

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

Form #2

Do Not Mark In This Box

FILED

2012 JUL -9 PM 2:31

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA BOARD OF MEDICINE TITLE NUMBER: 11

RULE TYPE: LEGISLATIVE CITE AUTHORITY: W. Va. Code § 30-1-7a and § 30-3-12

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: Continuing Education for Physicians and Podiatrists

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 10, 2012, AT 3:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Deborah Lewis Rodecker

deborah.lewis.rodecker@wv.gov

West Virginia Board of Medicine

101 Dee Drive, Suite 103

Charleston, WV 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SUMMARY OF CONTENT AND STATEMENT OF CIRCUMSTANCES
REQUIRING THE RULE 11 CSR 6

Amendments made to 11 CSR 6 are made pursuant to provisions in West Virginia Code § 30-1-7a which requires that physicians and podiatrists must complete drug diversion training and best practice prescribing of controlled substances training as part of their continuing education requirements, unless exempted due to not prescribing, administering or dispensing such drugs. New definitions are among the provisions added for clarification.

Pursuant to West Virginia Code § 30-3-12, amendments are made as well to provisions about how to acquire appropriate continuing medical education based on changes in the American Board of Medical Specialties (ABMS) and its Maintenance of Certification program. A clarification is added regarding the continuing medical education which must be documented to the Board of Medicine in cases where a license has expired, lapsed, surrendered or been suspended on a non-disciplinary basis for lack of adequate continuing medical education.

The changes are all made to conform to new law and upgrading of medical standards nationally.

FISCAL NOTE FOR PROPOSED RULES

Continuing Education for Physicians and Podiatrists

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Medicine

Address: 101 Dee Drive, Suite 103
Charleston, WV 25311

Phone Number: 304.558.2921 Email: deborah.lewis.rodecker@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.

There is no additional cost nor revenue to state government related to this proposed rule.

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

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.

n/a	
-----	--


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.

None	
------	--

Date: July 9, 2012

Signature of Agency Head or Authorized Representative



FILED

2012 JUL -9 PM 2: 31

TITLE 11
LEGISLATIVE RULE
BOARD OF MEDICINE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 6

CONTINUING EDUCATION FOR
PHYSICIANS AND PODIATRISTS

§11-6-1. General.

1.1. Scope. -- These legislative rules address requirements for continuing education satisfactory to the Board for physicians and podiatrists.

1.2. Authority. -- W. Va. Code §30-3-12 and § 30-1-7a.

1.3. Filing Date. -- ~~April 4, 2008.~~

1.4. Effective Date. -- ~~July 1, 2008.~~

§11-6-2. Definitions.

2.1. "ABMS" means American Board of Medical Specialties.

2.2. "Board" means the West Virginia Board of Medicine.

2.3. "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three (3) continuous months. For purposes of this rule, "chronic pain" does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

2.4. "Controlled substances" means drugs that are classified by federal or state law in Schedules I, II, III, IV or V, as defined in W. Va. Code § 60-2-204 through 212.

2.5. "Drug diversion training and best practice prescribing of controlled substances training" means training which includes all of the following:

a. Drug diversion, including West Virginia statistics on prescription drug abuse and resulting deaths.

b. Epidemiology of chronic pain and misuse of opioids.

c. Indication for opioids in chronic pain treatment including general characteristics, toxicities and drug interactions.

d. Examination of patient evaluation and risk assessment and tools to assess risk and monitor benefits.

e. Initiation and ongoing management of chronic pain patient treated with opioid based therapies, including treatment objectives; monitoring and periodic review; referrals and consultations; informed consent; prescription of controlled substance agreements, urine screens and pill counts; patient education on safe use, storage and disposal of opioids; discontinuation of opioids for pain due to lack of benefits or increased risks; documentation and medical records.

f. Case study of a patient with chronic pain.

g. Identification of diversion and drug seeking tactics and behaviors.

h. Best practice methods for working with patients suspected of drug seeking behavior and diversion.

i. Compliance with controlled substances laws and rules.

j. Registration with and use of the West Virginia Controlled Substances Monitoring Program established in West Virginia Code Chapter 60A, Article 9.

2.6. "Maintenance of certification" means an ongoing process of education and assessment for the twenty four (24) member boards of the ABMS board certified physicians to improve practice performance in six (6) core competencies: professionalism, patient care and professional skills, medical knowledge, practice based learning and improvement, interpersonal and communication skills, and systems based practice.

2.7. "Opioid" means natural and semi-synthetic derivatives of the opium poppy, as well as similar synthetic compounds that have analgesic or pain relieving properties because of their effects in the central nervous system. These include, but are not limited to, codeine, morphine, hydromorphone, hydrocodone, oxycodone, methadone, and fentanyl.

2.8. "Reactivation" means a return to active status of a license which has been in an expired, lapsed, surrendered or suspended status for more than one (1) year immediately preceding the request for reactivation.

2.9. "Suspended license" for purposes of this rule means a license suspended on a non-disciplinary basis under the provisions of West Virginia Code § 30-3-12 for failure to timely provide required continuing education to the Board.

§11-6-2.3. Continuing Education Satisfactory to the Board.

2-3.1. Physicians. -- Beginning July 1, 1993, successful completion of a minimum of fifty (50) hours of continuing medical education satisfactory to the Board during the preceding two (2) year period is required for the biennial renewal of a medical license. Beginning July 1, 2008, at least thirty (30) hours of the hours must be related to the physician's area or areas of specialty.

2-3.2. In order to acquire continuing medical education satisfactory to the Board, a physician may:

2-3.2.1. Take continuing medical education designated as Category I by the American Medical Association or the American Academy of Family Physicians, or

2-3.2.2. Teach medical education courses or lecture to medical students, residents, or licensed physicians, or serve as a preceptor to medical students or residents: Provided, that a physician may not count more than twenty (20) hours in this category toward the required fifty (50) hours of continuing medical education.

2-3.2.3. Sit for and pass a certification or recertification examination of one of the American Board of Medical Specialties ABMS member boards, and receive certification or recertification from said board, or provide documentation of current successful involvement in maintenance of certification from said board: Provided, that a physician may not count more than ~~twenty-five (25)~~ forty seven (47) hours in this category toward the required fifty (50) hours of continuing medical education: Provided, however, that any physician who timely provides to the Board a Board-developed certification form and waiver request attesting that he or she has not prescribed, administered, or dispensed a controlled substance during the entire previous reporting period may count fifty (50) hours in this category toward the required fifty (50) hours of continuing medical education. Certification, or recertification, or current successful involvement in maintenance of certification from any board other than one of the American Board of Medical Specialties ABMS member boards does not qualify the recipient for any credit hours of continuing medical education.

3.3. Beginning May 1, 2014, unless a physician has completed and timely provided to the Board a Board-developed certification form and waiver request attesting that he or she has not prescribed, administered, or dispensed a controlled substance during the entire previous reporting period, every physician as a prerequisite to license renewal shall complete a minimum of three (3) hours of drug diversion training and best practice prescribing of controlled substances training during

the previous reporting period. Said three (3) hours shall be part of the fifty (50) total hours of continuing education required and not three (3) additional hours.

There are no other types or categories of continuing medical education satisfactory to the Board.

~~2.3~~ 3.4. Podiatrists. -- Beginning July 1, 1993, successful completion of a minimum of fifty (50) hours of continuing podiatric education satisfactory to the Board during the preceding two (2) year period is required for the biennial renewal of a podiatric license. Beginning July 1, 2008, at least thirty (30) hours of the hours must be related to the podiatrist's area or areas of specialty.

~~2.4~~ 3.5. In order to acquire continuing podiatric education satisfactory to the Board a podiatrist may:

~~2.4~~ 3.5.1. Take continuing podiatric education approved by the Council on Podiatric Medical Education, or

~~2.4~~ 3.5.2. Take continuing podiatric education given under the auspices of the podiatry colleges in the United States, or

~~2.4~~ 3.5.3. Take continuing medical education designated as Category I by the American Medical Association or the American Academy of Family Physicians.

~~2.4~~ 3.5.4. Take continuing podiatric education given under the auspices of the West Virginia Podiatric Medical Association.

~~2.4~~ 3.5.5. Teach podiatric education courses or lectures in podiatry taught to podiatric students, residents, or licensed podiatrists, or serve as a preceptor to podiatric students or residents: Provided, that a podiatrist may not count more than twenty (20) hours in this category toward the required fifty (50) hours of podiatric education.

3.6. Beginning May 1, 2014, unless a podiatrist has completed and timely provided to the Board a Board-developed certification waiver form attesting that he or she has not prescribed, administered, or dispensed a controlled substance during the entire previous reporting period, every podiatrist as a prerequisite to license renewal shall complete a minimum of three (3) hours of drug diversion training and best practice prescribing of controlled substances training during the previous reporting period. Said three (3) hours shall be part of the fifty (50) total hours of continuing education required and not three (3) additional hours.

There are no other types or categories of continuing podiatric education satisfactory to the Board.

~~2-5~~ 3.7. Hours; Physicians and Podiatrists. -- For the purposes of this section, one (1) clock hour of attendance equals one (1) hour of continuing education.

§11-6-34. Certification of Successful Completion of Continuing Education Requirements.

~~3-4.1.~~ 3.4.1. Certification. -- Every applicant for licensure renewal shall timely submit to the Board a certification of the successful completion of a minimum of fifty (50) hours of continuing education satisfactory to the Board during the preceding two (2) year period. If an applicant fails to submit such certification in a timely fashion the applicant's license shall automatically expire.

~~3-4.2.~~ 3.4.2. Form of Certification. -- The Board shall imprint on its biennial renewal application forms a certification requiring the applicant's signature and the date after an attestation to the truth and correctness of the applicant's statements pertaining to the successful completion of the required continuing education. The certification shall include a statement that any license issued from the application is based on the truth of the applicant's statements and that if false information is submitted in the application, such an act constitutes good cause for the revocation of the applicant's license to practice in the State of West Virginia.

~~3-4.3.~~ 3.4.3. Timely Submission of Certification. -- In order for a certification to be submitted to the Board in a timely fashion, the certification must be received in the Board offices before the first day of July of the year of renewal of the license.

§11-6-45. Written Documentation of Successful Completion of Continuing Education Requirements.

~~4-5.1.~~ 4.5.1. Audits. -- The Board may conduct such audits and investigations as it considers necessary to determine if licensees are complying with continuing education requirements and if the statements made on the Board's renewal application forms as to continuing education are accurate.

~~4-5.2.~~ 4.5.2. When Written Documentation Requested. -- Any licensee is required to provide supporting written documentation of the successful completion of the continuing education certified as received on the biennial renewal application form, if the Board requests such written documentation in writing. The licensee shall provide the Board with the written documentation so that it is received by the Board within thirty (30) days of the licensee's receipt of the written request.

~~4-5.3.~~ 4.5.3. Automatic Expiration of License. -- When a licensee's license automatically expires for failure to timely submit to the Board a certification of successful completion of a minimum of fifty (50) hours of continuing education satisfactory to the Board, the license shall remain expired until such time as the certification, as set forth in section ~~3 of these regulations~~ 4 of this rule, is received by

the Board and until such time as all supporting written documentation is submitted to and approved by the Board.

~~4.5.4.~~ Failure or Refusal to Provide Written Documentation. -- Failure or refusal of a licensee to provide written documentation requested by the Board as set forth in ~~section 4.2 of this regulation~~ 5.2 of this rule is prima facie evidence of renewing a license to practice medicine or podiatry by fraudulent misrepresentation and the licensee is subject to disciplinary proceedings under W. Va. Code §30-3-14.

~~4.5.5.~~ Inactive License. -- Beginning July 1, 1993, in the case of a licensee who holds an inactive license and who makes a written request to the Board for an active license, the licensee shall submit written documentation of successful completion of a minimum of fifty (50) hours of continuing education as required in ~~section 2 of these regulations~~ 3 of this rule. The Board shall not consider a request for a change from an inactive to an active license until all written documentation accompanied by a certification in accordance with ~~section 3 of these regulations~~ 4 of this rule is submitted to and approved by the Board.

5.6. Expired, Lapsed, Surrendered, or Suspended License. – Beginning June 1, 2013, in the case of a former licensee who makes a written request to the Board for reactivation of a license, the former licensee shall submit written documentation of successful completion of a minimum of fifty (50) hours of continuing education as required in section 3 of this rule: Provided, in order for reactivation to be granted by the Board, the former licensee shall not be required by the Board to submit such written documentation for more than fifty (50) hours obtained during each of the two (2) full and complete renewal cycles immediately preceding the reactivation request.