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

Form #3

Do Not Mark In This Box

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2014 JUL 31 P 3:38

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 Osteopathic Medicine TITLE NUMBER: 24

CITE AUTHORITY: WV Code Sections 29B-1-3(5), 30-1-4, 30-1-6, 30-14-4, 31B-13-1304 and 30-3E-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES X NO ____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 24-5

TITLE OF RULE BEING AMENDED: Fees for Services Rendered by the Osteopathic Medical Board

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

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fees for Services Rendered by the Board of Osteopathic Medicine

Type of Rule: [X] Legislative [ ] Interpretive [ ] Procedural

Agency: West Virginia Board of Osteopathic Medicine

Address: 405 Capitol Street, Suite 402

Charleston, WV 25301

Phone Number: (304) 558-6095 Email: wvbdosteo@wv.gov

Fiscal Note Summary

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

N/A

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

Rule Title: Fees for Services Rendered by the Board of Osteopathic Medicine

Rule Title: Fees for Services Rendered by the Board of Osteopathic Medicine

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

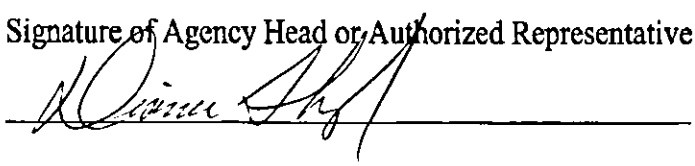
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

N/A

Date: 7/31/2014

Signature of Agency Head or Authorized Representative



QUESTIONNAIRE

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

DATE: 7-31-2014

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

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

1. Authorizing statute(s) citation West Virginia Code Sections 29B-1-3(5), 30-1-4, 30-1-6, 30-14-4, 31B-13-1304 and 30-3E-1 et seq.

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

   5/8/2014

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

   Notice to affected individuals
   Notice to interested or affected associations

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

   6/24/2014

   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)

7/31/2014

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

Diana Shepard
Executive Director
West Virginia Board of Osteopathic Medicine
405 Capitol Street, Suite 402
Charleston, WV 25301

(304) 558-6095

g. **<u>IF DIFFERENT</u> 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 _____

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

Osteopathic Physician Assistants
Title 24, Series 5

SUMMARY AND CIRCUMSTANCES REQUIRING AN AMENDMENT OF RULE 24 CSR 5

The Physician Assistants Practice Act, W. Va. Code §30-3E-1 et seq., becomes effective on June 6, 2014. This statute creates an entirely new procedural system that must be utilized for a physician assistant to obtain authorization to practice in West Virginia. It also establishes criteria for licensure, complaints, investigation and disciplinary processes. The statute mandates that a physician assistant may not practice until: (1) the supervising physician and physician assistant submit a practice agreement to the Board which establishes those activities within the physician assistant's scope of practice, including limited prescriptive authority; and (2) the Board authorizes practice pursuant to the practice agreement. The Act also authorizes the Board to promulgate legislative rules to implement the provisions of the statute. The amendment to this rule allows the board to provide mechanisms that will effectuate the requirements of the statute.

FILED

2014 JUL 31 P 3:40

OFFICE WEST VIRGINIA
SECRETARY OF STATE

TITLE 24
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

SERIES 5
FEES FOR SERVICES RENDERED BY THE BOARD OF OSTEOPATHIC MEDICINE

§24-5-1. General.

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

1.2. Authority. -- W. Va. Code §§29B-1-3(5), 30-1-4, 30-1-6, 30-14-4, 30-14A-3, 31B-13-1304 and 30-3E-1 et seq.

1.3. Filing Date. --

1.4. Effective Date. --

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

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

2.1. Application for Licensure. -- $400.00.

2.2. Biennial Renewal of License. -- $400.00.

2.3. Osteopathic Physician Corporation Application Fee. -- $500.00.

2.4. Osteopathic Physician Corporation Biennial Renewal. -- $400.00.

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

2.6. Osteopathic Physician State Board Scores. -- $10.00.

2.7. Late renewal fee. -- $100.00.

2.8. Osteopathic Physician Duplicate Wallet License. -- $30.00.

2.9. Osteopathic Physician Wall Certificate. -- $50.00.

2.10. Osteopathic Physician Educational Permit. -- $100.00.

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

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

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

3.1. Physician Assistant License Fee. -- $100.00

3.2. Physician Assistant Biennial Renewal of License. -- $100.00.

3.3. Written Verification of License or Endorsement. -- $35.00.

3.4 Fee for Practice Agreement -- $100.00.

3.5 Fee for Amendment or Change of Practice Agreement -- $100.00.

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

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

4.1. Record Search Fee. -- $30.00.

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

4.3. Duplication or production of electronic media:

4.3.a. Compact Disc. -- $5.00 per disc.

4.3.b. DVD. -- $10.00 per disc.

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

4.5. Database Reports and Extracts in Custom Formats.

4.5.a. Custom licensee directories, requiring license issue and expiration dates: $5,000.00 for physician licensees, $2,500.00 for osteopathic physician assistant licensees.

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

WVOMA
WEST VIRGINIA OSTEOPATHIC MEDICAL ASSOCIATION

June 16, 2014

Diana Shepherd, Executive Director
WV Board of Osteopathic Medicine
405 Capitol Street, Suite 402
Charleston, WV 25301

Dear Ms. Shepherd:

On behalf of the WVOMA, please accept this letter of support for the proposed rule changes to Licensing Procedures for Osteopathic Physician Assistants.

The proposed changes are a step forward for the licensing process of Physician Assistants in West Virginia, and will help to streamline the licensing process as well as bringing it up to the current national standards.

We support these proposed changes and applaud your efforts on behalf of our member physicians.

Sincerely:

Penny Fioravante

Penny Fioravante
Executive Director

West Virginia Osteopathic Medical Association
400 North Lee Street · Lewisburg, WV 24901 · Phone: 800-356-7836 x 842 or 304-793-6842
Fax: 304-647-6211 · Email: wvoma@mail.com · Website: www.wvoma.org

Shepard, Diana K

From: Rodney Fink [rfink@accesshealthwv.com] **Sent:** Sat 6/21/2014 8:48 PM
To: Shepard, Diana K
Cc:
Subject: Re: PA Rule Changes
Attachments:

I remain convinced that the proposed rule amounts to "de facto" independent practice. The proposed number does not provide for sufficient oversight to protect the public welfare. There will be, and probably already exist PA's in independent practices with only minimal or pseudo supervision. The level of education and training of a PA mandates their professional role be limited to that education and training. I realize my opinion is unpopular with those who wish to employ multiple mid-levels for financial gain; however, it is the Board's duty to consider the public's interest and safety over personal or corporate greed. The Board must provide reasonable limits for PA's. Thank you for your earlier response and this inquiry. I remain strongly opposed to the rule.

Rodney Fink, D.O.

Sent from my iPad

On Jun 19, 2014, at 2:01 PM, "Shepard, Diana K" <Diana.K.Shepard@wv.gov> wrote:

> Dr. Fink:
>
> As the public comment period winds down, I wanted to check back with you regarding your concerns with the proposed PA Rule changes.
>
> Did I answer your questions to your satisfaction or do you still have issues with the changes? As I need to report this to the legislature, I want to make sure I express your concerns adequately.
>
> Thank you,
>
> Diana Shepard, CMBE
> Executive Director
> WV Board of Osteopathic Medicine
> 405 Capitol Street, Suite 402
> Charleston, WV 25301
> Diana.K.Shepard@wv.gov
> (304) 558-6095
> (304) 558-6096 (Fax)

WVAPA
PO Box 3061
Wheeling, WV 26003
304.688.5100
mywvapa@gmail.com
wvapa.net

June 29, 2014

Ms. Diana Shepard, Executive Director
West Virginia Board of Osteopathic Medicine
105 Capitol St., Suite 402
Charleston, WV 25301

Re: Title Series 24-02, Osteopathic Physician Assistants

On behalf of the nearly 1,000 Physician Assistants (PAs) in West Virginia (WV) represented by the West Virginia Association of Physician Assistants (WVAPA), and the 205 licensed by the Board of Osteopathic Medicine, the WVAPA welcomes the chance to comment on the Emergency Rules for 24-02, Osteopathic Physician Assistants.

The WVAPA cherishes the relationship that has been constructed during the creation and passage of SB 425, Physician Assistant Practice Act, during the 2014 legislative session with the WV Board of Osteopathy and the WV Board of Medicine. We look forward to a continued strong working relationship into the future as well.

We applaud the work that the WV Board of Osteopathic Medicine has done with the Emergency Rules for 24-02, however, we do suggest the following as potential amendments to consider in giving our full support. The WV Board of Medicine has already adopted similar amendments to their Emergency Rules from their comment period as well. As we wish for both medical boards' rule to remain similar, we suggest the following amendments for your consideration:

§24-02-2 Definitions

2.1.aa. "Protocol" means written treatment instructions ~~prepared~~ established by a supervising physician for use by a physician assistant. The instructions should be flexible, in accordance with the setting where the physician assistant is employed.

This will permit wider collaboration regarding creation of protocols.

§24-02-8 Osteopathic Physician Assistant's Scope of Practice

8. r. Unless prohibited by the place of practice, a physician assistant may sign orders to be countersigned later by his or her supervising physician as set forth in an authorized practice agreement.

This will allow clarification that if the supervising physician intends to delegate the signing of orders (where permitted by the place of practice), this delegation and protocols related thereto must be incorporated into the terms of an authorized practice agreement.

§24-2-9. Responsibilities of the Supervising Physician

9. c. c. Periodic and regular review, at least ~~monthly~~ quarterly, the supervising physician of selected patient records upon which entries are made by the physician assistant.

9. c. d. Periodic, in-person, education and review sessions discussing specific conditions, protocols, procedures, and specific patients, held by the supervising physician for the physician assistant under his or her supervision in accordance with the terms of the practice agreement. ~~Such periodic in-person meetings must occur monthly if a member of the practice agreement and quarterly thereafter.~~ For physician assistants in the first six (6) months of an authorized practice agreement and who have practiced as a physician assistant for less than one year, such periodic in person meetings must occur monthly. The supervising physician and physician assistant must retain written documentation of the meeting;

This allows a minimum number of visits for new practitioners, however, more experienced physician assistants the supervising physician may dictate in the practice agreement how often he or she will need to meet with the physician assistant to go over practice agreement, protocols, patient cases, and others set forth in the practice agreement.

§24-2-11 Delegation of Prescriptive Authority

11. b. ~~The physician assistant has successfully completed an accredited course of instruction in clinical pharmacology approved by the Board of not less than four semester hours.~~ The physician assistant has obtained a baccalaureate or master's degree from an approved program of instruction for physician assistants or has successfully completed an accredited course of instruction in clinical pharmacology approved by the Board of not less than four (4) semester hours. The Board may, at its discretion, grant up to one credit hour equivalent for two (2) or more years prior to his or her application submission to the Board for limited prescriptive privileges; and

Today's instruction is largely system based with pharmacology instruction incorporated into a systematic teaching model. The ARC-PA, which accredits physician assistant programs has no set number of clinical pharmacology hours. However, current accreditation requirements incorporate pharmacologic instruction throughout the

curriculum, receiving the necessary pharmacology instruction is demonstrated by graduation.

The WVAPA thanks you for the opportunity to recommend changes during this comment period for the emergency rules §24-02. Please feel free to contact us with any questions.

Sincerely,

Nicholas C Vance, MPAS, PA-C
WVAPA Immediate Past President/Government Relations Chair