



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: 14-10
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 14-10 Continuing Education

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: HB3317, WV Code, 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:

HB 3317 eliminates drug diversion CE for renewing licensees. WV Code 30-8-1, et. seq gives the Board of Optometry to write legislative rule.

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: 6/27/2023

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., 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:

14-10 Contains all CE requirements for licensed optometrists. HB 3317 eliminated drug diversion requirements for renewing licensees. The amendment makes that change, reduces the total amount of hours since the total was changed earlier to 43 to accommodate the drug diversion CE and requires all licensees to complete 2 hours of injection CE.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

HB 3317 was passed eliminating drug diversion CE for renewing licensees.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

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

Reduced cost for renewing licensees since they will not have to pay to take a drug diversion course.

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):

The Board does not provide CE, it certifies it, so no revenue or costs will be impacted. There will be savings to renewing licensees because they will not have to pay for a drug diversion course.

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 10
CONTINUING EDUCATION

§14-10-1. General.

1.1. Scope: -- This legislative rule establishes requirements for continuing education for licensees.

1.2. Authority -- W. Va. Code §30-8-1., et seq. and W Va. Code 30-1-7a.

1.3. Filing Date -- ~~June 7, 2017~~

1.4. Effective Date -- ~~June 7, 2017~~

1.5. Sunset Provision -- This rule shall terminate and have no further force or effect on ~~June 7, 2025~~
August 1, 2031.

§14-10-2. Definition.

2.1. "Board" means the West Virginia Board of Optometry.

2.2. "Controlled Substances" means a drug, substance or immediate precursor listed or described in Schedules I through V of Article Two, chapter 60A of the West Virginia Code.

2.3. "Licensee" means an optometrist licensed under the provisions of W. Va. Code §30-8-1, et. seq. and the provisions of the Board's rules, W. Va. Code R., 14-1., et. seq.

§14-10-3. Continuing Education.

3.1. A licensee shall complete a minimum of ~~forty-three (43)~~ forty (40) hours of continuing education for each even-numbered, two (2) year cycle.

3.2. Of the required ~~forty-three (43)~~ forty (40) hours, the licensee shall complete the following categories of continuing education:

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

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

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

3.2.c. a minimum of two (2) hours of study in administering pharmaceutical agents by injection;

~~3.3. Of the required forty-three (43) hours, a licensee who holds an oral pharmaceutical certificate shall complete at least twelve (12) hours of instruction in ocular pathology and therapeutic pharmacological agents.~~

~~3.4. Of the required forty three (43) hours, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall complete two (2) hours of instruction in administering pharmaceutical agents by injection.~~

~~3.4.1. 3.4.~~ In addition to the above-listed continuing education requirements, a licensee who holds an Injectable Pharmaceutical Agents Certificate shall obtain and maintain current certification from the American Red Cross, American Heart Association or their successor organizations in basic life support.

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

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

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

§14-10-4. Drug Diversion Training and Best Practice Prescribing of Controlled Substances.

4.1. A person who receives his or her initial license to practice optometry shall complete ~~three (3)~~ two (2) hours of continuing education in drug diversion training and best practice prescribing of controlled substances training within one year-of receiving his or her license.

~~4.2. A licensee who prescribes, administers or dispenses a controlled substance shall complete three (3) hours two (2) hours of drug diversion and best practice prescribing of controlled substances training during every even numbered two year continuing education cycle as a prerequisite to license renewal. These three (3) two (2) continuing education hours shall be counted as part of the forty three (43) forty-two (43) total hours of continuing education per even numbered two year cycle required under this rule.~~

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

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

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

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

5.1. Educational programs sponsored or approved by the following organizations are approved by the Board:

5.1.a. the American Optometric Association or its affiliated organizations;

5.1.b. the West Virginia Association of Optometric Physicians and other state optometric associations;

5.1.c. the American Academy of Optometry;

5.1.d. post-graduate courses offered at any accredited school or college of optometry;

5.1.e. the Southern Council of Optometry or its affiliates; and

5.1.f. the Council on Optometric Practitioner Education (COPE).

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

6.1. A continuing education provider not listed in section §14-10-5. of this rule may submit a written request to the Board for continuing education course or event approval. Each application shall include payment of the fee established in the Board's rule, W. Va. Code R., §14-5-1., et. seq.

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

6.3. The continuing education provider shall include a Curriculum Vitae for the instructor as well as a copy of all handouts, power point presentations, or other electronic or nonelectronic materials that are part of the continuing education course as part of its application for Board approval.

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

6.4.a. If the Board conditionally approves the course, the continuing education provider must submit evidence that the conditions have been met prior to the continuing education event for the event to be approved by the Board.

6.5. All decisions of the Board are final and there is no appeal process. If the Board rejects a continuing education course or event and the continuing education provider wishes to resubmit the request for Board approval, a new application must be submitted in compliance with the requirements of this rule.

6.6. The Board shall not approve a continuing education course or event retroactively.

6.7. The Board president may designate a committee to recommend approval or disapproval of the continuing education courses submitted. The committee members may or may not be members of the Board. The committee shall report its findings to the Board for action.

§14-10-7. Required Documentation.

7.1. Evidence of attendance shall be obtained and maintained by the licensee. The evidence of attendance shall include the date and place of the meeting or instruction, speaker or instructor, the title of the course, the sponsor of the meeting, COPE or other approved program number if applicable, hours in attendance, the method of instructional delivery which may include, but is not limited to, live on-site presentation, correspondence, Internet or other electronic means.

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

§14-10-8. Exemptions.

8.1. A licensee who has graduated from an optometry school accredited by the Accreditation Council on Optometric Education or its successor recognized by the U.S. Department of Education within one

year of successfully completing the license interview evaluation shall be exempt from the requirements of section §14-10-3. for a period of time from the date of successful completion of the license interview evaluation to the licensee's first license renewal. The initial licensee shall complete ~~three (3)~~ two (2) hours of continuing education training in drug diversion and best practice prescribing of controlled substances pursuant to W. Va. Code R., §14-10-4.1.

8.2. Those licensees not covered by the provisions of 8.1. of this section may make a sworn request for exemption from the continuing education requirements listed in W. Va. Code R., §14-10-3. The sworn affidavit shall contain reasons acceptable to the Board for noncompliance with the Board's continuing education requirements and shall be filed with the Board before he or she applies for renewal of his or her license.

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

8.2.b. If the exemption is rejected, the Board may grant the licensee a specified period of time to obtain the remaining required continuing education hours.

8.2.c. The Board shall notify the licensee of its decision by certified mail within thirty (30) days of the receipt of the licensee's request.