



WEST VIRGINIA BOARD OF OPTOMETRY

179 Summers Street, Suite 231 • Charleston, WV 25301 • Phone: 304-558-5901 • Fax: 304-558-5908 • Website: optometry.wv.gov

July 23, 2025

The Honorable Kris Warner
West Virginia Secretary of State's Office
State Capitol Complex
1900 Kanawha Blvd East
Charleston, WV 25305

RE: PROPOSED CHANGES TO TITLE 14 LEGISLATIVE RULE WEST VIRGINIA BOARD OF OPTOMETRY SERIES 8 RULES OF THE BOARD OF OPTOMETRY PUBLIC COMMENTS RECEIVED

Dear Secretary Warner,

The West Virginia Board of Optometry ("Board") received one (1) public comment regarding the proposed changes to TITLE 14 LEGISLATIVE RULE WEST VIRGINIA BOARD OF OPTOMETRY SERIES 8 RULES OF THE BOARD OF OPTOMETRY during the public comment period from June 10, 2025 to July 10, 2025.

After reviewing the submitted public comment at our July 18, 2025 Special Board Meeting, the Board believes the rule should continue through the rule-making process as presented without modification.

The rules in question do not address the concerns that the WV Academy of Eye Physicians and Surgeons raised in their July 10, 2025 letter of comment. Instead, their concerns lie with the statutory revisions made to the Board's governing statute with the adoption of SB 565 during the 2025 Legislative Session that became effective July 9, 2025.

The one public comment received is included with this correspondence in its entirety as well as the Board's response to the individual who filed the public comment.

Please contact our office if any additional information is needed regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lesley McCallister".

Lesley McCallister
Executive Director
West Virginia Board of Optometry



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July 23, 2025

Mr. Bryan Brown
West Virginia Academy of Eye Physicians & Surgeons
P.O. Box 4569
Morgantown, WV 26504
Transmitted via email: bryan@browncomm.com

RE: PROPOSED CHANGES TO TITLE 14 LEGISLATIVE RULE WEST VIRGINIA BOARD OF OPTOMETRY SERIES 1 and SERIES 8 RULES OF THE BOARD OF OPTOMETRY PUBLIC COMMENTS RECEIVED

Dear Mr. Brown,

Thank you for your letter from the West Virginia Academy of Eye Physicians & Surgeons and public comment received via email on July 10, 2025 regarding the proposed changes to the TITLE 14 LEGISLATIVE RULE WEST VIRGINIA BOARD OF OPTOMETRY SERIES 1 AND SERIES 8 RULES OF THE BOARD OF OPTOMETRY during the public comment period from June 10, 2025 to July 10, 2025.

After reviewing your public comment at our July 18, 2025 Special Board Meeting, the Board believes Rule 14-1 and Rule 14-8 should both continue through the rule-making process as presented without modification.

The rules in question do not address the concerns that the West Virginia Academy of Eye Physicians and Surgeons raised in their letter of comment. Instead, those concerns lie with the statutory revisions made to the Board's governing statute with the adoption of SB 565 during the 2025 Legislative Session that became effective July 9, 2025.

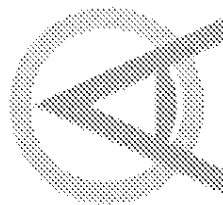
Please contact our office if you have any questions or additional information is needed.

Sincerely,

A handwritten signature in cursive script that reads "Lesley McCallister".

Lesley McCallister
Executive Director
West Virginia Board of Optometry

West Virginia
Academy Of
Eye Physicians
& Surgeons



PO Box 4560, Morgantown, WV 26504, (304) 546-5500

July 10, 2025

Ms. Leslie McCallister
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301

RE: Comments on Proposed Emergency Rules 14-01 and 14-08 2025

Dear Ms. McCallister,

On behalf of the physician members of the West Virginia Academy of Eye Physicians and Surgeons (WVAEPS), we are writing to submit comments regarding the proposed Emergency Rules 14-01 *Rules of the West Virginia Board of Optometry* and 14-08 *Optometry Licensure by Reciprocity* in response to the passage of Senate Bill 565 during the 2025 Legislative Session.

The new statute raises serious concerns about potential regulatory loopholes created by the inclusion of the phrase: "...**including, but not limited to**, a training requirement that at a minimum of five posterior capsulotomy, four peripheral iridotomy and five selective laser trabeculoplasty procedures be supervised..."

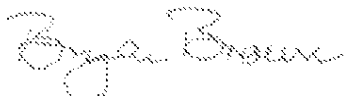
This clause introduces ambiguity. Specifically, it raises several critical questions not addressed in the proposed Rules:

1. Does the phrase "including, but not limited to" permit licensees from other states — such as Kentucky — who have completed only *one* supervised procedure to be certified in WV or other states like Oklahoma that require none without meeting the minimum numeric thresholds?
2. How will the Board ensure consistent enforcement if the rule simultaneously requires specific minimums while also remaining open-ended?
3. Does the Board intend to accept "alternative forms of training" in lieu of the 5—4—5 supervised procedures for any licensee? if so, what qualifies?
4. Is there a formal process for evaluating the substantial equivalency of training from other jurisdictions?
5. How will this rule be interpreted in the case of practitioners who were certified years ago but who do not currently perform surgery in states?
6. Does this language open the Board to legal challenge for *unequal treatment* if it accepts lower standards for out-of-state licensees but holds in-state applicants to stricter thresholds or if it requires higher standards for out-of-state licensees but holds in-state applicants to lower thresholds?
7. Will this create a perverse incentive for those optometrists planning to practice in WV in the future to obtain "quick" laser certification with lower standards from an out-of-state board, only to later request licensure by reciprocity or a certification waiver?

8. The proposed weakening of clinical entry standards in neighboring states such as Kentucky — including dropping Part I of the NBEO Exam for the Canadian exam — could pose a substantial challenge to West Virginia's laser certification process. While licensure by reciprocity may remain a viable policy for general optometric practice, it should not provide automatic eligibility for laser certification. Will practitioners who have never passed foundational competency exams be allowed to meet minimum supervised laser training standards in West Virginia?

As such, the West Virginia Academy of Eye Physicians and Surgeons strongly believes that the West Virginia Board of Optometry needs to address these serious questions.

Sincerely,



Bryan Brown
Director