

Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Authorized Signature

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 28, 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
304-558-6095

LEGISLATIVE RULE TITLE: Fees for Services Rendered by the Board of Osteopathy

1. Authorizing statute(s) citation W.Va Code §§ 29-B-1-3(5), 30-1-4, 30-14A-3

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

June 14, 2010

b. What other notice, including advertising, did you give of the hearing?

A copy of the rule was mailed to every osteopathic physician assistant licensed by the Board and a copy to every supervising physician.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 14, 2010

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

Attached _____

No comments received X

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

July 28, 2010

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

Diana Shepard, Executive Director

West Virginia Board of Osteopathy

405 Capitol Street, Suite 402

Charleston, WV 25301

phone: 304-558-6095

fax: 304-558-609

email: diana.k.shepard@wv.gov

- 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, Sr. Assistant Attorney General

Address: SAME

phone: 304-558-6098

email: dcb@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.

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

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

**SERIES 5
FEES FOR SERVICES RENDERED BY
THE BOARD OF OSTEOPATHY**

SUMMARY OF PROPOSED RULE

The West Virginia Board of Osteopathy proposes to amend its existing rule, "Fees for Services Rendered by the Board of Osteopathy," to specify fees that were not previously listed in the rule. These include fees for the licensing of osteopathic physician assistants and related services for them, and fees for production of electronic records.

Previously, fees to apply for a license to practice as an osteopathic physician assistant had been set by the West Virginia Code. In 2010, the Legislature authorized the Board of Osteopathy to set fees for osteopathic physician assistants by rule. The proposed new section 3 [§24-5-3] of the rule, establishes the fees on the same schedule as the West Virginia Board of Medicine. This represents an increase of \$100 for an initial license, \$50 for renewal of a license and \$25 to file a change of employment/duties request with the Board.

Section 4 [§24-5-4] contains a new provision for the cost of providing CD and DVD copies of records under the Freedom of Information Act. These figures represent the cost of the disks themselves and keeping a supply in inventory, as well as the cost of packaging and delivery to those requesting public information.

This section also contains provisions for the preparation of reports and data, when an entity seeks this data, but does not want, or have the ability, to receive the data in the format used by the Board. This often occurs when a business service seeks to aggregate such data for another purpose. These fees are newly defined, but they are based on the Board's costs when such requests were presented on an *ad hoc* basis in the past.

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**STATEMENT OF CIRCUMSTANCES
FOR AMENDMENT OF EXISTING RULE**

The West Virginia Board of Osteopathy proposes to amend its existing rule, "Fees for Services Rendered by the Board of Osteopathy," to include fees associated with licensing of osteopathic physicians and to establish fees for the production of records in electronic format.

The fees for the certification and authorization of osteopathic physician assistants were previously established by the West Virginia Code. However, during the 2010 Regular Session, the West Virginia Legislature removed the specification of fees from the Code and gave the Board of Osteopathy the authority to propose fees for consideration as legislative rules. In recognition of the modern environment in which physician assistant work under both M.D.s and D.O.s, the Board proposes to set its fees in parallel with those charged by the WV Board of Medicine for similar services.

The Board has also added provisions for the production of records in electronic format. Although the state Freedom of Information Act authorizes the Board to charge for its actual costs in the production of public records – regardless of format – the existing fee schedule only contemplates costs for paper records. After some research and experience, the Board has determined a reasonable schedule for reimbursement for the costs of producing records under F.O.I.A. and for production of electronic records requested outside of the F.O.I.A. provisions.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Fees for Services Provided by the Board of Osteopathy

Rule Title: _____

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 amendments to this rule include two components: 1) an increase in fees charged for approximately 160 of the Board's licensees and 2) the establishment of fees, not previously recovered, for other functions of the Board office and occasional, custom services provided outside the scope of FOIA requests

The annual cost for all the services provided hereunder will be \$4893.00, but revenues to the agency's special revenue account will increase by \$16,670.00 annually.

There will be NO effect on general revenue.

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	0.00	4,893.00
Personal Services			868.00
Current Expenses	100.00	0.00	400.00
Repairs & Alterations			
Assets			
Other			3,625.00
2. Estimated Total Revenues	0.00	0.00	16,670.00

Fees for Services Provided by the Board of Osteopathy

Rule Title: _____

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. If these fees were approved by the Legislature, they would not take effect until the last few weeks of the coming fiscal year and, therefore, the impact is considered to be negligible.

The portion of the rule relating to fees for services to osteopathic physician assistants includes an increase in the fees currently charged by the Board to match the fees charged by the West Virginia Board of Medicine for comparable services. Based upon the average number of applications and requests received by the Board, these fees will bring in \$7600.00 in increased revenues. This number will be offset by a corresponding annual payment of \$3625.00 to support the Physician Health Program authorized by West Virginia Code §30-3D-2.

This rule also establishes fixed fees for services occasionally provided to businesses seeking information in custom formats. Based upon the Board's experience with the number of similar requests in the past, the Board estimates that these rates will bring in an additional \$9070.00 in annual revenue.

This will be offset to some extent by increases in expenses due to the additional supplies, equipment, services, and communication costs for these requests. Approximately 28 hours per year of staff time will be consumed with these requests, equivalent to \$868.00 gross expenses in personal services.

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.

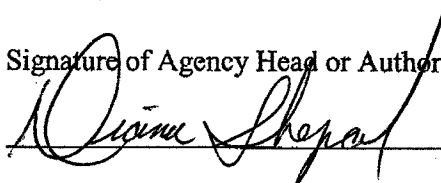
It is important to note that the West Virginia Board of Osteopathy operates under a special revenue account, through which all of the Board's expenses are to be met from fees charged for licensing and additional services provided by the Board.

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.

The \$3625 in Other Costs in the last column of the chart represents the Board's commitment to funding of the state Physician Health Program for the monitoring and recovery of doctors and physician assistants who have been treated for substance abuse problems. This is based upon a contribution equivalent to half of the increased fee per license application.

Date: June 10, 2010

Signature of Agency Head or Authorized Representative



FILED

2010 JUL 28 PM 3: 03

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

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 5
FEES FOR SERVICES RENDERED BY
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§24-5-1. General.

1.1. Scope. -- This legislative rule establishes the fees charged by the Board of Osteopathy for services rendered.

1.2. Authority. -- WEST VIRGINIA CODE §§ 29B-1-3(5), 30-1-4, 30-1-6, 30-14-4, 30-14A-3 and 31B-13-1304.

1.3. Filing Date. --

1.4. Effective Date. --

§24-5-2. Schedule of Fees For Services Rendered for Physicians.

The West Virginia Board of Osteopathy charges fees for the services it performs in connection with the licensing of osteopathic physicians, physician corporations and professional, limited liability companies. The services are listed below with the corresponding fee for each service.

2.1 Application for Licensure - \$400.00

2.2 Biennial Renewal of License - \$400.00

2.3. Osteopathic Physician Corporation Application Fee - \$500.00

2.4. Osteopathic Physician Corporation Biennial Renewal - \$400.00

2.5. Osteopathic Physician Endorsement or Written Licensure Verification - \$35.00

2.6. Osteopathic Physician State Board Scores - \$10.00

2.7. Late renewal fee - \$100.00

2.8. Osteopathic Physician Duplicate Wallet License - \$30.00

2.9. Osteopathic Physician Wall Certificate - \$50.00

2.10 Osteopathic Physician Educational Permit - \$100.00

2.11 Annual Registration of a Professional, Limited Liability Company - \$200.00 per year.

2.12. Annual Permit to Dispense / Prescribe Controlled Substance - \$15 per year.

§24-5-3. Schedule of Fees For Services Rendered For Physician Assistants.

- 3.1. Physician Assistant License Fee - \$200.00
- 3.2. Physician Assistant Biennial Renewal of License - \$100.00
- 3.3. Written Verification of License or Endorsement - \$35.00
- 3.4. Fee for Prescription Writing Privileges - \$50.00
- 3.5. Fee for Change or Addition of Supervising Physician - \$50.00

§24-5-3 §24-5-4. Schedule of Fees For Services Rendered For the General Public.

The West Virginia Board of Osteopathy charges the following fees for the production of records and copies provided to the public, pursuant to the West Virginia Freedom of Information Act, W. VA. CODE §29B-1-1 *et seq.*, and for customized reports that are not subject to the Act.

~~3.1~~ 4.1. Record Search Fee- \$30.00

~~3.2~~ 4.2. Copying of written or printed public records – no charge for 10 pages or less, \$0.75 for each page in excess of 10 pages.

4.3. Duplication or production of electronic media:

a. Compact Disc - \$5.00 per disc

b. DVD - \$10.00 per disc

4.4. Written summarization of a complaint file – \$300.00 per file, exclusive of any charges for copying more than ten pages from a complaint file.

4.5. Database Reports and Extracts in Custom Formats

a. Custom licensee directories, requiring license issue and expiration dates: \$5000.00 for physician licensees, \$2500.00 for osteopathic physician assistant licensees.

b. Other custom reports, including requests for existing reports in alternate formats: \$300.00 administrative fee, plus \$50.00 for each added data field not included in an existing report on the Board's website.

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AGENCY'S RESPONSE TO PUBLIC COMMENTS

The Board of Osteopathy posted information linking to the proposed bill on its website and also provided copies of this rule to all Osteopathic Physician Assistants licensed by the Board, and to the supervisors of those licensees.

NO COMMENTS WERE RECEIVED IN RESPONSE TO THE PROPOSED RULE