that is not included in the approved state formulary for osteopathic physician assistants; and

i. Surrender by the osteopathic physician assistant of a license, certificate or other authorization to practice as a physician assistant or osteopathic physician assistant issued or granted by the appropriate licensing authority of this state or any other state, territory, jurisdiction or foreign nation; and

j. Disciplinary action imposed upon the osteopathic physician assistant, or the license or authorization to practice of the osteopathic physician assistant, by the appropriate licensing authority of this state or any other state, territory, jurisdiction or foreign nation.

9.2. Denial of License - If the Board determines that an applicant has failed to demonstrate that he or she should be licensed, the Board shall immediately notify the applicant, in writing, of its decision and indicate in what respect the applicant has failed to satisfy the Board's requirements.

a. The applicant may request a formal hearing before the Board by submitting his or her request in writing to the Board's office in person, or by registered or certified mail, within thirty days after receipt of the Board's notice of decision.

b. The notice to the applicant shall provide an explanation of this procedure to contest the Board's decision.

c. The Board shall, within twenty days of receipt of the request, notify the applicant of the time and place of a public hearing, which shall be held within a reasonable time.

9.3. Complaints of Unprofessional Conduct – Any person may file a complaint alleging that an osteopathic physician assistant has engaged in unprofessional conduct, which may render the assistant unfit to practice or which may require some form of monitoring or restriction upon the practice and license of the osteopathic physician assistant. The Board may also initiate a complaint and investigation on its own when the Board receives information that an osteopathic physician assistant may have engaged in unprofessional conduct. Complaint, investigations, and proceedings for disciplinary action shall be conducted pursuant to the Board's rule, 24CSR6 "Disciplinary and Complaint Procedures."

9.4. Procedure for Hearings. -- All hearings provided under this section shall be conducted pursuant to the provisions of W. VA. CODE §29A-5-1 *et seq.* and the Board's rule, 24 CSR 3 "Contested Case Hearing Procedure."

§24-2-10. Health Care Facilities; Satellite Operations of Physician Offices.

10.1. Osteopathic physician assistants employed directly by health care facilities shall perform services only under the supervision of a clearly identified supervising osteopathic

physician, and the osteopathic physician shall supervise no more than three osteopathic physician assistants, except that a supervising osteopathic physician may supervise up to four hospital-employed osteopathic physician assistants.

a. The provisions of this section shall not be construed to require health care facilities to accept osteopathic physician assistants or to use them within their premises, but it is appropriate for the osteopathic physician assistant to provide services to the hospitalized patients of his or her supervising osteopathic physician under the supervision of the osteopathic physician, if the health care facility permits it. As long as the facility permits, an osteopathic physician assistant may:

1. Assess and record the patient's progress within the parameters of an established protocol or regimen and report the patient's progress to the supervising osteopathic physician; and

2.. Make entries in medical records and patient charts as long as an appropriate mechanism is established for authentication by the supervising osteopathic physician through countersignature.

10.2. Satellite Operations - An osteopathic physician assistant may not be used in an office or clinic separate and apart from the supervising osteopathic physician's primary place for meeting patients unless the supervising osteopathic physician has obtained specific, written approval from the Board to conduct a satellite operation. A supervising osteopathic physician may supervise only two satellite operations. The Board will only grant approval for a satellite operation when the supervising osteopathic physician is able to demonstrate to the Board that the following conditions can be met:

a. The osteopathic physician assistant will be used in a health professional shortage area, a medically underserved area, or an area of medical need as defined by the Board;

b. There is adequate provision for direct communication between the osteopathic physician assistant and the supervising osteopathic physician and that the distance between the main office and the satellite operation is not so great as to prohibit or impede appropriate emergency services;

c. The supervising osteopathic physician will see each regular patient periodically; for example, every third visit; and

d. The supervising osteopathic physician will visit the remote office at least once every fourteen days and demonstrate that he or she spends enough time on site to provide supervision and personal and regular review of records, selected on the basis of written criteria established by the supervising osteopathic physician and the osteopathic physician assistant, and of sufficient number to assure adequate review of the osteopathic physician assistant's scope of practice.

**TITLE 24
LEGISLATIVE RULES
WEST VIRGINIA BOARD OF OSTEOPATHY
SERIES 2
OSTEOPATHIC PHYSICIAN ASSISTANTS**

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SECRETARY OF STATE

§24-2-1. General.

1.1. Scope. -- This rule establishes requirements and procedures for the licensing, employment and discipline of osteopathic physician assistants in this State. This rule also establishes the scope of practice of osteopathic physician assistants, the extent to which osteopathic physician assistants may function and the responsibilities of osteopathic physicians in supervising physician assistants.

1.2. Authority. -- WEST VIRGINIA CODE §30-14A-1.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule -- This legislative rule repeals and replaces WV 24CSR2, "Osteopathic Physician Assistants," filed May 1, 2007, and effective May 1, 2007.

§24-2-2. Definitions.

As used in this rule, these terms shall have the following meanings:

2.1. Assistant -- An osteopathic physician assistant licensed by West Virginia Board of Osteopathy or applying to the Board for a license.

2.2. Board -- The West Virginia Board of Osteopathy

2.3. Health care facility -- Any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic or physician's office.

2.4. Licensure -- The Board's authorization of individuals to practice as osteopathic physician assistants and the process of application and consideration for this authorization.

2.5. NCCPA. -- The National Commission on the Certification of Physician Assistants.

2.6. Osteopathic physician assistant -- A person trained as a physician assistant who practices, or proposes to practice at the direction, and under the supervision of, a doctor of osteopathic medicine and surgery.

2.7. Protocol. -- Written treatment instructions prepared by a supervising osteopathic physician for use by a physician assistant.

2.8. Satellite operation. -- An office or clinic separate and apart from the office of the supervising osteopathic physician, established by the osteopathic physician and staffed, in part, by a physician assistant.

2.9. Supervising physician -- A doctor of osteopathic medicine and surgery, or a designated alternate doctor, who has been approved by the Board to supervise and direct an osteopathic physician assistant.

2.10. Supervision. -- The opportunity or ability of the osteopathic physician to provide or exercise control and direction over the services of an osteopathic physician assistant.

§24-2-3. Licenses and Qualifications for Practice as an Osteopathic Physician Assistant.

3.1. In order to practice as a physician assistant to an osteopathic physician in this state, a person must be licensed by the West Virginia Board of Osteopathy. The Board is authorized to grant two types of licenses: a regular or "full" license and a temporary license.

3.2. The minimum requirements for a regular license are as follows:

- a. Graduation from a program, approved by the Board, of instruction in primary health care or surgery;
- b. A passing score on an examination for a primary care or surgery physician assistant administered by, or on behalf of, the National Commission on Certification of Physician Assistants;
- c. Demonstration of good moral character; and
- d. A written job description, filed with, and approved by, the Board.

3.3. The minimum requirements for a temporary license are as follows:

- a. Graduation from a program, approved by the Board, of instruction in primary health care or surgery;
- b. Demonstration of good moral character; and
- c. A written job description, filed with, and approved by, the Board.

§24-2-4. Osteopathic Physician Assistant's Scope of Practice.

4.1. A person may only practice as an osteopathic physician assistant in this state under license granted by the West Virginia Board of Osteopathy, under the supervision of an osteopathic physician holding a full, unrestricted license from this Board, and may only perform those services for which he or she has been trained and authorized, as specified in a written job description filed with, and approved by, the Board.

4.2. The osteopathic physician assistant may, under appropriate direction and supervision by an osteopathic physician, augment the osteopathic physician's data gathering abilities in order to assist the supervising osteopathic physician in reaching decisions and instituting care plans for the osteopathic physician's patients. An osteopathic physician assistant should have, as a minimum, the knowledge and competency to perform the following functions and may, under appropriate supervision, perform them:

- a. Screen patients to determine the need for medical attention;
- b. Review patient records to determine health status;
- c. Take a patient history;
- d. Perform a physical examination;
- e. Perform development screening examinations on children;
- f. Record pertinent patient data;
- g. Make decisions regarding data gathering and appropriate management and treatment of patients being seen for the initial evaluation of a problem or the follow-up evaluation of a previously diagnosed and stabilized condition;
- h. Prepare patient summaries;
- i. Initiate requests for commonly performed initial laboratory studies;
- j. Collect specimens for, and carry out, commonly performed blood, urine and stool analyses and cultures;
- k. Identify normal and abnormal findings in patient history and physical examination and in commonly performed laboratory studies;
- l. Initiate appropriate evaluation and emergency management for emergency situations; for example, cardiac arrest, respiratory distress, injuries, burns and hemorrhage; and
- m. Provide counseling and instruction for common patient questions.

4.3. An osteopathic physician assistant may sign orders to be countersigned later by his or her supervising osteopathic physician: Provided, That they are not in conflict with rules or regulations of the facility in which the osteopathic physician assistant practices.

4.4. Identification of osteopathic physician assistant. -- When functioning as an osteopathic physician assistant, the osteopathic physician assistant shall wear a name tag that identifies the wearer as an osteopathic physician assistant.

4.5. Practice within Emergency Departments

a. An osteopathic physician assistant may provide medical care or services in an emergency department as long as he or she has training in emergency medicine, functions under specific protocols which govern his or her performance, and is under the supervision of an osteopathic physician with whom he or she has ready contact and who is willing to assume full responsibility for the osteopathic physician assistant's performance.

b. An osteopathic physician assistant shall identify him- or herself to the patient as a physician assistant and shall not render non-emergency outpatient medical services until the patient has been informed of this fact.

4.6. Limitations on employment and scope of duties of osteopathic physician assistants.

a. No osteopathic physician assistant shall be supervised by, or work for, more than three supervising physicians at one time.

b. An osteopathic physician assistant shall not perform any services that are not included in his or her job description and approved by the Board.

c. An osteopathic physician assistant shall not perform any services that his or her supervising osteopathic physician is not qualified to perform.

d. An osteopathic physician assistant shall not maintain an office separate and apart from the supervising osteopathic physician's primary office for treating patients, unless the Board has granted the supervising osteopathic physician specific permission to establish a satellite operation.

e. An osteopathic physician assistant shall not sign prescriptions except in the case of certain osteopathic physician assistants authorized to do so by the Board in accordance with the provisions of section 8 [§24-2-8] of this rule.

f. An osteopathic physician assistant may not independently bill patients for services provided.

g. An osteopathic physician assistant may not independently delegate a task assigned to him or her by his or her supervising osteopathic physician to another individual; or

h. An osteopathic physician assistant may not pronounce a patient dead, except in a setting where state or federal government rules or regulations permit a registered nurse or an osteopathic physician assistant to do so.

4.7. The osteopathic physician assistant shall notify the Board of any change in his or her employment within ten days of that change.

§24-2-5. Supervision of Osteopathic Physician Assistants.

5.1. An osteopathic physician may *only* practice under the supervision and control of a physician who holds a full, unrestricted license to practice in this state. It is a necessary element of "supervision" that the supervising physician be available to the osteopathic physician assistant. This supervision must be maintained at all times. The osteopathic physician assistant may function in any setting within which the supervising osteopathic physician routinely practices, but in no instance shall a separate place of work for the physician assistant be established.

5.2. Requirements and Scope of Supervision

a. For an osteopathic physician assistant with a Temporary License, the supervising physician must be present on the premises where the osteopathic physician assistant practices at all times while the assistant is working.

b. For an osteopathic physician with a regular License, the supervising physician must be available for consultation and have the ability to direct the actions of the assistant, but the supervising physician's physical presence is not required. For a regularly licensed osteopathic physician assistant, this requirement may be satisfied if the physician and assistant are, or can easily be, in contact with each other by radio, telephone or telecommunication.

c. An appropriate degree of supervision includes:

1. The active and continuing overview of the osteopathic physician assistant's activities to determine that the supervising osteopathic physician's directions are being implemented;

2. The availability of the supervising osteopathic physician to the osteopathic physician assistant for all necessary consultations;

3. Personal and regular (at least monthly) review by the supervising osteopathic physician of selected patient records upon which entries are made by the osteopathic physician assistant. The supervising osteopathic physician shall select patient records for review on the basis of written criteria established by the supervising osteopathic physician and the osteopathic physician assistant and these records shall be of sufficient number to assure adequate review of the osteopathic physician assistant's scope of practice, and;

4. Periodic (at least monthly) education and review sessions discussing specific

conditions, protocols, procedures and specific patients, held by the supervising osteopathic physician for the osteopathic physician assistant under his or her supervision.

5.3. Responsibilities of the Supervising Osteopathic Physician.

a. The supervising osteopathic physician is responsible for observing, directing and evaluating the work, records and practices performed by the osteopathic physician assistant.

b. A supervising osteopathic physician shall not permit an osteopathic physician assistant to practice medicine independently.

c. The supervising osteopathic physician shall notify the Board in writing of any termination of the employment of his or her osteopathic physician assistant within ten days of the termination.

d. The supervising osteopathic physician is legally responsible at all times for patient care and services provided by the osteopathic physician assistant.

e. It is the supervising osteopathic physician's responsibility to be alert to patient complaints concerning the type or quality of services provided by the osteopathic physician assistant.

f. The supervising osteopathic physician shall monitor and supervise the activities of the osteopathic physician assistant and require documentation, including organized medical records. The supervising osteopathic physician may also provide written protocols, consistent with sound practices of evidence-based medicine, for the use of the osteopathic physician assistant in the performance of delegated tasks. The established protocols shall be available for public inspection upon request and may be reviewed by the Board as required.

g. The supervising osteopathic physician shall maintain appropriate records of supervisory contact and make them available for Board review if required.

h. In the supervising osteopathic physician's office and any satellite operation, a notice plainly visible to all patients shall be posted in a prominent place explaining the meaning of the term "Osteopathic Physician Assistant". The osteopathic physician assistant's license must be prominently displayed in the office and any satellite operation in which he or she may function. Duplicate licenses may be obtained from the Board if required.

5.4. Designation of an alternate supervising physician.

a. It is the responsibility of the supervising osteopathic physician to ensure that supervision is maintained in his or her absence. The supervising osteopathic physician may designate, to the Board, one or two other licensed physicians to serve as alternate supervising physicians in the absence of the primary supervisor. The supervising osteopathic physician shall not delegate patient care to his or her osteopathic physician assistant unless he or she has made appropriate arrangements for an alternate supervising physician.

b. The legal responsibility for the acts and omissions of the osteopathic physician assistant remains with the supervising osteopathic physician at all times.

c. A supervising osteopathic physician may designate an allopathic physician (or M.D.) as an alternate supervising physician; however, the physician and the physician assistant should consult the West Virginia Board of Medicine to determine the extent to which an M.D. may serve as an alternate supervising physician and the requirements of that agency for licensure and supervision of physician assistants. The designation of an M.D. as alternate supervisor for an osteopathic physician assistant does *not* release or relieve a physician assistant or a physician from responsibility for complying with the rules of the West Virginia Board of Medicine.

§24-2-6. Application for License.

6.1. An application for an osteopathic physician assistant license consists of a completed application form designated by the Board, a written job description, documentation of meeting the statutory requirements for licensure, and payment of the appropriate license fee. The applicant shall verify that the application is true and accurate.

6.2. Job description – The delegation of certain acts to a physician assistant shall be stated on the job description in a manner consistent with sound medical practice and with the protection of the health and safety of the patient in mind. The services shall be limited to those which are educational, diagnostic, therapeutic or preventive in nature and may, according to the standards set by his or her supervising osteopathic physician, allow the osteopathic physician assistant to formulate a provisional diagnosis and treatment plan which may be set by standard protocols of his or her supervising osteopathic physician and are under his or her direction.

6.3. If approved by the Board, the job description serves as a condition upon the license of the osteopathic physician assistant and a boundary on the scope of that person's practice. These limitations shall carry through when a license is renewed for the duration of licensure, unless the Board approves an amendment to, or modification of, the job description.

6.4. The filing of an application does not entitle an osteopathic physician assistant to practice. Authorization to practice is granted solely through the Board's approval of the application and issuance of a license.

6.5. It is the applicant's responsibility to provide all documentation required by the Board and the WEST VIRGINIA CODE. Where the Board may be required to obtain documentation from the original source of the information, the applicant shall execute any authorization that is required by that source to disclose or release that information.

6.6. The Board will not consider an application or decide upon the issuance of a license to an applicant until the complete application, including all third-party documentation or verification, is on file with the Board and the board has had at least fifteen days to review the application.

6.7. When the Board considers an application for license or a challenge to the Board's denial of license, the applicant bears the burden of proving that he or she is qualified to practice as an osteopathic physician assistant in this state.

§24-2-7. Renewal of License; Responsibilities for Maintenance of License.

7.1. An application for renewal of an osteopathic physician assistant license consists of a completed application form designated by the Board, a report of the assistant's activity during the previous licensing period, a report of continuing medical education undertaken by the licensee, documentation of meeting the statutory requirements for licensure, and payment of the appropriate license fee. The applicant shall verify that the application is true and accurate.

7.2. An osteopathic physician assistant and the supervising osteopathic physician shall prepare a written report on the professional conduct, capabilities, and performance of the osteopathic physician assistant during the preceding license period. This report must be signed by the assistant and the supervising osteopathic physician and it must accompany the application for renewal of license.

7.3. All regular licenses issued by the Board expire on the second March 31st following the issuance of the license. The Board is not authorized to grant a temporary extension of a license or allow a grace period to complete an application for renewal. To maintain licensure without lapse or interruption, the osteopathic physician assistant shall ensure that all application materials are received at the Board's office on or before March 31st of the year when the current license is due to expire. The Board will not give immediate or expedited consideration to any application received after that date.

7.5. Continuing Education -- For renewal of a regular osteopathic physician assistant license, the licensee shall provide written documentation of participation in, and successful completion of, a minimum of one hundred hours of continuing education in courses approved by the Board during the preceding two-year period.

7.6. The osteopathic physician assistant shall provide the Board with the address of his or her residence, a personal telephone number, the address of his or her place of employment and a telephone number where he or she may be reached while working as an osteopathic physician assistant. A licensed osteopathic physician assistant has a duty to notify the Board of any changes to this information within ten days of the change.

§24-2-8. Limited Prescriptive Privileges for Osteopathic Physician Assistants.

8.1. The Board shall approve a formulary classifying pharmacologic categories of all drugs which may be prescribed by an osteopathic physician assistant who is authorized by the Board to prescribe drugs. The formulary shall exclude Schedules I and II of the Uniform Controlled Substances Act, anticoagulants, anti-neoplastics, radiopharmaceuticals, general anesthetics and

radiographic contrast materials. The formulary may be revised annually, and shall include the following designated sections:

- a. Section A. -- A selection of drugs commonly used in primary care, outpatient settings; and
- b. Section B. -- Additional drugs, used less commonly in primary care, outpatient settings, to be prescribed only under the following limited situations:
 1. On a direct order from the supervising osteopathic physician to the osteopathic physician assistant during consultation at the time of the patient's examination by the osteopathic physician assistant, and specifically noted in the patient's chart; or
 2. On a refill prescription for a previously diagnosed and stable patient whose prescription was initiated by the supervising osteopathic physician.

8.2. An osteopathic physician assistant may apply for the authority to issue written, oral and electronic prescriptions for drugs specified in the formulary if all of the following conditions are met:

- a. The osteopathic physician assistant has performed patient care services for a minimum of two years immediately preceding the application for limited prescriptive privileges;
- b. The osteopathic physician assistant has successfully completed an accredited course of instruction in clinical pharmacology, ~~approved by the Board, of not less than eight semester hours comprised of weekly instruction over a total period – though not necessarily a contiguous block of instruction- at least one academic year, for a minimum of four semester hours~~ or the equivalent thereof;
- c. The osteopathic physician assistant has a current, valid national certification, issued by the NCCPA, including the completion of a minimum of ten hours in continuing education in rational drug therapy for each period of national certification; and
- d. The supervising osteopathic physician specifies the drugs or classes of drugs that the osteopathic physician assistant will utilize for care and treatment of patients.

8.3. To apply for limited prescription-writing privileges, an osteopathic physician assistant shall complete an application form, designated by the Board, and submit a description of the physician assistant's work experience, a transcript showing completion of the required classes in clinical pharmacology, an exemplar of a prescription form to be used by the osteopathic physician assistant, a designation of the drugs to be prescribed if privileges are granted, and information sufficient to allow the Board to verify that the applicant has completed all statutory requirements.

8.4. Drugs to be prescribed by an individual osteopathic physician assistant must be designated for the Board on a form signed by the supervising osteopathic physician and

countersigned by the osteopathic physician assistant. If the prescription writing privilege is granted, this form shall be incorporated as part of the job description of the osteopathic physician assistant. A prescription drug that is not included in the Board's approved formulary shall not be contained in the job description of any osteopathic physician assistant

8.5. Content and Use of Prescription Form

a. The prescription used by an osteopathic physician assistant approved for limited prescriptive privileges shall ~~include~~ be imprinted with the name of the supervising osteopathic physician, the name of the approved osteopathic physician assistant, the address of the health care facility or office where the osteopathic physician assistant is employed, and the telephone number of the health care facility or office. ~~the categories of drugs or drugs within a category which the assistant may prescribe and the statement, "Osteopathic Physician Assistant Prescription - it is a violation of state law to dispense drugs not imprinted on this prescription."~~

~~b. The supervising osteopathic physician shall provide the Board with a copy of the prescription form used by his or her osteopathic physician assistant prior to its use. This form may not be used until it has been approved by the Board.~~

~~c. A copy of this prescription form shall be provided by the osteopathic physician assistant to area pharmacies where the osteopathic physician assistant proposes to issue verbal prescriptions in person, by telephone, or by other means of communication in his or her name at the direction of the supervising osteopathic physician.~~

~~d~~ b. For each prescription, the osteopathic physician assistant shall write the name of the patient, the patient's address and the date on each prescription form. Then the osteopathic physician assistant shall sign his or her name to the prescription, followed by the letters "PA-C." No written prescription is valid without this signature and designation. If the osteopathic physician assistant is authorized to issue prescriptions for Controlled Substances listed on Schedules III, IV or V of the Uniform Controlled Substances act, the osteopathic physician assistant shall include his or her Federal Drug Enforcement Administration number on any prescription for one of these substances.

~~e~~ c. An osteopathic physician assistant may prescribe, and issue refill orders for, drugs that are not Controlled Substances for a period of up to six months. An osteopathic physician assistant may not prescribe Schedule III drugs in an amount or duration exceeding a seventy-two hour supply and no refills may be prescribed by the osteopathic physician assistant. The maximum amount of Schedule IV or Schedule V drugs shall be no more than a thirty-day supply.

~~f~~ d. Each prescription and subsequent refills given by the osteopathic physician assistant shall be entered on the patient's chart.

~~g~~ e. Prescriptions issued by an osteopathic physician assistant shall be issued consistent with the supervising osteopathic physician's directions or treatment protocol provided to his or her

osteopathic physician assistant. The maximum dosage shall be indicated in the protocol and in no case may the dosage exceed the manufacturer's recommended therapeutic dose for that drug.

8.6. An osteopathic physician assistant's limited prescriptive privileges are incidental to, and expire with, the physician assistant's license. In order to maintain limited prescriptive privileges, the osteopathic physician assistant shall include evidence of completion of all conditions for the granting of limited prescriptive privileges with his or her biennial renewal application and report to the Board.

8.7. The Board shall deny any application for limited prescriptive privileges to an applicant who, and shall revoke the prescription writing privileges of any osteopathic physician assistant licensed or otherwise lawfully practicing within this state who, is found guilty by any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law.

8.8. The Board shall provide the West Virginia Board of Pharmacy with a list of osteopathic physician assistants with limited prescriptive privileges and shall update the list within ten days after additions or deletions are made.

8.9. Nothing in this rule shall be construed to permit any osteopathic physician assistant to prescribe or dispense drugs independently of his or her practice under the supervising osteopathic physician.

§24-2-9. Denial of License; Disciplinary Actions.

9.1. Grounds for Denial or Disciplinary Sanction - The board may deny an application for license, place a licensee on probation, suspend, limit, restrict or revoke any license or privilege issued under this rule for any of the following reasons:

a. Any of the grounds cited in section 18 of the Board's rule 24CSR1, "Licensing Procedures for Osteopathic Physicians;

b. Failure to comply with any portion of this rule or the provisions of WEST VIRGINIA CODE §30-14A-1 *et seq.*;

c. Impersonation of a licensed osteopathic physician or another certified or licensed osteopathic physician assistant;

d. Misrepresentation that the osteopathic physician assistant is an osteopathic physician or that the osteopathic physician assistant holds any position for which he or she is not qualified by license, training, or experience;

- e. Permitting another person to represent him or her as a licensed osteopathic physician;
- f. Misrepresentation or concealment of any material fact in obtaining any certificate or license or privilege, or a reinstatement thereof, or misrepresentation or concealment of any material fact in obtaining any certification, examination or documentation required for licensure or maintenance of license;
- g. Performing services as an osteopathic physician assistant without the supervision, or outside the direction, of a supervising osteopathic physician approved by the Board or of a properly designated alternate supervising physician;
- h. Performing a task, or attempting to perform a task, that is beyond the competence or training of the osteopathic physician assistant, or that is not in accordance with his or her job description as approved by the Board, including prescribing any drug that is not included in the approved job description for that osteopathic physician assistant or that is not included in the approved state formulary for osteopathic physician assistants; and
- i. Surrender by the osteopathic physician assistant of a license, certificate or other authorization to practice as a physician assistant or osteopathic physician assistant issued or granted by the appropriate licensing authority of this state or any other state, territory, jurisdiction or foreign nation; and
- j. Disciplinary action imposed upon the osteopathic physician assistant, or the license or authorization to practice of the osteopathic physician assistant, by the appropriate licensing authority of this state or any other state, territory, jurisdiction or foreign nation.

9.2. Denial of License - If the Board determines that an applicant has failed to demonstrate that he or she should be licensed, the Board shall immediately notify the applicant, in writing, of its decision and indicate in what respect the applicant has failed to satisfy the Board's requirements.

a. The applicant may request a formal hearing before the Board by submitting his or her request in writing to the Board's office in person, or by registered or certified mail, within thirty days after receipt of the Board's notice of decision.

b. The notice to the applicant shall provide an explanation of this procedure to contest the Board's decision.

c. The Board shall, within twenty days of receipt of the request, notify the applicant of the time and place of a public hearing, which shall be held within a reasonable time.

9.3. Complaints of Unprofessional Conduct – Any person may file a complaint alleging that an osteopathic physician assistant has engaged in unprofessional conduct, which may render the assistant unfit to practice or which may require some form of monitoring or restriction upon the practice and license of the osteopathic physician assistant. The Board may also initiate a

complaint and investigation on its own when the Board receives information that an osteopathic physician assistant may have engaged in unprofessional conduct. Complaint, investigations, and proceedings for disciplinary action shall be conducted pursuant to the Board's rule, 24CSR6 "Disciplinary and Complaint Procedures."

9.4. Procedure for Hearings. -- All hearings provided under this section shall be conducted pursuant to the provisions of W. VA. CODE §29A-5-1 *et seq.* and the Board's rule, 24 CSR 3 "Contested Case Hearing Procedure."

§24-2-10. Health Care Facilities; Satellite Operations of Physician Offices.

10.1. Osteopathic physician assistants employed directly by health care facilities shall perform services only under the supervision of a clearly identified supervising osteopathic physician, and the osteopathic physician shall supervise no more than three osteopathic physician assistants, except that a supervising osteopathic physician may supervise up to four hospital-employed osteopathic physician assistants.

a. The provisions of this section shall not be construed to require health care facilities to accept osteopathic physician assistants or to use them within their premises, but it is appropriate for the osteopathic physician assistant to provide services to the hospitalized patients of his or her supervising osteopathic physician under the supervision of the osteopathic physician, if the health care facility permits it. As long as the facility permits, an osteopathic physician assistant may:

1. Assess and record the patient's progress within the parameters of an established protocol or regimen and report the patient's progress to the supervising osteopathic physician; and

2.. Make entries in medical records and patient charts as long as an appropriate mechanism is established for authentication by the supervising osteopathic physician through countersignature.

10.2. Satellite Operations - An osteopathic physician assistant may not be used in an office or clinic separate and apart from the supervising osteopathic physician's primary place for meeting patients unless the supervising osteopathic physician has obtained specific, written approval from the Board to conduct a satellite operation. A supervising osteopathic physician may supervise only two satellite operations. The Board will only grant approval for a satellite operation when the supervising osteopathic physician is able to demonstrate to the Board that the following conditions can be met:

a. The osteopathic physician assistant will be used in a health professional shortage area, a medically underserved area, or an area of medical need as defined by the Board;

b. There is adequate provision for direct communication between the osteopathic physician assistant and the supervising osteopathic physician and that the distance between the

main office and the satellite operation is not so great as to prohibit or impede appropriate emergency services;

c. The supervising osteopathic physician will see each regular patient periodically; for example, every third visit; and

d. The supervising osteopathic physician will visit the remote office at least once every fourteen days and demonstrate that he or she spends enough time on site to provide supervision and personal and regular review of records, selected on the basis of written criteria established by the supervising osteopathic physician and the osteopathic physician assistant, and of sufficient number to assure adequate review of the osteopathic physician assistant's scope of practice.

**TITLE 24
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OSTEOPATHY**

**SERIES 2
OSTEOPATHIC PHYSICIAN ASSISTANTS**

**SUMMARY OF PROPOSED RULE AND
CIRCUMSTANCES FOR EMERGENCY RULE**

This rule also incorporates changes mandated by the West Virginia Legislature by Senate Bill 618 of the 2010 Regular Session. These changes are as follows:

- 1) Authorization to practice as an osteopathic physician assistant is now established as a 'license' rather than a 'certificate.'
- 2) Osteopathic physician assistants seeking prescription-writing privileges are no longer required to practice in a designated area of need and no longer restricted to perform primary care services.
- 3) The classes of drugs, which an osteopathic physician assistant may prescribe, have been changed to match those that may be prescribed by a physician assistant supervised by an M.D.
- 4) The limit on Schedule III drugs has been changed from a 48-hour supply to a 72-hour supply.

In addition, the Board of Osteopathy proposes to increase the requirement for training in clinical pharmacology for osteopathic physician assistants seeking prescription-writing privileges. The Board proposes to raise this basic requirement from a minimum of 4 semester hours to a minimum of 8 semester hours of training.

The legislation that mandated these changes, and the authority to implement through proposal of legislative rules, authorized the Board, in West Virginia Code §30-14A-1(b), to propose Emergency Rules to give prompt effect to these changes.

NOTE: This rule also includes the deletion of some obsolete provisions regarding the power of the Board to conduct inspections of physician assistant offices without a complaint or other probable cause to act, and to delete an out-dated, unnecessarily specific list of clinical skills that an osteopathic physician assistant may perform. These changes do not require emergency effect, but they are included herein to parallel amendments proposed to the corresponding Legislative Rule proposed on this date.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Osteopathic Physician Assistants

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Osteopathy

Address: 405 Capitol Street, Suite 402
Charleston, WV 25301

Phone Number: 304-558-6095 Email: wvbdosteo@wv.gov

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 rule is likely to result in a slight increase in revenue to the special revenue account of the WV Board of Osteopathy. The Board anticipates that implementation of this rule will result in a slight, yearly increase in the number of people who will seek licenses as osteopathic physician assistants.

The corresponding increase in costs - due mainly to the expenses of additional photocopies, supplies, fax communications and postage - is expected to be comparatively small.

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	100.00	50.00	200.00
Personal Services			
Current Expenses	100.00	50.00	200.00
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	300.00	1,000.00	1,600.00

Rule Title: Osteopathic Physician Assistants

Rule Title: _____

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

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

During the current year, the primary increase in cost arises from the expenses of notifying affected parties of the changes in the existing law and rule. There is also a potential for one or two new applications from individuals seeking licenses to practice under the new law.

In following year, the Board anticipates that approximately four additional license applications may be received, as well as four separate, additional requests for prescription-writing privileges. Fees from these additional applications will provide an estimated increase of \$1000.00 in revenues. In following years, 6 - 8 additional, new applications are anticipated, resulting in an annual increase in approximately \$1600.00 in revenues from additional license, privilege and verification fees.

With the increase in applications received and licenses issued, there will be some minimal increase in expenses due to the additional supplies and communication costs - postage, telephone, fax, etc. - required to process these additional licenses.

MEMORANDUM

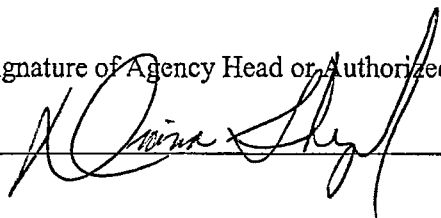
Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

It is important to note that the West Virginia Board of Osteopathy operates under a special revenue account, through which all of the Board's expenses are to be met from fees charged for licensing and additional services provided by the Board.

Except in very limited circumstances, revenues generated by the Board, and expenses incurred by it, have no impact on the general revenue of the State.

Date: JUNE
July 10, 2010

Signature of Agency Head or Authorized Representative



EMERGENCY RULE QUESTIONNAIRE

DATE: June 14, 2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Osteopathy

405 Capitol Street, Suite 402, Charleston, WV 25301

Contact: Diana Shepard, Executive Director, 304-558-6095

EMERGENCY RULE TITLE: Osteopathic Physician Assistants

1. Date of filing June 14, 2010

2. Statutory authority for promulgating emergency rule:

West Virginia Code §30-14A-1(b) (2010)

3. Date of filing of proposed legislative rule: June 14, 2010

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? _____

This rule repeals and replaces a current legislative rule.

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.

~~The West Virginia Legislature mandated changes, in S.B. 618 (2010 Regular Session) to the qualifications to practice as an osteopathic physician assistant, to the qualifications for limited prescription-writing privileges, and to restrictions on the substances that a qualified osteopathic physician assistant may prescribe. This bill specifically authorized the Board to file Emergency Rules to implement these changes promptly.~~

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.

NONE

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

~~This rule implements changes to the qualifications for an osteopathic physician assistant to practice in this state and to the lawful scope of practice. These changes were compelled by the Legislature to increase public access to primary care health professionals.~~
