WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AN EMERGENCY RULE

AGENCY: Osteopathic Medicine

TITLE-SERIES: 24-02

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

RULE NAME: Osteopathic Physician Assistants

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W. Va. Code § 30-3E-3(b)

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

During the 2021 Regular Session, the West Virginia Legislature enacted Senate Bill 714. SB714 made several revisions to the Physician Assistants Practice Act, including a transition to practice notifications for physician assistants practicing in all practice locations. W. Va. Code § 30-3E-3(b) from that bill allows the Board to propose emergency rules pursuant to W. Va. Code § 29A-3-1 et seq. to conform to the Physician Assistants Practice Act.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC INPACT ON SPECIAL REVENUE ACCOUNTS:

None anticipated

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

None anticipated

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

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 2
OSTEOPATHIC PHYSICIAN ASSISTANTS

§24-2-1. 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), W. Va. Code § 30-3E-3(a)(1)-(~~10~~9), and W. Va. Code § 30-1D-1(d).

1.3. Filing Date. -- ~~May 4, 2020~~

1.4. Effective Date. -- ~~August 2, 2020~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon ~~August 2, 2025~~ August 1, 2027.

§24-2-2. Definitions.

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

2.1.a. "Active practice notification" means a practice notification which is currently in effect.

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

2.1.c. "Alternate collaborating physician" means one or more 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.d. "Ambulatory surgical facility" means a facility which provides surgical treatment to patients not requiring hospitalization. This definition does not include the legally authorized practice of surgery by any one or more persons in the private office of any health care provider.

2.1.e. "Antineoplastics" means chemotherapeutic agents used in the active treatment of current cancer.

2.1.f. "Authorization to practice" means written notification from the Board that a physician assistant may commence practice in collaboration with physicians pursuant to an authorized practice agreement or an active practice notification.

2.1.g. "Authorized practice agreement" means a practice agreement which has been authorized by the Board.

2.1.h. "Board" means the West Virginia Board of Osteopathic Medicine.

2.1.i. "Chronic condition" means 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. Anemia, anxiety, arthritis, asthma, bladder outlet obstruction, cardiovascular and pulmonary disease, cancer, controlled diabetes, epilepsy and seizures, thyroid disease, and obesity are examples of chronic conditions. For the purpose of this rule, chronic condition does not include chronic pain.

2.1.j. "Collaborating Physician" means a doctor of osteopathic medicine, medicine, or podiatry, who is ~~fully licensed~~ authorized to practice in West Virginia by the appropriate board in this state, without restriction or limitation, who collaborates with physician assistants.

2.1.k. "Collaboration" means overseeing the activities of 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.l. "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~~ Chapter 60A, Article 2.

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

2.1.n. "Drug diversion training and best practice prescribing of controlled substances training" means training which includes all of the following:

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

2.1.n.2. Epidemiology of chronic pain and misuse of opioids.

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

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

2.1.n.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.n.6. Case study of a patient with chronic pain.

2.1.n.7. Identification of diversion and drug seeking tactics and behaviors.

2.1.n.8. Best practice methods for working with patients suspected of drug seeking behavior and diversion.

2.1.n.9. Compliance with controlled substances laws and rules.

2.1.n.10. Training on prescribing and administration of an opioid antagonist.

2.1.n.11. Registration with and use of the West Virginia Controlled Substances Monitoring Program established in ~~West Virginia~~ W. Va. Code Chapter 60A, Article 9.

2.1.n.12. Information related to substance use disorder treatment referral, including but not limited to programs and initiatives developed through the Governor's Council on Substance Abuse Prevention and Treatment, the Governor's Committee on Crime, Delinquency, and Correction, and/or W. Va. Code § 15-9-7.

2.1.n.~~12~~13. 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.o. "Endorsement" means a summer camp or volunteer endorsement to practice as a physician assistant under ~~West Virginia~~ W. Va. Code § 30-3E-1.

2.1.p. "Health Care Facility" means any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic or physician's office.

2.1.q. "Hospital" means a facility licensed as a hospital pursuant to article five-b, chapter sixteen of this code, 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. Hospital does not include any health care facility which is not licensed as a hospital pursuant to W. Va. Code § 16-5B-1 *et seq.*, even if the facility is physically attached to the hospital, is situated within the physical boundaries of a hospital, or is operated by or in connection with a hospital.

2.1.r. "License" means a license issued by the Board to a physician assistant applicant pursuant to the provisions of this article.

2.1.s. "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.t. "Licensure" means the process of application to the Board, and the Board's consideration and approval of individuals to practice as a physician assistant in collaboration with physicians.

2.1.u. "NCCPA" means The National Commission on the Certification of Physician Assistants.

2.1.v. "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.w. "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.

2.1.x. "Medical Board" means the West Virginia Board of Medicine.

2.1.y. "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.z. "Physician" means a doctor of allopathic or osteopathic medicine who is fully licensed by this Board or the Board of Medicine to practice medicine or surgery in this state.

2.1.aa. "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 an~~ with a collaborating osteopathic physician. Physician assistant also means an individual who holds a physician assistant license in another state and an interstate telehealth registration issued by this Board.

2.1.bb. "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 this rule, and is filed with and approved by the Board prior to July 8, 2021.

2.1.cc. "Practice notification" means a written notice to the Board that a physician assistant will practice in collaboration with one or more physicians in ~~a hospital~~ the state of West Virginia.

2.1.dd. "Practice setting" means the type of practice environment, and includes hospitals, ambulatory surgical facilities, clinics, private medical offices, and long term care facilities.

2.1.ee. "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.ff. "Prescriptive authority" means the authority of a physician assistant to prescribe, order, administer or dispense prescription drugs.

2.1.gg. "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. This term includes each practice location where a physician assistant is registered as a controlled substance dispensing practitioner, even if the dispensing location would not otherwise qualify as a primary place of practice.

2.1.hh. "Protocol" means written treatment instructions prepared 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.ii. "Registrant" means a physician assistant issued an interstate telehealth registration by the Board pursuant to W. Va. Code § 30-1-26.

2.1.jj. "Registration" means an authorization to practice in collaboration with physicians issued by the Board pursuant to W. Va. Code § 30-1-26 for the limited purpose of providing interstate telehealth services.

2.1.~~ii~~kk. "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.

2.1.ll. "Website" or "Board's website" means the set of related web pages operated by or on behalf of the West Virginia Board of Osteopathic Medicine located at the domain name www.wvbdosteo.org, or at any successor domain name published by the Board.

§24-2-3. 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~~ W. Va. 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, which is available on the Board's website. 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 24 CSR 5, unless the applicant has applied for and been granted an initial licensing fee waiver as set forth in 24 CSR 8.

3.3. The Board's physician assistant licensure application shall include, and applicants must provide, the following information:

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

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 (12) months which substantially resembles the applicant;

3.3.d. Documentation establishing that the applicant:

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

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

3.3.e Documentation that the applicant has passed the Physician Assistant National Certifying Examination administered by the NCCPA and ~~is currently certified by the NCCPA;~~ documentation establishing that the applicant:

3.3.e.1. Has a current certification from the NCCPA; or

3.3.e.2. Has a current license in good standing from a state that does not require a physician assistant to maintain national certification;

3.3.f. 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.g. 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.h. Any additional information identified by the Board for licensure.

3.3.i. Submission to a state and national criminal history record check, based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation, pursuant to ~~West Virginia~~ W. Va. Code § 30-1D-1 *et seq.* The applicant must pay all costs associated with the criminal history record check. 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. Criminal history record checks shall be verified by a source acceptable to the Board, other than the applicant.

3.4. The Board may require production of original documents and/or certified documents in support of an application for licensure. The applicant will provide all documentation required by the Board and the West Virginia Code. The application, together with all documents submitted, becomes the property of the Board and will not be returned.

3.5. Any applicant may be required to appear before Board members at a meeting at which his or her application may be considered. The purpose of required attendance at a Board meeting is to enable the Board to clarify information contained in the application.

3.6. 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.

§24-2-4. Special Licenses and/or Endorsements.

4.1. 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 with respect to an application made under this section. The Board may authorize its staff to issue summer camp and community event endorsements to any applicant who holds an unrestricted license issued by the Board and has submitted a complete and timely application.

4.2. 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 prepared by the Board and submitting a fee equal to the fee set by the Board.

4.3. 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.

4.4. 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.

§24-2-5. 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 (2) years. An initial license expires on the thirty-first day of March two years from the initial issuance for physician assistant license renewal. Physician assistants whose initial licenses are issued between the first of January and the thirty-first day of March are not required to renew their license prior to the thirty-first day of March.

5.2. 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 the Board under 24 CSR 5.

5.4. The Board will make available to each licensee a renewal form on the Board's website. The licensee will inform the Board of the licensee's preferred mailing address and alert the Board of any changes or updates to the preferred mailing address on record with the Board.

5.5. The licensee will acquire and submit renewal application forms. Failure of the licensee to receive notice of required renewal from the Board 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 or practice notification.

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, email address, home address, preferred mailing address, 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 (2) years in any jurisdiction;

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

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

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

5.6.g. An attestation by the physician assistant and collaborating physician that, to the extent he or she has been authorized to practice during the last two (2) years, the physician assistant has practiced in collaboration with the physician and within the delegation of duties set forth in the licensee's authorized practice agreement(s) and/or pursuant to an active practice notification; and

5.6.h. Any 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.

§24-2-6. Reporting of NCCPA Certification Status and Professional Designation.

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 of the licensee's~~

~~NCCPA certification.~~ A physician assistant shall accurately report his or her NCCPA certification status on applications and forms of the Board.

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.~~ A physician assistant who has a current certification from the NCCPA may use the professional designation of PA-C. A physician assistant who is not currently certified by the NCCPA shall use the professional designation of PA.

§24-2-7. 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, which is available on the Board's website, 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

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. A license granted pursuant to this subsection does not constitute an initial license.

§24-2-8. Collaborative Practice Requirements.

8.1. A physician assistant may not practice independently.

8.2. ~~Licensed physician~~ Physician assistants who are authorized to practice in West Virginia shall practice in collaboration with physicians.

8.3. ~~Licensed and duly authorized physician assistants~~ Physician assistants who are authorized to practice in West Virginia may also collaborate and consult with other providers, in addition to collaborating physicians, to facilitate a team-based patient-centered practice.

8.4. Physicians and physician assistants who collaborate ~~pursuant to this rule~~ shall not allow an employment arrangement to:

8.4.a. Interfere with sound clinical judgment;

8.4.b. Diminish or influence the practitioner's ethical obligation to patients; or

8.4.c. Exert undue influence on, or interfere with the robustness of, the collaborative relationship.

§24-2-9. Physician Assistant's 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;

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;

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~~ commensurate with his or her education, training, and experience, which the physician assistant is competent to perform, and consistent with the rules of the Board. The physician assistant may only perform medical acts consistent with sound medical practice and that will protect the health and safety of the patient.

9.3. A physician assistant may pronounce death provided that:

9.3.a. ~~This medical act is delegated in an authorized practice agreement or appropriately delegated to the physician assistant in a hospital setting~~ The physician assistant is in compliance with subsection 9.2 of this rule;

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. Unless prohibited by the place of practice, a physician assistant may sign orders within the scope of his or her practice, including discharge orders for patients personally treated by the physician assistant;

9.5.b. Medical certifications for death certificates if the physician assistant has received training on the completion thereof ~~and this medical act is identified in the physician assistant's practice agreement or practice notification~~;

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.

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

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

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 physician assistant may prescribe, order, administer or dispense medications in accordance with the provisions of this rule.

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

~~9.8. A physician assistant may not independently delegate a task assigned to him or her by his or her collaborating physician to another individual.~~

~~9.9. 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.~~

§24-2-10. Requirements for Practice Authorization.

10.1. Before practicing pursuant to a license issued by the Board, a physician assistant must receive written authorization from the Board to commence practice.

~~10.2. Beginning on the effective date of this rule:~~

~~10.2.a. Physician assistants seeking authorization to practice in any practice setting other than a hospital shall, in conjunction with the collaborating physician, submit a practice agreement and the appropriate fee for Board approval in accordance with section 11 of this rule. Prescriptive authority for physician assistants practicing pursuant to a practice agreement is set forth in section 12 of this rule. The responsibilities of collaborating physicians who enter into practice agreements with physician assistants are set forth in section 13 of this rule.~~

~~10.2.b. Physician assistants seeking authorization to practice in a hospital shall, in conjunction with the hospital, file a practice notification and the appropriate fee with the Board as set forth in section 14 of this rule. Prescriptive authority for physician assistants practicing pursuant to an active practice notification is set forth in section 15 of this rule. The responsibilities of physicians collaborating with physician assistants in hospitals pursuant to active practice notifications are set forth in section 16 of this rule.~~

10.2. A physician assistant may practice in collaboration with physicians in any practice setting pursuant to a practice notification which has been filed with and activated by the Board in accordance with W. Va. Code § 30-3E-10a and this rule: *Provided*, That a physician assistant who is currently practicing pursuant to a practice agreement which has been authorized by the Board prior to July 8, 2021, may continue to practice under that authorization until the practice agreement terminates or until June 1, 2022, whichever is sooner. A physician assistant practicing pursuant to an authorized practice agreement after July 8, 2021 must continue to practice within the terms established therein.

10.3. A practice agreement in effect on July 8, 2021 may not be amended after that date. A physician assistant seeking to amend a practice agreement after July 8, 2021 must file a practice notification.

10.4. Sections 11, 12, and 13 of this rule, and any other reference to practice agreements herein, apply only to those physician assistants who are practicing pursuant to a practice agreement which the Board authorized prior to July 8, 2021.

§24-2-11. Practice Agreements.

11.1. For all practice settings other than a hospital, 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 established by 24 CSR 5. A physician assistant may not

commence practice pursuant to a practice agreement until he or she receives written authorization to practice from the Board.

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. Any advanced duties;

11.2.e.3. Any prescriptive privileges; and

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. A performance evaluation signed by both the physician assistant and the collaborating physician; and

11.2.h. Any 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, in any practice setting other than an ambulatory surgical facility, the practice agreement shall include:

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

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

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

11.4. To delegate advanced duties at an ambulatory surgical facility, the practice agreement shall include:

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

11.4.b. Certification that the collaborating physician and physician assistant are credentialed by the ambulatory surgical facility; and

11.4.c. A copy of the approved delineation of duties from the governing board of the ambulatory surgical facility stating that the physician assistant has been approved by the facility to perform the advanced duty.

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 with reasonable skill and safety; and

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

11.5.d.1. For which general approval protocol has been established by the Board and the physician assistant has met such protocol;

11.5.d.2. The Board has previously authorized the physician assistant to perform; and/or

11.5.d.3. Which will be performed in an ambulatory surgical facility.

11.6. All other proposed practice agreements shall be considered by the Board. When a practice agreement must be reviewed by the Board because of the inclusion of certain proposed advanced duties, Board staff may issue the physician assistant partial 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 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 supervision 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 medical acts with reasonable skill and safety.

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 or incomplete;

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

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

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 alter, amend or add to the delegated medical acts incorporated into an approved practice agreement;

11.10.b. A collaborating physician and physician assistant seek to alter the physician assistant's practice setting;

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 physicians 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 collaborating physicians. Any such fee shall be established by the Board under West Virginia Board of Osteopathic Medicine Rule 24 CSR 5, Fees for Services Rendered by the Board of Osteopathic Medicine.

11.12. A physician assistant may submit address changes and additional practice locations to supplement an authorized practice agreement if the collaborating physician, scope of practice, delegated medical acts, collaboration mechanisms and practice setting remain the same.

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

11.14. A practice agreement automatically terminates if the physician assistant's license expires.

11.15. 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.

§24-2-12. Prescriptive Authority Pursuant to a Practice Agreement.

12.1. A collaborating physician may delegate 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 (3) hours of drug diversion training and best practice prescribing of controlled substances training through a Board approved course within two (2) years of the proposed delegation of prescriptive authority; 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. The physician assistant's exercise of prescriptive authority shall comply with applicable federal and state law governing the practice of physician assistants and the Board approved limitations on physician assistant prescriptive authority;

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, ordering, administering, and/or dispensing of drugs and/or medical devices.

12.3. On an annual basis, the Board shall approve and publish a list classifying pharmacologic categories of all drugs which are not within a physician assistant's prescriptive authority. This list shall, at a minimum, exclude the following drugs from physician assistants' prescriptive authority:

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

12.3.b. Antineoplastics;

12.3.c. Radio-pharmaceuticals;

12.3.d. General Anesthetics.

12.4. The prescriptive authority for physician assistants with respect to medications listed under Schedule III of the Uniform Controlled Substances Act shall be limited to a 30-day supply without refill.

12.5. A practice agreement may not delegate the prescribing, ordering, administering, or dispensing of any drug, or quantity of drug, that the Board has excluded from the prescriptive authority of physician assistants.

12.6. 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.

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

12.8. At the time of the initial prescription, a physician assistant shall 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. 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 on each prescription.

12.11. 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, at the discretion of the practitioner, in order to assess the drug's therapeutic efficacy: Provided further, the chronic disease being treated shall be noted on each such prescription by the physician assistant.

12.12. All prescriptions, including electronic prescriptions, written by the physician assistant must 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. Upon receipt of a written request from the West Virginia Board of Pharmacy, the Board of Osteopathic Medicine shall provide the Board of Pharmacy with a list of physician assistants with prescriptive authority.

12.14. When exercising prescriptive authority, 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.

12.15. Physician assistants granted prescriptive authority 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 24 CSR 7.

12.16. Nothing in this rule shall be construed to permit any physician assistant to prescribe, administer, order, and/or dispense medications outside of the Board-approved delegation of prescriptive authority.

§24-2-13. Responsibilities of Physicians Collaborating with Physician Assistants Pursuant to Practice Agreements.

13.1. A physician collaborating with a physician assistant pursuant to an authorized practice agreement is responsible for:

13.1.a. Observing, directing and evaluating the work, records and practice of the physician assistant;

13.1.b. Providing continuous collaboration with the physician assistant and ensuring that collaboration is maintained in the collaborating physician's absence;

13.1.c. Ensuring that the only medical acts delegated to the physician assistant are:

13.1.c.1. Within the collaborating physician's scope of practice;

13.1.c.2. Suitable to be performed by the physician assistant based upon the physician assistant's education, training and experience; and

13.1.c.3. Included in the physician assistant's authorized practice agreement.

13.2. Collaboration does not require the constant physical presence of the collaborating physician if 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. Appropriate collaboration shall include:

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

13.2.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;

13.2.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

13.2.d. 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, 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 in accordance with the terms of an authorized practice agreement. The collaborating physician and physician assistant must retain written documentation of these meetings.

13.3. 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.

13.4. 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, osteopathic medicine or podiatry in this state. An alternate collaborating physician shall accept collaborative responsibility for periods of time not to exceed forty-five days.

13.5. 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:

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

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

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

13.7. A physician is prohibited from entering into practice agreements as a collaborating physician or an alternate collaborating physician with more than five physician assistants at any one time.

13.8. In the event of the sudden departure, incapacity, or death of a collaborating physician, and in order to provide for continuity of care for patients:

13.8.a. An alternate collaborating physician may temporarily assume the role of collaborating physician; and

13.8.b. If the practice agreement does not designate an alternate collaborating physician, a physician holding an unrestricted West Virginia license may temporarily assume the role of collaborating physician upon receipt of written permission from the Board's staff.

A physician who assumes the responsibility of collaborating physician pursuant to this subsection shall submit a complete practice agreement to the appropriate licensing board within fifteen days of assuming the responsibility. The Board, through its staff, may extend the fifteen-day period for up to thirty additional

days upon a determination that the temporary authorization is in the public interest, does not jeopardize patient safety and is necessary to provide continuity of care for patients.

§24-2-14. Practice Notifications.

14.1. ~~To practice in a hospital, a physician assistant licensed by the Board shall, in conjunction with the hospital, file a practice notification with the Board.~~ Before a physician assistant may practice in collaboration with physicians, the physician assistant and a health care facility shall file a practice notification with the Board.

14.2. A practice notification 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 notification shall be one hundred dollars ($100) until such time as a different fee is established by 24 CSR 5. Practice notification forms can be found on the Board's website.

14.3. A physician assistant may not commence practice pursuant to a practice notification until the Board provides written notification to the physician assistant and ~~the hospital~~ health care facility that a complete practice notification has been filed with the Board. The Board's written notification activates the practice notification and provides the physician assistant with authorization to practice in the identified ~~hospital(s)~~ health care facility.

14.4. A practice notification shall include:

14.4.a. The full name, license number, preferred mailing address, telephone number, and email address of the physician assistant;

14.4.b. The name and address of each ~~hospital~~ health care facility where the physician assistant will practice pursuant to the practice notification;

~~14.4.c. Notification of whether or not the physician assistant is authorized to sign death certificates on behalf of the hospital~~;

14.4.~~d~~c. Verification that the physician assistant meets the qualifications for prescriptive authority, including the completion of a minimum of three hours of drug diversion training and best practice prescribing of controlled substances training through a Board approved course within two years of the practice notification filing date;

14.4.~~e~~d. The name, job title, email address and contact information of the ~~hospital representative~~ health care facility representative who is responsible for executing the practice notification and ensuring compliance with the provisions of the certification; and

14.4.~~f~~e. Certification by the physician assistant and the ~~hospital~~ health care facility that:

14.4.~~f~~e.1. The physician assistant shall practice in collaboration with physicians;

14.4.~~f~~e.2. The physician assistant shall practice in conformity with the physician assistant's education, training and experience and in accord with the delineation of privileges granted to the physician assistant or other credentialing requirements of ~~by~~ the ~~hospital~~ health care facility;

14.4.~~f~~e.3. The physician assistant holds a license issued by the Board to practice as a physician assistant or an interstate telehealth registration issued by the Board pursuant to W. Va. Code § 30-1-26;

14.4.~~f~~e.4. The physician assistant meets the requirements for prescriptive authority and shall exercise prescriptive authority in conformity with section fifteen of this rule; and

14.4.~~f~~e.5. The ~~hospital and the~~ physician assistant shall notify the Board upon the cessation of the physician assistant's practice pursuant to the practice notification.

14.4.~~g~~f. If a physician assistant who files a practice notification holds a license which is subject to probation or any practice restriction or limitation, the practice notification shall be accompanied by:

14.4.~~g~~f.1. A description of the physician assistant's practice restrictions or limitations;

14.4.~~g~~f.2. Certification by the ~~hospital~~ health care facility representative completing the practice notification that the hospital health care facility is aware of all such practice restrictions or limitations;

14.4.~~g~~f.3. Certification by the physician assistant and the ~~hospital~~ health care facility representative that the physician assistant's ~~hospital~~ practice shall comport with all practice restrictions or limitations.

~~14.5. If a physician assistant holds a restricted or limited license which requires practice under direct, on-site or personal collaboration with a collaborating physician, the Board may require a physician assistant to practice pursuant to a practice agreement in all practice settings until such time as the restriction or limitation is lifted.~~

~~14.6.~~14.5. A practice notification is complete when it conforms to the requirements of this section and is accompanied by the appropriate fee. The Board may return an incomplete practice notification unprocessed and may request additional information from the ~~hospital~~ health care facility or physician assistant to obtain information necessary to complete the practice notification.

~~14.7.~~14.6. Within 60 days of receipt of a complete practice notification and the appropriate fee, the Board shall provide the physician assistant and ~~hospital~~ health care facility written notice that the physician assistant is authorized to practice in the identified ~~hospital(s)~~ health care facility or facilities.

~~14.8.~~14.7. A physician assistant with an active practice notification on file with the Board may only practice within the ~~hospital(s)~~ health care facility or facilities identified in the practice notification.

~~14.9. An active practice notification does not authorize a physician assistant to practice outside of a hospital. For all other practice settings, a physician assistant must practice pursuant to an authorized practice agreement.~~

14.8. A physician assistant may list more than one health care facility on a single practice notification if each of the facilities is operated under the same corporate umbrella and the health care facility representative identified in section 14.4.e of this rule is authorized and responsible for executing the practice notification and ensuring compliance with the provisions of the practice notification certification at every health care facility listed on the practice notification.

~~14.10.~~14.9. A new practice notification, with the required fee, must be filed for approval by the Board if the physician assistant seeks to practice at a ~~hospital~~ health care facility not listed in an active practice notification.

~~14.11.~~14.10. A practice notification automatically terminates if:

~~14.11.a.~~14.10.a. The physician assistant's license expires:

~~14.11.b.~~14.10.b. The physician assistant ceases practice at the ~~hospital(s)~~ health care facility or facilities listed in the practice notification; or

~~14.11.c.~~14.10.c. The physician assistant is no longer credentialed to practice at the ~~hospital(s)~~ health care facility or facilities listed in the practice notification.

14.11. A physician assistant with more than one ~~hospital location~~ health care facility on an active practice notification shall notify the Board within ten days if he or she ceases practicing, or is no longer credentialed to practice, at one of the ~~hospitals~~ health care facilities included in the practice notification. The practice notification shall not terminate, but shall no longer authorize practice at the ~~hospital location~~ health care facility identified by the physician assistant as a former practice location.

14.12. A ~~hospital~~ health care facility or a physician assistant may terminate a practice notification. A physician assistant shall immediately cease practicing upon the termination of a practice notification. The physician assistant must notify the Board, in writing, within ten days of the termination of any practice notification.

14.13. A physician assistant may simultaneously practice pursuant to one or more active practice notifications, and, until June 1, 2022, may simultaneously practice pursuant to any combination of authorized practice agreements and practice notifications.

~~14.14. A physician assistant who is practicing in a hospital pursuant to a practice agreement which was authorized by the Board prior to the effective date of this rule may continue to practice under such authorization until the authorized practice agreement terminates. A physician assistant practicing pursuant to a practice agreement in a hospital setting is subject to the requirements set forth in sections 11, 12 and 13 of this rule, except that physicians may collaborate with up to five physician assistants per shift in a hospital.~~

~~14.15. A physician assistant practicing in a hospital setting pursuant to a practice agreement authorized prior to the effective date of this rule may not practice pursuant to the requirements of sections 14, 15 and 16 of this rule until he or she is authorized to do so after filing a practice notification. The activation of a practice notification shall supersede the authorized practice agreement for the hospital(s) identified in the practice notification.~~

§24-2-15. Prescriptive Authority Pursuant to a Practice Notification.

15.1. A physician assistant practicing pursuant to an active practice notification has prescriptive authority to prescribe, order, administer and/or dispense medication in the course of his or her ~~hospital~~ practice in a health care facility subject to the provisions of this section.

15.2. The physician assistant's exercise of prescriptive authority pursuant to a practice notification shall comply with:

15.2.a. Applicable federal and state law governing the practice of physician assistants;

15.2.b. The Board-approved limitations on physician assistant prescriptive authority; and

15.2.c. Any ~~hospital~~ policies or prescriptive authority protocols of the health care facility which further limit or restrict the physician assistant's prescriptive authority.

15.3. On an annual basis, the Board shall approve and publish a list classifying pharmacologic categories of all drugs which are not within a physician assistant's prescriptive authority.

15.3.a. This list shall, at a minimum, exclude the following drugs from physician assistant prescriptive authority:

15.3.a.1. Schedules I and II of the Uniform Controlled Substances Act: *Provided*, That a physician assistant may prescribe no more than a three-day supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II drug;

15.3.a.2. Antineoplastics

15.3.a.3. Radio-pharmaceuticals; and

15.3.a.4. General anesthetics.

15.3.b. The prescriptive authority for physician assistants with respect to medications listed under Schedule III of the Uniform Controlled Substances Act shall be limited to a 30-day supply without refill.

15.3.c. The limitations on physician assistant prescriptive authority set forth in this subsection do not apply to:

15.3.c.1. Medications administered or dispensed by a physician assistant in a hospital pursuant to physician orders; or

15.3.c.2. The ordering of medications for hospital patients by a physician assistant who is authorized and/or credentialed by the hospital to issue such orders.

15.4. A physician assistant's exercise of prescriptive authority ~~in a hospital~~ shall be entered on the patient's chart.

15.5. Physician assistants who issue prescriptions for Schedules ~~III~~ II through V controlled substances for patients to be filled after the patient leaves the hospital shall include the Federal Drug Enforcement Administration number issued to that physician assistant.

15.6. If permitted by the ~~hospital~~ health care facility, a physician assistant may administer local anesthetics.

15.7. When exercising prescriptive authority, 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.

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

15.9. A physician assistant ~~practicing solely pursuant to an active practice notification~~ may not prescribe, administer, order or dispense medications outside of the ~~hospital(s)~~ health care facility or facilities identified in his or her active practice notification.

§24-2-16. Responsibilities of Physicians Collaborating with Physician Assistants ~~in Hospitals~~ Pursuant to Practice Notifications.

16.1. ~~A physician may collaborate with physician assistants in a hospital as approved by the hospital.~~ Unless otherwise prohibited by a health care facility, a physician who practices at a health care facility may collaborate with any physician assistant who holds an active practice notification with the same facility.

16.2. A physician collaborating with a physician assistant ~~in a hospital~~ shall observe, direct, and evaluate the physician assistant's work, records, and practices, ~~including collaborating with the physician assistant in the care and treatment of hospital patients~~ as necessary for appropriate and meaningful collaboration.

16.3. ~~When collaborating in a hospital, a~~ A collaborating physician shall only ~~delegate those~~ collaborate with a physician assistant with respect to medical acts which are:

16.3.a. Within the physician's scope of practice; ~~and~~

16.3.b. ~~Suitable to be performed by the physician assistant based upon the~~ Consistent with the physician assistant's education, training, and experience; ~~and delineation of hospital privileges.~~ and

16.3.c. Consistent with any credentialing requirements of the health care facility.

16.4. While collaboration does not require the constant physical presence of the collaborating physician, if 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, physician collaboration shall not exclusively occur through written communication, electronic communication, telecommunication or any combination thereof.

§24-2-17. Continuing Medical Education Requirements.

17.1. Successful completion of a minimum of one hundred hours of continuing education, with a minimum of 50 hours of Category 1, satisfactory to the Board during the preceding two-year period is required for the biennial renewal of a physician assistant license.

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

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

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

17.2.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 17.3 of this rule.

17.3. 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 or who has practiced pursuant to an active practice notification 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.

17.3.a. A physician assistant must complete this mandatory continuing education prior to submitting an initial practice notification.~~:~~

~~17.3.a.1. A proposed practice agreement which delegates prescribing authority or the authority to administer, order, or dispense prescription drugs; or~~

~~17.3.a.2. A practice notification.~~

17.3.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.

17.3.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.

17.3.d. A renewal applicant ~~who only practices pursuant to an authorized practice agreement and~~ 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 listed on the application.

17.4. 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:

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

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

17.4.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

17.4.d. Sign and date the certification.

17.5. A license shall automatically expire if the certification required by subsection 17.4 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.

17.6. 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 by requiring copies of certificates validating the educational events and CEUs earned.

17.7. Upon written request of the Board to a licensee's preferred mailing address or email 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.

17.8. Failure or refusal of a licensee to provide written documentation requested by the Board as set forth in subsection ~~17.6~~ 17.7 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.

§24-2-18. Identification and Compliance Audits.

18.1. 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 Medical Board. ~~A physician assistant may not identify him or herself as a certified physician assistant, or use the professional designation of "PA-C," unless he or she is currently certified by the NCCPA.~~

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

18.3. A physician assistant shall notify the Board in writing of a change in the physician assistant's name or address within fifteen (15) days of the change.

18.4. The Board may review physician assistant utilization without prior notice to the physician assistant, the collaborating physician, or the practice setting. 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:

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

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

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

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

18.7. 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.

§24-2-19. Mental and Physical Examination.

19.1. 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.

19.2. 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.

19.3. Any individual who applies for or accepts the privilege of practicing as a physician assistant in this state 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 any examining physician on the ground that the testimony or report is privileged communication.

19.4. 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.

§24-2-20. License Denial, Complaint and Disciplinary Procedures.

20.1. 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 §§ 30-14-11

and 30-14-12a and in the Board Procedural Rules W. Va. Code R. §§ 24-3-1 *et seq.* and 24-6-1 *et seq.*, also apply to physician assistants.

20.2. 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 R. § 24-6-5.~~14~~17 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.

§24-2-21. Denial of Licensure and Discipline.

21.1. 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:

21.1.a. Conduct by a physician assistant which is equivalent to any of the grounds cited for the discipline of physicians in W. Va. Code §§ 30-14-11 and 30-14-12a or section ~~13~~18 of ~~the Board's rule 24-1-18~~ 24 CSR 1, "Licensing Procedures for Osteopathic Physicians;"

21.1.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;

21.1.c. Practicing as a physician assistant:

21.1.c.1. In the absence of an authorized practice agreement or practice notification;

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

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

21.1.d. Prescribing, ordering, administering, or dispensing a prescription drug:

21.1.d.1. That the physician assistant is not authorized to prescribe, order, administer or dispense;

21.1.d.2. That the Board has excluded from physician assistant prescriptive authority; or

21.1.d.3. In quantities or dosages that are inconsistent with the physician assistant's prescriptive authority and/or state or federal law or regulation;

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

21.1.f. Failure of a physician assistant to:

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

21.1.f.2. Notify the Board that an active practice notification has been terminated in the required time frame; or

21.1.f.3. Maintain a copy of his or her license and authorized practice agreement or active practice notification in each primary place of practice;

21.1.g. Impersonation of a licensed physician or another licensed physician assistant;

21.1.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;

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

21.1.j. Allowing an employment relationship to exert undue influence on sound clinical judgment or on the physician assistant's professional role and patient obligations; or

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

21.2. 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 ~~15~~20 and ~~16~~21 of this rule. A certified copy of the guilty verdict or plea rendered is sufficient proof for licensure denial or revocation.

21.3. 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 §§ 30-14-11 and 30-14-12a and/or section 18 of 24 CSR 1.

21.4. In their discretion, the Medical Board and this Board may refer and receive information from one another concerning:

21.4.a. Mutual applicants, registrants, and/or licensees;

21.4.b. Information developed during the complaint and investigation process of one board which implicates or otherwise relates to applicants, registrants, and/or licensees of the other board;

21.4.c. Complaints received or discovered by one board which relates to mutual applicants, registrants, and/or licensees or applicants, registrants, and/or licensees of the other board.