



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Osteopathic Medicine TITLE-SERIES: 24-09
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: Emergency Temporary Permits to Practice During
States of Emergency or States of Preparedness
CITE STATUTORY AUTHORITY: 30-14-14

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

Authorization is cited in (house or senate bill number) SB182

Section 64-9-10 Passed On 3/23/2021 12:00:00 AM

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

April 6, 2021

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

April 06, 2026

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

Yes

Chase Holcomb -- 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 24
LEGISLATIVE RULES
WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

SERIES 9
EMERGENCY TEMPORARY PERMITS TO PRACTICE DURING
STATES OF EMERGENCY OR STATES OF PREPAREDNESS

§24-9-1. General.

1.1. Scope -- The purpose of this rule is to allow the West Virginia Board of Osteopathic Medicine to provide a rapid response to health care and medical needs as a result of disasters or emergencies. In the event the Governor of the State of West Virginia proclaims a State of Emergency or State of Preparedness pursuant to W. Va. Code § 15-5-6, the Governor may temporarily suspend regulatory statutes and rules of agencies if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency. As set forth below and when authorized by a lawful State of Emergency or State of Preparedness proclamation, the Board may waive requirements for licensure and issue emergency temporary permits to allow physicians and physician assistants to assist in addressing the disaster or emergency.

1.2. Authority -- W. Va. Code § 30-14-14 and W. Va. Code § 30-3E-3.

1.3. Filing Date -- April 6, 2021.

1.4. Effective Date -- April 6, 2021.

1.5. Sunset Provision – This rule shall terminate and have no further force or effect upon April 6, 2026.

§24-9-2. Definitions.

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

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

2.1.b. “Emergency temporary permit” means a temporary authorization by the Board allowing certain physicians and physician assistants to practice in West Virginia during a State of Emergency or State of Preparedness.

2.1.c. “State of Emergency” means a proclamation by the Governor of the State of West Virginia that a State of Emergency exists as set forth in W. Va. Code § 15-5-6.

2.1.d. “State of Preparedness” means a proclamation by the Governor of the State of West Virginia that a State of Preparedness exists as set forth in W. Va. Code § 15-5-6.

§24-9-3. Physician Practice and Emergency Temporary Permit

3.1. A physician who has no pending complaints, investigations, consent orders, board orders, or pending disciplinary proceedings and who possesses a valid, unrestricted license to practice osteopathic medicine and surgery in another state, territory, or district of the United States may qualify for an emergency temporary permit upon the following conditions being met:

3.1.a. The applicant must complete an application approved by the Board, which is available on the Board's website at: <https://www.wvbdosteo.org/licensing/do/apply/temp/>; and

3.1.b. The Board shall verify that the physician holds a full, unlimited, and unrestricted license to practice osteopathic medicine and surgery in another state, territory, or district of the United States.

3.2. The Board shall have jurisdiction over all physicians practicing under this rule for all purposes set forth in applicable federal or state law, including the Board's rules and Chapter 30 of the West Virginia Code, and such jurisdiction shall continue in effect even after such physician has stopped practicing medicine under this rule or the emergency temporary permit has expired.

3.3. During the State of Emergency or State of Preparedness, physicians holding an emergency temporary permit shall have the same rights and privileges as those physicians granted a full license by the Board. However, in order to best serve the public interest, the Board may limit the scope of practice of the physician practicing under this rule.

3.4. Emergency temporary permits shall automatically terminate when the State of Emergency or State of Preparedness is lifted.

3.5. Physicians holding emergency temporary permits shall not receive any compensation outside of their customary compensation for the provision of medical services during a disaster or emergency.

3.6. Applying for an emergency temporary permit does not require the payment of any fee.

§24-9-4. Physician Assistant Practice and Emergency Temporary Permit

4.1. A physician assistant who has no pending complaints, investigations, consent orders, board orders, or pending disciplinary proceedings and who possesses a valid, unrestricted license to practice as a physician assistant in another state, territory, or district of the United States may qualify for an emergency temporary permit upon the following conditions being met:

4.1.a. The applicant must complete an application approved by the Board, which is available on the Board's website at: <https://www.wvbdosteo.org/licensing/pa/apply/temp/>; and

4.1.b. The Board shall verify that the physician assistant holds a full, unlimited, and unrestricted license to practice in another state, territory, or district of the United States.

4.2. The Board shall have jurisdiction over all physician assistants practicing under this rule for all purposes set forth in applicable federal or state law, including the Board's rules and Chapter 30 of the West Virginia Code, and such jurisdiction shall continue in effect even after such physician assistant has stopped practicing medicine under this rule or the emergency temporary permit has expired.

4.3. During the State of Emergency or State of Preparedness, physician assistants holding an emergency temporary permit shall have the same rights and privileges as those physician assistants granted a full license by the Board. However, in order to best serve the public interest, the Board may limit the scope of practice of the physician assistant practicing under this rule.

4.4. Emergency temporary permits shall automatically terminate when the State of Emergency or State of Preparedness is lifted.

4.5. Physician assistants holding emergency temporary permits shall not receive any compensation outside of their customary compensation for the provision of medical services during a disaster or emergency.

4.6. Applying for an emergency temporary permit does not require the payment of any fee.

§24-9-5. Practice and Emergency Temporary Permits for Physicians and Physician Assistants with Inactive West Virginia Licenses.

5.1. Physicians and physician assistants who, at one time, possessed a license issued by the Board which was not revoked, but who are now retired or in inactive status, may qualify for an emergency temporary permit upon the following conditions being met:

5.1.a. The applicant must complete an application approved by the Board. The application for physicians is available on the Board's website at: <https://www.wvbdosteo.org/licensing/do/apply/temp/>. The application for physician assistants is available on the Board's website at: <https://www.wvbdosteo.org/licensing/pa/apply/temp/>;

5.1.b. The Board shall verify that the applicant at one time had a full and unrestricted license issued in West Virginia by the Board;

5.1.c. The applicant must certify that he or she has practiced clinical medicine within the past five years;

5.1.d. The applicant must have maintained an active and unrestricted license continuously for the five-year period prior to going inactive; and

5.1.e. The applicant shall not have received any public discipline or inactivated his or her license while under investigation with such inactivation being reported to the National Practitioner Data Bank.

5.2. A physician or physician assistant practicing under this rule shall limit his or her medical practice to the area of practice that he or she engaged in prior to going inactive or another area in which he or she is competent to provide medical care.

5.3. The Board shall have jurisdiction over all physicians and physician assistants practicing under this rule for all purposes set forth in applicable federal or state law, including the Board's rules and Chapter 30 of the West Virginia Code, and such jurisdiction shall continue in effect even after such physician or physician assistant has stopped practicing medicine under this rule or the emergency temporary permit has expired.

5.4. During the State of Emergency or State of Preparedness, physicians holding an emergency temporary permit shall have the same rights and privileges as those physicians granted a full license by the Board. However, in order to best serve the public interest, the Board may limit the scope of practice of the physician practicing under this rule.

5.5. During the State of Emergency or State of Preparedness, physician assistants holding an emergency temporary permit shall have the same rights and privileges as those physician assistants granted a full license by the Board. However, in order to best serve the public interest, the Board may limit the scope of practice of the physician assistant practicing under this rule.

5.6. Emergency temporary permits shall automatically terminate when the State of Emergency or State of Preparedness is lifted.

5.7. Physicians and physician assistants holding emergency temporary permits under this section shall not receive any compensation outside of their usual compensation for the provision of medical services during a disaster or emergency.

5.8. Applying for an emergency temporary permit does not require the payment of any fee.

§24-9-6. Professional Conduct, Practice Agreements and Notifications, Denial or Revocation of Emergency Temporary Permits

6.1. All physicians and physician assistants who practice under this rule are required to meet the professional conduct standards and requirements required of licensed physicians and licensed physician assistants in West Virginia.

6.2. All physician assistants who practice under this rule must practice pursuant to an authorized Practice Agreement or active Practice Notification pursuant to W. Va. Code § 30-3E-1 *et seq.* and all applicable legislative rules.

6.3. The Board shall deny an emergency temporary permit to any physician or physician assistant who is ineligible based upon the criteria set forth in this rule or additional criteria established by the Governor during the State of Emergency or State of Preparedness.

6.4. The Board may revoke an emergency temporary permit granted pursuant to this rule for conduct that is equivalent to any of the grounds cited for the discipline in W. Va. Code § 30-14-11, W. Va. Code § 30-3E-17(b), section 18 of the Board's rule 24 CSR 1, and/or section 21 of the Board's rule 24 CSR 2. The Board may also report or refer any complaint or allegation of professional misconduct to a physician or physician assistant's out-of-state licensing board.