

Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE


Authorized Signature

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

**Osteopathic Physician Assistants
Title 24, Series 2**

**SUMMARY AND CIRCUMSTANCES REQUIRING AN AMENDMENT
OF RULE 24 CSR 2**

The amendments proposed to 24 CSR 2 implement requirements of West Virginia Code § 30-1-7a which mandate that each person licensed as a physician assistant by the West Virginia Board of Osteopathic Medicine must complete drug diversion training and best practice prescribing of controlled substances training, unless the physician assistant completes a Board of Osteopathic Medicine developed certification form attesting that the physician assistant has not prescribed, administered or dispensed a controlled substance during the applicable reporting period.

The amendments also define “chronic conditions” pursuant to new language in West Virginia Code § 30-14A-1(p) in order that physician assistants may prescribe certain medications for a longer period of time (annually) than at present for those defined chronic conditions.

Outdated language relating to the formulary has been deleted.

Changes made are to comply with provisions of two new laws passed in the 2012 Regular Legislative Session: Enrolled Committee Substitute for S.B. 437, relating to substance abuse, and Enrolled Committee Substitute for S.B. 535, relating to expanding prescriptive authority of physician assistants and advanced practice registered nurses.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Osteopathic Physician Assistants

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Board of Osteopathic Medicine

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.

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:

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.

n/a

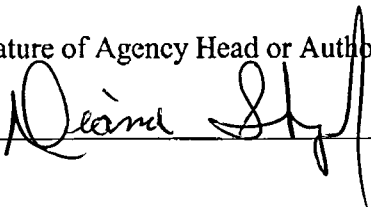
MEMORANDUM

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.

n/a

Date: August 28, 2012

Signature of Agency Head or Authorized Representative



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: August 28, 2012

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Osteopathic Medicine
405 Capitol Street, Suite 402
Charleston, WV 25301
(304) 558-6095

LEGISLATIVE RULE TITLE: Osteopathic Physician Assistants

1. Authorizing statute(s) citation West Virginia Code Sections 30-1-7a and 30-14A-1(p)

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

July 27, 2012

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

West Virginia Board of Osteopathic Medicine website

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

August 27, 2012

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

Attached 0

No comments received X

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

August 28, 2012

- 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 Shephard

West Virginia Board of Osteopathic Medicine
405 Capitol Street, Suite 402
Charleston, WV 25301

(304) 558-6095 phone
(304) 558-6096 fax

- 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)

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 RULES
WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE**

**SERIES 2
OSTEOPATHIC PHYSICIAN ASSISTANTS**

§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. W. Va. Code § 30-1-7a requires each person licensed as a physician assistant by the West Virginia Board of Osteopathic Medicine to complete drug diversion training and best practice prescribing of controlled substances training, as the trainings are established by the West Virginia Board of Osteopathic Medicine, if the person prescribes, administers or dispenses a controlled substance.

1.2. Authority. -- W. Va. Code § 30-1-7(a), §30-14A-1.

1.3. Filing Date. -- ~~June 16, 2011.~~

1.4. Effective Date. -- ~~June 17, 2011.~~

~~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. Chronic Condition. -- A condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, does not generally disappear and has been stable for a period of twelve months. These conditions do not include chronic pain or any condition which requires anti-neoplastics (or chemotherapeutic agents, in the active treatment of current cancer) or any condition that requires controlled substances, but do include anemia, arthritis, asthma, bladder

outlet obstruction, cardiovascular and pulmonary disease, non-insulin requiring and controlled diabetes, epilepsy and seizures, hypothyroidism, and obesity.

2.4. Controlled Substances – Drugs that are classified by federal or state law in Schedules I, II, III, IV or V, as defined in W. Va. Code §§ 60A-2-204 through 212.

2.5. Drug Diversion Training and best practice prescribing of controlled substances training which includes all of the following:

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

2.5.b. Epidemiology of chronic pain and misuse of opioids.

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

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

2.5.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.

2.5.f. Case study of a patient with chronic pain.

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

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

2.5.i. Compliance with controlled substances laws and rules.

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

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

2.4. 7. 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. 8. NCCPA. -- The National Commission on the Certification of Physician

Assistants.

2.9. Opioid – 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.

2.6. 10. Osteopathic physician assistant. -- An assistant to an osteopathic physician who is a graduate of an approved program of instruction in primary care or surgery, has passed the national certification examination, and is qualified to perform direct patient care services under the supervision of an osteopathic physician.

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

2.8. 12. 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. 13. 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. 14. 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 license and a temporary license.

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

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

3.2.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;

3.2.c. Demonstration of good moral character; and

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

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

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

3.3.b. Demonstration of good moral character; and

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

3.4. No person may receive a temporary license if that person has been licensed as a fully-qualified physician assistant in any state or territory of the United States.

3.5. A temporary license is issued for a period of one year. A physician assistant who has graduated from a qualified educational program shall sit for, and obtain a passing score on, the next examination offered following graduation from the program. The Board may grant an extension of a temporary license for an additional year, but the decision to grant the extension is solely a matter of the discretion of 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 regular, 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.

4.3. 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:

4.3.a. Screen patients to determine the need for medical attention;

4.3.b. Review patient records to determine health status;

4.3.c. Take a patient history;

4.3.d. Perform a physical examination;

4.3.e. Perform development screening examinations on children;

4.3.f. Record pertinent patient data;

4.3.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;

4.3.h. Prepare patient summaries;

4.3.i. Initiate requests for commonly performed initial laboratory studies;

4.3.j. Collect specimens for, and carry out, commonly performed blood, urine and stool analyses and cultures;

4.3.k. Identify normal and abnormal findings in patient history and physical examination and in commonly performed laboratory studies;

4.3.l. Initiate appropriate evaluation and emergency management for emergency situations; for example, cardiac arrest, respiratory distress, injuries, burns and hemorrhage;

4.3.m. Provide counseling and instruction for common patient questions;

4.3.n. Execute documents at the direction of and for the supervising physician;

4.3.o. Assist in surgery;

4.3.p. Perform clinical procedures such as, but not limited to, the following:

4.3.p.1. Venipuncture;

4.3.p.2. Electrocardiogram;

4.3.p.3. Care and suturing of minor lacerations, with injection of local anesthesia;

4.3.p.4. Casting and splinting;

4.3.p.5. Control of external hemorrhage;

4.3.p.6. Application of dressings and bandages;

4.3.p.7. Removal of superficial foreign bodies;

4.3.p.8. Cardiopulmonary resuscitation;

4.3.p.9. Audiometry screening;

4.3.p.10. Visual screening; and

4.3.p.11. Carry out aseptic and isolation techniques.

4.3.q. Study and develop new skills consistent with developments and advances in medical knowledge.

4.4. 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 rules or regulations of the facility in which the osteopathic physician assistant practices.

4.5. 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 a physician assistant.

4.6. Amendment of Job Description.

A supervising osteopathic physician may request a change to the job description of an osteopathic physician assistant at any time, but the osteopathic physician assistant may not engage in any additional practices or tasks until the amendments have been approved by the Board. The request to the Board must include a description or documentation of the osteopathic physician's training, such as continuing education and clinical experience, and the number of procedures performed by the osteopathic physician assistant under the direct supervision of a physician, which would qualify the person to perform the requested, additional duties.

4.7. Practice within Emergency Departments.

4.7.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.

4.7.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.

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

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

4.8.b. An osteopathic physician assistant shall not perform any services that his

or her supervising osteopathic physician is not qualified to perform including the treatment of chronic conditions as defined in 2.3.

4.8.c. 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.

4.8.d. 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.

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

4.8.f. 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.

4.8.g. 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.

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

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

5.1. An osteopathic physician assistant may *only* practice under the supervision and control of a physician who holds a regular, 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.

5.2.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.

5.2.b. For an osteopathic physician assistant 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.

5.2.c. An appropriate degree of supervision includes:

5.2.c.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;

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

5.2.c.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;

5.2.c.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.

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

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

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

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

5.3.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.

5.3.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.

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

5.3.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.

5.4.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 must 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.

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

5.4.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.

7.4. 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. Of this amount, at least fifty hours must be classified as Category I CME hours by the American Academy of Physician Assistants or by the NCCPA. In addition, beginning July 13, 2013, unless a physician assistant 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 physician assistant 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.

7.5. 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 shall 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:

~~8.1.a. Section A. — A selection of drugs commonly used in primary care, outpatient settings; and~~

~~8.1.b. Section B. — Additional drugs, used less commonly in primary care, outpatient settings, to be prescribed only under the following limited situations:~~

~~8.1.b.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~~

~~8.1.b.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:

8.2.a. The osteopathic physician assistant has performed patient care services for a minimum of two years immediately preceding the application for limited prescriptive privileges;

8.2.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;

8.2.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

8.2.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.

8.2.e. Beginning July 1, 2013 the physician assistant shall provide evidence of completion of a minimum of three (3) hours of drug diversion training and best practice prescribing of controlled substances training within two (2) years prior to his or her application submission to the Board for limited prescriptive privileges.

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, 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 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.

8.5.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.

8.5.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.

8.5.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, except that an annual supply of any drug, other than a controlled substance, may be prescribed for the treatment of a chronic condition as defined in section 2.3, other than chronic pain management: *Provided* that the practitioner, at his or her discretion, may elect not to prescribe an annual supply, in order to assess the drug's therapeutic efficacy, *Provided further*, the chronic condition being treated shall be noted on each such prescription by the physician assistant. 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.

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

8.5.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 osteopathic 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:

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

9.1.b. Failure to comply with any portion of this rule or the provisions of W. Va. Code §30-14A-1 *et seq.*;

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

9.1.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;

9.1.e. Knowingly permitting another person to misrepresent the osteopathic physician assistant as a physician;

9.1.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;

9.1.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;

9.1.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

9.1.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

9.1.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.

9.2.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.

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

9.2.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, 24CSR3 "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.

10.1.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:

10.1.a.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

10.1.a.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:

10.2.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;

10.2.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;

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

10.2.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 with personal, regular review of records, selected on the basis of written criteria established by the supervising osteopathic physician and the osteopathic physician assistant, in sufficient number to assure adequate review of the osteopathic physician assistant's practice.