

QUESTIONNAIRE

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

DATE: July 29, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Osteopathy
334 Penco Road
Weirton, WV 26062
304-723-4638

LEGISLATIVE RULE TITLE: _____
Osteopathic Physician Assistants

1. Authorizing statute(s) citation W Va Code §29-3-5b(c)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 10, 2005

b. What other notice, including advertising, did you give of the hearing?
Notices were sent to all licensed osteopathic physicians advising of the filing of the rules for comment and copies were provided to physicians and other interested persons upon request.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 12, 2005

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached X No comments received _____

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

July 29, 2005

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

Cheryl Schreiber, Executive Secretary

WV Board of Osteopathy

334 Penco Road

Weirton, WV 26062

Tel. 304-723-4638, Fax. 304-723-6723

bdosteo@mail.evnet.edu

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

Doren Burrell, Senior Assistant Attorney General

Office of the Attorney General

State Capitol, Room E-26

Charleston, WV 25305

Tel. 304-558-2522, Fax 304-558-2525

doren.burrell@wvago.gov

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

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

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached

West Virginia Board of Osteopathy responses to the comments of :

Jennifer Boyd, New River Health Association
John C. Sharp, D.O.
Margaret L. Martin, Hygeia Facilities Foundation

These comment authors all wrote in favor of the proposed changes to the Osteopathic Physician Rules and the Board of Osteopathy accepts the expressions of support.

West Virginia Board of Osteopathy responses to the comments of :

Mary Lou Fragile, D.O.
Joseph E. Schreiber, D.O.

These comment authors objected to the proposed changes to the current rule and recommended against the adoption of the revisions. The Board of Osteopathy disagrees with these comments. the purpose of the proposed change is to facilitate joint practice between doctors of medicine and osteopathic physicians. The modifications have been proposed to parallel the language and requirements of the West Virginia Board of Medicine's rules for physicians. By so doing, a physician's assistant or multiple assistants could work under the supervision of an M.D. or D.O. without a concern for meeting separate requirements depending on which physician may be supervising at the time.

In addition funding requirements for Rural Health Care Clinics require the hiring of mid-level practitioners such as physicians assistants to promote the efficient delivery of health care in underserved areas. The proposed changes to the rule are intended to foster the same objective.

West Virginia Board of Osteopathy responses to the comments of :

Bruce W. Cannon, D.O.

The author suggests removing the term "osteopathic" from all references to physicians assistants in the rule. The Board of Osteopathy agrees that for purposes of supervision of a physicians assistant there should be no distinction between a medical or an osteopathic physicians assistant. However, for those provisions of the rule which specifically relate to the licensing process before this Board, the term osteopathic physicians assistant is appropriate and has therefore been retained in the rule.

Board of Osteopathy

From: Boyd, Jennifer [Jennifer.Boyd@pihn.org]
Sent: Monday, July 11, 2005 3:14 PM
To: bdosteo@mail.wvnet.edu
Subject: Changes to midlevel supervision

To Whom It May Concern:

I am writing in support of the proposed rule changes for supervision by osteopaths of physician assistants to enable a physician to supervise 3 PAs.

In our medically underserved state where it is often difficult to recruit physicians, physician assistants play a vital role in front line care. Osteopathic physicians, with the backing of the Board of Osteopathy, have forged effective and lasting team relationships with these PAs to help serve rural West Virginians. Expanding the supervision coverage by one PA per physician represents a reasonable approach to continuing access to care without compromising quality of care or patient safety.

Thank you for your support of this rule change,

Sincerely,
Jennifer Boyd, PA-C, Medical Director
New River Health Association

POCAHONTAS MEDICAL CLINICS, INC.
JOHN C. SHARP, D.O.

MARLINTON CLINIC
105 DUNCAN ROAD
MARLINTON, WV 24954
GREEN BANK CLINIC
ROUTE 92, P.O. BOX 8
GREEN BANK, WV 24944

(304) 799-4845 / 7314 FAX
(304) 456-4211 / 5123 FAX
DEA # J.C. # 806

NAME W.V. Board of Osteopathy

ADDRESS _____ DATE 7/11/05

RX ILLEGAL IF NOT SAFETY BLUE BACKGROUND

R

I concur with
The New Proposed
rule for DO-PA's

Yes

Refill _____ times

Label

J. Sharp D.O.

(Signature)

This prescription may be filled with a generically equivalent drug product unless the words 'BRAND NECESSARY' or the words 'BRAND MEDICALLY NECESSARY' are written in the practitioner's own handwriting on this prescription form.



5FFP0306036

HYGEIA FACILITIES FOUNDATION, INC.

POST OFFICE BOX 217
37456 COAL RIVER ROAD
WHITESVILLE, WEST VIRGINIA 25209
(304) 949-4542 (304) 854-1323

June 21, 2005

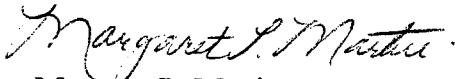
West Virginia Board of Osteopathy
334 Penco Road
Weirton, WV 26062

Dear Board Members:

This letter is being sent in support of the change in physician assistant rules. We have both DO s and MD s in our organization and this would make things more consistent.

Our organization fully supports this change.

Sincerely,



Margaret L. Martin
Executive Director



MARY LOU FRAGILE, D.O., PLLC

FAMILY MEDICINE
P.O. BOX 1788 - ROUTE 2, BOX 171C
LEWISBURG, WEST VIRGINIA 24901
TELEPHONE (304) 647-3331 FAX (304) 647-9799

West Virginia Board of Osteopathy
334 Penco Road
Weirton, WV 26062

June 16, 2005

To Whom It May Concern,

In response to your informal poll regarding changes in physician assistant rules, I wish to object to the proposed changes. I feel that mid-level providers are inadequately supervised at this time and represent a threat to the healthcare of West Virginia.

I realize that the proposed changes would be more in line with the other medical board's rules regarding physician assistants. It would be folly, however, to perpetuate the error.

Sincerely,

Mary Lou Fragile DO

JOSEPH E. SCHREIBER, DO
334 PENCO ROAD
WEIRTON, WV 26062
(304) 723-2800

7/12/05

West Virginia Board of Osteopathy
334 Penco Road
Weirton, WV 25304

Re: Change in Physician Assistant Supervision and
Number of PA's monitored

Dear Board of Osteopathy:

The purpose of this letter is to recommend *against* the proposed changes.

As you know, the real function of the licensing Board is to protect the public from the tiny fraction of physicians, and physician assistants, who abuse their status.

The proposed lack of supervision would allow the potentially unsafe practice of physician assistants to practice virtually independently.

While increasing the number of PA's from two to three does not seem like a large change, this is a significant increase when coupled with the fact that many clinics also employ nurse practitioners for whom the physician is also responsible for monitoring the quality of their work. Excessive numbers of physician extendors cannot be monitored effectively.

I appreciate the opportunity to voice my opinion. Having had 13+ years experience on this Board, I am well aware of the thought processes that went into the regulations.

Sincerely,



JOSEPH E. SCHREIBER, DO

JES/jo

BRUCE W. CANNON, D.O.
ANESTHESIOLOGY and PAIN MANAGEMENT
118 FORESTVIEW DRIVE
BECKLEY, WEST VIRGINIA 25801

June 25 2005

West Virginia Board of Osteopathy
334 Penco Road
Weirton, WV 26062

Dear Board Members:

I strongly support the recommended changes on osteopathic sponsored Physician Assistants that are being recommended to the Secretary of State.

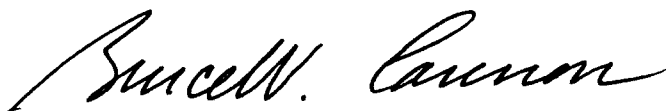
I am in favor of separate licensing boards for MD and DO, but the differences between them should not need to be as specific as to the number of Physician Assistants that can be supervised. In a practice where MDs and DOs work together sponsoring Physician Assistants, a difference in numbers of PAs allowed can be divisive.

I do recommend removing "osteopathic" from all references to physician assistants.

1. The designation may mean that the PA is sponsored by an osteopathic physician, it but can easily be interpreted that they have had osteopathic (manipulation) training.
2. Physician Assistants under D.O. supervision will assist in medical issues and will probably not be assisting in osteopathic diagnosis nor manipulation.
3. There are (should be) differences in the practice patterns of osteopathic and allopathic physicians but PA practice will be the same; only their sponsoring physician is different.

Thank you for the opportunity to comment on the proposed changes.

Sincerely,



Bruce W. Cannon, D.O.

WV license 1540

WEST VIRGINIA BOARD OF OSTEOPATHY

OSTEOPATHIC PHYSICIAN ASSISTANTS

Title 24, Series 2

BRIEF SUMMARY OF PROPOSED RULE

The rule outlines the requirements for licensing and practice of Osteopathic Physician Assistants. The rule, as proposed, is an update to the existing rule.

The changes in this rule include a clearer definition of the scope of the rule, a change to the definition of "supervision" and a change in the number of physician assistants that may be supervised by a licensed osteopathic physician. This number has been increased to match the supervision requirements utilized by the West Virginia Board of Medicine. The amendments also include some grammatical changes for clarity.

WEST VIRGINIA BOARD OF OSTEOPATHY

OSTEOPATHIC PHYSICIAN ASSISTANTS

Title 24, Series 2

STATEMENT OF CIRCUMSTANCES FOR AMENDED RULE

Physician Assistants may be licensed by the Board of Osteopathy or the Board of Medicine. Each Board has its own requirements for licensure, and previously there have been different requirements for the supervision of physician assistants. The proposed amendments to the rules of the Board of Osteopathy are intended to bring the supervision requirements in parallel with those of the Board of Medicine. The principal changes deal with the definition of "supervision" and the number of assistants that may be supervised by an osteopathic physician.

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: 334 Penco Rd
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.

Board will received licensure fee and renewal fee for any additional Physician Assistants licensed under the rule. The fees will be offset by the costs to process and maintain the information on the new licensees.

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	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost		700.00	1,000.00
Personal Services		500.00	750.00
Current Expenses		200.00	250.00
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues		700.00	1,000.00

Rule Title: Osteopathic Physician Assistants

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

Estimates include increased licensure fees for approximately 7 new Physician Assistants in the first year on implementation. Full implementation includes increases for newly licensed Phycician Assistants and renewal fees.

MEMORANDUM

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

Date: _____

Signature of Agency Head or Authorized Representative

Ernest Miller, P.O.

TITLE 24
LEGISLATIVE RULES
WEST VIRGINIA BOARD OF OSTEOPATHY

SERIES 2
OSTEOPATHIC PHYSICIAN ASSISTANTS

FILED
2005 JUL 29 P 3:22
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§24-2-1. General.

1.1. Scope. -- ~~W. Va. Code §30-14A-1 requires the Board of Osteopathy to adopt rules governing the extent to which osteopathic physician assistants may function in this State.~~ These rules establish requirements and procedures for the licensing, employment and discipline of osteopathic physician assistants in this State. These rules also establish to 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. -- W. Va. Code §30-14A-1.

1.3. Filing Date. --

1.4. Effective Date. --

§24-2-2. Rules for Osteopathic Physician Assistants.

2.1. For purposes of this section, the following definitions are in effect:

2.1.1. Licensure -- The approval of individuals by the Board to serve as osteopathic physician assistants. It also means the approval of programs by the Board for the training and education of osteopathic physician assistants.

2.1.2. 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.

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

2.1.4. Protocol. -- Written treatment instructions prepared by a supervising osteopathic physician for use by ~~an~~ osteopathic a physician assistant. Such instructions should be flexible, in accordance with the setting where the ~~osteopathic~~

physician assistant is employed.

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

2.1.6. Supervision. -- The opportunity or ability of the osteopathic physician to provide or exercise control and direction over the services of ~~osteopathic~~ physician assistants.

Constant physical presence of the supervising osteopathic physician of ~~an osteopathic~~ a physician assistant certified by the NCCPA is not required so long as the supervising osteopathic physician and the physician assistant are or can easily be in contact with each other by radio, telephone or telecommunication. Supervision requires the availability of the supervising osteopathic physician. An appropriate degree of supervision includes:

~~a. Personal supervision by the osteopathic physician of a minimum of twenty five percent of the weekly hours worked by each osteopathic physician assistant;~~

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

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

d c. 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. Patient records shall be selected for review on the basis of written criteria established by the supervising osteopathic physician and the osteopathic physician assistant and shall be of sufficient number to assure adequate review of the osteopathic physician assistant's scope of practice, and;

e d. 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.

In the case of ~~an osteopathic~~ a physician assistant who has not been certified by the NCCPA, ~~the presence of~~ the supervising osteopathic physician or alternate supervising osteopathic physician is required to be present on the premises

where the noncertified ~~osteopathic~~ physician assistant performs delegated medical tasks.

2.2. Employment of ~~osteopathic~~ physician assistants by licensed osteopathic physician; services that may be performed by osteopathic physician assistants.

2.2.1. an osteopathic physician fully licensed under W. Va. Code §30-14-1 et. seq. may submit a job description to the Board to employ ~~an osteopathic~~ a physician assistant.

2.2.2. The delegation of certain acts to ~~an osteopathic~~ 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.

2.3. Submission of application; job description. -- An application completed by the applicant and a job description written and signed by the supervising osteopathic physician listing in numerical order the duties which will be performed by the assistant must be in the office of the Board of Osteopathy, thirty (30) days prior to a Board meeting. The filing of an application and job description does not entitle an osteopathic physician assistant to licensure. The only legal authority for such approval must be given by the Board.

2.4. Biennial report of osteopathic physician assistant's performance; biennial report of the Board. -- Osteopathic physician assistants and their supervising osteopathic physicians must submit biennial signed reports either individually or combined, on the professional conduct, capabilities and performance of the osteopathic physician assistant. The report must accompany each application for licensure and must be submitted to the office of the Board by April 1. In addition thereto, the Board shall compile and publish a biennial report that includes a list of currently licensed osteopathic physician assistants, their employers and location in the state and a list of approved programs in West Virginia, the number of graduates per year of the approved programs and the number of osteopathic physician assistants from other states' approved programs practicing in West Virginia.

2.5. Supervision and control of osteopathic physician assistant. -- The ~~osteopathic~~ physician assistant, whether

employed by a health care facility or the supervising osteopathic physician, shall perform only under the supervision and control of the supervising osteopathic physician. Supervision and control of ~~an osteopathic~~ a physician assistant certified by the NCCPA requires the availability of an osteopathic physician for consultation and direction of the actions of the assistant, but does not necessarily require the personal presence of the supervising osteopathic physician at the place or places where services are rendered, if the osteopathic physician assistant certified by the NCCPA is performing (specified) duties at the direction of the supervising osteopathic physician. In the case of ~~an osteopathic~~ a physician assistant who has not been certified by the NCCPA, the presence of the supervising osteopathic physician or alternate supervising osteopathic physician on the premises where the noncertified assistant performs delegated medical tasks is required. 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 ~~osteopathic~~ physician assistant be established. The supervising osteopathic physician shall be an osteopathic physician permanently licensed in this State.

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

2.6.1. A supervising osteopathic physician shall not employ ~~at any one time more than two (2) osteopathic physician assistants~~ three (3) physician assistants at any one time, except that an osteopathic physician may supervise up to four (4) physician assistants within a hospital when the physician assistants are employed by that hospital.

2.6.2. 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 2.13 of this rule.

2.6.3. an osteopathic physician assistant shall not perform any services which his or her supervising osteopathic physician is not qualified to perform.

2.6.4. 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 hospital regulations.

2.6.5. an osteopathic physician assistant shall not perform any services which are not included in his or her job description and approved by the Board.

2.6.6. No osteopathic physician assistant shall be

supervised by and work for more than three supervising ~~osteopathic~~ physicians at one time.

2.7. Identification of osteopathic physician assistant. -- When functioning as an osteopathic physician assistant, the osteopathic physician assistant shall wear a name tag which identifies the osteopathic physician assistant as an osteopathic physician assistant.

2.8. Supervising osteopathic physician; responsibilities.

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

2.8.2. 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 (10) days of the termination.

2.8.3. The legal responsibility for any osteopathic physician assistant remains that of his or her supervising osteopathic physician at all times, except in temporary situations not to exceed twenty one days, in cases when a licensed and fully qualified osteopathic physician assistant is substituting for another licensed osteopathic physician assistant, the acts and omissions of the substituting osteopathic physician assistant are the legal responsibility of the absent osteopathic physician assistant's designated supervising osteopathic physician. The temporary change in supervisory responsibility shall be provided to the Board in writing, within ten (10) days of the effective date of the substitution, signed by the affected supervising osteopathic physicians and osteopathic physician assistants, and clearly specifying the dates of substitution.

2.9. The license of an osteopathic physician assistant shall be restricted, suspended or revoked by the Board in accordance with all the alternatives set out at W. Va. Code §30-14A-1 when, after due notice and a hearing in accordance with the manner and form prescribed by the contested case hearing procedure, W. Va. Code §29A-5-1 et seq. and regulations of the Board set out at 24 CSR 1 if it is found:

2.9.1. That the assistant has held himself or herself out or permitted another person to represent him or her as a licensed osteopathic physician;

2.9.2. That the assistant has in fact performed other than at the direction and under the supervision of a supervising osteopathic physician licensed by the Board;

2.9.3. That the assistant has been delegated and performed a task or tasks beyond his or her competence and not in accordance with his or her job description as approved by the Board;

2.9.4. That the assistant is a habitual user of intoxicants or drugs to such an extent that he or she is unable to safely perform as an assistant to the osteopathic physician;

2.9.5. That the assistant has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;

2.9.6. That the assistant has been adjudicated a mental incompetent or his or her mental condition renders him or her unable to safely perform as an assistant to an osteopathic physician;

2.9.7. That the assistant has failed to comply with any of the provisions of this rule or W. Va. Code §30-14-1 et seq.; and

2.9.8. That the assistant is guilty of unprofessional conduct which includes, but is not limited to, the following:

a. Misrepresentation or concealment of any material fact in obtaining any certificate or license or a reinstatement thereof;

b. The commission of an offense against any provision of state law related to the practice of osteopathic physician assistants, or any rule or regulation promulgated thereunder;

c. The commission of any act involving moral turpitude, dishonesty or corruption, when the act directly or indirectly affects the health, welfare or safety of citizens of this State. If the act constitutes a crime, conviction thereof in a criminal proceeding is not a condition precedent to disciplinary action;

d. Conviction of a felony, as defined under the laws of this State or under the laws of any other state, territory or country;

e. Misconduct in his or her practice as an osteopathic physician assistant or performing tasks fraudulently, beyond his or her authorized scope, with incompetence or with negligence on a particular occasion or negligence on repeated occasions;

f. Performing tasks as an osteopathic physician assistant while the ability to do so is impaired by alcohol, drugs, physical disability or mental instability;

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

h. Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine; treating or prescribing for any human condition by a method, means or procedure which the osteopathic physician assistant refuses to divulge upon demand of the Board; or using such methods or treatment processes not accepted by a reasonable segment of the medical profession;

i. Prescribing a prescription drug, including any controlled substance under state or federal law, other than in good faith and a therapeutic manner in accordance with accepted medical standards;

j. Prescribing a controlled substance under state or federal law, to or for himself or herself, or to or for any member of his or her immediate family; and

k. Prescribing a prescription drug, including any controlled substance under state or federal law, which is not included in the approved job description for that osteopathic physician assistant or which is not included in the approved state formulary for osteopathic physician assistants.

2.10. Denial of licensure of osteopathic physician assistant.

Whenever the Board determines that an applicant has failed to satisfy the Board that he or she should be licensed, the Board shall immediately notify the applicant of its decision and indicate in what respect the applicant has failed to satisfy the Board. The applicant shall be given a formal hearing before the Board upon request of the applicant filed with or mailed by registered or certified mail to the Secretary of the Board, which request must be filed within thirty (30) days after receipt of the Board's decision, stating the reasons for the request. The Board shall, within twenty (20) 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. The burden of satisfying the Board of his or her qualifications for licensure is upon the applicant. Following the hearing, the Board shall determine on the basis of this rule whether the applicant is qualified to be licensed, and this decision of the Board is final as to that application.

2.11. Disciplinary procedures. -- The disciplinary process and procedures set forth in the contested case hearing procedure, W. Va. Code §29A-5-1 et seq. and in regulations of the Board set out at 24 CSR 1 also apply to disciplinary actions instituted against osteopathic physician assistants with the same provisions regarding the appeal of decisions made to circuit courts.

2.12. Osteopathic physician assistant utilization.

2.12.1. The osteopathic physician assistant shall, 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 shall have, as a minimum, the knowledge and competency to perform the following functions and may under appropriate supervision perform them; this list is not intended to be specific or all-inclusive:

- 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 history physical examination and commonly performed laboratory studies;
- l. Initiate appropriate evaluation and emergency management for emergency situations; for example, cardiac arrest, respiratory distress, injuries, burns and hemorrhage;
- m. Perform clinical procedures such as:
 - A. Venipuncture;
 - B. Electrocardiogram;

- C. Care and suturing of minor lacerations;
- D. Casting and splinting;
- E. Control of external hemorrhage;
- F. Application of dressings and bandages;
- G. Removal of superficial foreign bodies;
- H. Cardiopulmonary resuscitation;
- I. Audiometry screening;
- J. Visual screening; and
- K. Aseptic and isolation techniques; and

n. Provide counseling and instruction regarding common patient problems.

2.12.2. The tasks an osteopathic physician assistant may perform are those which require technical skill, execution of standing orders, routine patient care tasks and such diagnostic and therapeutic procedures as the supervising osteopathic physician may wish to delegate to the osteopathic physician assistant after the supervising osteopathic physician has satisfied himself or herself as to the ability and competence of the osteopathic physician assistant. The supervising osteopathic physician may, with due regard for the safety of the patient and in keeping with sound medical practice, delegate to the osteopathic physician assistant such medical procedures and other tasks as are usually performed within the normal scope of the supervising osteopathic physician's practice, subject to the limitations set forth in this section and W. Va. Code §30-14-1 et seq., and the training and expertise of the osteopathic physician assistant.

2.12.3. A supervising osteopathic physician shall not permit an osteopathic physician assistant to independently practice medicine. Supervision must be maintained at all times.

2.12.4. an osteopathic physician assistant shall not:

a. Maintain or manage 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;

b. Independently bill patients for services provided;

c. Independently delegate a task assigned to him or her by his or her supervising osteopathic physician to another individual;

d. Perform acupuncture in any form; or

e. Pronounce a patient dead, except in a setting where state or federal government regulations permit a registered nurse or an osteopathic physician assistant to do so.

2.12.5. The supervising osteopathic physician shall monitor and supervise the activities of the osteopathic physician assistant and require documentation, including organized medical records with symptoms, pertinent physical findings, impressions and treatment plans indicated. The supervising osteopathic physician may also provide written protocols 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.

2.12.6. If the supervising osteopathic physician absents himself or herself in such a manner or to such an extent that he or she is unavailable to aid the osteopathic physician assistant when required, 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 osteopathic physician. The legal responsibility for the acts and omissions of the osteopathic physician assistant remains with the supervising osteopathic physician at all times.

2.12.7. It is the responsibility of the supervising osteopathic physician to ensure that supervision is maintained in his or her absence.

2.12.8. No osteopathic physician assistant may be utilized 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 approval from the Board. A supervising osteopathic physician may supervise only two (2) satellite operations. The criteria for granting approval is that the supervising osteopathic physician demonstrate the following to the satisfaction of the Board:

a. That the osteopathic physician assistant will be utilized in a designated manpower shortage area or an area of medical need as defined by the Board;

b. That 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. That provision is made for the supervising osteopathic physician to see each regular patient periodically; for example, every third visit; and

d. That the supervising osteopathic physician 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 the selected records upon which entries are made by the osteopathic physician assistant. Patient records shall be selected on the basis of written criteria established by the supervising osteopathic physician and the osteopathic physician assistant and shall be of sufficient number to assure adequate review of the osteopathic physician assistant's scope of practice.

2.12.9. Appropriate records of supervisory contact must be maintained and made available for Board review if required. Failure to maintain the standards required for such an operation may result in the loss of the privilege to maintain a satellite operation.

2.12.10. Designated representatives of the Board will be authorized to make on-site visits to the offices of supervising osteopathic physicians and medical care facilities utilizing osteopathic physician assistants to review the following:

- a. The supervision of osteopathic physician assistants;
- b. The maintenance of and compliance with, any protocols;
- c. Utilization in conformity with the provisions of this section;
- d. Identification of osteopathic physician assistants; and
- e. Compliance with licensure and registration requirements.

2.12.11. The Board reserves the right to review osteopathic physician assistant utilization without prior notice to either the osteopathic physician assistant or the supervising osteopathic physician. It is a violation of this rule for a supervising osteopathic physician or an osteopathic physician assistant to refuse to undergo a review by the Board.

2.12.12. The provisions of this section shall not be

construed to require medical care facilities to accept osteopathic physician assistants or to use them within their premises. 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 medical care facility permits it.

2.12.13. Osteopathic physician assistants employed directly by medical 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 two (2) osteopathic physician assistants, except that a supervising osteopathic physician may supervise up to four (4) hospital employed osteopathic physician assistants.

2.12.14. So long as the facility permits, an osteopathic physician assistant may:

a. 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

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

2.12.15. an osteopathic physician assistant may provide medical care or services in an emergency department so 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.

2.12.16. No osteopathic physician assistant shall render nonemergency outpatient medical services until the patient has been informed that the individual providing care is an osteopathic physician assistant.

2.12.17. 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.

2.12.18. 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.

2.12.19. The osteopathic physician assistant is required to notify the Board of changes in his or her employment within thirty (30) days. The osteopathic physician assistant must provide the Board with his or her new address and telephone number of residence, address and telephone number of employment and name of supervising osteopathic physician.

2.12.20. The supervising osteopathic physician is required to notify the Board of any changes in his or her supervision of an osteopathic physician assistant within ten (10) days.

2.13. Limited prescriptive privileges for osteopathic physician assistants.

2.13.1. an osteopathic physician assistant may be authorized by the Board to issue written or oral prescriptions for certain medicinal drugs at the direction of his or her supervising osteopathic physician if all of the following conditions are met:

a. The osteopathic physician assistant has performed patient care services for a minimum of two (2) years immediately preceding the submission to the Board of the job description requesting 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 four (4) semester hours;

c. The osteopathic physician assistant obtains Board approval of his or her job description which includes the categories of drugs the osteopathic physician assistant proposes to prescribe at the direction of his or her supervising osteopathic physician.

d. The osteopathic physician assistant continues to maintain national certification as an osteopathic physician assistant, and in meeting such national certification requirements, completes a minimum of ten (10) hours of continuing education in rational drug therapy in each certification period.

2.13.2. Evidence of completion of all conditions for the granting of limited prescriptive privileges shall be included with the osteopathic physician assistant's biennial renewal application and report to the Board.

2.13.3. The Board shall approve a formulary classifying

pharmacologic categories of all drugs which may be prescribed by an osteopathic physician assistant authorized by the Board to prescribe drugs. The formulary shall exclude Schedules I and II of the Uniform Controlled Substances Act, anticoagulants, antineoplastics, radiopharmaceuticals, general anesthetics and radiographic contrast materials. The formulary may be revised annually, and shall include the following designated sections:

a. Section a. -- A choice of drugs commonly used in primary care outpatient settings to be prescribable by osteopathic physician assistants who have completed an additional accredited course of study in clinical pharmacology approved by the Board of not less than four (4) semester hours; and

b. Section b. -- Additional drugs used less commonly in primary care outpatient settings to be prescribable by osteopathic physician assistants who have satisfied the requirements set forth under Section 2.13.3.a of this rule. In addition, Section b. drugs may be prescribed by osteopathic physician assistants only under the following limited situations:

A. 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

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

2.13.4. A prescription drug not included in the approved formulary shall not be contained in the job description of any osteopathic physician assistant.

2.13.5. 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 average therapeutic dose for that drug.

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

2.13.7. The prescription form utilized by an osteopathic physician assistant approved for limited prescriptive privileges shall 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, the telephone

number of the health care facility, 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." The osteopathic physician assistant shall write the name of the patient, the patient's address and the date on each prescription form. The osteopathic physician assistant shall sign his or her name to each prescription followed by the letters "PA-C." The supervising osteopathic physician must provide the Board with a copy of the prescription form utilized by his or her osteopathic physician assistant prior to its use.

A copy of this prescription form shall be provided by the osteopathic physician assistant to area pharmacies where the osteopathic physician assistant may issue a prescription by word of mouth, telephone or other means of communication in his or her name at the direction of the supervising osteopathic physician.

2.13.8. Osteopathic physician assistants authorized to issue prescriptions for Schedules III through V controlled substances shall write on the prescription form the Federal Drug Enforcement Administration number issued to that osteopathic physician assistant. Prescriptions written for Schedule III drugs shall be limited to a seventy-two (72) hour supply and may not authorize a refill. The maximum amount of Schedule IV or Schedule V drugs shall be no more than ninety (90) dosage units or a thirty (30) day supply, whichever is less.

2.13.9. Other prescription drugs shall not be prescribed or refillable for a period exceeding six (6) months.

2.13.10. The Board of Osteopathy shall provide the Board of Pharmacy with a list of osteopathic physician assistants with limited prescriptive privileges and shall update the list within ten (10) days after additions or deletions are made.

2.13.11. Nothing in this rule shall be construed to permit any osteopathic physician assistant to independently prescribe or dispense drugs.

2.14. Continuing Education.

2.14.1. Each osteopathic physician assistant, as a condition of biennial renewal of osteopathic physician assistant license, shall provide written documentation of participation in and successful completion during the preceding two (2) year period of a minimum of twenty (20) hours of continuing education in courses approved by the Board for the purposes of continuing education of osteopathic physician assistants

2.14.2. All written documentation must be submitted to and received by the Board, with the completed biennial renewal form, prior to the first day of April of the year of renewal of the

osteopathic physician assistant license.

2.14.3. Failure to timely submit written documentation as set forth in subsection 2.14.3 of this rule shall result in the automatic suspension of the license of an osteopathic physician assistant until such time as the written documentation is submitted to and approved by the Board.

§24-2-3. Severability.

If any provision of these rules 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.