



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Optometry TITLE-SERIES: 14-13
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 14-13 Ophthalmic Laser Utilization Certificate

PRIMARY CONTACT

NAME: West Virginia Board of Optometry
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CITE STATUTORY AUTHORITY: WV Code, 30-8-6, 30-8-9, 30-8-1, et. seq.

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

WV Code, 30-8-6 and 30-8-9 give the WV Board of Optometry the authority to propose rules for procedures that are taught in at least 50% of accredited colleges of optometry. the full WV Code, 30-8-1, et.seq covers all of the authority of the Board of Optometry.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/28/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2023

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

Email to Chad Robinson, Exec. Dir of the WV Association of Optometric Physicians

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

14-13 outlines the qualifications, training, treatment guidelines and restrictions for use of ophthalmic lasers by licensed and certified optometrists.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The WV Code, 30-8-6 and 30-8-9 authorize the board to propose rules for procedures that are taught in 50% of accredited colleges of optometry. Optometrists who are trained and certified in the use of lasers will make eye procedures more available to West Virginia's citizens close to home. It may also lower the cost of the laser procedures authorized by this rule.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There is no fee associated with this certificate, so there will be no new revenues to the state. There may be a minimal cost in staff time. The demand for this certificate has not yet been established at this time, so dollar amount may be estimated at this time.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

Please see above. There will be no gain of revenues. T

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

Having certified optometrists for certain laser procedures as outlined in this rule will make them more available to the state's residents closer to home. The cost of travel and the procedures themselves may be lowered.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

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

There will be no new revenues granted to the Board by this rule. There may be a minimal cost to the Board in staff time. There may be savings to West Virginia's citizens regarding travel and a lower cost of the procedures.

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

Yes

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

TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 13
OPHTHALMIC LASER UTILIZATION CERTIFICATE

§14-13-1. General.

1.1. Scope. -- This rule establishes requirements, procedures, and standards for the certification of licensees to perform certain laser procedures.

1.2. Authority -- W.Va. Code §§30-8-6, and §30-8-9.

1.3. Filing Date --

1.4. Effective Date --

1.5. Sunset Provision - This rule shall terminate and have no further force or effect on August 1, 2029.

§14-13-2. Definitions

2.1. "Certificate Holder" means a licensee who has met the requirements of this rule and has been issued an Ophthalmic Laser Utilization Certificate by the Board.

2.2. "Ophthalmic Laser" means any of the commercially available light amplification by stimulated emission of radiation (LASER) devices approved by the US Food and Drug Administration for use on the human eye and adnexa.

2.3. "Posterior Capsular Opacification (PCO)" means the clouding of the eye's posterior lens capsule that commonly occurs following cataract surgery and is most commonly treated by optometrists and ophthalmologists by utilizing ophthalmic laser techniques.

2.4. "Peripheral Iridotomy" means the standard first-line treatment in angle-closure glaucoma and eyes at risk for this condition most commonly treated by optometrists and ophthalmologists utilizing ophthalmic lasers.

2.5. "Selective Laser Trabeculoplasty" means a simple, yet highly effective laser procedure that reduces the intraocular pressure associated with glaucoma that uses short pulses of low-energy light to target the melanin, or pigment, in specific cells of the affected eye. The surrounding, non-pigmented cells are untouched and undamaged.

§14-13-3. Certification Generally.

3.1. A licensee shall meet all the requirements as listed in this rule in order to be certified to utilize an ophthalmic laser.

3.2. A licensee shall obtain Ophthalmic Laser Utilization certification to utilize Ophthalmic Lasers in West Virginia.

3.3. An applicant for licensure by examination, by reciprocity, or by reinstatement after March 1, 2024, shall only be granted licensure if the applicant meets the requirements for Ophthalmic Laser Utilization certification.

3.4. Upon the licensee's successful completion of the requirements and application listed in sections 3-5 and approval by the Board, an Ophthalmic Laser Utilization Certificate may be issued.

3.5. Upon issuance of the certificate, the licensee's license number shall be changed. The license number will be followed by a dash and the initial "L" for ophthalmic laser utilization.

§14-13-4. Certification Requirements.

To be certified the licensee shall:

4.1. Complete the required application form;

4.2. Submit proof of attendance and satisfactory completion of the Education and Training established by the Board in §14-13-5.

§14-13-5. Education and Training.

5.1. The Board shall accept a course for certification that is provided by or through a school or college of optometry accredited by the Accreditation Council on Optometric Education or its successor organization provided, the course includes the criteria listed in subsections 5.2.a through 5.2.c,

5.2. The Board, at its discretion, may approve courses provided through organizations other than accredited schools or colleges of optometry certifying that the optometrist is competent in the utilization of ophthalmic lasers if, and only if, the course meets the following minimum criteria:

5.2.1. Each course shall include indications, contra-indications, techniques, risks, and benefits.

5.2.2. Each course shall include appropriate follow-up and management protocols and techniques;

5.2.3. Each course shall teach the procedures in a closely supervised environment with a proficiency assessment examination.

5.3. A list of approved courses for Ophthalmic Laser Utilization Certification will be maintained by the Board for public inspection.

5.4. The license granted to an applicant who graduated from an accredited school or college of optometry and who passed the Ophthalmic Laser portion of the National Board Examination in 2024 or thereafter shall be deemed to have met the education and training criteria listed in section 5.

§14-13-6. Treatment Guidelines.

6.1. A certificate holder may utilize ophthalmic lasers which are considered rational to the diagnosis and treatment of the human eye or its appendages.

6.2. The Board will maintain a list of approved treatment indications and shall update the list as new treatments, technologies, and training become available.

6.3. Effective March 1, 2024, approved treatment indications include;

6.3.1. Posterior Capsular Opacification (PCO)

6.3.2. Peripheral Iridotomy

6.3.3. Selective Laser Trabeculoplasty (SLT)

6.4. The certificate holder shall follow all applicable Occupational Safety and Health Administration (OSHA) guidelines pertaining to Ophthalmic lasers.

6.5. The certificate holder shall adhere to generally accepted standards of care and follow established clinical guidelines for utilization of ophthalmic lasers. The certificate holder shall monitor the patient for any adverse reaction and provide appropriate follow-up care.

§14-13-7. Restrictions.

7.1. The licensee shall perform only those ophthalmic laser procedures approved by the Board.

7.2 New ophthalmic laser procedures may be added to the list of approved procedures by a decision of the Board based on the following criteria:

7.2.1. A new or existing ophthalmic laser device or procedure has been approved by the Food and Drug Administration for the treatment of the eye or its appendages.

7.2.2. A new or existing ophthalmic laser device or procedure has gained accepted use in the eye care field. Such acceptance may be indicated by its inclusion in the curriculum of an optometry school accredited by the Accreditation Council on Optometric Education, or its successor approved by the U.S. Department of Education or approved post-graduate continuing education, through peer-reviewed, evidence-based research and professional journal articles, or by inclusion in established standards of practice and care published by professional organizations.

7.3. Except for Post Operative Care of these procedures, the following are excluded from the scope of practice of optometry:

7.3.1. Laser procedures of the Retina, Vitreous, Crystalline Lens, or other structures not specifically designated in this rule or specifically approved by the Board.