

Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE

James Campbell
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: 8/31/12

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Optometry, 179 Summers Street,
Suite 231, Charleston, WV 25301, 304-558-5901

LEGISLATIVE RULE TITLE: Continuing Education, §14-10

1. Authorizing statute(s) citation West Virginia Code, §30-8-1, et seq

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

July 26, 2012

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

E-mail to Executive Director, West Virginia Academy of Eye Physicians and Surgeons, E-mail to
Executive Director of West Virginia Association of Optometric Physicians, Letter of Notification
to all licensees, proposed rule posted on the Board's web site, wvbo.org.

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 xx No comments received

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

August 31, 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)

Pamela Carper, Executive Director, WV Board of Optometry, 179 Summers
Street, Suite 231, Charleston, WV 25301, phone: 304-558-5901,
fax:304-558-5908, e-mail: wvbdopt@frontier.com

- 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)

James Campbell, O.D., Rules Officer and Secretary-Treasurer, West Virginia
Board of Optometry, 179 Summers Street, Suite 231, Charleston, WV 25301,
phone: 304-558-5901, fax: 304-558-5908, e-mail: wvbdopt@verizon.net

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 OPTOMETRY

§14-10 Continuing Education

List of Those People Who Commented On the Rule

Vickie Lauer, O.D., West Virginia licensed optometrist living in Parkersburg, WV

John V. Townsend, O.D., F.A.A.O., West Virginia licensed optometrist living in Maryland

Dr. L. DeRosa Stephens, O.D., West Virginia licensed optometrist living in Tennessee

Ralph Shenefelt, Health and Safety Institute

WEST VIRGINIA BOARD OF OPTOMETRY

14CSR10
Continuing Education

Summary

The rule is written to comply with W.Va. Code, §30-1-7a, requiring continuing education on drug diversion and best practice prescribing of controlled substances.

- The rule increases the total number of required hours per every even-numbered two year cycle from 40 hours to 43 hours.
- The rule requires each person who receives his or her initial license to practice optometry to complete 3 hours of drug diversion and best practice prescribing of controlled substances continuing education within one year of receiving his or her license.
- Beginning in on July 1, 2014 all licensees who hold oral drug prescriptive authority or a higher level of licensure are required to complete 3 hours of drug diversion and best practices prescribing of controlled substances continuing education training prior to license renewal.
- Those current licensees who are subject to drug diversion and best practices prescribing of controlled substances continuing education requirements may sign a waiver stating that he or she has not prescribed controlled substances during the entire previous even numbered two year reporting period. Those licensees will be exempt from the new continuing education requirement.

WEST VIRGINIA BOARD OF OPTOMETRY

14CSR10
Continuing Education

Circumstances

The rule is written to comply with the requirements of W. Va. Code, §30-1-7a, requiring licensees to obtain continuing education training in drug diversion and best practices prescribing of controlled substances.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

Continuing Education

Type of Rule:

☒ Legislative ☐ Interpretive ☐ Procedural

Agency:

WV Board of Optometry

Address:

179 Summers Street, Suite 231
Charleston, WV 25301

Phone Number:

304-558-5901

Email: wvbdopt@frontier.com**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The new continuing education provision is being added to comply with the Governor's Substance Abuse Bill passed in the 2012 Legislative Session. It will have no impact on the state's expenditures. The audit for compliance with the new provision will be folded into the present continuing education audit process. The classes will be provided by Board approved providers, not the Board.

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

Rule Title:

Continuing Education



Rule Title: _____

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

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

There will be no impact on the state's expenditures.

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.

The will be no impact on the state's expenditures.

Date: August 31, 2012

Signature of Agency Head or Authorized Representative

Jane Campbell

TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 10
CONTINUING EDUCATION

FILED

AUG 31 AM 11:16

OFFICE WEST VIRGINIA
SECRETARY OF STATE**§14-10-1. General.**

1.1. Scope -- This legislative rule establishes requirements for continuing education for licensees.

1.2. Authority -- W. Va. Code §30-8-1, et seq. and W. Va. Code 30-1-7a.

1.3. Filing Date --

1.4. Effective Date --

§14-10-2. Definition.

2.1. "Board" means the West Virginia Board of Optometry.

2.2. "Controlled Substances" means a drug, substance or immediate precursor listed or described in Schedules I through V of article two, chapter 60A of the West Virginia Code.

2.3. "Licensee" means an optometrist licensed under the provisions of W. Va. Code §30-8-1, et seq., and the provisions of the Board's rules, W. Va. Code of State Rules, 14-1, et. seq.

§14-10-3. Continuing Education.

3.1. It is the responsibility of a licensed optometrist to maintain evidence of meeting the continuing education requirements for license renewal for random audit by the Board.

3.2. A licensee shall complete a minimum of ~~forty (40)~~ 43 hours of continuing education for each even numbered, ~~two (2)~~ two-year 2 year cycle.

3.3. Of the required 40 ~~forty-three (43)~~ hours, the licensee shall complete:

(a) a minimum of twelve (12) hours of

study in pharmacology or therapeutics courses;

(b) a maximum of six (6) hours of study in practice management;

(c) a maximum of ten (10) hours of optometric study may be taken by correspondence, or via the Internet;

~~3.4. Of the required 40 hours, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall complete two (2) hours of instruction in administering pharmaceutical agents by injection.~~

3.5. 3.4. Of the required 40 43 hours, a licensee who holds an oral pharmaceutical certificate shall complete at least twelve (12) hours of instruction in ocular pathology and therapeutic pharmacological agents. At least 3 hours of these 12 required hours must be taken in drug diversion training and best practice prescribing of controlled substances as outlined in section 4 of this rule.

3.5. Of the required 43 hours, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall complete 2 hours of instruction in administering pharmaceutical agents by injection.

3.6. In addition to the above listed continuing education requirements, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall obtain and maintain current certification from the American Red Cross, American Heart Association or their successor organizations in basic life support.

3.7. All continuing education study must be sponsored by one of the organizations listed in section 4.1 subsection 5.1 of this rule or pre-approved by the Board as outlined in section 5 6 of this rule.

~~3.7. In addition to the above listed continuing education requirements, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall obtain and maintain current certification from the American Red Cross, American Heart Association or their successor organizations in basic life support.~~

§14-10-4. Drug Diversion Training and Best Practice Prescribing of Controlled Substances.

4.1. Each person who receives his or her initial license to practice optometry shall complete 3 hours of continuing education in drug diversion training and best practice prescribing of controlled substances training within one year of receiving his or her license.

4.2. Beginning July 1, 2014, all licensees who hold oral prescriptive authority or a higher level of licensure on that date, unless a licensee has completed and timely provided to the Board a Board-developed certification form and waiver request attesting that he or she has not prescribed a controlled substance during the entire previous even numbered two-year cycle, every licensee shall complete 3 hours of drug diversion training and best practice prescribing of controlled substances training during the previous reporting period as a prerequisite to license renewal. These 3 hours shall be counted as part of the 43 total hours of continuing education required under this rule.

§14-10-4. §14-10-5. Approved Continuing Education Programs.

~~4.1.~~ 5.1. Educational programs sponsored by the following organizations approved as meeting the minimum standards are:

(a) the American Optometric Association or its affiliated organizations;

(b) the West Virginia Association of Optometric Physicians Association and other state optometric associations;

(c) the American Academy of Optometry;

(d) post-graduate courses offered at any accredited school or college of optometry;

(e) the Southern Council of Optometry or its affiliates; and

(f) the Council on Optometric Practitioner Education (COPE).

§14-10-5. §14-10-6. Pre Approval of Continuing Education Courses or Events.

~~5.1.~~ 6.1. A continuing education provider may submit a written request to the Board for continuing education course or event approval if the continuing education provider is not listed as an approved sponsor in section §14-10-45 of this rule. Each application shall include payment of the fee established in the Board's rule, W.Va. Code of State Rules, §14-5.

~~5.2.~~ 6.2. A request for approval from a continuing education provider must be received at least ~~thirty (30) days~~ six months prior to the course, meeting or seminar; however, the Board may ~~wave~~ waive this requirement at its discretion.

~~5.3.~~ 6.3. The Board may approve courses, meetings or seminars either within or without the State of West Virginia.

~~5.4.~~ 6.4. The continuing education provider shall include a Curriculum Vitae for the instructor as well as a copy of all handouts, power point presentations, or other electronic or non electronic materials that are part of the continuing education course as part of its application for Board approval.

~~5.5.~~ 6.5. Upon review the Board may reject the continuing education course, approve the continuing education course or approve the continuing education course conditionally.

(a) If the Board approves the course conditionally, the continuing education provider must submit evidence that the conditions have been met prior to the continuing education event for the event to be approved by the Board.

~~5.6.~~ 6.6. All decisions of the Board are final and there is no appeal process. If the Board

rejects a continuing education course or event and the continuing education provider wishes to pursue Board approval, a new application must be submitted in compliance with the requirements of this rule.

~~5.7.~~ 6.7. In no event shall the Board consider approval of a continuing education course or event retroactively.

~~5.8.~~ 6.8. The Board president may designate a committee to recommend approval or disapproval of the continuing education courses submitted. The committee members may or may not be members of the Board. The committee shall report its findings to the Board for action.

~~§14-10-6.~~ §14-10-7. Required Documentation.

~~6.1.~~ 7.1. Evidence of attendance by shall be furnished by the continuing education provider or sponsoring organization to each registrant at the program showing the date and place of the meeting or instruction, speaker or instructor, the title of the course, the sponsor of the meeting, and hours in attendance, by live on-site presentation, correspondence, Internet or other electronic means. The licensee shall maintain evidence of attendance, subject to audit by the Board, for renewal of his or her license.

~~§14-10-7.~~ §14-10-8. Exemptions.

~~7.1.~~ 8.1. A licensee who has graduated from an optometry school accredited by the Accreditation Council on Optometric Education or its successor recognized by the U.S. Department of Education within one year of successfully completing the licensing interview shall be exempt from the requirements of sections §14-10-3 for a period of time from the date successful completion of the licensing interview to the licensee's first license renewal: Provided, that the initial licensee must complete 3 hours of continuing education training in drug diversion and best practice prescribing of controlled substances within one year of receiving his or her initial license.

(a) The requirements of §14-10-3 of this rule shall be required of the licensee listed in subsection ~~7.1~~ 8.1 of this section in all

succeeding license renewals.

~~7.2.~~ 8.2. Those licensees not covered by the provisions of ~~7.1~~ 8.1 of this section may make a sworn request for exemption from the continuing education requirements listed in §14-10-3. The sworn affidavit shall contain reasons acceptable to the Board for noncompliance with the Board's continuing education requirements and shall be filed with the Board before he or she applies for renewal of his or her license.

(a) The Board will review the affidavit and grant or reject the request for exemption.

(b) If the exemption is rejected, the Board may grant the licensee a specified period of time to obtain the remaining required continuing education hours.

(c) The Board shall notify the licensee of its decision by certified mail within thirty (30) days of the receipt of the licensee's request.

West Virginia Board of Optometry

From: West Virginia Board of Optometry <wvbdopt@frontier.com>
Sent: Thursday, July 26, 2012 5:42 PM
To: 'Gregory Moore'; 'James Campbell'; 'Matthew Berardi'; 'Ms. Lori Gemondo'; 'O. D. David Laughlin'; O. D. Glenn Bailey; 'Raymond Keener III'; wvbdopt@frontier.com
Subject: FW: CE controlled substances

Please see below.

Pamela Carper
Executive Director
WV Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301
Phone: 304-558-5901
Fax: 304-558-5908
E-mail: wvbdopt@frontier.com
Web Site: www.wvbo.org

-----Original Message-----

From: Scott and Vicki Lauer [<mailto:vnsclauer@suddenlink.net>]
Sent: Thursday, July 26, 2012 10:24 AM
To: wvbdopt@frontier.com
Subject: CE controlled substances

I strongly disagree with the boards consideration to impose 3 hours of continuing education on controlled substances. Please take the time to look at the courses available at SECO, East West Eye, Tropical CE, Optometry's Meeting, and every other major optometric event for a course on "drug diversion". The individual states are making it too hard to attend the conferences with the best speakers by dictating requirements. Some states require HIV, medical errors, jurisprudence, and now you're considering "drug diversion/ controlled substance abuse"! STOP please! Make it a punishment for those who abuse their prescribing powers, not a requirement.
Thank you, Vicki Lauer, O.D.

West Virginia Board of Optometry

From: Townsend, John C. (VHACO) (SES EQV) <John.Townsend@va.gov>
Sent: Thursday, July 26, 2012 8:27 AM
To: West Virginia Board of Optometry
Subject: RE: New Rules For Comment

My comments and suggested changes/recommendations are highlighted in red font:

§14-12 "Expanded Therapeutic Procedures Certificate" This rule outlines a process for the Board to set out education, training and other requirements for procedures that meet the requirement in W. Va. Code, §30-8-6(14). This provision states that the board can set requirements for an expanded scope of practice for those procedures that are taught at 50% of all Accreditation Council on Optometric Education (ACOE) accredited optometry schools. **The comment period for this rule ends on August 20 at 4:00 p.m.**

§14-10 "Continuing Education" An amendment is made to the rule to comply with the Governor's Substance Abuse Bill that was passed. The bill added W. Va. Code, §30-1-7a requiring the Board to set up requirements for licensees to take continuing education training on drug diversion and best practices prescribing of controlled substances. **Each year a minimum of one hour with successful passage of a written test or 2 hours without a written test requirement of** continuing education in drug diversion and best practices prescribing of controlled substances are required for those licensees who hold a license with oral prescriptive or injection administration authority as a pre-requisite to **annual license renewal**. A waiver may be signed by licensees who have not prescribed controlled substances in the previous even numbered two year period exempting them from the **one hour or 2 hours of training requirement**. **The comment period for this rule ends on August 27 at 9:00 a.m.**

Could this CE requirement be completed as an on-line course? The NSU Oklahoma College of Optometry has a one-hour on-line CE Oklahoma Judicious Prescribing course with written test passage requirement on this topic that is accepted by the Oklahoma Board of Examiners in Optometry for annual license renewal. Can this NSU CE course also qualify for meeting the West Virginia Board of Optometry training requirement?

John C. Townsend, O.D., F.A.A.O.

From: West Virginia Board of Optometry [<mailto:wvbdopt@frontier.com>]
Sent: Thursday, July 26, 2012 12:41 AM
To: Townsend, John C. (VHACO) (SES EQV)
Subject: New Rules For Comment

WEST VIRGINIA BOARD OF OPTOMETRY
179 Summers Street, Suite 231
Charleston, WV 25301
Phone: 304-558-5901 Fax: 304-558-5908
E-mail: wvbdopt@frontier.com Web Site: www.wvbo.org

July 25, 2010

John.Townsend@va.gov

Dear Dr. Townsend :

The Board has developed three rules to be considered for the 2013 Legislative Session. We are entering the first phase of development for these rules, the Comment Period phase. You may send your comments on these rules by e-mail or by postal mail. These rules are/will be posted on our web site on the home page near the mission statement and under "Laws and Regulations Governing Optometry" under Proposed Rules. The Board will be happy to receive your concerns or suggestions to improve these rules. Descriptions of the rules are listed below.

§14-12 "Expanded Therapeutic Procedures Certificate" This rule outlines a process for the Board to set out education, training and other requirements for procedures that meet the requirement in W. Va. Code, §30-8-6(14). This provision states that the board can set requirements for an expanded scope of practice for those procedures that are taught at 50% of all accredited optometry schools. **The comment period for this rule ends on August 20 at 4:00 p.m.**

§14-5 "Schedule of Fees" This rule adds the fee for an Expanded Therapeutics Certificate. The fee is set at the same price as for the oral pharmaceutical certificate and injection administration certificate, \$200. There is an amendment at the end of the rule that adds ACH Debit as an acceptable form of payment for fees. **The comment period for this rule ends on August 27 at 9:00 a.m.**

§14-10 "Continuing Education" An amendment is made to the rule to comply with the Governor's Substance Abuse Bill that was passed. The bill added W. Va. Code, §30-1-7a requiring the Board to set up requirements for licensees to take continuing education training on drug diversion and best practices prescribing of controlled substances. 3 hours of continuing education in drug diversion and best practices prescribing of controlled substances are required for those licensees who hold a license with oral prescriptive or injection administration authority as a pre-requisite to license renewal. A waiver may be signed by licensees who have not prescribed controlled substances in the previous even numbered two year period exempting them from the 3 hours of training. **The comment period for this rule ends on August 27 at 9:00 a.m.**

Sincerely,

James Campbell

James Campbell, O.D.
President

West Virginia Board of Optometry

From: Dr Stephens <eyesbydrs@blomand.net>
Sent: Monday, August 06, 2012 12:32 PM
To: West Virginia Board of Optometry
Subject: Re: New Rules For Comment
Attachments: DRUG DIV & ABUSE.jpg; DRUG DIV & ABUSE 2.jpg; DRUG DIV & ABUSE CRT.jpg

Dr. Campbell,

I would like to address rule 14-10 regarding Continuing Education. The TN legislature already adopted such a requirement in 2009. Accordingly, the TN board of Optometry started requiring this for renewals starting in 2010. I have enclosed documentation for such as well as my certificate of completion of this requirement. However, our legislature only requires (1) hour every 2 years. So first, I would ask that the rule be amended to accept other states CE requirements covering prescribing practices for us practitioners that are practicing in other states but still are holding a WV license. And second, if you will not accept TN's CE requirements will you be providing your courses in an online environment so that we may obtain this CE in order to keep our license or will the fact that we have not prescribed any controlled substances at all in the state of WV under our WV OD licenses allow us to apply for the waiver.

I am also still waiting to hear about the injectable certification that I originally sent in January and resent in July.

Thank you,

Dr. L. DeRosa Stephens, O.D.
WV905-OD

From: West Virginia Board of Optometry
Sent: Wednesday, July 25, 2012 11:40 PM
To: EYESBYDRS@BLOMAND.NET
Subject: New Rules For Comment

WEST VIRGINIA BOARD OF OPTOMETRY

179 Summers Street, Suite 231
Charleston, WV 25301
Phone: 304-558-5901 Fax: 304-558-5908
E-mail: wvbdopt@frontier.com Web Site: www.wvbo.org

July 25, 2010

EYESBYDRS@BLOMAND.NET

Dear Dr. Stephens :

The Board has developed three rules to be considered for the 2013 Legislative Session. We are entering the first phase of development for these rules, the Comment Period phase. You may send your comments on these rules by e-mail or by postal mail. These rules are/will be posted on our web site on the home page near the mission statement and under "Laws and Regulations Governing Optometry" under Proposed Rules. The Board will be happy to receive your concerns or suggestions to improve these rules. Descriptions of the rules are listed below.

§14-12 "Expanded Therapeutic Procedures Certificate" This rule outlines a process for the Board to set out education, training and other requirements for procedures that meet the requirement in W. Va. Code, §30-8-6(14). This provision

states that the board can set requirements for an expanded scope of practice for those procedures that are taught at 50% of all accredited optometry schools. **The comment period for this rule ends on August 20 at 4:00 p.m.**

§14-5 “Schedule of Fees” This rule adds the fee for an Expanded Therapeutics Certificate. The fee is set at the same price as for the oral pharmaceutical certificate and injection administration certificate, \$200. There is an amendment at the end of the rule that adds ACH Debit as an acceptable form of payment for fees. **The comment period for this rule ends on August 27 at 9:00 a.m.**

§14-10 “Continuing Education” An amendment is made to the rule to comply with the Governor’s Substance Abuse Bill that was passed. The bill added W. Va. Code, §30-1-7a requiring the Board to set up requirements for licensees to take continuing education training on drug diversion and best practices prescribing of controlled substances. 3 hours of continuing education in drug diversion and best practices prescribing of controlled substances are required for those licensees who hold a license with oral prescriptive or injection administration authority as a pre-requisite to license renewal. A waiver may be signed by licensees who have not prescribed controlled substances in the previous even numbered two year period exempting them from the 3 hours of training. **The comment period for this rule ends on August 27 at 9:00 a.m.**

Sincerely,

James Campbell

James Campbell, O.D.
President



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
BUREAU OF HEALTH LICENSURE AND REGULATION
DIVISION OF HEALTH RELATED BOARDS
227 French Landing, Suite 300
Heritage Place Metro Center
Nashville, TN 37243
tennessee.gov/health

TENNESSEE BOARD OF OPTOMETRY

June 15, 2009

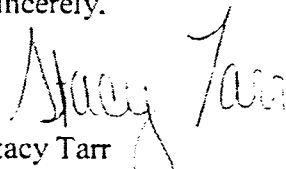
Dear Licensee:

The Tennessee Board of Optometry amended Rule 1045-2-.05 regarding continuing education. The following Rule will become effective on July 13, 2009:

- (1)(a) For those who are therapeutically certified, a minimum of twenty (20) of the thirty (30) hours of continuing education is required in courses pertaining to ocular disease and related systematic disease, as described in sub paragraph (2)(c). At least one (1) of these twenty hours shall be a course designed specifically to address prescribing practices.
- (2)(a) Except for grand clinical rounds and courses provided by the Tennessee Academy of Optometry, and except for the one (1) hour course designed specifically to address prescribing practices, all continuing education courses shall be approved by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education (COPE).

Should you have any questions, please feel free to contact our office.

Sincerely,


Stacy Tarr
Board Administrator
615-532-5157

Prescribing Practices

The Tennessee Board of Optometry amended rule 1045-02-.05 regarding continuing education which became effective July 13, 2009. Paragraph (1)(a) states that for those who are therapeutically certified, a minimum of twenty (20) of the thirty (30) hours of continuing education is required in courses pertaining to ocular disease and related systemic disease. At least one (1) of these twenty hours shall be a course designed specifically to address prescribing practices.

The Tennessee Board of Optometry encourages proper prescribing practices by providing optometrists with greater understanding of their responsibilities regarding controlled substances. The consequences of improper prescribing practices are matters of grave concern to the public, the medical community, law enforcement personnel, state and federal agencies and licensing boards that license and oversee health care professionals.

This one hour course shall include, but not be limited to:

- Registration with the Drug Enforcement Administration
- Formal Requirements of Prescriptions
- Verbal, faxed, and other electronically transmitted prescriptions
- Dispensing Controlled Substances without a prescription
- Legitimate medical need of prescriptions
- DEA Prescription Guidelines
- Enhancing Patient Compliance

This one hour course can only be approved by the secretary/treasury of the Tennessee Board of Optometry.

**THE
TENNESSEE OPTOMETRIC ASSOCIATION**

HEREBY CERTIFIES THAT

DeRosa Stephens, O.D.

**Has Completed One (1) Hour of Continuing Medical Education In
“Drug Diversion & Abuse”
on February 24, 2010
Nashville, Tennessee**

Mohammad Rafiqetari, O.D.
TOA CME Coordinator

West Virginia Board of Optometry

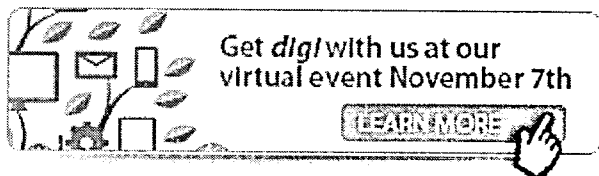
From: Ralph Shenefelt <rshenefelt@hsi.com>
Sent: Thursday, August 09, 2012 4:52 PM
To: wvbdopt@frontier.com
Cc: Kristal Langner1
Subject: Proposed Rule Question

West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301

Good afternoon. Concerning your proposed rule amendment to §14-10-3. Continuing Education. 3.6; *"In addition to the above listed continuing education requirements, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall obtain and maintain current certification from the American Red Cross, American Heart Association or their successor organizations in basic life support."* Is the Boards use of the term "successor organizations" intended to permit the use of a fair alternative or substantially equivalent basic life support training program? Thank you!

Respectfully,

Ralph M. Shenefelt
VP, Strategic Compliance



rshenefelt@hsi.com
P 800 447 3177, x390
F 541 344 7429

Health & Safety Institute
1450 Westec Drive
Eugene, OR 97402

www.hsi.com

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WEST VIRGINIA BOARD OF OPTOMETRY

TO: Chairman Minard and Chairman Brown
Legislative Rule Making Review Committee

FROM: The West Virginia Board of Optometry

SUBJECT: Response to Public Comments §14-10 Continuing Education

Date: 8/31/12

On July 26, 2012 the West Virginia Board of Optometry (hereinafter "Board") filed proposed legislative rule, §14-10 Continuing Education, to incorporate the language set forth in the Governor's Drug Abuse Bill, SB 437, passed during the 2012 Legislative Session. The comment period was concluded on August 27, 2012 at 9:00 a.m. Some comments may be paraphrased as a few were redundant; however, copies of all received comments are included in this packet as required by law.

The Board thanks the public for its comments regarding §14-10, Continuing Education. Public comment is a valuable part of the rulemaking process, and all comments have been given careful consideration. The Board's response to comments follows.

Comment: I strongly disagree with the board's consideration to impose 3 hours of continuing education on controlled substances. Please take the time to look at the courses available at SECO, East West Eye, Tropical CE, Optometry's Meeting and The individual states are making it too hard to attend the conferences with the best speakers by dictating requirements.

Response: Please be aware that the drug diversion and best practices prescribing training are required by West Virginia Code §30-1-7a which directs the board to make this training a requirement. There is also a provision in the rule which allows those who have not prescribed controlled substances in the last 2 years to sign a waiver and to be exempt from this training.

With the current status of drug use and prescriptive abuse in West Virginia the Governor, through the new law, requested this requirement to be adapted to each profession by their board and to incorporate any and all methods to curb this abuse. The West Virginia Board of Optometry and other boards in West Virginia have adopted the 3 hours requirement as the correct amount of hours. Other examples are: The Board of Medicine, Board of Pharmacy, and the Board of Dental Examiners.

Comment: The Board needs to adopt the requirements in other states like Virginia (a minimum of 1 hour with successful passage of a written test or 2 hours without a written test requirement) or Tennessee (1 hour for every two years).

Response: Please refer to the response listed above.

Comment: Will you offer drug diversion and best practices training on-line (for the convenience of out of state licensees)?

Response: The Board and the West Virginia Association of Optometric Physicians is working with professors at the University Of Charleston School Of Pharmacy to develop a program to meet the requirements of the three hour instruction.

§14-10 currently allows up to 10 hours of instruction by Internet or correspondence. The rule also lists pre-approved providers of continuing education. Any continuing education that is not provided by the pre-approved providers listed in §14-10-5, Approved Continuing Education Programs, must be subject to §14-10-6, Pre-Approval of Continuing Education Courses or Events.

Comment: What is the interval to which this requirement applies: Is it a one-time prior to the next renewal or once every renewal period (annual)? I don't really think more than once would yield an increased benefit in regard to reducing substance abuse.

Response: The reporting period listed in §14-10-3 is every even-numbered two year cycle. Therefore, because of the two year reporting period, a renewing licensee could use a class taken in the period from July 1/1/2012 – June 30, 2014 for renewal in both 2014 and 2015. The requirement is ongoing. As abusers develop new means of abuse, new training will be required to combat those abuse strategies.

Comment: Can an out of state orally certified licensee sign a waiver based on the fact that he or she has not prescribed a controlled substance in the state of West Virginia?

Response: No. The rule is written to apply equally to all licensees.

Comment: Does the provision in §14-3.6 on current certification from the American Red Cross, American Heart Association or their successor organizations in basic life support intended to permit the use of a fair alternative or substantially equivalent basic life support training program?

Response: No. The "or their successor organizations" means that if the American Heart Association changed its name to the American Healthy Heart Association, the credential from the organization will still meet the continuing education requirement. The Board would not have to change §14-10 just to incorporate the organization's new name. No one could challenge the requirement saying that the requirement is no longer valid because the rule refers to the American Heart Association, and the American Heart Association no longer exists. It does not permit "equivalent basic life support" organizations to be providers to fulfill this requirement.

WEST VIRGINIA BOARD OF OPTOMETRY

§14-10 Continuing Education

Amendments

The amendments made were technical in nature and clean up on the current rule.

1. The Board changed two-year to 2 year cycle.
2. The Section Title Pre-Approval of Continuing Education Courses or Events was renumbered from §14-10-5 to §14-10-6.
3. The spelling of “wave” was changed to waive.
4. The phrase “live on-site presentation” was added under Required Documentation, §14-10-7.1.