

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

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Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Board of Pharmacy TITLE NUMBER: 15

CITE AUTHORITY: West Virginia Code Section 30-5-7

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 7

TITLE OF RULE BEING AMENDED: Registration of Pharmacy Technicians

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

QUESTIONNAIRE

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

DATE: July 31, 2014

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Board of Pharmacy
2310 Kanawha Boulevard East
Charleston, WV 25311
304-558-0558

LEGISLATIVE RULE TITLE: Title 15, Series 7
Registration of Pharmacy Technicians

1. Authorizing statute(s) citation WV Code Section 30-5-7

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 27, 2014

b. What other notice, including advertising, did you give of the hearing?
E-mailed copy to pharmacy stakeholders, including representatives of West Virginia Pharmacists Association, West Virginia Retailers Association, West Virginia Society of Health System Pharmacies, National Association of Chain Drug Stores, West Virginia University School of Pharmacy, Marshall University School of Pharmacy, and University of Charleston School of Pharmacy, as well as representatives of several chain pharmacies and others.

c. Date of Public Hearing(s) or Public Comment Period ended:
July 27, 2014

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

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

~~July 31, 2014~~ *DEP August 1, 2014*

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

David E. Potters

Executive Director & General Counsel

West Virginia Board of Pharmacy

2310 Kanawha Boulevard East

Charleston, WV 25311

304-558-0558

304-558-0572

david.e.potters@wv.gov

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

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

BOARD MEMBERS

Lydia Main, President
Carl K. Hedrick, Jr., Vice President
Charles Woolcock, Secretary
Martin Castleberry
Rebekah E. Heavener
Sam Kapourales
George Karos



STAFF

David E. Potters,
Executive Director &
General Counsel

Betty Jo Payne,
Asst. Exec. Director

Michael L. Goff
CSMP Administrator

Office

2310 Kanawha Boulevard East
Charleston, WV 25311

Website: www.wvbop.com

Phone

(304) 558-0558
(304) 558-0572 (fax)

**BRIEF SUMMARY OF AND STATEMENT OF
CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE**

**TITLE 15, SERIES 7 (WV CSR 15-7-1, et seq.)
REGISTRATION OF PHARMACY TECHNICIANS**

Summary and Statement of Circumstances: House Bill 2577 (2013), made significant changes to the West Virginia Code Chapter 30, Article 5, "The Larry W. Border Pharmacy Practice

Act". Included in these changes was to modify the requirements and qualifications for becoming a pharmacy technician in this state. As such, the Board made rules revisions to its policies and procedures to comply with the new statute, and is proposing these rules changes to carry out the new statutory requirements. West Virginia Code § 30-5-11, among other things, now requires, beginning July 1, 2014, to be eligible to be registered as a pharmacy technician that the applicant have either graduated from a competency-based pharmacy technician education and training program, or have received a similar on-the-job program provided by the pharmacy. The formal college or technical school based programs appear to be two semester courses, meaning approximately 32 weeks of study. The proposed on-the-job training would be shortened from the current 2080 hours of training within a two year period, down to 960 hours within 9 months, akin to the formal education programs. In either case, the applicant then must pass a national certification examination. Anyone already registered prior to July 1, 2014, is grandfathered-in, and can continue to renew their registrations without having to get nationally certified.

This is a national movement encouraged by the National Association of Boards of Pharmacy to ensure that technicians helping to fill prescriptions are properly trained. In addition, the Board has encountered numerous disciplinary cases over the last 5 to 10 years involving diversion of controlled substances by pharmacy personnel, including technicians. Under current rules, one can be a pharmacy technician trainee for up to two years before having to pass a registration examination. There are a number of specific cases where the diversion was done by a trainee during this period. Therefore, the Board feels it is necessary to compact the training period and require national certification as a measure to prevent some who are not serious about becoming a certified technician from having direct access to these dangerous drugs for this extended period of time.

Although the statutory changes require specified training and national certification, the rules have long contained provisions for on-the-job training program requirements, and have accepted national certifications as a pathway to registration. So, the changes in training spelled

out by these rules are very manageable and similar to the approaches already in place. Pharmacy Technicians will still pay the same amount for their initial applications and renewal fees as they currently do. Therefore, this is not affecting any current registered pharmacy technicians, and makes reasonable changes in accordance with the statute for future registrants.

For Further Information: Copies of the proposed rule may be obtained from the website of the West Virginia Secretary of State at www.wvsos.wv.gov, or interested parties may call the Administrative Law Division of the Office of the Secretary of State at (304) 558-6000.

Further information may be obtained by contacting the West Virginia Board of Pharmacy, 2310 Kanawha Boulevard East, Charleston, West Virginia, 25311; telephone: (304) 558-0558.

Note: This is a proposed modification to existing rules, such that the changes are identified by strike-throughs and underlining in the proposed rule.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 15 Series 7 "Registration of Pharmacy Technicians"

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Pharmacy

Address: 2310 Kanawha Boulevard, East
Charleston, West Virginia 25311

Phone Number: 304-558-0558 Email: david.e.potters@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.

This should not have any impact on the costs or revenues of state government. It is revenue neutral.

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

Title 15

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.

Pharmacy Technicians will still pay the same amount for their initial applications and renewal fees as they currently do. We expect no increase or sharp decrease in the number of registered technicians as a direct result of this rule change. Although these rules require, per the statutory changes, specified training and national certification, the changes in training are very manageable and similar to the approaches already in place for pharmacies and higher education/technical education centers. Further, many technicians already voluntarily obtain national certification, and those technicians without national certification but who are already board-registered prior to this new requirement becoming effective per the statute are grandfathered in and can continue to renew their registrations without having to get nationally certified. Therefore, this is not affecting any current technicians, but only future registrants.

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.

As stated immediately above:
Pharmacy Technicians will still pay the same amount for their initial applications and renewal fees as they currently do. We expect no increase or sharp decrease in the number of registered technicians as a direct result of this rule change. Although these rules require, per the statutory changes, specified training and national certification, the changes in training are very manageable and similar to the approaches already in place for pharmacies and higher education/technical education centers. Further, many technicians already voluntarily obtain national certification, and those technicians without national certification but who are already board-registered prior to this new requirement becoming effective per the statute are grandfathered in and can continue to renew their registrations without having to get nationally certified. Therefore, this is not affecting any current technicians, but only future registrants.

Date: June 18, 2014

Signature of Agency Head or Authorized Representative

David E. Potters

FILED

2014 AUG -1 P 3:50

TITLE 15
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF PHARMACY

SERIES 7
REGISTRATION OF PHARMACY TECHNICIANS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§15-7-1. General.

- 1.1. Scope. -- To establish standards for the training and regulation of pharmacy technicians.
- 1.2. Authority. -- W. Va. Code ~~§30-5-5(a)~~ § 30-5-7.
- 1.3. Filing Date. -- _____.
- 1.4. Effective Date. -- _____.

§15-7-2. Definitions.

2.1. ~~"Pharmacist in Charge" means a pharmacist currently licensed in this state who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs and who is personally in full and actual charge of such pharmacy and personnel.~~ "Certified Pharmacy Technician" or "CPhT" means a person who holds a current certification as a nationally certified pharmacy technician granted by NHA or PTCB.

2.2. "National Healthcareer Association" or "NHA" means the association which includes the ExCPT Certification Board, which develops, maintains, promotes, and administers a nationally accredited certification and recertification program for pharmacy technicians to become a CPhT, including its ExCPT Pharmacy Exam (ExCPT), which was originally established by the Institute for the Certification of Pharmacy Technicians.

2.3. "Pharmacy Technician" means a person registered supportive personnel who work under the direct supervision of a pharmacist who have passed an approved training program with the board to practice certain tasks related to the practice of pharmacist care in this State within the scope of practice permitted by West Virginia Code Section 30-5-12, as provided, permitted, and limited by the laws and rules governing the practice of pharmacist care.

2.4. "Pharmacy Technician Certification Board" or "PTCB" means the entity established by its five governing organizations, the American Pharmacists Association, American Society of Health-System Pharmacists, Illinois Council of Health-System Pharmacists, Michigan Pharmacists Association, and National Association of Boards of Pharmacy, which develops, maintains, promotes, and administers a nationally accredited certification and recertification program for pharmacy technicians to become a CPhT, including its Pharmacy Technician Certification Exam (PTCE).

~~2.32.5.~~ "Pharmacy Technician Trainee" means an individual currently engaged in a competency-based pharmacy technician education and training program which has been approved by the Board and who is performing the duties of a pharmacy technician under the direct supervision of a pharmacist.

§15-7-3. Qualifications For Registration as a Pharmacy Technician; 20 Hour Training Program.

~~3.1. An individual who~~ To be eligible for registration as a pharmacy technician to assist in the practice of pharmacist care, an individual shall comply with West Virginia Code § 30-5-11, and shall submit an application on the forms provided by the board, together with the application fee of \$25.00, providing the information required in the application and evidencing that the individual:

~~(a) has been employed in the State of West Virginia as a pharmacy technician for 2,080 hours was registered as a pharmacy technician in the State of West Virginia prior to July 1, 2014, the registration was still active and in good standing through June 30, 2014, and he or she is otherwise eligible to renew his or her registration prior to the effective date of this rule and;~~ or

~~(b) is a registered technician in another state; or for those obtaining registration beginning July 1, 2014, and forward, has:~~

~~(e)~~ (1) either:

(A) is graduated from a competency-based pharmacy technician education and training program of a learning institution or training center approved by the Board; or

(B) completed a pharmacy-provided, on-the-job, competency-based education and training program approved by the Board; and

~~(2) certified by the Pharmacy Technician Certification Board (PTCB) may apply to the board for registration as a pharmacy technician and shall complete a 20-hour training program as outlined in subsection 3.4 of this rule and shall be exempt from the examination requirement set forth under subsection 4.6 of this rule. successfully passed the ExCPT national examination administered by NHA or the PTCE national examination administered by PTCB, and holds a current certification from NHA or PTCB, respectively, as a CPhT; and~~

(3) completed a 20-hour training program as outlined in subsection 3.2 of this rule. The pharmacist-in-charge must submit to the Board certification in the form of an affidavit from the pharmacist-in-charge that the pharmacy technician trainee has adequately completed this training program.

(4) request and submit to the board the results of a state and a national electronic criminal history records check by the West Virginia State Police. The applicant shall furnish

to the State Police a full set of fingerprints and any additional information required to complete the criminal history records checks. The applicant is responsible for any fees required by the State Police in order to complete the criminal history records checks. The board may require the applicant to obtain an electronic criminal history records check from a similar agency in the state of the applicant's residence, if outside of West Virginia. In addition, the board may contract with a company specializing in the services required by this paragraph instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history records checks.

_____ (A) The criminal history records must have been requested within the twelve (12) months immediately before the application is filed with the board.

_____ (B) To be qualified for registration, the results of the criminal history records check must be unremarkable, and verified by a source acceptable to the board other than the applicant.

_____ (C) The board may deny registration to any applicant who fails or refuses to submit the criminal history records checks required by this subsection.

~~3.2. If an individual does not qualify under subsection 3.1 of this rule, then the individual shall complete the training program as outlined in section 4 of this rule and pass the examination set forth under subsection 4.6 of this rule.~~

~~3.3. The applicant shall:~~

~~(a) verify his or her employment by submitting to the Board an affidavit of the pharmacist-in-charge certifying that the applicant has performed the duties of a pharmacy technician as defined in section 5 of this rule for 2,080 hours; or~~

~~(b) verify that he or she is a registered pharmacy technician in another state; or~~

~~(c) verify that he or she has been certified by the Pharmacy Technician Certification Board.~~

~~3.43.2. The pharmacist-in-charge of each pharmacy shall create a 20-hour training program regarding the drug dispensing process in that pharmacy which shall include the following:~~

~~(a) the steps in receiving prescriptions;~~

~~(b) the creation of or updating of patient profiles;~~

~~(c) the entering of prescription information into the computer;~~

~~(d) the updating of files and the printing of labels;~~

~~(e) the pulling of stock packages from shelves;~~

- (f) the checking of medications;
- (g) the preparing of medications;
- (h) refill procedures and regulations; and
- (i) record keeping.

~~3.5. The pharmacist in charge must certify that the pharmacy technician trainee has adequately completed the 20 hour training program.~~

§15-7-4. Registration and Examination; 2,080 Hour Learning Institution or Training Center Provided and On-the-Job Pharmacy-Provided Competency-Based Training Program

4.1. In order for pharmacies to be able to train and hire competent pharmacy technicians, a pharmacy may employ an individual as a pharmacy technician trainee and provide on-the-job, competency-based pharmacy technician training for the individual to become qualified for registration as a pharmacy technician. A pharmacy shall submit its pharmacy technician training program to the Board for approval prior to its use—, Provided that, all training programs currently approved for use by the Board on the effective date of this rule are hereby approved for continued use as previously approved. The training program shall be outlined in a training manual which shall be used throughout the program. The training program shall, at a minimum contain the following:

(a) written procedures and guidelines for the use and supervision of pharmacy technicians. The procedures and guidelines shall:

(A1) specify the manner in which the pharmacist-in-charge responsible for the supervision of pharmacy technicians shall supervise the pharmacy technicians and verify the accuracy and completeness of all acts; and functions performed by them; and

(B2) specify duties which may and may not be performed by pharmacy technicians; and

(b) instruction in the following areas and any additional areas appropriate to the duties of pharmacy technicians in the pharmacy:

(A1) Orientation;

(B2) Job descriptions;

(C3) Communication techniques;

(D4) Legislative rules of the West Virginia Board of Pharmacy;

(E5) Security and safety;

(F6) Prescription drugs, including:

(1A) Basic pharmaceutical nomenclature; and

(2B) Dosage forms;

(G7) Prescription drug orders, including:

(1a) Prescribers;

(2b) Directions for use;

(3c) Commonly used abbreviations and symbols;

(4d) Number of dosage units;

(5e) Strengths and systems of measurement;

(6f) Routes of administration;

(7g) Frequency of administration;

(8h) Interpreting directions for use; and

(H8) Prescription drug order preparation, including:

(1a) the creation or updating of patient medication records;

(2b) the entering of prescription drug order information into the computer or typing the label in a manual system;

(3c) the selection of the correct stock bottle and the accurate counting of or pouring of the appropriate quantity of drug product;

(4d) the selection of the proper container; and

(5e) the preparation of the finished drug product for inspection, labelling, and final check by pharmacists;

(I9) Drug product prepackaging;

(J10) the compounding of non-sterile pharmaceuticals; and

(K11) Written policy and guidelines for the use of and supervision of pharmacy

technicians.

4.2. A pharmacy technician trainee shall complete initial training at a pharmacy as ~~outlined~~ outlined by the pharmacist-in-charge in the training manual, prior to the regular performance of his or her duties. Beginning July 1, 2014, The training the on-the-job, competency-based pharmacy technician training program shall consist of 12 months of full-time employment or 2,080 a minimum of 960 hours of employment within 24- a 15-months period under the direct supervision of a pharmacist.

4.3. ~~A pharmacy technician trainee~~ An individual may work as a pharmacy technician trainee only as a student enrolled in a competency-based pharmacy technician education and training program of a learning institution or training center approved by the Board as part of an experiential education component, or as an employee of a pharmacy in a 960-hour on-the-job, competency-based pharmacy technician training program. shall notify the Board in writing within (30) days of starting to work in the pharmacy. The Board shall apply any hours worked by the pharmacy technician trainee during this interim period towards the 2,080 hours required for successful completion of the training program. Prior to starting work in a pharmacy as a pharmacy technician trainee, the individual shall submit an application on the forms provided by the board evidencing that he or she has graduated from a high school or obtained a Certificate of General Educational Development (GED) or its equivalent, is not an alcohol or drug abuser, has not been convicted of a felony in any jurisdiction within ten years preceding the date of application, has not been convicted of any misdemeanor or felony in any jurisdiction which bears a rational nexus to the practice of pharmacist care, and request and submit to the board the results of a state and a national electronic criminal history records check by the West Virginia State Police. The applicant shall furnish to the State Police a full set of fingerprints and any additional information required to complete the criminal history records checks. The applicant is responsible for any fees required by the State Police in order to complete the criminal history records checks. The board may require the applicant to obtain an electronic criminal history records check from a similar agency in the state of the applicant's residence, if outside of West Virginia. In addition, the board may contract with a company specializing in the services required by this paragraph instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history records checks.

(a) The criminal history records must have been requested within the twelve (12) months immediately before the application is filed with the board.

(b) To be qualified for registration, the results of the criminal history records check must be unremarkable, and verified by a source acceptable to the board other than the applicant.

(c) The board may deny registration to any applicant who fails or refuses to submit the criminal history records checks required by this subsection.

4.4. If the pharmacy technician trainee leaves the competency-based pharmacy technician education and training program of a learning institution or training center identified in his or her application, the learning institution or training center shall notify the Board in writing within 30 days

that the trainee is no longer enrolled in the program; the trainee may not continue to work as a trainee. If the pharmacy technician trainee leaves the original pharmacy identified in his or her application as the pharmacy providing on-the-job, competency-based pharmacy technician training program, the pharmacist-in-charge of that pharmacy shall notify the Board in writing within 30 days that the pharmacy technician trainee is no longer working there; likewise, the pharmacist-in-charge of the new pharmacy must notify the Board in writing within 30 days of a pharmacy technician trainee starting to work in the new pharmacy which is providing the on-the-job, competency-based pharmacy technician training program. Within ~~(24)~~ 15 months of approval of his or her application to ~~beginning the working as a pharmacy technician in~~ training program, the ~~pharmacy technician~~ trainee pharmacist-in-charge must submit to the Board certification in the form of an affidavit from the pharmacist-in-charge that the pharmacy technician trainee has adequately completed the training program, or that he or she has failed to complete the training program, whichever is applicable: Provided that, any pharmacy technician trainee already participating in an ongoing training program prior to July 1, 2014, shall be given credit for any hours completed in that program, and will have until 2 years from the date he or she originally began that program, or until October 1, 2015, whichever occurs first, to complete the required topics covered in the training program, complete a minimum of 960 hours, and receive the certification of completion of the training program from the pharmacist-in-charge.

(a) The pharmacy technician trainee shall have 90 days from the date of graduation from the competency-based pharmacy technician education and training program of a learning institution or training center, or the date of the certification of completion of the training program by the pharmacist-in-charge, to successfully pass the ExCPT or PTCE national certification examination, obtain certification as a CPhT, and submit this information along with his or her application for registration in this State as a pharmacy technician.

(b) If the pharmacy technician trainee fails to complete the required training program and hours within ~~(24)~~ the 15 months period, the Board shall require the pharmacy technician trainee to begin a training program again with no credit given for any previous hours. must cease working in the pharmacy immediately, Provided that: ~~The~~ the Board may, upon approval of a petition to the Board by a pharmacy technician trainee, and within the Board's discretion:

(1) provide an extension of time for completion of the training program upon the a showing of special circumstances by a pharmacy technician trainee; or

(2) permit a pharmacy technician trainee to begin a training program again with no credit given for any previous hours.

(c) If the pharmacy technician trainee fails to successfully pass the ExCPT or PTCE national certification examination and obtain certification as a CPhT within 90 days from the date of graduation from the competency-based pharmacy technician education and training program of a learning institution or training center, or the date of the certification of completion of the training program by the pharmacist-in-charge, the pharmacy technician trainee must cease working in the pharmacy immediately until he or she successfully completes this requirement, Provided that: the Board may, upon approval of a petition to the Board by a pharmacy technician trainee, and within the

Board's discretion:

(1) provide an extension of time for completion of a personal remediation or re-training program which is presented to the Board with the petition; or

(2) permit a pharmacy technician trainee to begin a training program again with no credit given for any previous hours by making a new application to become a pharmacy technician trainee as described in subsection 4.3 above.

4.5. The pharmacist-in-charge of the pharmacy providing on-the-job, competency-based pharmacy technician training program shall document that whether or not the pharmacy technician trainee has completed the training program and certify the competency of each technician completing the training. The pharmacist-in-charge shall maintain a written record of the initial training of each pharmacy technician. The written record shall contain the following information:

- (a) the name of the person receiving the training;
- (b) the date of the training;
- (c) a general description of the topics covered;
- (d) a statement or statements that certify that the pharmacy technician is competent to perform the duties assigned;
- (e) the name of the person supervising the training; and
- (f) the signature of the pharmacy technician and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for the training of pharmacy technicians.

~~4.6. Upon completion of the training program the pharmacy technician trainee shall apply for registration with the Board as a pharmacy technician and submit the registration fee of \$25.00 and the examination fee of \$25.00. A pharmacy technician trainee shall take a competency examination prepared and administered by the Board and obtain a passing score of 75%. If a pharmacy technician trainee fails to pass the examination satisfactorily, he or she is entitled at either the first or second succeeding examination conducted by the Board to a re-examination without paying any additional fees. If the pharmacy technician trainee fails the re-examination, he or she shall reapply for registration and submit the registration fee of \$25.00 and the examination fee of \$25.00.~~

§15-7-5. Duties and Restrictions of a Pharmacy Technician.

5.1. A pharmacy technician may not:

- (a) receive verbal prescription drug orders and reduce these orders to writing either manually or electronically;

(b) interpret and evaluate prescription drug orders;

(c) select drug products;

(d) interpret patient medication records and perform drug regimen reviews;

(e) deliver the prescription to the patient before a pharmacist performs the final check of the dispensed prescription to ensure that the prescription has been dispensed accurately as prescribed;

(f) communicate to the patient or the patient's agent, information about the prescription drug or device which in the exercise of the pharmacist's professional judgment, the pharmacist considers significant;

(g) communicate to the patient or the patient's agent, information concerning any prescription drugs dispensed to the patient by the pharmacy; or

(h) receive or place a call for a transferred prescription.

5.2. The duties of a registered pharmacy technician may include, but are not limited, to the following:

(a) the placement, receipt, unpacking and storage of drug orders;

(b) maintenance of the work area and equipment in a clean and orderly condition;

(c) the ordering and stocking of all pharmacy supplies;

(d) the checking of all prescription and non-prescription stock for outdates and the processing of outdated returns;

(e) the operation of the cash register. However the pharmacy technician shall

(A1) only handle the complete transaction on refill prescriptions when specifically requested to do so by the pharmacist and when the patient has no questions for the pharmacist;

(B2) only handle the transactions on new prescriptions after counseling by the pharmacist has been offered; and

(C3) refer all questions regarding over the counter and prescription drug product selection or advice to the pharmacist;

(f) the filing of completed hard-copies of new prescriptions, (except schedule II drugs) in numerical order. A pharmacist shall file schedule II drug prescription hard-copies;

(g) the placement of completed prescription orders on the will-call shelf;

(h) the wrapping of completed orders for mailing and the logging of mailed and delivered orders into a record;

(i) the printing of third-party billings, the processing of the billings for mailing and the transmission of electronically handled third-party billings;

(j) the reconciliation of third-party payments;

(k) the contacting of third-party billers and payers if problems arise while handling a patient's insurance transmissions;

(l) the posting of patient purchases to private charge accounts and assisting with the printing and distribution of the monthly statements;

(m) the handling of non-professional phone calls to or from:

(A1) patients requesting refills of prescriptions by number and patient name;

(B2) physicians' offices authorizing refills, if no changes in the prescription are involved, and where the patient's name, medication and strength, number of doses, and date of prior fill is stated. The pharmacy technician shall refer any other inquiries by the prescribing physician's office to the pharmacist;

(C3) patients concerning price information that has been calculated by computer;

(D4) patients concerning business hours, mailing and delivery services, and the availability of goods and services;

(E5) patients asking if their prescriptions are refillable and the number of refills remaining. Any interpretation of the proper length of time between refills must be handled by the pharmacist;

(F6) wholesalers and distributors dealing with the ordering of goods and supplies; and

(G7) physicians' offices regarding patient profile information, where no interpretation or judgment is necessary and only after the pharmacy technician verifies to whom the information is being given.

(n) the acceptance of refill requests and the acceptance of new written prescriptions from patients or their agents after determining the following: the patient's correct name, address, phone number, birth date, drug allergies, disease state(s), and the method of payment;

(o) the entering of prescription data and patient profile data into the computer. The

pharmacy technician shall refer any information needing clarification or interpretation to the pharmacist. The pharmacy technician shall:

(A~~1~~) Monitor the label printing; and

(B~~2~~) Alert the pharmacist to any duplication of medication, drug therapy overlap, drug interactions, drug-disease state interactions, and any questions that arise from entering the information.

(p) the performance of tasks under the pharmacist's supervision, such as obtaining stock bottles for prescription filling;

(q) the counting and pouring from stock bottles for individual prescriptions only under the direct supervision of a pharmacist. The pharmacist shall initial the hard copy of the prescription and the label to account for the accuracy of the prescription contents and the accuracy of the labeling;

(r) the reconstitution and restoration of the original form of medication previously altered for preservation and storage by the addition of a specific quantity of an appropriate diluent requiring no calculations. The pharmacy technician may assist in the preparation of sterile parenteral/enteral products under the direct supervision of a pharmacist. In all cases, the pharmacist shall check and verify the accuracy of the pharmacy technician; and

(s) the weighing or measuring of specific ingredients for the pharmacist to use in extemporaneous compounding. In all cases the accuracy of the weighing and measuring must be verified by the pharmacist.

5.3. The pharmacist-in-charge shall not allow anyone within the pharmacy area to perform pharmaceutical care other than, pharmacists, registered pharmacy technicians, pharmacy technician trainees and pharmacy interns. A ratio of no more than four pharmacy technicians and/or pharmacy technician trainees per on-duty pharmacist operating in any pharmacy shall be maintained. This ratio shall not include pharmacy interns.

5.4. A registered pharmacy technician shall not handle any telephone calls for new prescriptions from a physician's office and shall immediately transfer the calls to a pharmacist, except in the case of refill requests as set forth in subsection 5.2(m).

§1615-7-6. Identification of Technicians and Technician Trainees.

6.1. Pharmacy technicians shall wear a name tag approved by the Board which contains the designation "Pharmacy Technician" while working in a pharmacy within this State. The name tags shall contain lettering of a legible size. Pharmacy technicians and pharmacy technician trainees shall wear appropriate sanitary attire, other than a white coat.

6.2. During the period of training, a pharmacy technician trainee shall wear a name tag approved by the Board which contains the designation "Pharmacy Technician Trainee". The name tags shall

contain lettering of a legible size be a holder on a lanyard or to be pinned or clipped to the trainee's lab coat capable of holding and displaying a board-issued wallet-sized copy of the pharmacy technician trainee's credential, which is issued by the board upon approval of his or her pharmacy technician trainee application, which shall identify the trainee by name and registration number.

§15-7-7. Certificate of Registration; Transfer of Registration.

7.1. ~~The Board shall will provide a certificate of registration to a pharmacy technician trainee who completes the required training program and passes the examination, if required applicants meeting the requirements for registration as a pharmacy technician.~~

7.2. The registration of the pharmacy technician may not be transferred to another pharmacy unless:

(a) the pharmacies are under common ownership and control and have a common training program; or

(b) the pharmacist-in-charge of the pharmacy at which the pharmacy technician intends to work certifies that the pharmacy technician is competent to perform the duties assigned in that pharmacy, and the pharmacist-in-charge submits to the Board certification in the form of an affidavit from the pharmacist-in-charge that the pharmacy technician trainee has adequately completed the pharmacy-specific 20-hour training program as outlined in subsection 3.2 of this rule.

BOARD MEMBERS

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RESPONSE TO PUBLIC COMMENTS RECEIVED TO PROPOSED RULES

(Including explanation of any amendments made to the proposed rule as a result of comments)

TITLE 15, SERIES 7 (WV CSR 15-7-1, et seq.) REGISTRATION OF PHARMACY TECHNICIANS

The Board of Pharmacy received written public comments to the proposed joint rules filed with the Secretary of State on June 27, 2014, making amendments to Title 15, Series 12. The Board reviewed those comments at a public meeting on July 29, 2014. The Board received two very similar comments from the National Association of Chain Drug Stores (“NACDS”) and the West Virginia Retailers Association (WVRA) concerning four points. Following are the Board’s responses to those comments.

1. NACDS first asked whether in-house pharmacy technician training programs currently approved by the Board as required by §15-7-3.1(b) would still be approved for use after the new rules become effective. WVRA echoed this comment. Given that none of the subject matter criteria in the rules is changed, the Board voted to approve any courses currently approved for use under the new rules. Language was added to clarify this in the proposed rule.

2. The next comment from NACDS and WVRA concerned the amount of time permitted to complete training in the revisions to in-house pharmacy technician training program requirements, set forth in § 15-7-4.2. Current law requires 2080 hours within 2 years of beginning training. The proposed rule shortens the requirement to 960 hours within 9 months, and then provides 3 months after training is completed to pass a national certification exam. The Board reasoned in part that this would approximate the two semester training programs at colleges and technical schools for pharmacy technician education, and would amount to about 27 to 28 hours per week for 36 weeks. The Board also reasoned that it needed to take steps to prevent diversion by technicians, which, this would help accomplish by shrinking down the training period in an effort to make sure that only those who are serious about becoming a fully registered technician capable of passing the national examinations would go through the programs.

At the Board’s public meeting on June 30, 2014, representatives of WVRA, Walgreens Pharmacy, and Kroger Pharmacy appeared and made a presentation to the Board regarding this issue. The indicated that extending the training period to 18 months would be ideal, but even moving it out to 12 months would help some. They indicated that the number of hours many

technician trainees work in the pharmacies is a part time schedule of about 20 hours per week, so that more time is necessary to get the 960 hours. The representatives also presented an example of the State of Indiana which, to help prevent diversion, requires a technician trainee application and criminal background check before beginning as a trainee. The Board agreed to modify the requirements and provide more time for training, and, to offset concerns about easy access to pharmacies by technician trainees, to adopt the Indiana approach by requiring an application up front, including a criminal background check, rather than waiting until after the training and getting it at the time of application to become a fully registered pharmacy technician. As such, the rule was modified to require an application and criminal background check prior to beginning work as a pharmacy technician trainee, and to permit 15 months to complete training and 3 months to pass a national certification examination.

3. The third comment from NACDS and WVRA asks the Board to keep the notice requirement of a technician trainee beginning at a pharmacy at 30 days from starting work, rather than the 7 days the proposed rule modifies it down to, found at §15-7- 4.3. Given the changes described in paragraph 2 above, the notice of beginning is obviated by the initial application and criminal background check requirement. However, if the technician trainee changes pharmacies at which he or she is training, a notice of that would be necessary for the Board to track where the trainee is working. So, the Board agreed to modify the rule to permit 30 days from a trainee changing pharmacies for the Pharmacist-in-Charge at the new pharmacy to notify the Board of that change.

4. Finally, NACDS and WVRA asked the Board to remove or expand the pharmacist to technician ration set forth in § 15-7-5.3. This ration was long-set by statute. In the revisions to the Pharmacy Practice Act in 2013, this was left to rule. The Board chose to continue with the 4:1 ration of technicians to pharmacist ration. Pharmacists are required to directly supervise pharmacy technician activities. A survey of other states reveals that the majority of states with a ration have set it at 4:1. One state is at 6:1, and one at 5:1. A substantial number of states have no ration, but some of these have no technician registration requirements at all. One board member reported to the Board that he had surveyed informally a number of pharmacists in his area of the state from the chain pharmacies, and they all said to leave the ratio as-is at 4:1. They indicated that they did not have space in the pharmacy for too many people working at the same time, and could not adequately supervise more. Two of the board members who own independent pharmacies and one former owner agreed with that sentiment. The Board voted unanimously to leave the ratio as-is and not remove it or expand it. Thus, the Board will not make any changes to the proposed rule based upon this portion of the comment at this time.

The Board at its public meeting on July 29, 2014, authorized this response and the proposed rules to be filed with the Secretary of State and the Legislative Rule-Making and Review Committee. Because this is a joint rule, the comments also have to be reviewed by the Board of Medicine and Board of Osteopathy, so that we will need to file a supplemented response after they have taken up the comments in their respective board meetings.

Prepared by:

David E. Potters
Executive Director and General Counsel



July 24, 2014

David Potters, Esq.
Executive Director & General Counsel
and Members of the Board of Pharmacy
West Virginia Board of Pharmacy
2310 Kanawha Blvd East
Charleston, WV 25311

RECEIVED ON
JUL 25 2014
WV BOARD OF PHARMACY

RE: Series 7 and 12 Comments - Proposed Rules for Registration of Pharmacy Technicians and Proposed Rules for Immunizations Administered by Pharmacists

Dear Mr. Potters and Members of the Board of Pharmacy:

On behalf of our members operating pharmacies in the state of West Virginia, the National Association of Chain Drug Stores is writing to provide our comments on the above-mentioned proposed rules for registration of pharmacy technicians and for immunizations. We thank you for consideration of our comments.

We appreciate the work of the Board of Pharmacy in drafting the proposed rules recognizing the efforts required by the board of pharmacy. We offer the comments in the spirit of achieving optimal rules that allow pharmacy technicians to provide valuable assistance to pharmacists in order to allow pharmacists to engage in valuable pharmacist services such as medication therapy management, disease management and other pharmacist patient care services, and for promoting efficiencies in the reporting of immunization adverse events. Chain pharmacies truly, appreciate the value that pharmacy technicians provide to pharmacists.

Proposed Rule for Registration of Pharmacy Technicians

Our comments on the proposed rule for registration of pharmacy technicians are directed at the following provisions:

- Section 3.1(b) on board approval of training programs
- Section 4.2 on pharmacy technician training
- Section 4.3 on the pharmacist in charge notifying the board of pharmacy
- Section 5.3 on the pharmacy technician ratio

1. **Section 15-7-3.1(b) - approval of pharmacy technician education and training programs**

The proposed rule provides that an option for pharmacy technicians seeking registration is the pharmacy-provided, on the job, competency-based education and training program approved by the board. Currently, a number of pharmacies have such programs that are already approved by the board. As these programs are approved, and in the interest of continuing pharmacy technician education and

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Executive Director & General Counsel and Members of the Board of Pharmacy
July 24, 2014
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training without interruption of the training, we understand that the programs would continue to be approved and not require re-approval.

REQUEST: We ask that the board affirm that the pharmacy technician training programs that are currently approved by the board of pharmacy do not need to be re-approved.

2. Section 15-7-4.2 – pharmacy technician education and training programs
The proposed rule provides that beginning July 1, 2014, on-the-job, competency-based pharmacy technician training program shall consist of a minimum of 960 hours of employment within a 9 month period.

The 9 month limit to complete the 960 hours of employment for the technician training will present an unworkable situation for many pharmacy technician trainees. This equates roughly to 107 hours per month. A considerable number of pharmacy technicians would be unable to work this number of hours in a month. It is quite common for pharmacy technicians to be part time and work much fewer hours. For example, some pharmacy technicians may work weekends, some only part of the day for several days a week. Often these schedules accommodate their school or other schedules. In short, if this requirement is not changed, these pharmacy technicians would not be able to meet the 960 hours of employment in 9 months. As a result, a number of pharmacy technician employees would be effectively shut out of their desire to become pharmacy technicians. We doubt that the board intended to present these hurdles for pharmacy technician employees but nonetheless, the proposed rule to require training in a 9 month period would lead to such an arbitrary effect.

REQUEST: We ask that the proposed rule be changed to allow the pharmacy technician trainee to complete the minimum of 960 hours in an 18 month period. This would equate roughly to about 53 hours per month which provides a reasonable and sufficient number of work hours per month for a pharmacy technician trainee.

3. Section 15-7-4.3 – pharmacist-in-charge notification within 7 days of a pharmacy technician trainee starting work in the pharmacy
The proposed rule amends the existing rule to require that the pharmacist-in-charge (PIC) notify the board of pharmacy in writing within 7 days of a pharmacy technician trainee starting work in the pharmacy. The current rule provides the pharmacist 30 days to provide such notice.

We ask that the rule not be changed to 7 days for the PIC to notify the board of pharmacy of the technician trainee starting work, and remain at 30 days. The 7 day time period places an unnecessarily short deadline on the PIC. When a pharmacy

technician starts to work in a pharmacy, there are a number of activities that the PIC would be focused on, such as introducing the technician to the pharmacy, beginning training, and other support for the new employee. We do not agree with pulling the PIC away to provide notification so quickly when his or her time is better spent with orienting the new pharmacy technician.

REQUEST: We ask that the 7 day time period be removed and that the proposed rule revert to the 30 day time period.

4. Section 15-7-5.3 -pharmacy technician ratio

The proposed rule provides for a ratio of no more than four pharmacy technicians and/or pharmacy technician trainees per on duty pharmacist. Rather than setting a ratio, the board of pharmacy should eliminate the pharmacy technician ratio for the reasons we discuss below.

Not having a pharmacy technician ratio allows the pharmacy to determine the optimal number of pharmacy technicians for the particular pharmacy. This achieves numerous benefits. Patients benefit because it optimizes the pharmacy patient care services they receive. The healthcare system benefits as this promotes effective timely delivery of pharmacy patient services. It allows the pharmacy to operate efficiently and safely. For instance, some community pharmacies have technology and a number of customer areas where a sufficient number of pharmacy technicians are critical to good customer service along with benefitting the pharmacist by having a smoothly run pharmacy. Conversely, another pharmacy may operate differently. The point is that each pharmacy should be allowed to determine what ratio is workable and optimal for that pharmacy. A pharmacy would not have more pharmacy technicians than are needed and optimal for that particular pharmacy practice setting. In short, setting an arbitrary ratio of pharmacy technicians per pharmacist creates an unnecessary impediment to pharmacies operating efficiently and in the best interests of patients. By way of example, it would not make sense to limit the number of nurses that a physician determines is needed for his or her office practice.

Many valid reasons exist for eliminating pharmacy technician ratios:

- Pharmacists would have sufficient support staff to allow them to engage in patient care activities, allowing pharmacists to delegate non-judgmental tasks to technicians.
- The pharmacist to technician ratio is not necessary as pharmacy technicians are well trained and integral to assisting pharmacists with non-discretionary, non-judgmental tasks.

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Executive Director & General Counsel and Members of the Board of Pharmacy
July 24, 2014
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- Many state boards of pharmacy in recognition of the important role of pharmacy technicians performing non-discretionary, non-judgmental tasks have over the years increased or eliminated restrictive ratios to allow for optimal use of pharmacy technicians.
- With the increasing number of patients in the healthcare system, pharmacists along with other health care providers are of increasing importance to provide health care services to patients.
- Pharmacy technicians are an integral part of pharmacy practice by performing administrative and non-discretionary tasks that enable the time that pharmacists have to spend with patients.
- Elimination of pharmacist to technician ratios will enable pharmacists to focus on patients, and provide enhanced services such as medication therapy management, disease management, and other important pharmaceutical patient care services.

Proposed Rule for Immunizations

We also have one concern with the proposed immunization rule. We routinely report to the VAERS and agree that it is an important system to track patient care. However, we question whether it is truly necessary to send additional reports when agencies have access to this information online. We believe the point of making this system web-based was to provide for the interactive, open sharing of this information, as opposed to sending reports on paper that are not likely to be easy to track. As we see it, providing additional reports is redundant.

We thank you for consideration of our comments on the proposed rules for registration of pharmacy technicians. Please don't hesitate to contact me if you require further information.

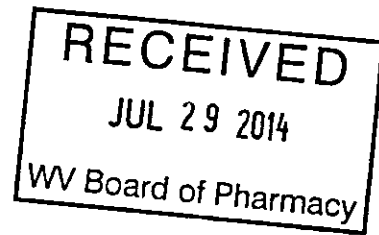
Sincerely,



Jill McCormack, Director
State Government Affairs
National Association of Drug Stores
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WEST VIRGINIA
RETAILERS
ASSOCIATION



July 25, 2014

David Potters, Executive Director & General Counsel
West Virginia Board of Pharmacy
2310 Kanawha Blvd., East
Charleston, WV 25311

Dear Mr. Potters:

West Virginia Retailers Association is writing on behalf of our members located across West Virginia to provide comments regarding the registration of pharmacy technicians under Rule Series 7.

Section 15-7-3.1(b) Pharmacy Technician Education and Training Programs

1) Competency-based in-house education training programs currently approved by the board should continue uninterrupted as approved training programs. This consideration assures continued pharmacy technician training without interruption for a re-approval process for in-house training programs.

Section 15-7-4.2 Pharmacy Technician Education and Training Programs

2) Members ask that the Board of Pharmacy consider an eighteen month training timeframe for technicians. An eighteen month timeframe would be the most ideal situation for the students working toward certification/registration. Our members work very hard to accommodate the individual and unique schedule of technician trainees.

The proposed rule provides that beginning July 1, 2014, on-the-job, competency-based pharmacy technician training programs shall consist of a minimum of 960 hours of employment within a 9 month period.

The 960 hours of proposed training is not an accurate reflection of the current standard governing the practice of pharmacy. One attractive option for trainees working to attain pharmacy technician status is a flexible work and training schedule.

Section 15-7-4.3 Pharmacist-in-Charge Notification within 7 Days

3) We ask that the Board of Pharmacy support the current rule that provides a pharmacist 30 days to provide notice in writing of a pharmacy technician trainee starting work in the pharmacy.

The proposed rule amends the current rule to require that a pharmacist-in-charge (PIC) notify the board of pharmacy in writing in 7 days of a pharmacy technician trainee starting work in the pharmacy.

Section 15-7-5.3 –pharmacy technician ratio

4) At the very least, the Board of Pharmacy should consider expanding the current ratio of no more than four pharmacy technicians and/or pharmacy technician trainees to a ratio of six pharmacy technicians and/or pharmacy technician trainees per on duty pharmacist. We strongly support the concept of eliminating the pharmacy technician ratio in West Virginia following the lead of several other states.

The proposed rule provides for a ratio of no more than four pharmacy technicians and/or pharmacy technician trainees per on duty pharmacist as is current standards in West Virginia.

The West Virginia Board of Pharmacy is adopting several changes regarding the certification/registration of Pharmacy Technicians. These changes should provide the Board of Pharmacy additional confidence in the pharmacy technician's skill level.

WVRA supports a practice environment that promotes well-trained pharmacy technicians recognizing them as vital members of the pharmacy care team.

The expansion of the WV Medicaid Program brought an additional 132,000 West Virginia residents into the healthcare system. Adequate staff is critical to patient safety and customer demand for healthcare services.

Pharmacists provide enhances services as their skills are utilized for disease management, medication therapy management, and other patient care services. Well trained pharmacy technicians are vital members of the pharmacy care team in West Virginia.

Thank you for your consideration of our comments on the proposed rules regarding the registration of pharmacy technicians.

Sincerely,



Bridget Lambert, President
WV Retailers Association