



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/26/2016 12:32:07 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY **Optometry**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **14-10**

RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 14-10



Rule Id: 10231



Document: 28897



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY **Optometry**

RULE TYPE **Legislative** **AMENDMENT TO EXISTING RULE** **Yes** **TITLE-SERIES** **14-10**

RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

PRIMARY CONTACT

Pamela Carper
179 Summers Street, #231

Charleston, STATE ZIP

SECONDARY CONTACT

James Campell
297 N State Route 2

New Martinsville, STATE SECONDARY ZIP SECONDARY

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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY Optometry

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RULE NAME Continuing Education

CITE AUTHORITY WV Code §30-8-1 et.seq.

AUTHORIZING STATUTE(S) CITATION

WV Code, 30-8-1. et seq.

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD

Tuesday, July 19, 2016

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

1. Direct Email to the Executive Director of the WV Association of Optometric Physicians and the WVAOP Attorney with dates of the written comment period and the rule attached.
2. Board Newsletter by email to all licensees with comment period dates and instructions for access to the rule on the Board Website.
3. Sent Board Newsletter in paper form by postal mail to all licensees.
4. Called the Executive Director of the WV Academy of Ophthalmology and told him of the comment deadline and the WV Secretary of State posting.

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED

Monday, August 22, 2016

Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

AGENCY **Optometry**

RULE TYPE **Legislative** **AMENDMENT TO EXISTING RULE** **Yes** **TITLE-SERIES** **14-10**

RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

**ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.**

No comments received

**DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)**

Thursday, August 25, 2016

**Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 3)

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RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION, 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.

Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

AGENCY **Optometry**

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RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

DATE OF HEARING OR COMMENT PERIOD

**ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?**

ATTACH FINDINGS AND DETERMINATIONS AND REASONS

None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

**Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in
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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Optometry

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 14-10

RULE NAME Continuing Education

CITE AUTHORITY WV Code §30-8-1 et.seq.

PRIMARY CONTACT

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179 Summers Street, #231

Charleston, STATE ZIP

SECONDARY CONTACT

James Campell, O.D.
297 N State Route 2

New Martinsville, STATE SECONDARY ZIP SECONDARY

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Optometry**

RULE TYPE **Legislative** **AMENDMENT TO EXISTING RULE** **Yes** **TITLE-SERIES** **14-10**

RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

There will be no additional costs to the state with revision of the continuing education (CE) rule. The fiscal practices of the Board will not change.

Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Optometry**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **14-10**

RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY Optometry

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 14-10

RULE NAME Continuing Education

CITE AUTHORITY WV Code §30-8-1 et.seq.

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 increase in fees. The Board currently pays the fee for its licensees to access the OE Tracker CE tracking system. The Board will continue to pay the fee for all of its licensees.

Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY **Optometry**

RULE TYPE **Legislative** **AMENDMENT TO EXISTING RULE** **Yes** **TITLE-SERIES** **14-10**

RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

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 Board will not change its fiscal practices regarding CE. Licensees will pay no additional fees.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Optometry**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **14-10**

RULE NAME **Continuing Education**

CITE AUTHORITY **WV Code §30-8-1 et.seq.**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

Some licensees have said that the Drug Diversion and Best Practices Prescribing language in the current rule is confusing. This amendment updates and re-organizes the continuing education (CE) rule to be more clear for the licensees and the public. It adds that the Board may assign the category of CE for a course and allows the Board to require the use of a CE tracking system. The Board pays the fee for licensees to access the system.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Pamela P Carper -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 14-10



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TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 10
CONTINUING EDUCATION

§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 --
- 1.5. Sunset Date – June 30, 2025.

§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.~~ 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.~~

~~3.2.3.1.~~ A licensee shall complete a minimum of forty-three (43) hours of continuing education for each even numbered, two (2) year cycle.

~~3.3.3.2.~~ Of the required forty-three (43) hours, the licensee shall complete: the following categories of continuing education:

~~3.3.a.3.2.a.~~ a minimum of twelve (12) hours of study in pharmacology or therapeutics courses;

~~3.3.b.3.2.b.~~ a maximum of six (6) hours of study in practice management;

~~3.3.e.3.2.c.~~ a maximum of ten (10) hours of optometric study may be taken by correspondence, ~~or~~ via the Internet or other electronic means;

~~3.4.3.3.~~ Of the required forty-three (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.

~~3.5.3.4.~~ Of the required forty-three (43) hours, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall complete two (2) hours of instruction in administering pharmaceutical agents by injection.

~~3.6.~~ 3.4.1. 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.

3.5. It is the responsibility of the licensee to maintain evidence of meeting the continuing education requirements for a period of four (4) years. Required documentation of compliance with continuing education requirements is subject to audit by the Board. A licensee who fails a Board audit of continuing education records may be subject to disciplinary action.

~~3.7.3.6.~~ All continuing education study must be sponsored or approved by one of the organizations listed in subsection 5.1. of this rule or pre-approved by the Board as outlined in section 6 of this rule.

3.7. The Board reserves its right to assign the category of credit granted for each continuing education course in accordance with W.Va. Code R., §14-10-3.2. through W. Va. Code R., §14-10-3.4.

§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 three (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 March 1, 2013, all licensees 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, administered or dispensed 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.~~

4.2. Every licensee who prescribes, administers or dispenses a controlled substance shall complete three (3) hours of drug diversion and best practice prescribing of controlled substances training during every even-numbered two year continuing education cycle as a prerequisite to license renewal. These three (3) continuing education hours shall be counted as part of the forty-three (43) total hours of continuing education per even numbered two-year cycle required under this rule.

4.3. A licensee who does not prescribe, administer or dispense controlled substances shall complete the drug diversion requirement as a prerequisite to renewal in one of two ways:

4.3.1. Complete three (3) hours of drug diversion and best practice prescribing of controlled substances training during each even-numbered two (2) year continuing education cycle, or

4.3.2. Complete and timely provide to the Board a Board-developed certification form and waiver attesting that he or she has not prescribed, administered or dispensed a controlled substance during the entire even numbered two-year cycle.

§14-10-5. Approved Continuing Education and Accreditation Programs.

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

- 5.1.a. the American Optometric Association or its affiliated organizations;
- 5.1.b. the West Virginia Association of Optometric Physicians and other state optometric associations;
- 5.1.c. the American Academy of Optometry;
- 5.1.d. post-graduate courses offered at any accredited school or college of optometry;
- 5.1.e. the Southern Council of Optometry or its affiliates; and
- 5.1.f. the Council on Optometric Practitioner Education (COPE).

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

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 §14-10-5.~~ of this rule may submit a written request to the Board for continuing education course or event approval. Each application shall include payment of the fee established in the Board's rule, W. Va. State Code of Rules, §14-5-1., et. seq.

6.2. A request for approval from a continuing education provider must be received at least ~~six months~~ ninety (90) days prior to the course, meeting or seminar; however, the Board may waive this requirement at its discretion.

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

~~6.4.~~6.3. 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.

~~6.5.~~6.4. Upon review the Board may reject the continuing education course, approve the continuing education course or approve the continuing education course conditionally.

~~6.5.a.~~6.4.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.

~~6.6.~~6.5. 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~~ resubmit the request for Board approval, a new application must be submitted in compliance with the requirements of this rule.

~~6.7.~~6.6. In no event shall the Board consider approval of a continuing education course or event retroactively.

~~6.8.~~6.7. 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.

§14-10-7. Required Documentation.

7.1. Evidence of attendance ~~by shall be furnished by the continuing education provider or sponsoring organization to each registrant at~~ obtained and maintained by the licensee. ~~which~~ The evidence of attendance shall include ~~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, COPE or other approved program number if applicable, and hours in attendance, the method of instructional delivery by which may include, but is not limited to, live on-site presentation, correspondence, Internet or other electronic means. ~~The licensee shall maintain evidence of attendance, subject to audit by the Board.~~

7.2. The Board may require use of the Association of Regulatory Boards of Optometry's OE Tracker system or other evidence of attendance as the Board deems appropriate.

§14-10-8. Exemptions.

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 evaluation 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 evaluation to the licensee's first license renewal: Provided, that the initial licensee ~~must~~ shall 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.~~ pursuant to W. Va. Code R., §14-10-4.1.

8.1.a. The requirements of W. Va. Code R., §14-10-3. and W. Va. Code R., §14-10-4. of this rule shall be required of the licensee listed in subsection 8.1. of this section in all succeeding license renewals.

8.2. Those licensees not covered by the provisions of 8.1. of this section may make a sworn request for exemption from the continuing education requirements listed in W. Va. Code R., §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.

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

8.2.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.

8.2.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.