



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AN EMERGENCY RULE

AGENCY: Optometry TITLE-SERIES: 14-05

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: SCHEDULE OF FEES

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W. Va. Code § 30-8-5(b)(19)

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:

Since the effective date of the revision in W. Va. Code §30-8 is July 9, 2025, and on this date all new licenses granted will have to be a laser license, the rule is being promulgated to comply with this time limit established by code.

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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:

Senate Bill 565 passed during the 2025 Legislative Session and becomes effective July 9, 2025. This bill expands the scope of practice of Optometry in West Virginia to include laser licensure and certification as the highest level of Optometry license in West Virginia.

The amendments in this Rule include eliminating a redundant Reciprocity Application fee as all Application fees are the same amount and do not need to be distinguished separately in the fee schedule. Additionally, as with our previous levels of certification (Oral Pharmaceutical Certificate and Injectable Pharmaceutical Agents Certificate) this Rule establishes a Laser Certification Fee of \$200.00, which is the same rate of each of the other two certifications, and remains unchanged since the last update to this Rule in 2011.

Since the Board would like to issue laser level licenses as soon after the effective date as possible, and prior to the Conclusion of the 2026 Legislative Session, with a mechanism in place to charge for this upgraded certification, the Emergency Rule status is requested while the companion Legislative Rule works through the Legislative process.

Additional amendments to this Rule include a \$100.00 increase in the annual renewal rate for all licensees, an amount that has not been updated since 2011. The corresponding fees that need to match same amount as the annual renewal fee include: Active License Restoration Fee and Telehealth Certification Fee. A Delinquent Continuing Education at Renewal Fee was added to encourage all licensees to turn in their CE Hours on time at renewal.

The Board of Optometry has not increased any fees since 2011.

In the last three years, the Boards FY expenditures have averaged approximately \$125,000 while only bringing in an average of \$112,800 in annual revenue. Plus FY25 saw an added increase in expenditures due to pending litigation against the Board that will continue in FY2026.

The Board of Optometry receives no special appropriations and exists and operates only on the fees collected. The Board is very conservative with its spending and requests this increase to keep up with amount of inflation that has occurred since the last increase in 2011.

After examining the Optometry license fees in surrounding states in response to Governor Morrisseys Executive Order No. 1-25 issued on January 14, 2025, the Board believes this nominal increase in the annual license fee is necessary for the longevity of the Board. Additionally, West Virginia has significantly fewer licensed optometrists in the State (295 currently) compared to surrounding states (Kentucky = 925, Maryland = 1,074, Pennsylvania = 3,124, Ohio = 2,346, and Virginia = 1,826 all as of April 2025). Some current licensees may choose to retire and not renew this year.

While our number of licensees may increase slightly in the next year due to the enactment of SB565, it is unknown if this will be a trend since a number of currently licensed Optometrists in WV are approaching retirement age in the coming years.

And a Sunset Provision was added since it did not have one previously.

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:

There will be an increase in the revenue for the West Virginia Board of Optometry that will be offset by current expenditures already in the annual budget. The goal is the overall impact results in a balanced budget for the West Virginia Board of Optometry, as the Board has been using its reserve funds to make up for deficits in recent Fiscal Years.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The maximum increase in revenue will be \$29,500 for the WV Board of Optometry due to the increase of \$100 in the annual license renewal fee (approximate, based on the current 295 licensees), but specific amounts will be dependent on how many current licensees renew by the 2026 deadline. This increase will be offset by current annual expenditures that outpace revenue, so the overall increase in revenues will be significantly less.

The figure for the remaining adjusted or created fees cannot be estimated because the exact demand for those fees is unknown. In FY2025 we had zero Telehealth Applicants

In FY2025 we had a total of 20 new license applicants, so if that number stays the same in FY2026, then the extra \$200 per applicant for Laser Certification would be an additional \$4,000.

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

Current Optometry Licensees will pay an extra \$100 per year at renewal time (currently 295, if all renew).

The cost for current licensees who wish to obtain their Laser Certification will be \$200 (optional).

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2025 Increase/Decrease (use "-")	2026 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	29500

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

The long-range effect is to ensure the Board of Optometry has enough funds to be able to continue operating and be budget neutral each Fiscal Year.

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

Yes

Lesley Mccallister--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 5
SCHEDULE OF FEES

§14-5-1. General.

1.1. Scope. -- This schedule establishes the fees to be charged by the Board.

1.2. Authority. -- W. Va. Code §30-8-5.

1.3. Filing Date. -- ~~August 12, 2011.~~

1.4. Effective Date. -- ~~August 15, 2011.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2030.

§14-5-2. Schedule of Fees.

2.1. Application Fee	\$300.00
2.2. Reciprocity Application Fee	\$300.00
2.32. Active License Restoration Fee	\$4500.00
2.43. Temporary Permit Fee.....	\$300.00
2.54. Oral Pharmaceutical Certificate	\$200.00
2.65. Contact Lenses That Deliver Pharmaceuticals Certificate	\$50.00
2.76. Pharmaceuticals By Injection Certificate	\$200.00
2.87. License Card and Certificate	\$100.00
2.98. Duplicate License Card	\$15.00
2.409. Duplicate Certificate.....	\$25.00
2.4410. Annual Renewal Fee.....	\$4500.00
2.4211. Late Renewal Fee	\$200.00
2.4312. Continuing Education Provider Fee	\$50.00
2.4413. Confirmation of Licensure License Verification Fee	\$25.00
2.4514. Business Entity Verification Fee	\$25.00

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2. 46 15. Roster of <u>Active Licensed</u> WV Optometrists (Electronic or Hard Copy)	\$200.00
2. 47 16. Rules and Practice Act (<u>Electronic or Hard Copy</u>).....	\$25.00
2. 48 17. Written Change of Name.....	\$10.00
2. 49 18. Written Change of Address	\$10.00
2. 20 19. Copies of Public Records (Per page).....	\$0 .50
2. 24 20. <u>Delinquent Continuing Education at Renewal Fee</u>	<u>\$200.00</u>
2.21. <u>Telehealth Certification Fee</u>	<u>\$500.00</u>
2.22. <u>Laser Certification Fee</u>	<u>\$200.00</u>

2.243. Fees are payable to the West Virginia Board of Optometry by check, money order, certified check, or credit card.