



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

4/23/2018 2:32:13 PM

Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Medicine TITLE-SERIES: 11-01B
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Licensure, Disciplinary and Complaint Procedures,
Continuing Education, Physician Assistants

CITE STATUTORY AUTHORITY: W. Va. Code §30-1-7(a), §30-3E-3(a)(1)-(10), and W. Va. Code §30-1D-1(d).

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) House Bill 4079

Section §64-9-6(a) Passed On 3/9/2018 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 1, 2018

This rule shall terminate and have no further force or effect from the following date:

July 01, 2023

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jamie C Frame -- 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.

11CSR1B

TITLE 11 LEGISLATIVE RULE WEST VIRGINIA BOARD OF MEDICINE

SERIES 1B LICENSURE, DISCIPLINARY AND COMPLAINT PROCEDURES, CONTINUING EDUCATION, PHYSICIAN ASSISTANTS

§11-1B-1. General.

1.1. Scope. -- This rule relates to physician assistants and to their licensing, practice, complaint procedures and professional discipline, and continuing education.

1.2. Authority. -- W. Va. Code §30-1-7(a), §30-3E-3(a)(1)-(10), and W. Va. Code §30-1D-1(d).

1.3. Filing Date. – April 23, 2018

1.4. Effective Date. – July 1, 2018

1.5. Sunset Provision -- This rule shall terminate and have no further force or effect on July 1, 2023.

§11-1B-2. Definitions.

2.1. For purposes of this rule, the following words and terms mean:

2.1.a. “Advanced duties” means medical acts that require additional training beyond the basic education program training required for licensure as a physician assistant.

2.1.b. “Alternate collaborating physician” means one or more physicians or podiatric physicians licensed in this state and designated by the collaborating physician to provide collaboration with a physician assistant in accordance with an authorized practice agreement.

2.1.c. “Antineoplastics” means chemotherapeutic agents used in the active treatment of current cancer.

2.1.d. “Authorization to practice” means written notification from the Board that a physician assistant may commence practice pursuant to an authorized practice agreement.

2.1.e. “Authorized practice agreement” means a practice agreement which has been authorized by the Board.

2.1.f. “Board” means the West Virginia Board of Medicine.

11CSR1B

2.1.g. “Chronic condition” is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions include anemia, anxiety, arthritis, asthma, bladder outlet obstruction, cardiovascular and pulmonary disease, cancer, controlled diabetes, epilepsy and seizures, thyroid disease, and obesity, and do not include chronic pain.

2.1.h. “Collaborating Physician” means a doctor of medicine or podiatry fully licensed, without restriction or limitation, who collaborates with physician assistants.

2.1.i. “Collaboration” means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. Constant physical presence of the collaborating physician is not required as long as the collaborating physician and physician assistant are, or can be, easily in contact with one another by telecommunication. Collaboration does not require the personal presence of the collaborating physician at the place or places where services are rendered.

2.1.j. “Controlled substances” means drugs that are classified by federal or state law in Schedules I, II, III, IV or V, as defined in W. Va. Code § 60A-2-204 through 212.

2.1.k. “Core duties” means medical acts that are included in the standard curricula of accredited physician assistant education programs.

2.1.l. “Drug diversion training and best practice prescribing of controlled substances training” means training which includes all of the following:

2.1.l.1. Drug diversion, including West Virginia statistics on prescription drug abuse and resulting deaths;

2.1.l.2. Epidemiology of chronic pain and misuse of opioids;

2.1.l.3. Indication for opioids in chronic pain treatment including general characteristics, toxicities and drug interactions;

2.1.l.4. Examination of patient evaluation and risk assessment and tools to assess risk and monitor benefits;

2.1.l.5. Initiation and ongoing management of chronic pain patient treated with opioid based therapies, including treatment objectives; monitoring and periodic review; referrals and consultations; informed consent; prescription of controlled substance agreements, urine screens and pill counts; patient education on safe use, storage and disposal of opioids; discontinuation of opioids for pain due to lack of benefits or increased risks; documentation and medical records;

2.1.l.6. Case study of a patient with chronic pain;

2.1.l.7. Identification of diversion and drug seeking tactics and behaviors;

11CSR1B

2.1.1.8. Best practice methods for working with patients suspected of drug seeking behavior and diversion;

2.1.1.9. Compliance with controlled substances laws and rules;

2.1.1.10. Training on prescribing and administration of an opioid antagonist;

2.1.1.11. Registration with and use of the West Virginia Controlled Substances Monitoring Program established in West Virginia Code Chapter 60A, Article 9; and

2.1.1.12. Maintenance of a record of attendance of each individual who successfully completes the drug diversion training and best practice prescribing of controlled substances training.

2.1.m. “Endorsement” means a summer camp or volunteer endorsement to practice as a physician assistant as set forth in W. Va. Code §30-3E-1 et seq.

2.1.n. “Health care facility” means any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic or physician’s office.

2.1.o. “Hospital” means a facility licensed pursuant to W. Va. Code §16-5B-1 et seq., and any acute-care facility operated by the state government that primarily provides inpatient diagnostic, treatment or rehabilitative services to injured, disabled or sick persons under the supervision of physicians and includes psychiatric hospitals.

2.1.p. “License” means a license issued by the Board to a physician assistant applicant pursuant to the provisions of W. Va. Code §30-3E-1 et seq.

2.1.q. “Licensee” means a physician assistant licensed pursuant to the provisions of W. Va. Code §30-3E-1 et seq. and the provisions of this legislative rule.

2.1.r. “Licensure” means the approval of individuals by the Board to practice as a physician assistant to a medical doctor and/or podiatric physician, and the process of application and consideration for this authorization.

2.1.s. “NCCPA” means The National Commission on the Certification of Physician Assistants.

2.1.t. “On-site collaboration” means the collaborating physician must be present on site and immediately available to furnish assistance and directions to the physician assistant.

2.1.u. “Opioid” means natural and semi-synthetic derivatives of the opium poppy, as well as similar synthetic compounds that have analgesic or pain relieving properties because of their effects in the central nervous system. These include, but are not limited to, codeine, morphine, hydromorphone, hydrocodone, oxycodone, methadone, and fentanyl.

11CSR1B

2.1.v. “Osteopathic Board” means the West Virginia Board of Osteopathic Medicine.

2.1.w. “Personal collaboration” means the collaborating physician must be in attendance in the room with the physician assistant throughout the rendering of care by the physician assistant.

2.1.x “Physician” means a doctor of allopathic or osteopathic medicine who is fully licensed by the Board or the Osteopathic Board to practice medicine or surgery in this state.

2.1.y. “Physician Assistant” means a person who meets the qualifications set forth in the Physician Assistants Practice Act, W. Va. Code §30-3E-1 et seq., and is licensed to practice medicine in collaboration with a physician or podiatric physician.

2.1.z. “Podiatric physician” means a physician of podiatric medicine who is fully licensed by the Board to practice podiatric medicine in this state.

2.1.aa. “Practice Agreement” means a document that is executed between a collaborating physician and a physician assistant pursuant to the provisions of Physician Assistants Practice Act, W. Va. Code §30-3E-1 et seq., and section 10 of this rule, and is filed with and approved by the Board.

2.1.bb. “Prescription drug” means a drug that may be dispensed under federal or state law only pursuant to the prescription of an authorized prescriber.

2.1.cc. “Primary place of practice” means each practice location where a physician assistant practices greater than twenty percent of his or her total monthly practice hours pursuant to an authorized practice agreement.

2.1.dd. “Protocol” means written treatment instructions established by a collaborating physician for use by a physician assistant. The instructions should be flexible, in accordance with the setting where the physician assistant is employed.

2.1.ee. “Reporting period” means the two-year period preceding the renewal deadline for a license issued by the Board. Continuing education satisfactory to the Board must be obtained in each reporting period.

§11-1B-3. Qualification and Application for Licensure to Practice as a Physician Assistant.

3.1. Minimum qualifications for licensure as a physician assistant are set forth in West Virginia Code §30-3E-4.

3.2. An application for a license to practice as a physician assistant shall be completed on a form provided by the Board. The Board will not consider an application or decide upon the issuance of a license to an applicant until the complete application, including all third-party documentation or verification, is on file with the Board and the Board has had at least fifteen days to review the application. An application for licensure must be accompanied by payment of a nonrefundable application fee in an amount established by 11 CSR 4.

11CSR1B

3.3. Applicants must provide the following information:

3.3.a. The applicant's name, e-mail address, home address, preferred mailing address and primary practice location address(es) and telephone numbers;

3.3.b. Demographic information of the applicant, such as date of birth, sex, etc.;

3.3.c. A photograph taken within the previous twelve months which substantially resembles the applicant;

3.3.d. A copy of the individual's birth certificate, certificate of naturalization, or passport to be used in identifying the applicant, and verifying his or her date of birth and the appropriate spelling of his or her name;

3.3.e. Documentation establishing that the applicant:

3.3.e.1. Obtained a baccalaureate or master's degree from an accredited program of instruction for physician assistants; or

3.3.e.2. Graduated from an approved program of instruction in primary health care or surgery prior to July 1, 1994; or

3.3.e.3. Was certified by the Board as a "Type B" physician assistant prior to July 1, 1983;

3.3.f. Documentation that the applicant has passed the Physician Assistant National Certifying Examination administered by the NCCPA and is currently certified by the NCCPA;

3.3.g. Documentation and/or certification which establishes that the applicant does not hold a physician assistant license, certification or registration in any jurisdiction which is currently suspended or revoked;

3.3.h. Information with respect to the applicant's professional practice, character and fitness to practice as a physician assistant;

3.3.i. Other information as determined by the Board which relates to whether the applicant is mentally and physically able to engage safely in practice as a physician assistant; and

3.3.j. Additional information identified by the Board for licensure.

3.4. In addition to the requirements for licensure set forth elsewhere in this legislative rule, all applicants for an initial license to practice as a physician assistant in West Virginia shall request and submit to the Board the results of a state and a national criminal history record check.

11CSR1B

3.5. The purpose of the criminal history record check is to assist the Board in obtaining information that may relate to the applicant's fitness for licensure.

3.6. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section 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. Provided, that any such company must utilize protocols consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

3.7. The applicant shall furnish to the State Police, or other organization duly designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

3.8. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

3.9. The Board may require the applicant to obtain a criminal history records check from a similar Board approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

3.10. The applicant shall authorize the release of all records obtained by the criminal history record check to the Board.

3.11. A criminal history record check submitted in support of an application for licensure must have been requested by the applicant no earlier than twelve months immediately prior to the Board's receipt of the applicant's electronic application for licensure.

3.12. An initial licensure application is not complete until the Board receives the results of a state and a national criminal history record check conducted by the State Police or another entity duly authorized by the Board. The Board shall not grant an application for licensure submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

3.13. Should criminal offenses be reported on an applicant's criminal history record check, the board will consider the nature, severity, and recency of offenses, as well as rehabilitation and other factors on a case by case basis for licensure.

3.14. The results of the state and national criminal history record check may not be released to or by a private entity except:

3.14.a. To the individual who is the subject of the criminal history record check;

3.14.b. With the written authorization of the individual who is the subject of the criminal history record check; or

11CSR1B

3.14.c. Pursuant to a court order.

3.15. Criminal history record checks and related records are not public records for the purposes of chapter twenty-nine-b of the West Virginia Code.

3.16. The Board may require an applicant to provide original documents and/or certified documents in support of an application for licensure. The application, together with all documents submitted, becomes the property of the Board and will not be returned.

3.17. An applicant may be required to appear before Board members at the meeting at which his or her application is to be considered.

3.18. The burden of satisfying the Board of the applicant's qualifications for licensure is upon the applicant. The Board may deny an application for a physician assistant license to any applicant determined to be unqualified for licensure by the Board.

§11-1B-4. Temporary License; Special Licenses and/or Endorsements.

4.1. If an applicant for licensure meets the qualifications for a license but is awaiting the next scheduled meeting of the Board for action upon his or her application, the applicant may request a temporary license. The Board may authorize its staff to issue temporary licenses to applicants who provide:

4.1.a. A written request that the applicant be issued a temporary license; and

4.1.b. A nonrefundable temporary license fee in an amount established by 11 CSR 4.

4.2. A temporary license expires six months after issuance or after the Board acts, whichever is earlier.

4.3. To the extent authorized by W. Va. Code §30-3E-15, a physician assistant licensed by this Board may apply for an endorsement to practice at a summer camp or as a volunteer at a community event by completing the application form prepared by the Board. No application fee shall be assessed. The Board may authorize its staff to issue summer camp and community event endorsements to an applicant who holds an unrestricted license issued by the Board and has submitted a complete and timely application.

4.4. To the extent authorized by W. Va. Code §30-3E-16, a physician assistant currently holding a license, registration or certification to practice in another jurisdiction may apply for an endorsement to practice at a summer camp or as a volunteer at a community event by completing the application form and submitting a fee equal to the fee set by the Board for a temporary license.

4.5. The Board will not consider an application for a summer camp or a community event volunteer license or endorsement made pursuant to W. Va. Code §30-3E-16 until the complete application is on file with the Board, the appropriate fee has been submitted, and the Board has had at least fifteen days to review the application.

11CSR1B

4.6. To the extent authorized by W. Va. Code §30-1-21, a physician assistant currently holding a license, registration or certification to practice in another jurisdiction may apply for an authorization to serve as a volunteer without compensation for a charitable function for a period not to exceed ten days by submitting a Board approved authorization form at least ten days in advance of the charitable function. No fee shall be charged in association with requests made pursuant to this subsection. The Board may authorize its staff to authorize the charitable practice if the physician assistant meets the eligibility criteria set forth in W. Va. Code §30-1-21.

§11-1B-5. License Renewal.

5.1. With the exception of an initial license, a license to practice as a physician assistant is issued for a term of two years. An initial license expires on the thirty-first day of March in the next year established by the Board for physician assistant license renewal. Provided, that if an original license is issued within thirty days of an established renewal deadline, the initial license shall expire on the thirty-first day of March in the subsequent renewal year.

5.2. License renewal for all licensed physician assistants, regardless of the date the license was first issued, shall occur prior to April 1 of every odd year. A license shall expire, if not renewed by the renewal deadline, which shall be set by the Board and published on the Board's website.

5.3. A physician assistant license shall be renewed upon timely submission of a fully completed renewal application form and payment of a nonrefundable renewal fee in an amount established by 11 CSR 4.

5.4. An online application is available through the Board's website. A licensee shall maintain current contact information on file with the Board including: a preferred mailing address; a home address; current practice locations; and a current e-mail address. A licensee shall notify the Board of any changes to such contact information within fifteen days of the change.

5.5. It is the responsibility of the licensee to acquire and submit renewal application forms. Failure of the licensee to receive a renewal application will not constitute justification for any physician assistant to practice on an expired license, even if the physician assistant is otherwise authorized to practice as a physician assistant under a current practice agreement.

5.6. The Board's physician assistant renewal application form shall include, and applicants must provide, the following information:

5.6.a. The applicant's name, e-mail address, home address, preferred mailing address and primary practice location address(es) and telephone numbers;

5.6.b. Demographic information of the applicant, such as date of birth, sex, etc.;

5.6.c. A statement concerning any disciplinary action taken against the applicant in the last two years in any jurisdiction;

11CSR1B

5.6.d. Information with respect to the applicant's professional practice, character and fitness to practice as a physician assistant;

5.6.e. A statement of all other jurisdictions in which the applicant is licensed to practice as a physician assistant;

5.6.f. The renewal applicant's NCCPA certification status;

5.6.g. Certification of successful completion of all continuing education requirements;

5.6.h. An attestation by the physician assistant that, to the extent he or she has been authorized to work pursuant to a practice agreement during the last two years, the physician assistant has practiced within the delegation of duties set forth in the licensee's authorized practice agreement(s); and

5.6.i. Other information required by the Board for renewal of a license.

5.7. The license of a physician assistant who fails to certify his or her successful completion of all continuing education requirements by the renewal deadline established by the Board shall automatically expire.

§11-1B-6. Reporting of NCCPA Certification Status.

6.1. A licensed physician assistant must immediately notify the Board, in writing, if the licensee is no longer certified by the NCCPA. Failure to immediately report the loss of NCCPA certification shall constitute unprofessional, dishonorable and/or unethical conduct which may result in the imposition of discipline against the licensee. Notification to the Board shall be considered to have occurred as required if such notification is received within five business days of the effective date of the end date of the licensee's NCCPA certification.

6.2. If a licensee is no longer certified by the NCCPA, the licensee shall utilize the professional designation of PA, and shall immediately cease use of the professional designation of PA-C.

§11-1B-7. Reinstatement and Reactivation of License.

7.1. A physician assistant may seek reinstatement of an expired license within one year of the expiration by submitting:

7.1.a. A complete reinstatement application with all required supporting documentation;

7.1.b. Certification that the renewal applicant has completed all required continuing education for the previous reporting period, and documentation satisfactory to the Board corroborating the applicant's certification of continuing education compliance;

7.1.c. A renewal fee; and

11CSR1B

7.1.d. A reinstatement fee equal to fifty percent of the renewal fee.

7.2. If more than one year has passed since a physician assistant's license automatically expired, the former licensee shall apply anew for licensure pursuant to section 3 of this rule. If licensure is granted, the Board shall reactivate the license and reissue the individual's original license number.

§11-1B-8. Practice Requirements.

8.1. A physician assistant may not practice independent of a collaborating physician.

8.2. To practice as a physician assistant in collaboration with a medical doctor or a podiatric physician, a person must:

8.2.a. Be licensed as a physician assistant by the Board;

8.2.b. Submit a practice agreement on a form authorized by the Board with the appropriate fee;

8.2.c. Receive written authorization from the Board to practice pursuant to the submitted practice agreement; and

8.2.d. Conform his or her practice to the delegated medical acts contained within the physician assistant's authorized practice agreement.

§11-1B-9. Scope of Practice.

9.1. A physician assistant shall have, as a minimum, the knowledge and competency to perform the following core duties with appropriate physician collaboration:

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

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

9.1.c. Take a patient history;

9.1.d. Perform a physical examination;

9.1.e. Perform development screening examinations on children;

9.1.f. Record pertinent patient data;

9.1.g. Make decisions regarding data gathering and appropriate management and treatment of patients being seen for the initial evaluation of a problem or the follow-up evaluation of a previously diagnosed and stabilized condition;

11CSR1B

- 9.1.h. Prepare patient summaries;
- 9.1.i. Initiate requests for commonly performed initial laboratory studies;
- 9.1.j. Collect specimens for and carry out commonly performed blood, urine and stool analyses and cultures;
- 9.1.k. Identify normal and abnormal findings in patient history and physical examination and in commonly performed laboratory studies;
- 9.1.l. Initiate appropriate evaluation and emergency management for emergency situations; for example, cardiac arrest, respiratory distress, injuries, burns and hemorrhage;
- 9.1.m. Provide counseling and instruction regarding common patient problems and/or questions;
- 9.1.n. Execute documents at the direction of and for the collaborating physician;
- 9.1.o. Perform clinical procedures such as, but not limited to:
 - 9.1.o.1. Venipuncture;
 - 9.1.o.2. Electrocardiogram;
 - 9.1.o.3. Care and suturing of minor lacerations, which may include injection of local anesthesia;
 - 9.1.o.4. Casting and splinting;
 - 9.1.o.5. Control of external hemorrhage;
 - 9.1.o.6. Application of dressings and bandages;
 - 9.1.o.7. Removal of superficial foreign bodies;
 - 9.1.o.8. Cardiopulmonary resuscitation;
 - 9.1.o.9. Audiometry screening;
 - 9.1.o.10. Visual screening; and
 - 9.1.o.11. Carry out aseptic and isolation techniques;
- 9.1.p. Assist in surgery;

11CSR1B

9.1.q. Prepare patient discharge summaries if physician assistant has been directly involved in patient care; and

9.1.r. Assist physician under personal collaboration in a manner by which to learn and become proficient in new procedures.

9.2. In addition to core duties, a physician assistant may perform properly delegated medical acts within a medical specialty that he or she, by education, training and/or experience has the knowledge and competency to perform.

9.3. A physician assistant may pronounce death provided that:

9.3.a. The delegation of this duty is contained in his or her authorized practice agreement;

9.3.b. The physician assistant has a need to do so within his or her scope of practice; and

9.3.c. That the pronouncement is in accordance with applicable West Virginia law and rules.

9.4. A physician assistant may augment the physician's data gathering abilities to assist the collaborating physician in reaching decisions and instituting care plans for the physician's patients.

9.5. A physician assistant may provide an authorized signature, certification, stamp, verification, affidavit or endorsement on documents within the scope of his or her practice, including, but not limited to the following:

9.5.a. If permitted by the place of practice, a physician assistant may sign orders within the scope of his or her practice, including admission and/or discharge orders for patients that the physician assistant has been involved in treating;

9.5.b. Medical certifications for death certificates if the physician assistant has received training on the completion thereof;

9.5.c. Instruments related to scope and limitation of treatment, including:

9.5.c.1. Physician orders for life sustaining treatment;

9.5.c.2. Physician orders for scope of treatment; and

9.5.c.3. Do not resuscitate forms and/or orders.

9.5.d. Disability medical evaluations and/or certifications for persons with disabilities in support of a hunting or fishing permit;

9.5.e. Utility company forms or certifications requiring maintenance of utilities regardless of ability to pay;

11CSR1B

9.5.f. Governmental forms as permitted by law including, but not limited to parking applications for mobility impaired persons; and

9.5.g. Durable medical equipment.

9.6. A collaborating physician may delegate limited prescriptive authority to a physician assistant in accordance with the provision of sections 11 and 12 of this rule.

9.7. A physician assistant may not perform any services which his or her collaborating physician is not qualified or, in a hospital setting, credentialed to perform, including the treatment of chronic conditions as defined in 2.1.g.

9.8. A physician assistant may not perform any services which are not included in his or her authorized practice agreement.

9.9. A physician assistant may not independently delegate a task assigned to him or her by his or her collaborating physician to another individual. Nothing in this subsection shall prohibit a physician assistant from engaging in appropriate collaboration with other treatment team members.

9.10. A collaborating physician may, with due regard for the safety of the patient and in keeping with sound medical practice, delegate to the physician assistant those medical procedures and other tasks that are customary to the collaborating physician's practice, subject to the limitations set forth in this section and the West Virginia Physician Assistants Practice Act, W. Va. Code §30-3E-1 et seq., and the training and expertise of the physician assistant.

§11-1B-10. Responsibilities of the Collaborating Physician.

10.1. A collaborating physician is responsible for observing, directing and evaluating the work, records and practices performed by the physician assistant pursuant to an authorized practice agreement and is legally responsible for the practice of the physician assistant at all times.

10.2. A collaborating physician may not permit a physician assistant to practice independently.

10.3. A collaborating physician is responsible for providing continuous collaboration with the physician assistant.

10.4. Constant physical presence of the collaborating physician is not required as long as the collaborating physician and physician assistant are, or can be, easily in contact with one another by electronic communication, including but not limited to telecommunication.

10.5. Appropriate collaboration shall include:

10.5.a. Active and continuing overview of the physician assistant's activities to determine that the collaborating physician's directions are being implemented;

11CSR1B

10.5.b. Immediate availability of the collaborating physician, either in-person or by electronic communication of any kind, to the physician assistant for all necessary consultations;

10.5.c. Personal and regular review, at least quarterly, by the collaborating physician of selected patient records upon which entries are made by the physician assistant. The collaborating physician shall select patient records for review on the basis of written criteria established by the collaborating physician and the physician assistant and the chart review shall be sufficient in number to assure adequate review of the physician assistant's scope of practice; and

10.5.d. Periodic, in person, education and review sessions discussing specific conditions, protocols, procedures and specific patients shall be held by the collaborating physician for the physician assistant under his or her collaboration in accordance with the terms of an authorized practice agreement. For physician assistants in the first six 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 collaborating physician and physician assistant must retain written documentation of these meetings.

10.6. A collaborating physician shall only delegate medical acts that are:

10.6.a. Within the scope of practice of the collaborating physician;

10.6.b. Suitable to be performed by the physician assistant, taking into account the physician assistant's education, training and level of competence and experience; and

10.6.c. Included in the physician assistant's authorized practice agreement.

10.7. A patient being treated regularly for a life-threatening, chronic, degenerative, or disabling condition shall be seen by the collaborating physician as frequently as the patient's condition requires.

10.8. It is the responsibility of the collaborating physician to ensure that collaboration is maintained in his or her absence. A collaborating physician may designate alternate collaborating physicians. To serve as an alternate collaborating physician, an individual must hold an unrestricted license to practice medicine and surgery or podiatry in this state. An alternate collaborating physician, jointly with the collaborating physician, shall be legally responsible for the acts of a physician assistant which occur during periods of time where the alternate collaborating physician is collaborating with the physician assistant. An alternate collaborating physician shall accept collaborative responsibility for periods of time not to exceed forty-five days.

10.9. An alternate collaborating physician shall collaborate with the physician assistant in accordance with an authorized practice agreement and shall only delegate medical acts that are:

10.9.a. Contained within the authorized practice agreement; and

10.9.b. Within the scope of practice of both the collaborating physician and the alternate collaborating physician.

11CSR1B

10.10. A collaborating physician may enter into practice agreements with up to five physician assistants at any one time.

10.11. A physician is prohibited from serving as a collaborating physician or alternate collaborating physician for greater than five physician assistants at any one time. However, a physician practicing medicine in an emergency department of a hospital or a physician who collaborates with a physician assistant who is employed by or on behalf of a hospital may collaborate with up to five physician assistants per shift if the physician has an authorized practice agreement in place with the physician assistant or the physician has been properly authorized as an alternate collaborating physician for each physician assistant.

10.12. In the event of the sudden departure, incapacity, or death of a collaborating physician, a designated alternate collaborating physician may assume the role of collaborating physician in order to provide continuity of care for the patients of the former collaborating physician. A physician who assumes the responsibility of collaborating physician shall submit a complete practice agreement to the appropriate licensing board within fifteen days of assuming the responsibility.

§11-1B-11. Practice Agreements.

11.1. A proposed practice agreement shall be completed on a form provided by the Board and shall be accompanied by the appropriate fee. The fee for the submission of a practice agreement shall be one hundred dollars (\$100) until such time as a different fee is established by 11 CSR 4.

11.2. The proposed practice agreement shall include:

11.2.a. A description of the qualifications of the collaborating physician, the alternate collaborating physicians, if applicable, and the physician assistant;

11.2.b. The scope of practice of the collaborating physician;

11.2.c. The settings in which the physician assistant will practice and a list of every location where the physician assistant will or may practice pursuant to delegation set forth in the practice agreement;

11.2.d. A description of the continuous collaboration mechanisms that are reasonable and appropriate for the practice setting, and the experience and training of the physician assistant;

11.2.e. The delegated medical acts which the physician assistant will perform, including:

11.2.e.1. Core duties;

11.2.e.2. Advanced duties;

11.2.e.3. Prescriptive privileges; and

11CSR1B

11.2.e.4. A description of any medical care the physician assistant will provide in an emergency, including a definition of an emergency;

11.2.f. An attestation by the collaborating physician that the medical acts to be delegated are:

11.2.f.1. Within the collaborating physician's scope of practice; and

11.2.f.2. Appropriate to the physician assistant's education, training and level of competence;

11.2.g. An attestation by the collaborating physician that he or she will appropriately evaluate the practice of the physician assistant at regular intervals; and

11.2.h. Other information deemed necessary by the Board to carry out the provisions of the West Virginia Physician Assistants Practice Act, W. Va. Code §30-3E-1 et seq.

11.3. To delegate one or more advanced duties, the practice agreement shall include:

11.3.a. For advanced duties to be performed at hospital or ambulatory surgical facility:

11.3.a.1. A description of the advanced duty and the education, training, and experience that qualifies the physician assistant to perform the advanced duty;

11.3.a.2. Certification that the collaborating physician and physician assistant are credentialed by the hospital or ambulatory surgical facility; and

11.3.a.3. A copy of the approved delineation of duties from the governing board of the health care facility stating that the physician assistant has been approved by the facility to perform the advanced duty;

11.3.b. For all other practice locations:

11.3.b.1. A description of the advanced duties to be delegated;

11.3.b.2. Documentation of the specialized education, training or experience received by the physician assistant in order to perform the advanced duties; and

11.3.b.3. The manner of collaboration that the collaborating physician will use when the physician assistant is performing the advanced duty.

11.4. A physician assistant may not commence practice pursuant to a practice agreement until he or she receives written authorization to practice from the Board.

11CSR1B

11.5. Upon receipt of a proposed practice agreement and the appropriate fee the Board, through its staff, shall issue a letter of authorization to practice pursuant to the proposed practice agreement if:

11.5.a. The proposed practice agreement conforms to the requirements of this section;

11.5.b. The physician assistant holds an unrestricted license;

11.5.c. Based upon the submitted information, it appears that the physician assistant is able to perform the proposed delegated duties safely; and

11.5.d. The practice agreement only proposes the delegation of core duties and/or advanced duties:

11.5.d.1. In a hospital or ambulatory surgical center which are included in the physician assistant's delineation of duties approved by the practice location;

11.5.d.2. For which general approval protocol has been established by the Board and the physician assistant has met such protocol;

11.5.d.3. The physician assistant has previously been authorized by the Board to perform.

11.6. Proposed practice agreements which are not approved pursuant to the criteria established in subsection 11.5 of this rule shall be considered by the Board. The Board will not consider a proposed practice agreement until it has had at least fifteen days to review the application. When a practice agreement is to be reviewed by the Board because of the inclusion of certain proposed advanced duties, Board staff may issue the physician assistant authorization to practice pursuant to all portions of the practice agreement which do not require Board review.

11.7. Prior to making a determination with regard to a proposed practice agreement, the Board may request additional information from the collaborating physician and/or the physician assistant, either through an appearance or through written documentation, to evaluate the proposed delegation of duties.

11.8. Where necessary to ensure patient safety, the Board may authorize a physician assistant to practice or perform certain medical acts under on-site collaboration or personal collaboration for a period of time so that the Board and the collaborating physician may assess the ability of the physician assistant to perform the tasks safely.

11.9. The Board may decline to authorize a physician assistant to commence practice pursuant to a proposed practice agreement if the Board determines that:

11.9.a. The practice agreement is inadequate and/or incomplete;

11.9.b. The proposed delegation exceeds the appropriate scope of practice; or

11CSR1B

11.9.c. The collaborating physician and physician assistant have failed to establish that the physician assistant is able to perform the proposed delegated duties safely.

11.10. A new practice agreement, with the required fee, must be filed for approval by the Board if:

11.10.a. A collaborating physician and physician assistant seek to change or add to the delegated medical acts in an approved practice agreement;

11.10.b. A collaborating physician and physician assistant seek to change the physician assistant's practice setting and/or principle place of practice;

11.10.c. A physician assistant seeks to enter into a practice agreement with a different collaborating physician;

11.10.d. A physician assistant seeks to resume practice after reinstatement of licensure; or

11.10.e. The Board has requested the submission of a revised practice agreement as a result of any investigation, discipline or audit activity.

11.11. A collaborating physician may amend a physician assistant's authorized list of alternate collaborating on a Board approved form without resubmitting the entire practice agreement for approval. The Board may designate a fee for the submission of changes to a physician assistant's alternate collaborators. Any such fee shall be established by 11 CSR 4.

11.12. A physician assistant may simultaneously maintain practice agreements with more than one collaborating physician.

11.13. A collaborating physician or a physician assistant may terminate a practice agreement. A physician assistant shall immediately cease practicing upon the termination of a practice agreement. The physician assistant must notify the Board, in writing, within ten days of the termination of any practice agreement.

§11-1B-12. Delegation of Prescriptive Authority.

12.1. A collaborating physician may delegate limited prescriptive authority to a physician assistant in a practice agreement if:

12.1.a. 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 semester hours. The Board may grant up to one credit hour equivalent for two or more years of prescribing experience in other jurisdictions;

12.1.b. The physician assistant provides evidence of successful completion of a minimum of three hours of drug diversion training and best practice prescribing of controlled substances

11CSR1B

training through a Board approved course within two years prior to his or her application submission to the Board for limited prescriptive privileges; and

12.1.c. The collaborating physician and physician assistant attest that:

12.1.c.1. The physician assistant has successfully completed the necessary requirements to be eligible to prescribe pursuant to a practice agreement;

12.1.c.2. All prescribing activities of the physician assistant shall comply with applicable federal and state law governing the practice of physician assistants the Board approved limitations on physician assistant prescribing;

12.1.c.3. All medical charts or records shall contain a notation of any prescriptions written by a physician assistant; and

12.1.c.4. All prescriptions, including electronic prescriptions, written by the physician assistant will include the physician assistant's name and the collaborating physician's name, business address and business telephone number.

12.2. To delegate prescriptive authority, the collaborating physician shall ensure that the practice agreement includes a clear delineation of the delegated authority and whether it includes the prescribing, administering, dispensing and/or ordering of drugs and/or medical devices.

12.3. On an annual basis, the Board shall approve and publish on its website a list classifying pharmacologic categories of all drugs which physician assistants are prohibited from prescribing. This list shall, at a minimum, prohibit physician assistants from prescribing:

12.3.a. Schedules I and II of the Uniform Controlled Substances Act;

12.3.b. Medications listed under Schedule III of the Uniform Controlled Substances Act are limited to a 30 day supply without refill;

12.3.c. Antineoplastics

12.3.d. Radio-pharmaceuticals; and

12.3.e. General Anesthetics.

12.4. A practice agreement may not delegate the prescribing of a drug that the Board has prohibited physician assistants from prescribing.

12.5. A collaborating physician who seeks to delegate prescribing authority to a physician assistant shall provide the physician assistant with treatment protocols which identify maximum prescribing dosages. Prescriptions written by a physician assistant shall be issued consistent with the collaborating physician's directions and treatment protocol, and in no case may the dosage exceed the manufacturer's recommended average therapeutic dose for the prescribed drug.

11CSR1B

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

12.7. Physician assistants authorized to issue prescriptions for Schedules III through V controlled substances shall include the Federal Drug Enforcement Administration number issued to that physician assistant.

12.8. A physician assistant shall, at the time of the initial prescription, record in the patient medical record the plan for continued evaluation of effectiveness of the controlled substance prescribed.

12.9. A physician assistant may administer local anesthetics.

12.10. An annual supply of any drug, other than a controlled substance, may be prescribed for the treatment of a chronic condition other than chronic pain management. An annual supply may be prescribed or dispensed in smaller increments in order to assess the drug's therapeutic efficacy.

12.11. The prescription authorized by a physician assistant shall comply with the requirements of this rule and the requirements of the West Virginia Board of Pharmacy, other applicable state and federal laws, rules and regulations, and all applicable standards of care.

12.12. All prescriptions, including electronic prescriptions, written by the physician assistant will include the physician assistant's name, professional designation, practice location, telephone number, signature, license number issued by the Board, the collaborating physician's name, business address and business telephone number, and any other information required by state and federal law.

12.13. Within five business days following a Board meeting, the Board of Medicine shall provide the Board of Pharmacy with a list of physician assistants with limited prescriptive privileges along with the categories of drugs or drugs within a category that the physician assistant has been authorized to prescribe.

12.14. Nothing in this rule shall be construed to permit any physician assistant to prescribe, administer, order or dispense medications outside of the delegation set forth in an approved practice agreement.

12.15. Physician assistants granted limited prescriptive privileges pursuant to an authorized practice agreement may accept professional samples and may apply to be registered as a controlled substance dispensing practitioner as set forth in 11 CSR 5.

§11-1B-13. Continuing Medical Education Requirements.

13.1. Successful completion of a minimum of one hundred hours of continuing education satisfactory to the Board during the preceding two-year period is required for the biennial renewal of a physician assistant license.

11CSR1B

13.2. Types and categories of continuing medical education satisfactory to the Board for physician assistants are:

13.2.a. Continuing medical education designated as Category I by either the American Medical Association, American Academy of Physician Assistants or the American Academy of Family Physicians.

13.2.b. Continuing medical education designated as Category II by either the American Medical Association, American Academy of Physician Assistants or the American Academy of Family Physicians. A maximum of fifty hours of continuing medical education credit may be awarded for this category of activity.

13.2.c. Obtaining a master's degree from an accredited program of instruction for physician assistants within one year of the expiration of an initial license. A maximum of one hundred hours of continuing education credit may be awarded for this category of activity, but a physician assistant shall only be awarded ninety-seven hours of credit if the physician assistant is a mandatory participant in the continuing education activity described in subsection 13.3 of this rule.

13.2.d. Passing a recertification examination by the NCCPA during the reporting period. A maximum of one hundred hours of continuing medical education credit may be awarded for this category of activity, but a physician assistant shall only be awarded ninety-seven hours of credit if the physician assistant is a mandatory participant in the continuing education activity described in subsection 13.4 of this rule.

There are no other types or categories of continuing education activity for physician assistants satisfactory to the Board.

13.3. Mandatory Continuing Education Activity for Physician Assistants. -- As a prerequisite to license renewal, a physician assistant who has prescribed, administered, or dispensed any controlled substance pursuant to a West Virginia license during the reporting period shall complete a Board-approved continuing education activity for a minimum of three hours of drug diversion training and best practice prescribing of controlled substances training.

13.3.a. A physician assistant must complete this mandatory continuing education prior to submitting a proposed practice agreement which delegates prescribing authority or the authority to administer, order or dispense prescription drugs.

13.3.b. The Board-approved drug diversion training and best practice prescribing of controlled substances training shall satisfy three of the one hundred required hours of continuing education for the reporting period.

13.3.c. The Board shall maintain and publish on its website a current list of all educational activities which have been approved by the Board to satisfy the drug diversion training and best practice prescribing of controlled substances training continuing education requirement.

11CSR1B

13.3.d. A renewal applicant who has not prescribed, administered, or dispensed any controlled substances pursuant to a West Virginia license during the reporting period may seek a waiver of this continuing education requirement by completing the required attestation and waiver request on the renewal application.

13.4. The Board shall include a certification of successful completion of required continuing education on its biennial renewal application. The certification shall require the renewal applicant to:

13.4.a. Certify successful completion of all required continuing education;

13.4.b. Attest to the truthfulness and accuracy of the renewal applicant's statements regarding continuing education activities;

13.4.c. Acknowledge that any license issued based upon the renewal application is based upon the truth and accuracy of the applicant's statements and that if false information is submitted in the application, such act constitutes good cause for the revocation of the renewal applicant's license to practice in the State of West Virginia; and

13.4.d. Sign and date the certification.

13.5. A license shall automatically expire if the certification required by subsection 13.4 is not submitted to the Board by the renewal deadline. An automatically expired license shall remain expired until a licensee successfully seeks reinstatement or reactivation of licensure.

13.6. A licensee shall maintain accurate records of all continuing education he or she has completed. Continuing education records shall be maintained for a period of six years.

13.7. The Board may conduct such audits and investigations as it considers necessary to assure compliance with continuing education requirements and to verify the accuracy of a renewal applicant's certification of continuing education.

13.8. Upon written request of the Board to a licensee's preferred mailing address or e-mail address of record with the Board, a licensee shall, within thirty days, submit written documentation satisfactory to the Board corroborating the licensee's renewal application certification of continuing education compliance.

13.9. Failure or refusal of a licensee to provide written documentation requested by the Board as set forth in subsection 13.8 of this rule is prima facie evidence of renewing a license to practice as a physician assistant by fraudulent misrepresentation and the licensee is subject to disciplinary proceedings.

11CSR1B

§11-1B-14. Identification and Compliance Audits.

14.1. Except as otherwise provided by law, when practicing as a physician assistant, a physician assistant must wear a name tag in a conspicuous manner which identifies the practitioner as a physician assistant. An individual may not identify himself or herself as a physician assistant unless licensed by this Board or the Osteopathic Board. A physician assistant may not identify him or herself as a certified physician assistant, or use the professional designation of "P.A.-C." unless he or she is currently certified by the NCCPA.

14.2. A physician assistant shall keep his or her license and current practice agreement available for inspection at each of his or her primary places of practice.

14.3. A physician assistant shall notify the Board in writing of a change in the physician assistant's name or address within fifteen days after the change.

14.4. The Board may review physician assistant utilization without prior notice to either the physician assistant or the collaborating physician. An authorized representative or investigator for the Board may, without prior notice, enter at any reasonable hour a place of employment or practice of a physician or physician assistant or into public premises:

14.4.a. For the purpose of an audit to verify general compliance with the Physician Assistants Practice Act and this legislative rule; or

14.4.b. To investigate an allegation or complaint with respect to a collaborating physician, alternate collaborating physician or physician assistant.

14.5. A person may not deny or interfere with an entry under this section.

14.6. The Board's representatives may require a physician, physician assistant, or facility where the physician assistant is employed or practicing to provide access to records relating to the physician assistant's licensure, employment, credentialing, and practice and medical records of patients seen by the physician assistant. It is a violation of this rule for a collaborating physician or a physician assistant to refuse to undergo or cooperate with a review or audit by the Board.

14.7. The Board's representative shall refer possible compliance issues to the appropriate Committee of the Board and/or to any other agency that has jurisdiction over a facility, place of practice or practitioner.

§11-1B-15. Mental and Physical Examination.

15.1. The Board under any circumstances may require a licensed physician assistant or a person applying for licensure or other authorization to practice as a physician assistant in this state to submit to a physical or mental examination by a physician or physicians approved by the Board. The expense of the examination shall be paid by the Board.

11CSR1B

15.2. A physician assistant submitting to an examination has the right, at his or her expense, to designate another physician to be present at the examination and make an independent report to the Board.

15.3. An applicant or licensee is considered to have given his or her consent to submit to all examinations when requested to do so in writing by the Board and to have waived all objections to the admissibility of the testimony or examination report of an examining physician on the ground that the testimony or report is privileged communication.

15.4. If a person fails or refuses to submit to an examination under circumstances which the Board finds are not beyond his or her control, failure or refusal is prima facie evidence of his or her inability to practice as a physician assistant competently and in compliance with the standards of acceptable and prevailing physician assistant practice.

§11-1B-16. License Denial, Complaint and Disciplinary Procedures.

16.1. The licensure denial, complaint and disciplinary process and procedures and appeal rights set forth in the contested case hearing procedure, W. Va. Code §29A-5-1 et seq., W. Va. Code §30-3-14(h) and (i), and in the Board's procedural rule, 11 CSR 3, Board Organization and Meeting Procedure; Complaint and Contested Case Hearing Procedure, also apply to physician assistants.

16.2. If the Board determines the evidence in its possession indicates that a physician assistant's continuation in practice or unrestricted practice constitutes an immediate danger to the public, the Board may take any of the actions provided in W. Va. Code §30-3-14(j) on a temporary basis and without a hearing if institution of proceedings for a hearing before the Board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The Board shall render its decision within five days of the conclusion of a hearing under this subsection.

§11-1B-17. Denial of Licensure and Discipline.

17.1. The Board may deny an application for license, or other authorization to practice as a physician assistant and may discipline a physician assistant licensed by the Board who, after a hearing, has been adjudged by the Board as unqualified due to any of the following reasons:

17.1.a. Conduct by a physician assistant which is equivalent to any of the grounds cited for the discipline of physicians or podiatric physicians in W. Va. Code §30-3-14(c) or section 12 of the Board's rule 11 CSR 1A;

17.1.b. Failure to comply with any portion of this rule, the provisions of W. Va. Code §30-3E-1 et seq. and any other rule of the Board;

17.1.c. Practicing as a physician assistant:

17.1.c.1. In the absence of an authorized practice agreement;

11CSR1B

17.1.c.2. Outside or beyond the scope of an authorized practice agreement; or

17.1.c.3. Beyond his or her level of competence, education, training and/or experience;

17.1.d. Prescribing a prescription drug which is not included in an authorized practice agreement for that physician assistant or the Board has prohibited physician assistants from prescribing;

17.1.e. Prescribing any controlled substance to or for himself or herself, or to or for any member of his or her immediate family;

17.1.f. Failure of a physician assistant to:

17.1.f.1. Notify the Board that an authorized practice agreement has been terminated in the required time frame; or

17.1.f.2. Maintain a copy of his or her license and authorized practice agreement in each primary place of practice;

17.1.g. Impersonation of a licensed physician, podiatric physician or another licensed physician assistant;

17.1.h. Misrepresentation that the physician assistant is a physician, that the physician assistant is currently certified by the NCCPA, or that the physician assistant holds any position for which he or she is not qualified by license, training, or experience;

17.1.i. Knowingly permitting another person to misrepresent the physician assistant as a physician;

17.1.j. Misrepresentation or concealment of any material fact in obtaining any certification or license or a reinstatement or reactivation of any certification or license related to his or her practice as a physician assistant.

17.2. If a physician assistant is found guilty of or pleads guilty or nolo contendere to any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other than generally accepted therapeutic purposes in a state or federal court of competent jurisdiction, the Board shall deny an application for licensure or revoke the physician assistant's license without resort to the procedures set forth in section 16 of this rule. A certified copy of the guilty verdict or plea rendered is sufficient proof for licensure denial or revocation.

17.3. If the Board determines that a physician assistant is unqualified, the Board may enter an order denying an application or imposing any limitation, restriction or other disciplinary measure set forth in W. Va. Code §30-3-14(j) and/or 11 CSR 1A.

11CSR1B

17.4. In their discretion, the Board and the Osteopathic Board may refer and receive information from one another concerning:

17.4.a. Mutual applicants and/or licensees;

17.4.b. Information developed during the complaint and investigation process of one board which implicates or otherwise relates to licensees of the other board;

17.4.c. Any Complaints received or discovered by one board which relate to mutual licensees or licensees of the other board.