

WEST VIRGINIA
SECRETARY OF STATE

BETTY IRELAND

ADMINISTRATIVE LAW DIVISION

Form #5

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

CITE AUTHORITY: W. Va. Constitution, Article XII, §2, W. Va. Code §§17C-12-3, 17C-14-12, 18-2-5, 18-5-13, 18-8-1 and Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W.Va. Code §§29A-3B-1, et seq.; W.Va. Board of Education v. Hechler, 180 W.Va. 451; 376 S.E.2d 839 (1988).

AMENDMENT TO AN EXISTING RULE: YES X NO _____

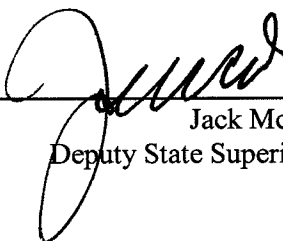
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 92

TITLE OF RULE BEING AMENDED: West Virginia School Bus Transportation Policy and Procedures Manual (4336)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS October 14, 2008.



Jack McClanahan
Deputy State Superintendent of Schools

EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: *4336, West Virginia School Bus Transportation Policy and Procedures Manual*

Background: The West Virginia Legislature amended West Virginia Code §18A-2-4 that addresses intra state waivers for bus operators diagnosed with diabetes mellitus requiring insulin and West Virginia Code §18-2E-5d, that addresses standards for the duration of school bus transportation times for students to and from school. The revision of this policy also includes the prohibition of cellular phones and other electronic device usage, the usage of county transportation systems for public and private non-profit organization transportation to educational and cultural events, guidelines and requirements for school bus routing, updated certification requirements, increased training requirements, requirements for counties when leasing charter bus transportation and an update of the loading and unloading of student passenger requirements.

Proposals: The purpose of this policy is to provide regulations for the employees of local boards of education, students, and staff pertaining to the transportation of students to and from school and school related events. It sets standards for training, physical examinations, physical performance and administrative requirements.

Impact: The structure of the new policy will provide a parent, school bus operator or interested county school official with better access to the guidelines which govern school bus transportation in the State of West Virginia.

Response to Comments: Typographical and formatting errors were corrected throughout the policy. Section 11 was changed to comply with Federal Motor Carrier Safety Administration regulations. Section 18.5 was updated to reflect the West Virginia law changes as of July. There were 19 comments in favor of chiropractors being allowed to perform bus operator medical examinations and 32 comments against the same.

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OFFICE WEST VIRGINIA
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TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 92
WEST VIRGINIA SCHOOL BUS TRANSPORTATION POLICY AND
PROCEDURES MANUAL (4336)

§126-92-1. General.

1.1. Scope. - This legislative rule provides regulations for school transportation.

1.2. Authority. W. Va. Const., Art. XII, §2, W.Va. Code §§17C-12-3, 17C-14-12, 18-2-5, 18-5-13, 18-8-1, and Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U. S. C. 11431 et seq.).

1.3. Filing Date. - September 12, 2008

1.4. Effective Date. - October 14, 2008

1.5. Repeal of former rule - This legislative rule repeals and replaces W. Va. §126CSR92 "West Virginia Transportation Policy and Procedures Manual (4336)" filed April 19, 2004 and effective May 20, 2004, with the exception of appendices that consist of other legislative rules.

§126-92-2. Incorporation by Reference.

2.1. A copy of the West Virginia School Bus Transportation Policy and Procedures Manual is attached. Copies may be obtained in the Office of the Secretary of State and in the West Virginia Department of Education, Division of Student Support Services.

2.2. These regulations shall be read in conjunction with §126CSR99, West Virginia Board of Education Policy 4373, Student Code of Conduct (Appendix J) and W. Va. §126CSR162, Policy 5902, Employee Code of Conduct, (Appendix D).

§126-92-3. Severability.

3.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.

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WEST VIRGINIA SCHOOL BUS TRANSPORTATION POLICY AND PROCEDURES MANUAL

1. Introduction

1.1 West Virginia Motor Vehicle Code, §17C-14-12 (a), School Bus Regulations, provides that, "The West Virginia Board of Education by and with the advice of the motor vehicle commissioner shall adopt and enforce rules.....to govern the design and operation of all school buses...."

1.2 The Executive Director of the Office of School Transportation (hereinafter, "State Director"), West Virginia Department of Education (hereinafter, "State Department") serves as the liaison with county school systems in the implementation of this policy.

1.3 The object of this manual is to provide guidelines to county school bus transportation systems to insure safe, high quality programs for the students transported to the public schools in West Virginia.

2. Inspection and Maintenance of School Buses

2.1 Pursuant to W.Va. Code §16C-16-2, "Inspection of Vehicles," a member of the West Virginia State Police may stop and inspect a school bus at any time.

2.2 Qualified bus inspectors employed by the State Department may also inspect a school bus at any time.

2.3 All school buses transporting students to school and/or school related events shall be inspected two (2) times annually by a qualified inspector employed by the State Department.

2.4 The State Director shall supervise the scheduling of the school bus inspections.

2.5 Vehicle Inspection

2.5.1 School bus operators shall present to the inspector a valid commercial drivers license, a first aid certificate and a State of West Virginia certification card when requested.

2.5.2 All school buses transporting students shall be inspected and display the inspection certificate.

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2.5.3 The State Director may require additional inspections of school buses.

2.5.4 All school buses used to transport students shall be inspected by West Virginia Department of Education bus inspectors and approved for use after a major repair or accident which would include damage to any steering component, front axle, or frame.

2.5.5 Any school bus used to transport students which is declared unsafe is to be marked with the appropriate rejection sticker.

2.6 New Vehicle Inspection

2.6.1 All new school buses shall be inspected to validate that they meet all state and federal requirements.

2.6.2 A West Virginia Division of Motor Vehicles (hereinafter, "DMV") inspection sticker shall be displayed on all vehicles.

2.7 County School Bus Maintenance

2.7.1 The county school system shall establish a school bus maintenance program. It may be delivered by the county school system or through a private contractor.

2.7.2 The maintenance program shall employ mechanics and service employees skilled in bus maintenance.

2.7.3 The county school system shall insure that the maintenance staff members are annually trained to ensure quality maintenance.

2.7.4 An inventory of the bus vehicle parts shall be completed annually and made available at the county maintenance center.

2.7.5 Maintenance records for buses shall be current and made available at the center.

2.7.6 Preventative maintenance shall be performed on all school buses every two months during the school year, and a maintenance schedule for each school bus shall be posted in the service center.

3. School Bus Passenger Regulations

3.1 The school bus operator shall be in charge of any passengers riding the bus. The school bus operator shall follow the W. Va. §126CSR99, West Virginia Board of Education Policy 4373, "Student Code of Conduct" (hereinafter, "Policy 4373") to provide discipline on school buses.

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3.2 County boards of education will provide training on Policy 4373 to bus operators.

3.3 Enrolling or enrolled students, employees or persons approved previously by a county board of education are the only passengers to be transported by the county school transportation system.

3.4 All students living greater than two miles from their assigned school or nearest bus route will be eligible for school transportation services.

3.5 Twice annually, students will participate in emergency evacuation drills. The first drill is to be completed by October 31 and the second by April 30 of each year.

4. Regulations for Students Transported on School Buses

4.1 Responsibilities of parents. Parents shall:

4.1.1 Provide written guidance regarding any special care a student may need while riding the bus.

4.1.2 Provide supervision at all bus stops until the bus arrives for both pickup and delivery.

4.2 Responsibilities of students. Students shall:

4.2.1 Walk on the left side of the road facing traffic.

4.2.2 Wait on the bus at the designed stop in an orderly manner.

4.2.3 Board the bus in an orderly manner.

4.2.4 Follow the school bus operator's/aide's instructions at all times.

4.2.5 Comply with Policy 4373 (Appendix J)

4.2.6 Be responsible for vandalism that occurs on a seat in which they ride.

4.2.7 Not eat, drink, or place objects in their mouth that may cause a choking hazard while on the bus except for medically necessary foods or medications according to W. Va. §126CSR27 WVBE Policy 2422.8 – "Medication Administration" (Appendix L).

4.2.8 Change seats only with permission of the school bus operator when the bus is not in motion.

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4.2.9 Avoid unnecessary conversation with the school bus operator.

4.2.10 Keep heads and arms inside bus windows at all times.

4.2.11 Report any open exit or released hatch to the school bus operator immediately.

4.2.12 Provide enrollment information to the school bus operator.

Students shall not:

4.2.13 Ride in stepwell or forward of front row seats.

4.2.14 Stand while bus is in motion, at any time a seat is available.

4.2.15 Throw, or pass, any object of any nature into or from the bus through a door or window.

4.2.16 Use profane or obscene language.

4.2.17 Open emergency exits, except during emergencies, unless directed by the school bus operator.

5. Regulations for Transporting Students with Disabilities Requiring Special Transportation

5.1 Students with disabilities' Individualized Education Plan (hereinafter, "IEP"), individualized health care plans, and 504 Plans shall specify the bus modifications and support required for transporting the student when appropriate.

5.2 When transportation of a student with disabilities necessitates a transfer while en route, appropriate supervision at the point of transfer remains the responsibility of the county school system.

5.3 Vehicle requirements for use in transporting students with disabilities shall be guided by W.Va. §126CSR89, WVBE Policy 4334, "Minimum Requirements for Design and Equipment of School Buses for West Virginia."

5.4 The county school system may terminate bus transportation service if the parent persistently fails to meet the bus at a designated stop. For these situations, due process procedures shall be made available to the parents and students.

5.5 The school bus operator and/or the bus aide, when appropriate, shall:

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5.5.1 Assist and supervise students with disabilities.

5.5.2 Complete first aid and Cardio Pulmonary Resuscitation (hereinafter, "CPR") training. School bus operators and school bus aides transporting students with disabilities shall be trained on Section 1 of the "West Virginia School Bus Operators Training Manual."

5.5.3 All school bus operators shall receive six (6) hours initial and one (1) hour of refresher training annually for the transportation of students with special health care needs including the requirements of W. Va. §126CSR25A WVBE Policy 2422.7 – "Standards for Basic Health Care Procedures" (Appendix K).

5.6 The special education director designee and/or school nurse shall provide the following information to the transportation director or designee as specified in Policy 2422.7 – "Standards for Basic Health Care Procedures" (Appendix K).

5.6.1 Student's name and address.

5.6.2 Parent's name, address, home and work telephone numbers.

5.6.3 Emergency health care plan information and/or individualized health care plan.

5.7 When the IEP, individualized health care plan or 504 Plan requires that medicine is to be provided to a student with disabilities while being transported, the procedures shall be in accordance with the Administration of Medication Policy.

5.7.1 Aides shall be delegated to and receive training by the school nurse in medication administration or in the delivery of medication and other basic or specialized health care procedures as specified in Policy 2422.7.

5.8 Parents/guardians of students with disabilities shall assist in the transportation of their child by:

5.8.1 Providing documentation on the special care needed.

5.8.2 Bringing the student to the bus stop and providing the necessary supervision.

5.8.3 Picking up the student at the designated time at the designated bus stop.

5.8.4 Contacting the school bus operator if the child is to be absent.

5.9 The school transportation system shall implement Policy 4373 in conjunction

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with W.Va. 126CSR16, WVBE Policy 2419, "Regulations for the Education of Students with Exceptionalities."

6. Regulations for Transporting Homeless Students

6.1 County boards of education shall ensure compliance with Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act when addressing the needs of homeless children. If a homeless child or youth continues to live in the area served by the local education agency (hereinafter, "LEA") in which the school of origin is located, that LEA shall provide or arrange for the child's or youth's transportation to and from the school of origin.

6.2 If the homeless child or youth continues his or her education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child is living shall agree upon the method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation are to be shared equally.

7. Procedures for Disciplining Students Transported by School Buses

7.1 The school bus operator shall immediately notify the school principal when any transported student has violated Policy 4373. Written notification shall be completed by the school bus operator as soon as possible.

7.1.1 The student to be excluded from the bus shall be notified by the school bus operator. The parents/guardians of the student shall be notified by the school principal/designee.

7.1.2 All students shall be transported until the parent/guardian has been properly notified about the exclusion.

7.1.3 An excluded student shall be readmitted to the bus only after the principal/ designee notifies the school bus operator that the student may be readmitted. Parents/guardians will also be notified by the school principal/designee when their son/daughter may resume riding the bus.

7.1.4 If a student has been disciplined three times in one year by the school bus operator, a conference to discuss the student's disruptive behavior patterns shall be conducted. During the conference, the parent/guardian shall be present with the school bus operator and the principal/designee. If the inappropriate behavior persists, the student may have his/her rights to transportation services suspended for the remainder of the year, to the extent feasible.

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8. Student Conduct on School Buses

8.1 The school bus operator shall display the following major concepts of Policy 4373 in his/her school bus.

8.1.1 All students enrolled in West Virginia public schools shall behave in a manner that promotes a school environment that is nurturing, orderly, safe and conducive to learning and personal-social development.

8.1.2 Students shall help create an atmosphere free from bullying, intimidation, harassment or any other inappropriate behavior.

8.1.3 Students shall demonstrate honesty and trustworthiness.

8.1.4 Students shall treat others with respect, deal peacefully with anger, use good manners and be considerate of the feelings of others.

8.1.5 Students shall demonstrate responsibility, use self-control and be self-disciplined.

8.1.6 Students shall demonstrate fairness, play by the rules, and will not take advantage of others.

8.1.7 Students shall demonstrate compassion and caring.

8.1.8 Students shall demonstrate good citizenship by obeying laws and rules, respecting authority, and by cooperating with others.

8.1.9 Students shall have proper approval to exit the school bus other than their regularly assigned bus stop.

9. Medical Exclusion of Students from a School Bus

9.1 The school nurse or administrator, as per W. Va. §126CSR51, WVBE Policy 2423—"Communicable Disease Control" (Appendix N) and W. Va. Code §18A-5-1 and §18-5-22) shall notify the bus operator when a student shall be excluded from the school bus due to an infectious disease.

9.2 The student will be returned to the bus transportation program when the appropriate medical official has given the student a written statement signifying that the student may again be transported with other students.

10. School Bus Stop Locations

10.1 Ideally, bus stops should be located out of the traffic stream at least .20 miles

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apart.

10.2 For bus stop locations near a railroad crossing, consideration should be given to the traffic flow in the area and to assure that adequate distance is allowed for traffic to clear the railroad tracks. The safety of the general motorists should be taken in consideration.

10.3 With irregular terrain, the highest priority in establishing a bus location should be the safety of the students. Every effort should be made by county school officials to select a safe bus stop with ample waiting areas for students.

10.4 The minimum sight distance should be related to the approved speed of traffic. The approved speed is the posted speed limit, advisory speed limit or a value judged to most accurately represent the prevailing speed at a specific location.

10.5 Sight distance needed on a level grade for essential speeds is as follows:

Speed (mph)	Recommended Sight Distance	Minimum Sight Distance
25	300 feet	139 feet
30	360 feet	176 feet
35	420 feet	219 feet
40	480 feet	263 feet
45	540 feet	314 feet
50	600 feet	369 feet
55	660 feet	432 feet

10.6 The West Virginia Division of Transportation (hereinafter, "DOT") and District Traffic Engineers will provide assistance in the selection and the use of school bus STOP signs which warn motorists of the presence of students at a bus stop. The county shall request the DOT for assistance if needed.

10.7 Bus stops should be located to minimize students walking along unsafe highways.

10.8 A school bus operator shall contact the county transportation director when a bus stop is determined to be unsafe. The county transportation director shall evaluate and take action to relocate the stop to a safer place, if necessary.

10.9 School bus operators are to pick up and discharge students only at the designated locations.

10.10 When possible, a bus stop shall be 200 feet from the crest of a hill or a curve, if the view of approaching traffic is obstructed.

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11. Loading and Unloading of Student Passengers

11.1 Approaching the Stop

11.1.1 Do not change the location of a bus stop without written approval from the appropriate school district official.

11.1.2 When approaching the stop, you should:

11.1.2.a Approach cautiously at a slow rate of speed. Look for pedestrians, traffic, or other objects before, during, and after coming to a stop. Continuously check all mirrors.

11.1.2.b Activate alternating flashing amber warning lights at least 200 feet or approximately 5-10 seconds before the school bus stop or in accordance with state law.

11.1.2.c Continuously check mirrors to monitor the danger zones for students, traffic, and other objects.

11.1.2.d Move as far as possible to the right on the traveled portion of the roadway.

11.1.2.e Bring school bus to a full stop with the front bumper at least 10 feet away from students at the designated stop. This forces the students to walk to the bus so you have a better view of their movements.

11.1.2.f Place transmission in Park, or if there is no Park shift point, in Neutral and set the parking brake at each stop.

11.1.2.g Open service door, if possible, enough to activate alternating red lights when traffic is a safe distance from the school bus.

11.1.2.h Make a final check to see that all traffic has stopped before completely opening the door and signaling students to approach.

11.2 Loading Procedures

11.2.1 Perform a safe stop as described in subsection. Students should wait in a designated location for the school bus, facing the bus as it approaches.

11.2.2 Students should board the bus only when signaled by the driver. Monitor all mirrors continuously.

11.2.3. Count the number of students at the bus stop and be sure

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all students board the bus. If possible, know names of students at each stop.

11.2.4. If there is a student missing, ask the other students where the student is.

11.2.5. Have the students board the school bus slowly, in single file and use the handrail.

11.2.6. The dome light should be on while loading in the dark.

11.2.7. Wait until students are seated and facing forward before moving the bus.

11.2.8. Check all mirrors. Make certain no one is running to catch the bus. If you cannot account for a student outside, secure the bus, take the key, and check around and underneath the bus.

11.2.9. When all students are accounted for, prepare to leave by:

11.2.9.a. Closing the door.

11.2.9.b. Engaging the transmission.

11.2.9.c. Releasing the parking brake.

11.2.9.d. Turning off alternating flashing red lights.

11.2.9.e. Checking all mirrors again.

11.2.9.f. Allowing congested traffic to disperse.

11.2.10. When it is safe, move the bus to enter traffic flow and continue the route.

11.2.11. The loading procedure is essentially the same wherever you load students, but there are slight differences. When students are loading at the school campus, you should:

11.2.11.a. Turn off the ignition switch.

11.2.11.b. Remove key if leaving driver's compartment.

11.2.11.c. Position yourself to supervise loading as required or recommended by your local regulations.

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11.3 Unloading Procedures on the Route

11.3.1 Perform a safe stop at designated unloading areas as described in subsection 11.1.2.

11.3.2. Have the students remain seated until told to exit.

11.3.3. Check all mirrors.

11.3.4. Count the number of students while unloading to confirm the location of all students before pulling away from the stop.

11.3.5. Assure that all exiting students are at his/her authorized stop. Tell students to exit the bus and walk at least 10 feet away from the side of the bus to a position where the driver can plainly see all students.

11.3.6. Check all mirrors again. Make sure no students are around or returning to the bus.

11.3.7. If you cannot account for a student outside the bus, secure the bus and check around and underneath the bus.

11.3.8. When all students are accounted for, prepare to leave by:

11.3.8.a Closing the door.

11.3.8.b. Engaging transmission.

11.3.8.c. Releasing parking brake.

11.3.8.d. Turning off alternating flashing red lights.

11.3.8.e. Checking all mirrors again.

11.3.8.f. Allowing congested traffic to disperse.

11.3.9. When it is safe, move the bus, enter the traffic flow and continue the route.

11.3.9.a.. If you have missed a student's unloading stop, do not back up. Be sure to follow local procedures.

11.4 Additional Procedures for Students That Must Cross the Roadway.

11.4.1 If a student or students must cross the roadway, they should follow these procedures:

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11.4.1.a. Students shall walk approximately 10 feet away from the side of the school bus to a position where you can see them.

11.4.1.b. Walk to a location at least 10 feet in front of the right corner of the bumper, but still remaining away from the front of the school bus.

11.4.1.c. Stop at the right edge of the roadway. The school bus operator should be able to see the student's feet.

11.4.1.d. When students reach the edge of the roadway, they should:

11.4.1.d.1 Stop and look in all directions, making sure the roadway is clear and is safe.

11.4.1.d.2 Check to see if the red flashing lights on the bus are still flashing.

11.4.1.d.3. Wait for the driver's signal before crossing the roadway.

11.4.1.d.4. Upon your signal, the students shall: Cross far enough in front of the school bus to be in your view.

11.4.1.d.5. Stop at the left edge of the school bus, stop, and look again for the driver's signal to continue to cross the roadway.

11.4.1.d.6. Look for traffic in both directions, making sure roadway is clear.

11.4.1.d.7. Proceed across the roadway, continuing to look in all directions.

11.5 Unloading Procedures at School

11.5.a. When unloading at the school you should follow these procedures:

11.5.a.1. Perform a safe stop at designated unloading areas as described in subsection 10.

11.5.a.2. Secure the bus by:

11.5.a.2.A. Turning off the ignition switch.

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- 11.5.a.2.B. Removing key if leaving driver's compartment.
- 11.5.a.2.C. Have the students remain seated until told to exit.
- 11.5.a.2.D. Position yourself to supervise unloading as required or recommended by your state or local regulations.
- 11.5.a.2.E. Have students exit in orderly fashion.
- 11.5.a.2.F. Observe students as they step from bus to see that all move promptly away from the unloading area.
- 11.5.a.2.G. Walk through the bus and check for hiding/sleeping students and items left by students.
- 11.5.a.2.H. Check all mirrors.
- 11.5.a.2.I. Make certain no students are returning to the bus.
- 11.5.a.2.J. If you cannot account for a student outside the bus and the bus is secure, check around and underneath the bus.
- 11.5.a.3. When all students are accounted for, prepare to leave by:
 - 11.5.a.3.A. Closing the door.
 - 11.5.a.3.B. Fastening safety belt.
 - 11.5.a.3.C. Starting engine.
 - 11.5.a.3.D. Engaging the transmission.
 - 11.5.a.3.E. Releasing the parking brake.
 - 11.5.a.3.F. Turning off alternating flashing red lights.
 - 11.5.a.3.G. Turning on left turn signal.
 - 11.5.a.3.H. Checking all mirrors again.
 - 11.5.a.3.I. Allowing congested traffic to disperse.

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11.5.a.4. When it is safe, pull away from the unloading area.

11.6 Special Dangers of Loading and Unloading

11.6.1 Dropped or Forgotten Objects

Always focus on students as they approach the bus and watch for any who disappear from sight.

11.6.2 Handrail Hang-ups

Clothing, accessories or even parts of students' bodies can get caught in the handrail or door as they exit the bus. Closely observe all students exiting the bus to confirm that they are in a safe location prior to moving the bus.

11.7 Railroad-highway Crossing Procedures

11.7.1. Approaching the Crossing:

11.7.1.a. Slow down, including shifting to a lower gear in a manual transmission bus, and test your brakes.

11.7.1.b. Activate hazard lights approximately 200 feet before the crossing. Make sure your intentions are known.

11.7.1.c. Scan your surroundings and check for traffic behind you.

11.7.1.d. Stay to the right of the roadway if possible.

11.7.1.e. Choose an escape route in the event of a brake failure or problems behind you.

11.7.2. At the Crossing:

11.7.2.a. Stop no closer than 15 feet and no farther than 50 feet from the nearest rail, where you have the best view of the tracks.

11.7.2.b. Place the transmission in Park, or if there is no Park shift point, in Neutral and press down on the service brake or set the parking brakes.

11.7.2.c. Turn off all radios and noisy equipment and silence the passengers.

11.7.2.d. Open the service door and driver's window. Look and listen for an approaching train.

11.7.3. Crossing the Track:

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11.7.3.a. Check the crossing signals again before proceeding. Close the entrance door.

11.7.3.b. At a multiple-track crossing, stop only before the first set of tracks. When you are sure no train is approaching on any track, proceed across all of the tracks until you have completely cleared them. Close the driver's window and turn the emergency flashers off and continue your route.

11.7.3.c. Cross the tracks in a low gear. Do not change gears while crossing.

11.7.3.d. If the gate comes down after you have started across, drive through it even if it means you will break the gate.

11.7.4 Special Situations

11.7.4.a Bus Stalls or Trapped on Tracks. If your bus stalls or is trapped on the tracks, get everyone out and off the tracks immediately. Move everyone far from the bus at an angle, which is both away from the tracks and toward the train.

11.7.4.b. Police Officer at the Crossing. If a police officer is at the crossing, obey directions. If there is no police officer and you believe the signal is malfunctioning, call your dispatcher to report the situation and ask for instructions on how to proceed.

11.7.4.c Obstructed View of Tracks. Do not attempt to cross the tracks unless you can see far enough down the track to know for certain that no trains are approaching. Passive crossings are those that do not have any type of traffic control device. Be especially careful at "passive" crossings. Even if there are active railroad signals that indicate the tracks are clear, you must look and listen to be sure it is safe to proceed.

11.7.4.d. Containment or Storage Areas. If it won't fit, don't commit! Know the length of your bus and the size of the containment area at highway-rail crossings on the school bus route, as well as any crossing you encounter in the course of a school activity trip. When approaching a crossing with a signal or stop sign on the opposite side, pay attention to the amount of room there. Be certain the bus has enough containment or storage area to completely clear the railroad tracks on the other side if there is a need to stop. Add 15 feet to the length of the school bus to determine an acceptable amount of containment or storage area.

11.8 In accordance with W.Va. Code §17C-12-7 and §17C-12-9, the school bus operator may report to the appropriate law enforcement official any motorist who violates the state law regarding the stopping of motor vehicles when a school bus is loading and

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unloading.

11.9 Counties shall formulate a policy to assure that a young child's guardian be at the bus stop for pickup and delivery of his/her child.

12. Idling of School Buses

12.1 In normal weather, a school bus operator shall not idle the bus while waiting for or loading students.

12.2 Buses will be allowed to idle when the temperature is 40 degrees Fahrenheit or colder, when the driving windows need to be defrosted, when the safety and comfort of the students is in question, or when emergency dictates.

12.3 School bus operators are prohibited from idling the buses for more than 10 minutes unless defrosting of windows is needed: in this case idling shall be limited to thirty minutes.

13. General Operating Procedures

13.1 The school bus operator shall wear a seat belt as specified.

13.2 The school bus operator shall not knowingly operate an unsafe bus.

13.3 The school bus operator shall possess, in the operator's compartment, a copy of this manual developed by the State Director and a current school bus schedule (by the end of the first month).

13.4 The school bus operator shall not permit any unauthorized person to occupy the driver's seat or tamper with the bus.

13.5 The school bus operator shall observe all speed limits. Truck speed limits apply to school buses. Adverse weather conditions require reduced speeds.

13.6 School bus operators shall use proper signals as required by law when operating a school bus.

13.7 The school bus operator shall not leave the bus when it is running unless the bus is equipped with a lift and with safety interlocks for FMVSS 403 and 404 lift equipment and the driver is assisting the loading or unloading of a student with the lift.

13.8 When the school bus operator leaves the bus, the keys shall be in possession of the operator and the emergency brake engaged with the exception referred to in 13.7.

13.9 The school bus operator shall not drive the bus in reverse while at the school

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or while loading or unloading students except in an emergency. The school bus operator shall use the assistance of a school official or another adult when the situation requires such a movement.

13.10 The school bus operator shall use the route as specified by the County Director/Supervisor of Transportation, unless an emergency authorized by county administrators necessitates a change. The County Director/Supervisor shall conduct a "Potential Hazard Audit" annually prior to the first day of school. (See appendix L)

13.11 All bus schedule changes, made by the County Director/Supervisor of Transportation, shall be communicated to the parents and students as quickly as possible.

13.12 In case of an accident or a mechanical failure while students are being transported, the school bus operator shall provide for the safety of the students and request assistance as soon as possible.

13.13 The school bus operator should only disengage the clutch while making a complete stop or shifting gears.

13.14 The school bus operator shall conduct and supervise emergency exit drills at least twice a year (three times for Pre-K students) (Federal Highway Safety Standard No. 17). Copies of these standards are available through the Office of the State Director. The procedures are as follows:

13.14.1 Drills are to be conducted in a safe place.

13.14.2 School officials shall assist in the drills as the need arises.

13.14.3 The drills shall include exiting through the front and rear door, the use of exist windows, roof hatches and other instruments used to assist with emergencies.

13.14.4 Upon completion, the date of the drills shall be reported to the County Director/Supervisor of Transportation.

13.15 Signage including but not limited to advertisements, banners, photos, stickers, posters, are not permitted to be displayed in or on the school buses except those approved by the State Department's Division of Student Support Services, Office of School Transportation.

13.16 Students transported with baggage, freight or merchandise shall use the following procedures.

13.16.1 Animals are not permitted on a school bus unless it is a certified service animal.

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13.16.2 Only property of students, county property or school property may be transported.

13.16.3 Items too large to be stored on a student's lap or between his/her feet shall be secured in a safe location on the bus. All aisles shall be free of any objects.

13.16.4 Highly flammable materials, firearms, explosives and all deadly or dangerous weapons including aerosol cans are prohibited. Aerosol cans such as windshield de-icer shall be stored in an outside storage box on the school bus.

13.17 Bus Safety Equipment

13.17.1 Approved bus directional triangles shall be carried on each bus and used as a warning device during emergencies. (W.Va. Code §17C-15-39 and §17C-15-40.)

13.17.2 Bus flashing lights (4-way) should also be used in emergencies.

13.17.3 Link-type bus tire chains shall be used when emergency weather conditions dictate or when directed by the County Director / Supervisor of Transportation. School bus operators shall be trained in the installation and use of chains. Automatic chains cannot take the place of regular chains as per manufacturer's specifications.

13.17.4 Fire extinguishers shall be charged and available for use in all school buses.

13.17.5 First aid/body fluid cleanup kits and web cutters shall be readily available in the school bus.

13.18 General Reports

13.18.1 Drivers shall be monitored annually for driver performance by a "state certified" trainer or the county director/supervisor.

13.18.2 School bus operators are to compile monthly reports and submit them to the County Director/Supervisor of Transportation.

13.18.3 The County Director/Supervisor of Transportation shall submit, state reports through the West Virginia Education Information System (hereinafter, "WVEIS") no later than 10 working days following the last day of the school month.

13.18.4 The Bus Fleet Report shall be submitted through WVEIS by June 30 of each year.

13.18.5 All students transported to and from school shall have their transit

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times entered into WVEIS by the end of the second month of school and updated as necessary.

13.18.6 Road hazards are to be reported immediately to the County Director/Supervisor of Transportation.

13.19 Accident Reports

13.19.1 A school bus accident is to be reported when the bus bumps or touches another vehicle, person or object and causes damage.

13.19.2 A verbal report is to be given as soon as possible and a written report provided on the next business day to the County Director/Supervisor of Transportation. Bodily injuries should be reported as per county procedure or policy.

13.19.3 All bus accidents involving bodily injury, a fatality, extensive property damage or structural damage to a school bus shall be reported immediately via phone to the State Director. A written report is to follow to the State Director within one week. All other accidents shall be reported monthly to the State Director.

13.20 Cellular Phones

13.20.1 The use of cellular phones or other portable electronic devices – even those equipped with hands-free devices – while driving is prohibited

13.20.2 The use of cellular phones while supervising the loading and unloading of students is prohibited.

13.20.3 If communication with the Transportation Department is necessary, the bus must be stopped.

14. School Bus Operator Assignments

14.1 Any person accepting employment as a school bus operator shall accept such position with the understanding that the responsibilities involved are his/her primary employment, and that such employment shall not be limited, or interfered with, by any commitment as a result of any other employment.

14.2 Any person who performs responsibilities as a school bus operator shall not be eligible to operate a school bus without a minimum of six (6) consecutive hours of off duty time, for proper rest between the conclusion of the previous day's regularly scheduled afternoon run and immediately prior to the beginning of the next day's regularly scheduled morning run. Also:

14.2.a. More than 10 hours following 8 consecutive hours off duty; or

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14.2.b. For any period after having been on duty 15 hours following 8 consecutive hours off duty.

14.2.c. No school bus operator shall drive a passenger-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, for any period after:

14.2.c.1. Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or

14.2.c.2. Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

15. Criteria for the Certification of School Bus Operators

15.1 All school bus operator candidates shall be initially certified by the State Superintendent of Schools (hereinafter "State Superintendent") at the request of the county or the public institution seeking to regularly employ them. All school bus operators' certification shall be renewed on an annual basis at the request of their current or intended employer for the upcoming school year.

15.1.a. Professional personnel hired to drive board owned, rented or leased vehicles with less than 10 passenger capacity shall have a valid driver's license and need not be certified by the State Superintendent.

15.2 The school bus operator candidate shall meet the following criteria to be certified:

15.2.1 The candidate shall be at least 21 years of age.

15.2.2 The candidate shall have a high school diploma or a General Equivalent Diploma (hereinafter, "GED").

15.2.3 The candidate shall have at least three years of driving experience as a licensed operator of any vehicle and be eligible to obtain a valid commercial driver's license permit. A permit will allow the candidate to take the required on-road training.

15.2.3.a. The candidate shall complete a form granting the employing county permission to obtain his or her driving record from the West Virginia Department of Motor Vehicles (hereinafter, "DMV") of the appropriate state(s). Appendix E contains a sample permission form to be used for the West Virginia DMV and a sample cover letter to accompany the executed form.

15.2.4 The candidate shall submit to the county or institution seeking to employ him or her a certification application completed on the State Department

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form, attached as Appendix H in addition to a set of fingerprints for analysis as set forth in Section 15.2.10 below. The county shall forward the application form and fingerprint card(s) to the State Department.

15.2.5 All candidates for initial school bus operator certification shall be fingerprinted by the West Virginia State Police or its designee. The fingerprints shall be analyzed by the state police for a state criminal history record check through the central abuse registry record and then forwarded to the Federal Bureau of Investigation for a national criminal history record check.

15.2.5.a. Information contained in either the central abuse registry record or the Federal Bureau of Investigation record may form the basis for the denial of a certificate for cause in accordance with W.Va. Code §18A-3-2a and §18A-3-10.

15.2.5.b. State Analysis for Employment within Ninety Days. - Upon written consent to the State Department by the candidate and within ninety days of the state fingerprint analysis, the results of a state analysis may be provided to a county board or institution with which the candidate is applying for employment without further cost to the candidate.

15.2.5.c. Disclosure Provisions. - Information maintained by the State Department or a county board which was obtained for the purposes of W.Va. Code §18A-3-10 is exempt from disclosure as provided by W.Va. Code §29B-1-4. Disclosure or publication of information in a statistical or other form that does not identify the individuals involved or provide personal information is not prohibited.

15.2.6. The candidate shall successfully complete a minimum of 40 hours of non-driving instruction provided by the county or institution seeking to employ the candidate from the West Virginia School Bus Operators Instruction Manual, including Policy 5902, Policy 4373 and Policy 2421.

15.2.7 The candidate shall successfully complete a minimum of twelve hours on-the-road training including 2 hours of night driving by the county or institution in the operation of school bus with a certified school bus operator instructor on board and no student passengers.

15.2.8 The candidate shall receive appropriate training by the county or institution in the transportation of special education students. (See Section 5 of this manual.)

15.2.9 The candidate shall have first aid and CPR certification from a program approved by the State Director.

15.2.10. The candidate shall pass a physical examination from a Medical

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Examiner, defined by the Federal Motor Carrier Safety Administration (hereinafter "FMCSA") regulations to be doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses and doctors of chiropractic (hereinafter "Medical Examiner"). The medical examiner shall meet all requirements and regulations set forth by the FMCSA.

15.2.10.a. The examination shall be conducted not earlier than six months prior to taking the State Department certification tests.

15.2.10.b Physical examinations shall be recorded on the State Department Medical Examination Report form by the Medical Examiner as found in Appendix G.

15.2.10.c. The examination required by the Department of Transportation for a commercial driving license may be used if within the six month time frame.

15.2.10.d. The physical examination shall cover all health issues set forth in section 17 below. Prior to employment, the examination must also demonstrate that the applicant is free of tuberculosis by a tuberculin skin test, chest x-ray or physician's certification.

15.2.11. The candidate shall be subject to pre-employment drug testing for the use of certain controlled substances and alcohol as per all regulations of the U. S. Department of Transportation, the Omnibus Transportation Employment Testing Act (hereinafter, "OTETA").

15.2.12. Prior to the candidate taking any examination or test provided by or administered by the State Department, the candidate shall obtain a commercial driver's license (hereinafter, "CDL") with appropriate endorsements.

15.2.13. The candidate shall pass a written examination provided by the State Department online and administered by the county seeking to employ him or her.

15.2.13.a. The candidate who fails the online examination may retake it three times if necessary during a twelve month period at the discretion of the county or institution seeking to employ him or her.

15.2.14. Upon successful completion of the online examination, the candidate shall pass additional tests on skills and performance administered at the request of the county or institution seeking to employ the candidate by a qualified bus inspector employed by the State Department using vehicles owned or leased by the county.

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15.2.14.a. Should a candidate fail any portion of the skills or performance tests, the remainder of the test(s) shall not be administered.

15.2.14.b. The skills and performance tests shall be administered to a candidate no more than two times annually or three after consultation with the test examiner. Retesting will be done only at the request of the county or institution seeking to employ the candidate.

15.3 The State Superintendent may refuse to certify a candidate for school bus operator who is not of good moral character and physically, mentally and emotionally qualified to perform the duties of school bus operator safely and efficiently. Conduct supporting a refusal to certify includes the following reasons.

15.3.1 Failure to complete and pass any of the following:

15.3.1.a. Physical examination

15.3.1.b. Training provided by the county or public institution

15.3.1.c. Online examination developed by the West Virginia Department of Education

15.3.1.d. Skills and performance tests administered by The West Virginia State Department of Education

15.3.1.e. Drug and alcohol screen

15.3.1.f. Accumulation of six or more points on the candidate's driving record from any state DMV. Points that have been removed by the operation of law shall not be considered.

15.3.1.g. Conviction of one drug/alcohol related driving offense within the last two years. Conviction of two or more drug/alcohol related driving offenses shall permanently bar a candidate from receiving certification.

15.3.1.h. Use or possession of any illegal controlled substance or any controlled substance that is a prescribed medication without a valid prescription, within the last five years as demonstrated by a preponderance of evidence.

15.3.1.i. Pattern of abuse of alcohol within the last five years regardless of the candidate's driving record, as demonstrated by a preponderance of evidence.

15.3.1.j. A criminal background history that otherwise demonstrates a lack of good moral character.

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15.3.1.k. Conduct constituting sexual abuse or assault of a minor whether or not criminally charged, as demonstrated by a preponderance of evidence.

15.4 When the State Director recommends to the State Superintendent that a candidate be denied certification for any reasons set forth in Sections 15.3.1.g through 15.3.1.k, the candidate will receive notice of the recommended denial and afford him or her the opportunity for a hearing in accordance with W.Va. §126CSR94, WVBE Policy 1340, Rules of Procedure for Administrative Hearings and Appeals.

16. Physical Qualifications for School Bus Operators

16.1 The school bus operator shall have no mental, nervous, organic or functional disease or psychiatric disorder and take no medication likely to interfere with his or her ability to operate the bus safely. See Appendix F (Prescription and Over the Counter Medication) as examples of drugs that may interfere with that ability. Any questions regarding this matter will be decided by the school transportation certification advisory board as set forth in paragraph 17.4 below.

16.2 The duties to be performed by a school bus operator include the following:

16.2.1 Walk from the operator's seat to the rear of the bus.

16.2.2 Open all emergency exits.

16.2.3 Install snow chains on a bus.

16.2.4 Raise the hood of a conventional school bus and check oil levels and antifreeze levels.

16.2.5 Remove obstructions from wind shield and under wiper blades.

16.2.6 Adjust all outside mirrors.

16.2.7 Secure a wheelchair.

17. Physical Examination for School Bus Operators

17.1 The school bus operator shall pass a physical examination from a Medical Examiner. This examination shall be conducted no earlier than April 1 to receive certification for the following school term.

17.2 The County Superintendent of Schools (hereinafter "County Superintendent") shall maintain the original of the physical examination of each school bus operator.

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17.2.1 The original of the physical examination of designated Head Start school bus operators is to be sent to the State Director. A copy shall also be filed in the Head Start personnel office.

17.2.2 Physical examinations shall be recorded on the State Department Medical Examination Report form by a Medical Examiner as found in Appendix G.

17.3 The physical examination for all school bus operators shall insure that:

17.3.1 There is no past or present history of convulsive seizures.

17.3.2 There is no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control unless the West Virginia Department of Transportation provides an interstate waiver.

17.3.3 There is no loss of use of joints of either hand that interferes with prehension or power grasping such that the applicant cannot receive or would not be able to renew a CDL with the appropriate endorsements.

17.3.4 Hearing loss in the better ear of the school bus operator shall not be greater than 40 decibels at 500 Hz, 1000 Hz, and 2000 Hz. When needed, an approved hearing aid with back up batteries shall be used by the school bus operator.

17.3.5 There is no current clinical diagnosis of:

17.3.5.a Myocardial infarction

17.3.5.b Angina pectoris

17.3.5.c Coronary insufficiency

17.3.5.d Thrombosis.

17.3.6 There is no cardiovascular disease of a variety that is accompanied by:

17.3.6.a Syncope

17.3.6.b Dyspnea

17.3.6.c Collapse

17.3.6.d Congestive cardiac failure.

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17.3.7 Blood pressure is less than 140 systolic and 90 diastolic or current CDL requirements. If blood pressure equals or exceeds 140/90, the bus operator/applicant shall meet the requirements outlined in FMCSA regulation 49 CFR 391.41 Physical Qualifications for Drivers. If the employee fails the initial blood pressure test, the employee shall provide medical evidence of three separate blood pressure readings below the above levels on three different days within a seven day period prior to certification. These readings shall be certified by a Medical Examiner. When a school bus operator is required to use a pacemaker, his/her return to work shall be approved by a panel of three cardiologists.

17.3.8 While performing school bus operator duties, the school bus operator shall wear a truss for any small hernia. Large hernias shall be surgically repaired.

17.3.9 There is no medical history or clinical diagnosis of the following which interferes with the ability to operate a bus safely:

17.3.9.a Rheumatic disease

17.3.9.b Arthritic disease

17.3.9.c Muscular disease

17.3.9.d Neuromuscular disease

17.3.9.e Vascular disease.

17.3.10 Both eyes are functional and the school bus operator:

17.3.10.a Has distant visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses.

17.3.10.b Does not have monocular vision.

17.3.10.c Has a field of vision no less than 70 degrees in the horizontal meridian of each eye.

17.3.10.d Is able to identify the colors red, green, amber, and blue.

17.3.10.e Wears corrective lenses, if necessary, while operating a bus.

17.3.11 The school bus operator shall have no mental, nervous, organic or functional disease or psychiatric disorder and take no medication likely to interfere with his or her ability to operate the bus safely. See Appendix I (Prescription and Over the Counter Medication) as examples of drugs that may interfere with that ability. Any questions

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regarding this matter will be decided by the school transportation certification advisory board as set forth in paragraph 17.4 below.

17.3.12 All school bus operators shall be subject to pre-employment, random, post accident, and reasonable suspicion drug testing for the use of certain controlled substances and alcohol as per all regulations of OTETA. County boards of education shall provide the State Department, by certified mail, the name and Social Security number of employees who hold safety sensitive positions as described by the OTETA, and who test positive for the tested substances. The State Department shall maintain the positive test records for two years.

17.3.13 The "Medical Examiner" has PRINTED his/her name in the designated area as well as providing his/her signature on the physical form.

17.4 A school transportation certification advisory board shall be convened by the State Superintendent to advise on medical criteria relevant to the certification of school bus drivers.

17.4.1 The school transportation advisory board will consist of health care professionals.

17.4.2 If the school transportation certification advisory board determines a bus driver to have a condition described in paragraph 17.3.10 above, the bus driver may be required to furnish the advisory board with a complete medical report. After receiving the medical report, the advisory board considers the information and advises the State Superintendent as to whether the bus driver should be certified. The final decision will rest with the State Superintendent.

18. Responsibilities of Certified School Bus Operators and Renewal of Certification.

18.1 The school bus operator shall notify the county transportation supervisor and Medical Examiner of any illness or the use of any controlled and/or over-the-counter substance that may interfere with the safe operation of a school bus. See Appendix F (Prescription and Over the Counter Medication) as examples of drugs that may interfere with that ability.

18.2 The County Superintendent has the right to require a physical and/or psychological examination from a designated health care provider when he or she has any reasonable questions regarding the ability of a school bus operator and the safety of students or the sufficiency of an annual physical examination.

18.3 All school bus operators shall be subject to random, post accident, and reasonable suspicion drug testing for the use of certain controlled substances and alcohol as per all regulations of the OTETA.

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18.3.1 County boards of education or institutions shall provide the State Department, by certified mail, the name and Social Security number of any school bus operator who tests positive for the tested substances or who engages in conduct warranting action being taken against certification as set forth in Section 19.

18.4 All school bus operators shall receive at least twelve hours of professional development in transportation related subjects annually as part of the staff development program for job related training for service personnel as set forth in W. Va. §126 CSR 150A, WVBE Policy 5500.02, "County Service Personnel Staff Development Councils."

18.5 All school bus operators shall pass an online examination developed by the State Department and administered by the county or public institution on line.

18.5.1 For a bus operator with regular employee status and continuing contract status who has been employed less than five consecutive years, the test is administered bi-annually and may not be administered more frequently;

18.5.2 For a bus operator with regular employee status and continuing contract status who has been employed at least five consecutive years, the test is administered every third year and may not be administered more frequently; and

18.5.3 For a substitute bus operator or for a bus operator with regular employee status but on a probationary contract, the test is administered annually.

18.5.4 The school bus operator who fails the online examination may retake it.

18.6 The county or public institution currently employing the school bus operator shall submit a request for renewal of certification for the following school term to the State Director showing:

18.6.a Results of the physical examination;

18.6.b Passage of the online examination;

18.6.c Completion of 12 hours of transportation related professional development;

18.6.d Results of an annual report of the operator's DMV record;

18.6.e Current first-aid and CPR certification; and

18.6.f Current CDL and appropriate endorsements.

19. Reasons for Suspension, Revocation or Non-renewal of Certification of School Bus Operators

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19.1 The State Superintendent may suspend, revoke or refuse to renew the certification or impose any condition upon the certification of any school bus operator upon evidence that the school bus operator is not otherwise qualified to perform the duties of school bus operator as set forth below. For purposes of this section, a conviction includes any plea of guilty, conditional pleas or pleas of no contest.

19.1.1 Failure to meet the physical and mental/emotional requirements set forth in Sections 16 and 17 above, as indicated from the results of any physical or psychological examination.

19.1.2 Failure to pass the annual online examination.

19.1.3. Failure to complete the annual minimum 12 hours of transportation related professional development.

19.1.4 Accumulation of ten or more points on DMV driving record following initial certification or conviction of reckless driving, as defined by W. Va. Code § 17C-5-3 or conviction for leaving the scene of an accident involving physical injury or death, as defined by W. Va. Code §17C-4-1, or conviction for obstructing an officer or fleeing an officer as defined by W. VA. Code §61-5-17.

19.1.5 Conviction of a felony.

19.1.6 Conviction of and/or DMV suspension or revocation of license, on a charge of operating a motor vehicle while under the influence of alcohol or controlled substances, or preponderance of evidence presented, such as positive breath or blood test, of operating a motor vehicle under the influence of same. The applicant/employee shall not be certified to operate a school bus for at least two years subsequent to a first offense for such conviction or suspension/revocation. For a second offense certification shall be revoked and refused permanently.

19.1.7 Failure of any drug or alcohol test administered by the school bus operator's employer or submission of an adulterated specimen. The school bus operator shall not be certified to operate a school bus for at least two years subsequent to a positive or adulterated test result. For a second positive test result or adulteration, certification shall be revoked and refused permanently.

19.1.8 Demonstration of a preponderance of evidence or by conviction that the school bus operator is an abuser of alcohol, or lawfully prescribed controlled substances or a user of illegal controlled substances or controlled substances not lawfully prescribed.

19.1.9 Conviction of any sexual assault or abuse charge. The school bus operator may also have certification renewal refused or certification suspended or revoked

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when it is shown by a preponderance of evidence that he/she has sexually assaulted or sexually abused any person, or engaged in a consensual sexual or amorous relationship with a student.

19.1.10 Demonstrations by a preponderance of evidence of frequent violations of traffic laws, sound safety practices, regulations or ordinances, or any single violation that threatened the safety of student passengers, or other users of streets or highways.

19.1.11 Violation of Policy 5902, "Employee Code of Conduct" that has a rational nexus or relationship to the performance of a school bus operator's duties.

20. Procedures for Due Process on the Recall of School Bus Operator's Certification

20.1 When the State Superintendent receives information concerning any of the violations set forth in Section 18, or any other conduct that would justify the recall, refusal or suspension or the imposition of any condition upon the certification of any school bus operator, the certification holder shall be notified of the pending action against him/her and afforded the opportunity for a hearing in accordance with W.Va. §126CSR94, West Virginia Board of Education Policy 1340, "Rules of Procedure for Administrative Hearings and Appeals."

21. Guidelines for Curricular and Extracurricular Trips

21.1 County boards of education providing transportation for students participating in curricular and extracurricular activities shall require participating school officials to submit a planned schedule to the County Superintendent or his/her designee for approval. Procedure shall be as follows:

21.1.1 The County Director/Supervisor of Transportation shall receive a copy of the approved schedule far enough in advance to arrange safe and adequate transportation.

21.1.2 Schedules for approved trips shall not interfere with the regular transportation schedule.

21.1.3 Only school bus operators employed by the county board of education shall operate type A1, A2, B, C, and D buses on such trips.

21.1.4 All school buses used for such trips shall be covered by insurance as provided in W.Va. Code §18-5-13.

21.1.5 Students transported in a school bus on such trips shall, in addition to the school bus operator, be supervised by a least one professional employee of the

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county board of education who shall provide a list of all persons on the bus to the school bus operator. Each additional bus shall be supervised by a professional employee or person approved by the county board and assurances that provisions for specialized health care needs are made if necessary.

21.2 Counties providing curricular and extracurricular transportation shall file through the WVEIS, at the end of each month, a report on curricular and extracurricular trips.

21.3 Professional personnel hired to drive board owned, rented or leased vehicles with less than 10 passenger capacity shall have a valid driver's license.

21.4 Students may be transported to a school-sponsored activity in a vehicle that has a seating capacity of sixteen or more passengers which is not owned and operated by the county board only as follows:

21.4.1 Automobile insurance coverage;

21.4.1.a A Certificate of Insurance must be issued as follows:

21.4.1.a.1 The Certificate Holder will be the County
School System

21.4.1.a.2 The Certificate of Insurance must evidence a minimum of \$5,000,000 per occurrence of Auto Liability.

21.4.1.a.3 The certificate should provide for thirty day (30) notice of cancellation. Any Certificate of Insurance limited to a specific event or date is **not** acceptable.

21.4.1.a.4 Acceptance will be for all locations and operations of the school system.

21.4.1.a.5 In order for the charter bus company to remain eligible to provide service a **new** Certificate of Insurance **must** be supplied to the county school system whenever the insurance is **renewed**, which normally occurs on an annual basis. The school system will **not** contact the bus company before suspending the company from providing charter service due to an expired certificate.

21.4.1.a.6 Any notice from the insurance company that a bus company's insurance has been cancelled for any reason will result in the bus company's suspension from providing charter service to the school system.

21.4.2 Vehicle safety specifications;

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21.4.3 School bus or public transit ratings;

21.4.4 Driver training, certification and criminal history record check;

21.4.5 The vehicle owner shall provide to the county board proof that the vehicle and driver satisfy the requirements of the WVBE rule

21.5 Lease school buses pursuant to rules established by the county board.

21.5.1 Leased buses may be operated only by bus operators regularly employed by the county board.

21.5.2 The lessee shall bear all costs and expenses incurred by, or incidental to the use of, the bus.

21.5.3 The county board may lease buses to:

21.5.3.1 Public and private nonprofit organizations and private corporations to transport school-age children for camps or educational activities

21.5.3.2 Any college, university or officially recognized campus organization for transporting students, faculty and staff to and from the college or university. Only college and university students, faculty and staff may be transported pursuant to this paragraph. The lease shall include provisions for:

21.5.3.2.a Public and private nonprofit organizations, including education employee organizations, for transportation associated with fairs, festivals and other educational and cultural events.

21.5.3.2.b Compensation for bus operators;

21.5.3.2.c Consideration for insurance coverage, repairs and other costs of service; and

21.5.3.2.d Any rules concerning student behavior.

21.5.4 The county board may charge fees in addition to those charges otherwise required by this subsection.

22. Guidelines for School Bus Routing

22.1 The recommended duration of the one-way school bus transportation time for students to and from school under normal weather and operating conditions are as follows:

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22.1.1 For elementary school students, thirty minutes;

22.1.2 For middle school, intermediate school and junior high school students, forty-five minutes; and

22.1.3 For high school students, sixty minutes.

22.2 A county board may not create a new bus route for the transportation of students in any of the grade levels prekindergarten through grade five to and from any school included in a school closure, consolidation or new construction project approved after the first day of July, two thousand eight, which exceeds by more than fifteen minutes the recommended duration of the one-way school bus transportation time for elementary students adopted by the WVBE in accordance with subsection 22.1 of this section unless:

22.2.1 The county board adopts a separate motion to approve creation of the route and request written permission of the WVBE to create the route; and

22.2.2 Receives the written permission of the WVBE to create the route.

22.3 A county board may not create, nor may the WVBE permit, the creation of a new bus route for the transportation of students in any of the grade levels prekindergarten through grade five to and from any school included in a school closure, consolidation or new construction project approved after the first day of July, two thousand eight, which exceeds by more than thirty minutes the recommended duration of the one-way school bus transportation time for elementary students adopted by the WVBE in accordance with subsection 22.1 of this section.

22.4 The WVBE shall provide technical assistance to county boards with the objective of achieving school bus transportation routes for students which are within the recommended time durations established by the state board.

APPENDIX A

SCHOOL BUS OPERATOR'S INSPECTIONS

School bus operators are required to make the appropriate inspection of the school bus and complete specified duties in order to insure the safe transport of all passengers. The following is a list of the required inspections and duties.

1. Pre-Trip Daily Inspections and Duties

The school bus operator shall:

- 1.1 Check tires for proper inflation and condition.
- 1.2 Check wheels for loose hub bolts, wheel lugs, lube leaks, etc.
- 1.3 Check steering for proper functioning of all components.
- 1.4 Check radiator coolant, windshield washer fluid, power steering fluid, oil and fuel.
- 1.5 Check alternator, fan and power steering belts.
- 1.6 Check lighting system(s), windshield wiper/washer and horn.
- 1.7 Check brakes, including warning light and buzzer.
- 1.8 Check all emergency exits.
- 1.9 Check first aid kit, fire extinguisher, communication system(s) and emergency traffic warning devices.
- 1.10 Check back-up alarm.
- 1.11 Check stop arm and crossing arm.
- 1.12 Check exhaust for leaks to determine, as far as possible, that fumes are not reaching the bus interior.
- 1.13 After each run, walk to the rear of the bus and check for students, objects left on bus, and vandalism.
- 1.14 Sweep the floor and dust the seats immediately following the morning run.
- 1.15 Clean windshield, windows, mirrors, all light lenses and identification lettering.

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- 1.16 Keep stepwell and aisle clean and free of debris.
- 1.17 Remove markings found on walls/ceiling.
- 1.18 Keep loose objects, brooms, tire chains, wheel chair restraints, etc., off the floor.
- 1.19 Keep glove compartment clean and well-organized.
- 1.20 Be sure that there are no aerosol cans inside the school bus.

2. **Weekly Duties:**

The school bus operator shall:

- 2.1 Mop the school bus floor.
- 2.2 Clean interior upholstery with a damp cloth.
- 2.3 Wash the exterior of the bus.

APPENDIX B

RECOMMENDATIONS FOR COUNTY SCHOOL BUS TRANSPORTATION SYSTEMS

In addition to the pertinent sections of the West Virginia Code and the preceding regulations, the West Virginia Board of Education recommends the following:

1. School bus maintenance center equipment should include:

- 1.1 Hoists, jacks, lifts and/or service pits to enable repair and servicing in a safe and efficient manner.
- 1.2 Adequate diagnostic equipment to facilitate preventive adjustments and repairs.
- 1.3 The necessary tools for efficiency in performing the service.
- 1.4 An adequate place for washing buses, preferably inside.
- 1.5 Adequate storage for stocking and identifying parts.
- 1.6 Protective equipment.

2. Personnel/Staffing

- 2.1 Maintenance center staff shall vary with the number of vehicles to be maintained.
 - 2.1.1 One mechanic for nine buses.
 - 2.1.2 One mechanic and one assistant for a fleet of ten to eighteen buses.
 - 2.1.3 One additional mechanic and one additional assistant for each additional sixteen buses over eighteen.
- 2.2 The county superintendent shall ultimately determine the structure and staff needed to deliver a quality program.

3. Training

Maintenance center personnel shall:

- 3.1 Participate in job related continuing education as approved by the county school service personnel staff development council. A minimum of eighteen

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hours is required annually.

3.2 Participate in specific industry job related maintenance and repair workshops.

3.3 Participate in state and regional job related workshops and seminars.

3.3.1 Those individuals designated as Director of Transportation shall undergo training in school bus operation, emergency procedures and personnel laws and regulations. Annual in-service shall include 6-10 hours of content in safety and transportation.

4. Transportation to Alternative Education Sites

Buses transporting students to these sites should be equipped with the following:

4.1 An effective means of communication such as cellular phone or two-way radio.

4.2 A large mirror in rear of the bus.

4.3 A video camera.

4.4 An aide, another school bus operator or a staff member from the alternative school.

5. Transportation of Students With Disabilities

5.1 It is recommended that buses used to transport students with disabilities should be equipped with cellular telephones and/or two way radios.

APPENDIX C

SCHOOL BUS OPERATOR SAFE DRIVERS' PROGRAMS

National Safety Council - Safe Driver's Award

The West Virginia Board of Education encourages county boards of education to continue their support of the Safe Driver Award Programs sponsored by the National Safety Council.

School Bus Safety Rodeo

The West Virginia Department of Education annually sponsors a "School Bus Safety Rodeo" as a means of developing and refining the bus handling skills of school bus operators.

To maximize the skill development potential, and to recognize those who achieve excellence in school bus handling skills it is recommended that:

School transportation administrators in each county provide, as a part of their school bus operator in-service training, some type of skill development exercise in bus handling.

All school bus operators be given an opportunity to annually participate in a county and/or regional school bus safety rodeo.

All school bus operators who win recognition for their safe driving skills in local competition be provided an opportunity and encouraged to compete in regional and/or state rodeos.

The county school administrators provide the opportunity and encouragement for county school bus operators who win recognition in the state "School Bus Safety Rodeo" to compete in the national event.

APPENDIX D

W.Va. §126CSR162, West Virginia Board of Education Policy 5902, "Employee Code of Conduct"

"Employee" shall include all school personnel employed by a county board of education whether employed on a regular full-time basis or otherwise, and shall include other personnel such as employees of the West Virginia Schools for the Deaf and the Blind, and all employees of West Virginia Department of Education Institutional Education Programs.

All West Virginia school employees shall:

Exhibit professional behavior by showing positive examples of preparedness, communication, fairness, punctuality, attendance, language, and appearance.

Contribute, cooperate, and participate in creating an environment in which all employees/students are accepted and are provided the opportunity to achieve at the highest levels in all areas of development.

Maintain a safe and healthy environment, free from harassment, intimidation, bullying, substance abuse, and/or violence, and free from bias and discrimination.

Create a culture of caring through understanding and support.

Immediately intervene in any code of conduct violation, that has a negative impact on students, in a manner that preserves confidentiality and the dignity of each person.

Demonstrate responsible citizenship by maintaining a high standard of conduct, self-control, and moral/ethical behavior.

Comply with all federal and West Virginia laws, policies, regulations and procedures.

Responsibilities for Implementation:

The West Virginia Department of Education shall provide for the distribution of Policy 5902 to all West Virginia schools.

The West Virginia Department of Education shall provide professional development for county superintendents and principals on Policy 5902.

County boards of education shall provide professional development for all employees on Policy 5902.

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APPENDIX E

WEST VIRGINIA DIVISION OF MOTOR VEHICLES
REQUEST FOR DRIVING RECORDS
(form on following 2 pages)

DMV-101-PS-1
Rev. 06/18/2007

**WEST VIRGINIA DIVISION OF MOTOR VEHICLES
REQUEST FOR DRIVING RECORDS**

This form may be used for multiple requests and a fee of \$5.00 per name must accompany each request. You may duplicate this form or contact the Division of Motor Vehicles for additional forms or any questions by telephoning (304) 558-3900. Driver's license number and last name must be provided. If you do not have the driver's license number, you must provide the social security number and/or date of birth with an additional \$1.00 fee. All fees are non-refundable.

Driver's License Number	Name	Social Security Number	Date of Birth

Please return requested records to the following address:

(Please print Company name, if applicable)

(Mailing address) (City, State and Zip)

(Telephone Number)

Any person may request their own driving record at any DMV regional office. You must provide your state-issued driver's license or state-issued identification card for proof of identification.

All other requests must be sent to the address provided below. You may not obtain information about others without their signed written consent (attached form DMV-101-PS-2) or unless the request is made on company/business letterhead and provides a legitimate and detailed reason for the request as defined in the Uniform Motor Vehicles Records Disclosure Act (17A-2A-1 et seq.). **EACH REQUEST FORM SUBMITTED MUST INCLUDE A COPY OF THE REQUESTOR'S STATE-ISSUED DRIVER'S LICENSE OR STATE-ISSUED IDENTIFICATION CARD.** If you do not meet these requirements, your reason will be reviewed and if accepted, you will receive a driving record that excludes all personal information from the record.

Any person who knowingly or willfully obtains information under false pretenses will be in violation of federal law, and if convicted, will be fined not more than \$1,000 and/or imprisoned not more than one year. I hereby certify that the information obtained from the Division of Motor Vehicles will be used for the sole purpose stated above.

Signature of Requestor: _____ ID Verified By: _____

**A COPY OF YOUR REQUEST MAY BE FORWARDED TO THE PERSON
WHOSE RECORDS YOU ARE REQUESTING.**

If you do not qualify for the information requested, you may submit a Message Forwarding Form. On this form, you may write a message and the Division of Motor Vehicles will forward the form with all information you provide to the licensee at their current address in our records. This service has a non-refundable fee of \$5.00. The Division of Motor Vehicles does not guarantee delivery or a response.

Any request for a driving record other than the individual's own, must be submitted to the WV Division of Motor Vehicles at the address listed below. DMV Regional Offices are prohibited from dispensing driving records to anyone requesting another individual's record.

BEFORE MAILING, BE SURE YOU HAVE INCLUDED: COMPLETED DMV-101-PS-1 FORM, APPLICABLE FEES, COPY OF DRIVER'S LICENSE OR PHOTO ID, LETTERHEAD EXPLANATION AND A COMPLETED DMV-101-PS-2 (IF APPLICABLE).

Please mail your request to: **Division of Motor Vehicles
Insurance Section/ Driving Records
1800 Kanawha Blvd., East, Bldg. 3
Charleston, WV 25317**

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DMV- 101-PS-2
02/14/2008

IF YOUR ATTORNEY OR ANOTHER PARTY INTENDS TO REQUEST INFORMATION ON YOUR BEHALF, PLEASE COMPLETE THE RELEASE AUTHORIZATION SECTION BELOW.

RELEASE AUTHORIZATION

I, _____ / _____
(PLEASE PRINT NAME) (PLEASE SIGN NAME)

hereby authorize the West Virginia Division of Motor Vehicles to release any of my information found within the Division's records to:

(Individual name and Company name, if applicable)

ALL REQUESTORS FOR INFORMATION MUST COMPLETE THE REQUEST FOR DRIVING RECORDS FORM (DMV-101-PS-1) AND THIS FORM (DMV-101-PS-2) OR THE REQUEST WILL NOT BE PROCESSED. THE INDIVIDUAL RELEASED TO RECEIVE INFORMATION MUST INCLUDE A COPY OF THEIR GOVERNMENT ISSUED ID OR DRIVERS LICENSE. ALL REQUESTS FOR INFORMATION MUST HAVE THIS FORM COMPLETED OR THE REQUEST MAY NOT BE PROCESSED.

PLEASE CHECK APPROPRIATE FEE

- \$5.00 - DRIVING RECORD WITH DRIVER'S LICENSE NUMBER
- \$5.00 - CERTIFIED DRIVING RECORD WITH DRIVER'S LICENSE NUMBER
- \$6.00 - DRIVING RECORD WITHOUT DRIVER'S LICENSE NUMBER
- \$6.00 - CERTIFIED DRIVING RECORD WITHOUT DRIVER'S LICENSE NUMBER
- \$5.00 - MESSAGE FORWARDING SERVICE
- \$.25 PER PAGE - COPY OF SUSPENSION/REVOCATION/DISQUALIFICATION FILE

ADMINISTRATIVE HEARING DOCUMENT FEES

- \$1.50 PER PAGE - PRODUCTION OF ORIGINAL TRANSCRIPT OF HEARING
- \$.50 PER PAGE - COPY OF EXISTING TRANSCRIPT OF HEARING
- \$30.00 - COPY OF RECORDED TESTIMONY IN CD FORMAT
- \$25.00 - COPY OF RECORDED TESTIMONY IN CASSETTE FORMAT
- \$15.00 - COPY OF VIDEO TAPE SUBMITTED INTO EVIDENCE

APPENDIX F

<INSERT ORGANIZATION NAME HERE>
**Prescription and Over-The-Counter
Medication Policy**

PURPOSE

The National Transportation Safety Board (NTSB) issued a directive to the Federal Transit Administration (FTA) to educate service agencies on the potential safety risks associated with the use of prescription (Rx) and over-the-counter (OTC) medications by employees who perform (insert job duties here).

In the interest of complying with this directive and protecting employees and others, <INSERT ORGANIZATION NAME HERE> has developed this Rx/OTC policy. As such, all safety-sensitive employees must make sure that any prescribed drug, any over-the-counter medication, or combination of drugs being taken will not adversely impact their job performance. The employee must inform the prescribing medical practitioner of the employee's job duties performed and the medical practitioner must approve the medications to ensure that the employee's job duties can be performed safely.

APPLICABILITY

This policy applies to all (insert applicable positions here). The procedure set forth herein applies only to medications that are to be taken or that would have an effect while at work.

PRESCRIPTION MEDICATIONS

The appropriate use of legally prescribed medications is not prohibited. However, the employee has the responsibility to discuss the potential effects of any prescription medication with the prescribing medical practitioner including its potential to impair mental functioning, motor skills, or judgment. The employee must refrain from performing (insert job duties here) any time their ability to safely perform their job duties is adversely impacted by the use of a prescription medication.

1. A legally prescribed drug means the employee has a prescription or other written approval from a medical practitioner for his/her use of a drug in the course of medical treatment. The written statement must include the employee's name, the name of the substance, quantity/amount to be taken, and the period of authorization.
2. The misuse or abuse of prescription medications is prohibited. Examples of misuse and/or abuse include:

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- a. Use of a medication that is not prescribed by the employee.
- b. The employee exceeds the prescribed dosage.
- c. Use of any medication that contains alcohol within four hours of performing safety-sensitive functions.
- d. The use of any prescription medications that adversely impacts the employee's ability to safely perform his/her assigned duties.

<INSERT ORGANIZATION NAME HERE> requires that all (insert applicable positions here) obtain a statement from their medical practitioner for each medication prescribed indicating whether the employee should be medically disqualified from performing safety-sensitive functions during the duration of the treatment. The statement must be provided to the <insert management title here> where it will be kept in the employee's confidential medical file.

OVER-THE-COUNTER MEDICATIONS

The appropriate use of over-the-counter (OTC) medications is not prohibited. However, the employee has the responsibility to read all warning labels and contraindication notices and if necessary discuss the potential effects of any OTC medication with a medical practitioner or pharmacist including its potential to impair mental functioning, motor skills, or judgment. The employee must refrain from performing a safety-sensitive function any time his/her ability to safely perform their job duties is adversely impacted by the use of OTC medications.

1. The misuse or abuse of OTC medications is prohibited. Examples of misuse and/or abuse include:
 - a. Use of any medication that contains alcohol within four hours of performing safety-sensitive functions.
 - b. The use of any OTC that adversely impacts the employee's ability to safely perform his/her job duties.
 - c. Using an OTC for other than its intended purpose.
 - d. Exceeding the recommended dosage.

<INSERT ORGANIZATION NAME HERE> requires that all (insert applicable positions here) obtain a statement from their medical practitioner or pharmacist for each OTC used that has a warning label or caution that indicates that mental functioning, motor skills, or judgment may be adversely affected. As an example, the warning label might indicate: "May cause drowsiness. Use care when operating a car or heavy machinery." The statement should indicate whether the employee should be medically disqualified from performing safety-sensitive functions during the duration of the treatment. The statement must be provided to the <insert management title here> where it will be kept in the employee's confidential medical file.

MEDICAL DISQUALIFICATION

Ultimately, the employee is the best judge of how a substance is impacting him/her. As such, the employee has the responsibility to inform the medical practitioner/pharmacist of performance

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altering side effects and request medical disqualification from performance of their duties. The employee is encouraged to discuss/consider alternative treatments that do not have the performance altering side effects.

An employee will be medically disqualified from the performance of safety-sensitive functions if the medical practitioner/pharmacist determines that the side effects of the medication being taken pose a potential threat to the safety of co-workers, the public and/or the employee.

The medical practitioner/pharmacist determination is subject to review by the <INSERT ORGANIZATION NAME HERE> company physician. The company physician may consult with the medical practitioner/pharmacist to obtain additional information as necessary. Based on the information provided, the company physician may determine that the employee should be medically disqualified. The company physician's decision will be deemed final.

The medical practitioner/pharmacist statements and any other medical information obtained through this process are confidential information and will be maintained in confidential medical files in the <INSERT ORGANIZATION NAME HERE> office.

PROCEDURAL GUIDELINES

The employee has the responsibility to assess his/her fitness for duty while using Rx/OTC prescription medication. As such, the employee has the following responsibilities:

- The employee has the responsibility to discuss the potential effects of any OTC drug with a medical practitioner or pharmacist, including any adverse impact on the safe performance of their job duties. The employee is encouraged to discuss with their medical practitioner/pharmacist alternative treatments that do not have performance altering side effects.
- The employee has the responsibility to inform the medical practitioner/ pharmacist of performance altering side effects experienced and request medical disqualification from the performance of safety-sensitive job duties.
- The employee must have medical practitioner/pharmacist determine if he/she should be medically disqualified from the performance of safety-sensitive job duties based on the side effects of the OTC. The employee must subsequently request the medical practitioner/pharmacist to complete a statement indicating whether or not the employee should be medically disqualified, and if so, the duration of the disqualification. An example of the form to be used is provided in Appendix A of this policy.
- Employees are required to provide the medical practitioner/pharmacist statement in a sealed envelope to the <insert management title here> . The envelope should be sealed and marked confidential.

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- The employee must notify their immediate supervisor of the duration of his/her medical disqualification. The employee will be immediately removed from duty.
- Employees will be allowed to use their accumulated sick leave, personal time, and/or vacation for the duration of the medical disqualification.

The <INSERT ORGANIZATION NAME HERE> will periodically publish a list of medications that are of the greatest concern. The list will be provided as a guide only and should not be considered all-inclusive. Use of the list to identify potential problem medications does not exempt the employee from the process as defined herein, but should be used to trigger more in depth discussions with the medical practitioner/pharmacist.

CONSEQUENCES OF POLICY VIOLATION

An employee who fails to report the use of an Rx/OTC medication or who performs safety-sensitive functions when his/her performance is being adversely impacted by an OTC medication will be subject to the following discipline.

- Failure to report (1st Offense) <insert disciplinary action here>
- Failure to report (2nd Offense) <insert disciplinary action here>
- Performance of safety-sensitive function when adversely impacted by OTC medication <insert disciplinary action here>
- Falsification of medical practitioner/pharmacist statement Discharge

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APPENDIX G

West Virginia Department of Education Medical Examination Form for Bus Operators
(on next 8 pages

Medical Examination Report

The West Virginia Department of Education

1. DRIVER'S INFORMATION Driver completes this section

Driver's Name (Last, First, Middle)	Social Security No.	Birthdate M / D / Y	Age	Sex <input type="checkbox"/> M <input type="checkbox"/> F	New Certification Recertification <input type="checkbox"/> Follow-up <input type="checkbox"/>	Date of Exam
Address	City, State, Zip Code	Work Tel: ()	Driver License No.	License Class <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> Other	State of Issue	
		Home Tel: ()				

2. HEALTH HISTORY Driver completes this section, but medical examiner is encouraged to discuss with driver.

<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Any illness or injury in the last 6 years? Head/Brain injuries, disorders or illnesses Seizures, epilepsy <input type="checkbox"/> medication</p> <p>Eye disorders or impaired vision (except corrective lenses) Ear disorders, loss of hearing or balance Heart disease or heart attack; other cardiovascular condition <input type="checkbox"/> medication</p> <p>Heart surgery (valve replacement/bypass, angioplasty, pacemaker) High blood pressure <input type="checkbox"/> medication Muscular disease Shortness of breath</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Lung disease, emphysema, asthma, chronic bronchitis Kidney disease, dialysis Liver disease Digestive problems Diabetes or elevated blood sugar controlled by: diet <input type="checkbox"/> pills <input type="checkbox"/> insulin <input type="checkbox"/> Nervous or psychiatric disorders, e.g., severe depression medication _____ Loss of, or altered consciousness <input type="checkbox"/></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Fainting, dizziness Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring Stroke or paralysis Missing or impaired hand, arm, foot, leg, finger, toe Spinal injury or disease Chronic low back pain Regular, frequent alcohol use Narcolepsy or habit forming drug use</p>
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For any YES answer, indicate onset date, diagnosis, treatment physician's name and address, and any current limitation. List all medications (including over-the-counter medications) used regularly or recently.

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate.

Driver's Signature _____ Date _____

Medical Examiner's Comments on Health History (The medical examiner must review and discuss with the driver any "yes" answers and potential hazards of medications, including over-the-counter medications, while driving. This discussion must be documented below.)

TESTING (Medical Examiner completes Section 3 through 7) Name: Last, First, Middle,

3. VISION

Standard: At least 20/40 acuity (Snellen) in each eye with or without correction. At least 70 degrees peripheral in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

INSTRUCTIONS: When other than the Snellen chart is used, give test results in Snellen-comparable values. In recording distance vision, use 20 feet as normal. Report visual acuity as a ratio with 20 as numerator and the smallest type read at 20 feet as denominator. If the applicant wears corrective lenses, these should be worn while visual acuity is being tested. If the driver habitually wears contact lenses, or intends to do so while driving, sufficient evidence of good tolerance and adaptation to their use must be obvious. *Monocular drivers are not qualified.*

Numerical readings must be provided.

ACUITY	UNCORRECTED	CORRECTED	HORIZONTAL FIELD OF VISION
Right Eye	20'	20'	Right Eye <input checked="" type="checkbox"/>
Left Eye	20'	20'	Left Eye <input checked="" type="checkbox"/>
Both Eyes	20'	20'	

Applicant can recognize and distinguish among traffic control signals and devices showing standard red, green, and amber colors? Yes No

Applicant meets visual acuity requirement only when wearing: Corrective Lenses

Monocular Vision: Yes No

Complete next line only if vision testing is done by an ophthalmologist or optometrist

Date of Examination Name of Ophthalmologist or Optometrist (print) Tel. No. License No./ State of Issue Signature

4. HEARING

Standard: a) Must first perceive forced whispered voice ≥ 5 ft., with or without hearing aid, or b) average hearing loss in better ear ≤ 40 dB Check if hearing aid used for tests. Check if hearing aid required to meet standard.

INSTRUCTIONS: To convert audiometric test results from ISO to ANSI, -14 dB from ISO for 500Hz, -10dB for 1,000 Hz, -8.5 dB for 2000 Hz. To average, add the readings for 3 frequencies tested and divide by 3.

Numerical readings must be recorded.

a) Record distance from individual at which forced whispered voice can first be heard.

b) If audiometer is used, record hearing loss in decibels. (acc. to ANSI Z24.6-1951)	Right Ear			Left Ear		
	500 Hz	1000 Hz	2000 Hz	500 Hz	1000 Hz	2000 Hz
Average:						

5. BLOOD PRESSURE/PULSE RATE

Numerical readings must be recorded. Medical Examiner should take at least two readings to confirm BP.

Blood Pressure Systolic Diastolic

Driver qualified if less than 140/90

Pulse Rate: Regular Irregular

Record Pulse Rate:

Reading	Category	Expiration Date	Recertification
140-159/90-99	Stage 1	1 year	One year if less than 140/90. One-time certificate for 3 months if 141-159/91-99.
160-179/100-109	Stage 2	One-time certificate for 3 months.	1 year from date of exam if less than 140/90
$\geq 180/110$	Stage 3	6 months from date of exam if less than 140/90	6 months if less than 140/90

6. LABORATORY AND OTHER TEST FINDINGS

Numerical readings must be recorded.

Urinalysis is required. Protein, blood or sugar in the urine may be an indication for further testing to rule out any underlying medical problem. Other Testing (Describe and record)

URINE SPECIMEN	SP. GR.	PROTEIN	BLOOD	SUGAR
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7. PHYSICAL EXAMINATION

Height: _____ (in.) Weight: _____ (lbs.)

Name: Last, _____ First, _____ Middle, _____

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen or is readily amenable to treatment. Even if a condition does not disqualify a driver, the medical examiner may consider deferring the driver temporarily. Also, the driver should be advised to take the necessary steps to correct the condition as soon as possible particularly if the condition, if neglected, could result in more serious illness that might affect driving.

Check YES if there are any abnormalities. Check NO if the body system is normal. Discuss any YES answers in detail in the space below, and indicate whether it would affect the driver's ability to operate a commercial motor vehicle safely. Enter applicable item number before each comment. If organic disease is present, note that it has been compensated for. See *Instructions to the Medical Examiner* for guidance.

YES*	NO	BODY SYSTEM	CHECK FOR:	YES*	NO
		BODY SYSTEM 1. General Appearance	CHECK FOR: Marked overweight, tremor, signs of alcoholism, problem drinking, or drug abuse.		
		2. Eyes	Pupillary equality, reaction to light, accommodation, ocular motility, ocular muscle imbalance, extraocular movement, nystagmus, exophthalmos. Ask about retinopathy, cataracts, aphakia, glaucoma, macular degeneration and refer to a specialist if appropriate.		
		3. Ears	Scarring of tympanic membrane, occlusion of external canal, perforated eardrums.		
		4. Mouth and Throat	Irreparable deformities likely to interfere with breathing or swallowing.		
		5. Heart	Murmurs, extra sounds, enlarged heart, pacemaker, implantable defibrillator.		
		6. Lungs and chest, not including breast examination	Abnormal chest wall expansion, abnormal respiratory rate, abnormal breath sounds including wheezes or alveolar rales, impaired respiratory function, cyanosis. Abnormal findings on physical exam may require further testing such as pulmonary tests and/or xray of chest.		
		7. Abdomen and Viscera			
		8. Vascular System			
		9. Genito-urinary System			
		10. Extremities- Limb impaired. Driver may be subject to SPE certificate if otherwise qualified.			
		11. Spine, other musculoskeletal			
		12. Neurological			

*COMMENTS:

Note certification status here. See *Instructions to the Medical Examiner* for guidance.

- Meets standards in 49 CFR 391.41; qualifies for 2 year certificate
- Does not meet standards
- Meets standards, but periodic monitoring required due to _____
- Driver qualified only for: 3 months 6 months 1 year Other

Temporarily disqualified due to (condition or medication): _____

Return to medical examiner's office for follow up on _____

- Wearing corrective lenses
- Wearing hearing aid
- Accompanied by a _____ waiver/ exemption. Driver must present exemption at time of certification.
- Skill Performance Evaluation (SPE) Certificate
- Driving within an exempt intracity zone (See 49 CFR 391.62)
- Qualified by operation of 49 CFR 391.64

Medical Examiner's signature _____
 Address _____
 Telephone Number _____

If meets standards, complete a Medical Examiner's Certificate as stated in 49 CFR 391.43(h). (Driver must carry certificate when operating a commercial vehicle.)

Physical Qualifications for Drivers

THE DRIVER'S ROLE

Responsibilities, work schedules, physical and emotional demands, and lifestyles among commercial drivers vary by the type of driving that they do. Some of the main types of drivers include the following: turn around or short relay (drivers return to their home base each evening); long relay (drivers drive 9-11 hours and then have at least a 10-hour off-duty period); and straight through haul.

The following factors may be involved in a driver's performance of duties: abrupt schedule changes and rotating work schedules, which may result in irregular sleep patterns and a driver beginning a trip in a fatigued condition; long hours; extended time away from family and friends, which may result in lack of social support; tight pickup and delivery schedules, with irregularity in work, rest, and eating patterns, adverse road, weather and traffic conditions, which may cause delays and lead to hurriedly loading or unloading cargo in order to compensate for the lost time; and environmental conditions such as excessive vibration, noise, and extremes in temperature.

There may be duties in addition to the driving task for which a driver is responsible and needs to be fit. Some of these responsibilities are: lifting, installing, and removing heavy tire chains and inspecting the vehicle. The above tasks demand agility, the ability to bend and stoop, the ability to maintain a crouching position to inspect the underside of the vehicle and frequent entering and exiting of the bus.

In addition, a driver must have the perceptual skills to monitor a sometimes complex driving situation, the judgment skills to make quick decisions, when necessary, and the manipulative skills to control an oversize steering wheel, shift gears using a manual transmission, and maneuver a vehicle in crowded areas.

PHYSICAL QUALIFICATIONS FOR DRIVERS

(a) A person shall not drive a commercial motor vehicle unless he is physically qualified to do so and, except as provided in §391.67, has on his person the original, or a photographic copy, of a medical examiner's certificate that he is physically qualified to drive a commercial motor vehicle.

(b) A person is physically qualified to drive a motor vehicle if that person:

(1) Has no loss of a foot, a leg, a hand, or an arm, or has been granted a Skill Performance Evaluation (SPE) Certificate (formerly Limb Waiver Program) pursuant to §391.49.

(2) Has no impairment of: (i) A hand or finger which interferes with prehension or power grasping; or (ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or has been granted a SPE Certificate pursuant to §391.49.

(3) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

(4) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

(5) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and drive a commercial motor vehicle safely.

(6) Has no current clinical diagnosis of high blood pressure likely to interfere with his ability to operate a bus safely.

(7) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his ability to control and operate a commercial motor vehicle safely.

(8) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a commercial motor vehicle.

(9) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his ability to drive a commercial motor vehicle safely.

(10) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green and amber.

(11) First perceives a forced whispered voice in the better ear not less than 5 feet with or without the use of a hearing aid, or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz and 2,000 Hz with or without a hearing device when the audiometric device is calibrated to the American National Standard (formerly ASA Standard) Z24.5-1951;

(12) (i) Does not use a controlled substance identified in 21 CFR 1308.11 Schedule I, an amphetamine, a narcotic, or any other habit-forming drug.

(ii) Exception: A driver may use such a substance or drug, if the substance or drug is prescribed by a licensed medical practitioner who: (A) is familiar with the driver's medical history and assigned duties; and (B) Has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle; and (13) Has no current clinical diagnosis of alcoholism.

INSTRUCTIONS TO THE MEDICAL EXAMINER

General Information

The purpose of this examination is to determine a driver's physical qualification to operate a commercial motor vehicle (CMV) in interstate commerce according to the requirements in 49 CFR 391.41-49. Therefore, the medical examiner must be knowledgeable of these requirements and guidelines developed by the FMCSA to assist the medical examiner in making the qualification determination. The medical examiner should be familiar with the driver's responsibilities and work environment and is referred to the section on the form, **The Driver's Role**.

In addition to reviewing the **Health History** section with the driver and conducting the physical examination, the medical examiner should discuss common prescriptions and over-the-counter medications relative to the side effects and hazards of these medications while driving. Educate the driver to read warning labels on all medications. History of certain conditions may be cause for rejection, particularly if required by regulation, or may indicate the need for additional laboratory tests or more stringent examination perhaps by a medical specialist. These decisions are usually made by the medical examiner in light of the driver's job responsibilities, work schedule and potential for the conditions to render the driver unsafe.

Medical conditions should be recorded even if they are not cause for denial, and they should be discussed with the driver to encourage appropriate remedial care. This advice is especially needed when a condition, if neglected, could develop into a serious illness that could affect driving.

If the medical examiner determines that the driver is fit to drive and is also able to perform non-driving responsibilities as may be required, the medical examiner signs the medical certificate which the driver must carry with his/her license. The certificate must be dated. Under current regulations, the certificate is valid for two years, unless the driver has a medical condition that does not prohibit driving but does require more frequent monitoring. In such situations, the medical certificate should be issued for a shorter length of time. The physical examination should be done carefully and at least as complete as is indicated by the attached form. Contact the FMCSA at (202) 366-1790 for further information (a vision exemption, qualifying drivers under 49 CFR 391.64, etc.).

Interpretation of Medical Standards

Since the issuance of the regulations for physical qualifications of commercial drivers, the Federal Motor Carrier Safety Administration (FMCSA) has published recommendations called **Advisory Criteria** to help medical examiners in determining whether a driver meets the physical qualifications for commercial driving. These recommendations have been condensed to provide information to medical examiners that (1) is directly relevant to the physical examination and (2) is not already included in the medical examination form. The specific regulation is printed in **italics** and it's reference by section is highlighted.

**Federal Motor Carrier Safety Regulations
-Advisory Criteria-****Loss of Limb:
§391.41(b)(1)**

A person is physically qualified to drive a commercial motor vehicle if that person:
Has no loss of a foot, leg, hand or an arm, or has been granted a Skill Performance Evaluation (SPE) Certificate pursuant to Section 391.49.

**Limb Impairment:
§391.41(b)(2)**

A person is physically qualified to drive a commercial motor vehicle if that person:
Has no impairment of: (i) A hand or finger which interferes with prehension or power grasping; or (ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or (iii) Any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or (iv) Has been granted a Skill Performance Evaluation (SPE) Certificate pursuant to Section 391.49.

A person who suffers loss of a foot, leg, hand or arm or whose limb impairment in any way interferes with the safe performance of normal tasks associated with operating a commercial motor vehicle is subject to the Skill Performance Evaluation Certification Program pursuant to section 391.49, assuming the person is otherwise qualified.

With the advancement of technology, medical aids and equipment modifications have been developed to compensate for certain disabilities. The SPE Certification Program (formerly the Limb Waiver Program) was designed to allow persons with the loss of a foot or limb or with functional impairment to qualify under the Federal Motor Carrier Safety Regulations (FMCSRs) by use of prosthetic devices or equipment modifications which enable them to safely operate a commercial motor vehicle. Since there are no medical aids equivalent to the original body or limb, certain risks are still present, and thus restrictions may be included on individual SPE certificates when a State Director for the FMCSA determines they are necessary to be consistent with safety and public interest.

If the driver is found otherwise medically qualified (391.41(b)(3) through (13)), the medical examiner must check on the medical certificate that the driver is qualified only if accompanied by a SPE certificate. The driver and the employing motor carrier are subject to appropriate penalty if the driver operates a motor vehicle in interstate or foreign commerce without a current SPE certificate for his/her physical disability.

Diabetes**§391.41(b)(3)**

A person is physically qualified to drive a commercial motor vehicle if that person:
Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

Diabetes mellitus is a disease which, on occasion, can result in a loss of consciousness or disorientation in time and space. Individuals who require insulin for control have conditions which can get out of control by the use of too much or too little insulin, or food intake not consistent with the insulin dosage. Incapacitation may occur from symptoms of hyperglycemic or hypoglycemic reactions (drowsiness, semiconsciousness, diabetic coma or insulin shock).

The administration of insulin is, within itself, a complicated process requiring insulin, syringe, needle, alcohol sponge and a sterile technique. Factors related to long-haul commercial motor vehicle operations, such as fatigue, lack of sleep, poor diet, emotional conditions, stress, and concomitant illness, compound the dangers, the FMCSA has consistently held that a diabetic who uses insulin for control does not meet the minimum physical requirements of the FMCSRs.

Hypoglycemic drugs, taken orally, are sometimes prescribed for diabetic individuals to help stimulate natural body production of insulin. If the condition can be controlled by the use of oral medication and diet, then an individual may be qualified under the present rule. CMV drivers who do not meet the Federal diabetes standard may call (202) 366-1790 for an application for a diabetes exemption.

(See Conference Report on Diabetic Disorders and Commercial Drivers and Insulin-Using Commercial Motor Vehicle Drivers at:
<http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Cardiovascular Condition**§391.41(b)(4)**

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse or congestive cardiac failure.

The term "Has no current clinical diagnosis of" is specifically designed to encompass: "a clinical diagnosis of" (1) a current cardiovascular condition, or (2) a cardiovascular condition which has not fully stabilized regardless of the time limit. The term "known to be

accompanied by" is designed to include a clinical diagnosis of a cardiovascular disease (1) which is accompanied by symptoms of syncope, dyspnea, collapse or congestive cardiac failure; and/or (2) which is likely to cause syncope, dyspnea, collapse or congestive cardiac failure.

It is the intent of the FMCSRs to render unqualified, a driver who has a current cardiovascular disease which is accompanied by and/or likely to cause symptoms of syncope, dyspnea, collapse, or congestive cardiac failure. However, the subjective decision of whether the nature and severity of an individual's condition will likely cause symptoms of cardiovascular insufficiency is on an individual basis and qualification rests with the medical examiner and the motor carrier. In those cases where there is an occurrence of cardiovascular insufficiency (myocardial infarction, thromboses, etc.), it is suggested before a driver is certified that he or she have a normal resting and stress electrocardiogram (ECG), no residual complications and no physical limitations, and is taking no medication likely to interfere with safe driving.

Coronary artery bypass surgery and pacemaker implantation are remedial procedures and thus, not unqualifying. Implantable cardioverter defibrillators are disqualifying due to risk of syncope. Coumadin is a medical treatment which can improve the health and safety of the driver and should not, by its use, medically disqualify the commercial driver. The emphasis should be on the underlying medical condition(s) which require treatment and the general health of the driver. The FMCSA should be contacted at (202) 366-1780 for additional recommendations regarding the physical qualification of drivers on coumadin.

(See Cardiovascular Advisory Panel Guidelines for the Medical Examination of Commercial Motor Vehicle Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Respiratory Dysfunction

§391.41(b)(5)
A person is physically qualified to drive a commercial motor vehicle if that person:
Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with ability to control and drive a commercial motor vehicle safely.

Since a driver must be alert at all times, any change in his or her mental state is, in direct conflict with highway safety. Even the slightest impairment in respiratory function under emergency conditions (when greater oxygen supply is necessary for performance) may be detrimental to safe driving.

There are many conditions that interfere with oxygen exchange and may result in incapacitation, including emphysema, chronic asthma, carcinoma, tuberculosis, chronic bronchitis and sleep apnea. If the medical examiner detects a respiratory dysfunction, that in any way is likely to interfere with the driver's ability to safely control and drive a commercial motor vehicle, the driver must be referred to a specialist for further evaluation and therapy. Anticoagulation therapy for deep vein thrombosis and/or pulmonary thromboembolism is not unqualifying once optimum dose is achieved, provided lower extremity venous examinations remain normal and the treating physician gives a favorable recommendation.

(See Conference on Pulmonary/Respiratory Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Hypertension

§391.41(b)(6)
A person is physically qualified to drive a commercial motor vehicle if that person:

Has no current clinical diagnosis of high blood pressure likely to interfere with ability to operate a commercial motor vehicle safely.

Hypertension alone is unlikely to cause sudden collapse; however, the likelihood increases when target organ damage, particularly cerebral vascular disease, is present. This regulatory criteria is based on FMCSA's Cardiovascular Advisory Guidelines for the Examination of CMV Drivers, which used the Sixth Report of the Joint National Committee on Detection, Evaluation, and Treatment of High Blood Pressure (1997).

Stage 1 hypertension corresponds to a systolic BP of 140-159 mmHg and/or a diastolic BP of 90-99 mmHg. The driver with a BP in this range is at low risk for hypertension-related acute incapacitation and may be medically certified to drive for a one-year period. Certification examinations should be done annually thereafter and should be at or less than 140/90. If less than 160/100, certification may be extended one time for 3 months.

A blood pressure of 160-179 systolic and/or 100-109 diastolic is considered Stage 2 hypertension, and the driver is not necessarily unqualified during evaluation and institution of treatment. The driver is given a one time certification of three months to reduce his or her blood pressure to less than or equal to 140/90. A blood pressure in this range is an absolute indication for anti-hypertensive drug therapy. Provided treatment is well tolerated and the driver demonstrates a BP value of 140/90 or less, he or she may be certified for one year from date of the initial exam. The driver is certified annually thereafter.

A blood pressure at or greater than 180 (systolic) and 110 (diastolic) is considered Stage 3, high risk for an acute BP-related event. The driver may not be qualified, even temporarily, until reduced to 140/90 or less and treatment is well tolerated. The driver may be certified for 6 months and biannually (every 6 months) thereafter if at recheck BP is 140/90 or less.

Annual recertification is recommended if the medical examiner does not know the severity of hypertension prior to treatment.

An elevated blood pressure finding should be differentiated by at least two subsequent measurements on different days.

Treatment includes nonpharmacologic and pharmacologic modalities as well as counseling to reduce other risk factors. Most antihypertensive medications also have side effects, the importance of which must be judged on an individual basis. Individuals must be alerted to the hazards of these medications while driving. Side effects of somnolence or syncope are particularly undesirable in commercial drivers.

Secondary hypertension is based on the above stages. Evaluation is warranted if patient is persistently hypertensive

on maximal or near-maximal doses of 2-3 pharmacologic agents. Some causes of secondary hypertension may be amenable to surgical intervention or specific pharmacologic disease. (See Cardiovascular Advisory Panel Guidelines for the Medical Examination of Commercial Motor Vehicle Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Rheumatic, Arthritic, Orthopedic, Muscular, Neuromuscular or Vascular Disease §391.41(b)(7)

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease which interferes with the ability to control and operate a commercial motor vehicle safely.

Certain diseases are known to have acute episodes of transient muscle weakness, poor muscular coordination (ataxia), abnormal sensations (paresthesia), decreased muscular tone (hypotonia), visual disturbances and pain which may be suddenly incapacitating. With each recurring episode, these symptoms may become more pronounced and remain for longer periods of time. Other diseases have more insidious onsets and display symptoms of muscle wasting (atrophy), swelling and paresthesia which may not suddenly incapacitate a person but may restrict his/her movements and eventually interfere with the ability to safely operate a motor vehicle. In many instances these diseases are degenerative in nature or may result in deterioration of the involved area.

Once the individual has been diagnosed as having a rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease, then he/she has an established history of that disease. The physician, when examining an individual, should consider the following: (1) the nature and severity of the individual's condition (such as sensory loss or loss of strength); (2) the degree of limitation present (such as range of motion); (3) the likelihood of progressive limitation (not always present initially but may manifest itself over time); and (4) the likelihood of sudden incapacitation. If severe functional impairment exists, the driver does not qualify. In cases where more frequent monitoring is required, a certificate for a shorter period of time may be issued. (See Conference on Neurological Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

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Epilepsy

§391.41(b)(8)

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

Epilepsy is a chronic functional disease characterized by seizures or episodes that occur without warning, resulting in loss of voluntary control which may lead to loss of consciousness and/or seizures. Therefore, the following drivers cannot be qualified: (1) a driver who has a medical history of epilepsy; (2) a driver who has a current clinical diagnosis of epilepsy; or (3) a driver who is taking antiseizure medication.

If an individual has had a sudden episode of a nonepileptic seizure or loss of consciousness of unknown cause which did not require antiseizure medication, the decision as to whether that person's condition will likely cause loss of consciousness or loss of ability to control a motor vehicle is made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6 month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and antiseizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition and has no existing residual complications, and not taking antiseizure medication.

Drivers with a history of epilepsy/seizures off antiseizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off antiseizure medication for a 5-year period or more.

(See Conference on Neurological Disorders and Commercial Drivers at:

<http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Mental Disorders

§391.41(b)(9)

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with ability to drive a motor vehicle safely.

Emotional or adjustment problems contribute directly to an individual's level of memory, reasoning, attention, and judgment. These problems often underlie physical disorders. A variety of functional disorders can cause drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving. Physical fatigue, headache, impaired coordination, recurring physical ailments and chronic "napping" pain may be present to such a degree that certification for commercial driving is inadvisable. Somatic and psychosomatic complaints should be thoroughly examined when determining an individual's overall fitness to drive. Disorders of a periodically incapacitating nature, even in the early stages of development, may warrant disqualification.

Many bus and truck drivers have documented that "nervous trouble" related to neurotic, personality, or emotional or adjustment problems is responsible for a significant fraction of their preventable accidents. The degree to which an individual is able to appreciate, evaluate and adequately respond to environmental strain and emotional stress is critical when assessing an individual's mental alertness and flexibility to cope with the stresses of commercial motor vehicle driving.

When examining the driver, it should be kept in mind that individuals who live under chronic emotional upsets may have deeply ingrained maladaptive or erratic behavior patterns. Excessively antagonistic, instinctive, impulsive, openly aggressive, paranoid or severely depressed behavior greatly interfere with the driver's ability to drive safely. Those individuals who are highly susceptible to frequent states of emotional instability (schizophrenia, affective psychoses, paranoia, anxiety or depressive neuroses) may warrant disqualification. Careful consideration should be given to the side effects and interactions of medications in the overall qualification determination. See Psychiatric Conference Report for specific recommendations on the use of medications and potential hazards for driving.

(See Conference on Psychiatric Disorders and Commercial Drivers at:

<http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Vision

§391.41(b)(10)

A person is physically qualified to drive a commercial motor vehicle if that person:

Has distant visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

The term "ability to recognize the colors of" is interpreted to mean if a person can recognize and distinguish among traffic control signals, and devices showing standard red, green and amber, he or she meets the minimum standard, even though he or she may have some type of color perception deficiency. If certain color perception tests are administered, (such as Ishihara, Pseudochromatic, Yarn) and doubtful findings are discovered, a controlled test using signal red, green and amber may be employed to determine the driver's ability to recognize these colors.

Contact lenses are permissible if there is sufficient evidence to indicate that the driver has good tolerance and is well adapted to their use. Use of a contact lens in one eye for distance visual acuity and another lens in the other eye for vision is not acceptable, nor telescopic lenses acceptable for the driving of commercial motor vehicles.

If an individual meets the criteria by the use of glasses or contact lenses, the following statement shall appear on the Medical Examiner's Certificate: "Qualified only if wearing corrective lenses."

CMV drivers who do not meet the Federal vision standard may call (202) 366-1790 for an application for a vision exemption.

(See Visual Disorders and Commercial Drivers at:

<http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Hearing

§391.41(b)(11)

A person is physically qualified to drive a commercial motor vehicle if that person:

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid, or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ADA Standard) Z24.5-1951.

Since the prescribed standard under the FMCSRs is the American Standards Association (ANSI), it may be necessary to convert the audiometric results from the ISO standard to the ANSI standard. Instructions are included on the Medical Examination report form.

If an individual meets the criteria by using a hearing aid, the driver must wear that hearing aid and have it in operation at all times while driving. Also, the driver must be in possession of a spare power source for the hearing aid.

For the whispered voice test, the individual should be

stationed at least 5 feet from the examiner with the ear being tested turned toward the examiner. The other ear is covered. Using the breath which remains after a normal expiration, the examiner whispers words or random numbers such as 66, 18,

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APPENDIX H

West Virginia Department of Education Application for Bus Operator Certification
ON NEXT TWO PAGES

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West Virginia Department of Education Application for Bus Driver Certification
Instructions -

Applicant - Submit this document to the County Transportation Director.
Transportation Director - Submit this document to WVDOE with fingerprint card and background check information.

Last Name	First Name	Middle Initial	
Address	City	State	Zip Code
Telephone Number	Cell Phone Number	Email Address	
Date of Birth	Social Security Number	Operator/CDL License Number	

Employment History

Employer Name & Address	Date of Employment (From/To)	Reason for leaving
Employer Name & Address	Date of Employment (From/To)	Reason for leaving
Employer Name & Address	Date of Employment (From/To)	Reason for leaving
Employer Name & Address	Date of Employment (From/To)	Reason for leaving

*Attached additional sheets if needed.

Do you have a High School Diploma or a GED?
 Yes No

Do you have a current CDL license? If so, list the State.
 Yes No State -

Do you currently have a valid operator license? If so, list the State.
 Yes No State -

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West Virginia Department of Education Application for Bus Driver Certification
Instructions -

- Applicant -** Submit this document to the County Transportation Director.
Transportation Director - Submit this document to WVDOE with fingerprint card and background check information.

List all traffic violations within that past 5 years

Violation	Location	Date

•Attached additional sheets if needed.

Disclosure of Background Information

If you answer yes to any question below, SUBMIT with your application a complete narrative. Include dates, locations, school systems, and any other appropriate information.

1) Have you ever had adverse action taken against any application, certificate, or license in any state, including any operator or commercial driver's license? Adverse action includes the following: letter of warning, reprimand, denial, suspension, revocation, voluntary surrender or cancellation.	Yes	No
2) Have you ever been disciplined, reprimanded, suspended, or discharged from any employment because of allegations of misconduct?	Yes	No
3) Have you ever resigned, entered into a settlement agreement, or otherwise left employment as a result of alleged misconduct?	Yes	No
4) Is any action now pending against you for alleged misconduct in any school district, court, or before any educator licensing agency?	Yes	No
5) Have you ever been arrested for or under indictment for a felony? *	Yes	No
6) Have you ever been arrested for a misdemeanor? (For the purpose of this application, all moving traffic violations should be reported) Charges or convictions for driving while intoxicated (DWI) or driving under the influence of alcohol or other drugs (DUI), reckless driving, must be reported. *	Yes	No
* For a YES response to items 5 & 6, the following must be included: 1) Judgment Order --OR-- 2) Final Order --OR-- 3) Magistrate Court Documentation --AND-- 4) all other relevant court documents.		

I swear or affirm under the penalty of false swearing that all information provided in or with this application is true, correct, and complete to the best of my knowledge. I understand that any false statements, misrepresentations, or omissions of fact in or with this application are grounds for denial, suspension, or revocation of the license(s) that I am seeking or currently hold.

 Signature of Applicant

 Date

APPENDIX I

Appendix I

Checklist for Identifying Potential School Bus Route Fixed Driving Hazards

Railroad Grade Crossings

Railroad Grade Crossing Identification Number _____

Location _____

How many tracks are present? _____

What are the times of the scheduled trains? _____

What types of trains use the track? Passenger ____ Freight ____ Commuter

What are the travel speeds of the scheduled trains? _____

1. Are the regulatory signs (crossbucks) clearly visible? _____
2. Are there regulatory devices (lights/gates/bells) present? _____
3. Are there any unique characteristics to the operation of the crossing controls? What are they? _____
4. When stopped approximately 15 feet from the nearest railroad track, is there an unobstructed sight distance of approximately 1,000 feet in both directions? _____
5. Is there at least enough room on the other side of the furthest railroad track for the largest school bus to stop without encroaching on the train's right-of-way? _____
6. Are there any roadway design features that could affect the safe operation of a school bus at the railroad crossing? _____ What are they? _____

Dangerous Intersections and Roadways

Location _____

1. Is this a high-frequency crash location? _____

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Appendix I (continued)

2. Are traffic control devices present? _____
3. Are there visibility obstructions? _____
4. What are they? _____
5. Are there areas with no shoulders? _____
6. Are there peculiar roadway features? _____
7. What are they? _____

Bridges, Tunnels/Underpasses and Overpasses

Location _____

1. Is the weight capacity of the bridge/overpass sufficient for a fully-loaded school bus?

2. Is the height of the tunnel/underpass adequate for the tallest school bus, including open roof hatches? _____
3. Is the lane width of the bridge, tunnel/underpass, or overpass adequate for the widest school bus, including the mirrors? _____

Queuing/Storage Areas

Location _____

1. Is there sufficient area for the largest school bus in the acceleration/deceleration lane?

2. Is there sufficient area for the largest school bus in the median area between a multi-lane road? _____
3. Is there sufficient area for the largest school bus in the turning lane? _____

Industrial Intersections and Construction Zones

Location _____

1. Do heavy vehicles enter/exit/cross the roadway frequently? _____

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Appendix I (continued)

2. Are there highway signs alerting drivers of the industrial/construction traffic? _____
3. Are there traffic controls in the area? _____

Steep Downgrades

Location _____

1. Are there highway signs alerting drivers to the downgrade? _____
2. Are there signs alerting drivers to "Check Brakes"? _____
3. Are there areas marked and designated for vehicles to safely leave the road (runoff areas)? _____

Areas of Significant Speed Differential Between Vehicles

Location _____

1. Is there sufficient space to accelerate/decelerate a school bus when entering/exiting a high-speed road? _____
2. Does slow-moving farm equipment operate on the road? _____
3. Do non-motorized vehicles, e.g., horse-drawn carriages, operate on the road? _____
4. Are there roadway conditions, e.g., mountainous terrain, that result in vehicles operating at high speeds and low speeds? _____
What are they? _____

Pedestrian Areas

Location _____

1. Are there difficulties seeing pedestrians at school bus stops? _____
2. Are there narrow streets with parked vehicles where children may run into the street?

Appendix I (continued)

3. Are there areas of heavy pedestrian congestion, e.g., shopping and business areas?
- _____

Other Conditions Identified in Local Area

Location _____

1. Are there unique roadway conditions?
- i. roads without guardrails that pose a danger, e.g., next to rivers, lakes, quarries? _____
- ii. dirt or gravel roads that could affect braking? _____
2. Others? What are they? _____
3. Are there roadway conditions that make it difficult to make a “right turn on red?” _____
- a. What are they? _____
4. Are there areas with visibility problems due to industrial smoke, air quality, etc.?
5. Are there areas where emergency equipment operate on a regular basis, e.g., fire stations or hospitals? _____

APPENDIX J

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 99
STUDENT CODE OF CONDUCT (4373)

§126-99-1. General.

1.1. Scope. -- This rule sets the requirements for the conduct of students in West Virginia schools in order to assure a nurturing and orderly, safe, drug-free, violence- and harassment-free learning environment that supports student academic achievement and personal-social development.

1.2. Authority. -- W. Va. Constitution, Article XII, §2, and W. Va. Code §§16-9A-4, 16-9A-9, 17A-1-1, 18-2-5, 18-2-5a, 18-2-7b, 18-2-9, 18-2-33, 18-2C-1 et seq., 18-5-1, 18-5-13, 18-16-1, 18A-1-1, 18A-5-1, 18A-5-1a, 60A-1-101, 60A-7-11a, 61-2-15, 61-7-2, and 61-7-11a.

1.3. Filing Date. -- December 16, 2002.

1.4. Effective Date. -- July 1, 2003.

1.5. Repeal of Former Rule. -- This legislative rule revises W.Va. §126CSR99, "Student Code of Conduct" (Policy 4373) filed June 7, 2002 and effective July 7, 2002. This policy is to be read in conjunction with W.Va. §126CSR18, "Racial, Sexual, Religious/Ethnic Harassment and Violence Policy" (Policy 2421), and W.Va. §126CSR98, "Student Handbook - Student Rights and Responsibilities" (Policy 4372).

§126-99-2. Purpose.

2.1. The West Virginia Board of Education recognizes the need for students, teachers, administrators, and other school personnel to have a nurturing and orderly, safe, and stimulating educational environment. The purpose of these regulations is to provide West Virginia school districts with a policy of student conduct that will ensure an orderly and safe environment that is conducive to learning. These regulations also require that West Virginia's public schools respond immediately and consistently to incidents of harassment, intimidation, bullying, substance abuse and/or violence or other Student Code of Conduct violations in a manner that effectively deters future incidents and affirms respect for individuals. These regulations require county boards to design and implement prevention and response programs, to outline investigatory and reporting procedures, and to delineate penalties for violations of this policy. The West Virginia Board of Education believes further that public schools should undertake proactive, preventive approaches to

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ensure a nurturing and orderly and safe school environment that fosters learning and personal-social development. Public schools must create, encourage, and maintain a safe, drug-free, and fear-free school environment in the classroom, on the playground, and at school-sponsored activities. Assuring such an educational environment requires a comprehensive program supported by everyone in the school organization, as well as parents/guardians, and the community. Any form of harassment, intimidation, bullying, substance abuse, violence, or other policy violation is unacceptable in West Virginia schools.

§126-99-3. Student Code of Conduct.

3.1. All students enrolled in West Virginia public schools shall behave in a manner that promotes a school environment that is nurturing, orderly, safe and conducive to learning and personal-social development.

3.1.1. Students will help create an atmosphere free from bullying, intimidation and harassment.

3.1.2. Students will demonstrate honesty and trustworthiness.

3.1.3. Students will treat others with respect, deal peacefully with anger, use good manners and be considerate of the feelings of others.

3.1.4. Students will demonstrate responsibility, use self-control and be self-disciplined.

3.1.5. Students will demonstrate fairness, play by the rules, and will not take advantage of others.

3.1.6. Students will demonstrate compassion and caring.

3.1.7. Students will demonstrate good citizenship by obeying laws and rules, respecting authority, and by cooperating with others.

APPENDIX K

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 25A
STANDARDS FOR BASIC AND SPECIALIZED
HEALTH CARE PROCEDURES (2422.7)

§126-25A-1. General.

1.1. Scope. - This legislative rule establishes standards for certified school nurses to assess student health needs and to decide who is best skilled to respond to them.

1.2. Authority. - W.Va. Constitution, Article XII, §2, W.Va. Code §§18-2-5, 18-5-22, 18-5-22a, 18-5-22b, 30-7-1, et seq. and 30-7A-1, et seq.

1.3. Filing Date. - September 15, 2004.

1.4. Effective Date. - October 15, 2004.

1.5. Adoption by reference. - Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools.

§126-25A-2. Purpose.

2.1. Good health is essential to student learning. This policy establishes the standards that must be followed in providing for students with health care needs. The resulting Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools was designed for use by certified school nurses in West Virginia to assure safe, consistent provision of health care.

§126-25A-3. Definitions.

3.1. Basic Health Care Procedures are defined as procedures performed by school personnel to ensure that health and safety needs of students are met.

3.2. Cardiopulmonary Resuscitation (CPR) is defined as possession of a current valid certificate from an approved training program for adult, child and infant CPR, e.g. American Heart Association/American Red Cross.

3.3. Certified School Nurse is defined as a registered professional nurse, who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses (W.Va. Code §30-7-1, et seq.), who has completed a West Virginia Department of Education approved program as defined in the West Virginia Board of Education Policy 5100: Approval of Educational Personnel Preparation

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Programs (W.Va.126CSR114), and meets the requirements for certification contained in West Virginia Board of Education Policy 5202: Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications (W.Va. 126CSR136) (hereinafter Policy 5202). The certified school nurse must be employed by the county board of education or the county health department as specified in W.Va. Code §18-5-22.

3.4. Contracted Licensed Health Care Provider is defined as a licensed health care provider, as set forth in Section 3.9 of this policy, providing health care services under contract with county boards of education. Health care services may be contracted after the ratio of one nurse for every 1,500 students, kindergarten through seventh grade, is provided to county schools.

3.5. Contracted School Nurse is defined as an employee of a public health department providing services under a contract with a county board of education to provide services considered equivalent to those required in W.Va. Code §18-5-22.

3.6. First Aid is defined as a training course in emergency treatment that is administered to an injured or sick person before professional medical care is available. This training will be coordinated by the school nurse.

3.7. Health Assessment is defined as the process by which the certified school nurse obtains student health data. This assessment is comprehensive, systematic and continuous to allow the certified school nurse to make a nursing diagnosis and plan for interventions with the student, family, school staff and licensed prescriber when necessary.

3.8. Health Care Plan is defined as the written document developed by the certified school nurse which includes a nursing diagnosis, is individualized to the student's health needs and consists of specific goals and interventions delineating the school nursing actions, delegated procedures and student's role in self care.

3.9. Licensed Health Care Provider is defined as a medical doctor or doctor of osteopathy, podiatrist, registered nurse, practical nurse, registered nurse practitioner, physician assistant, dentist, optometrist, pharmacist or respiratory care professional licensed under Chapter Thirty of W.Va. Code.

3.10. Licensed Practical Nurse is defined as a person who has met all the requirements for licensure as a practical nurse and who engages in practical nursing under the direction of a Registered Professional Nurse as defined in W.Va. Code §30-7A-1, et seq.

3.11. Licensed Prescriber is defined as a licensed health care provider with the authority to prescribe medication and health care procedures.

3.12. Performance Check List is defined as a tool used by the certified school nurse in determining that a school employee meets the minimum standards required to safely perform basic and/or specialized health care procedures.

3.13. Qualified is defined as the ability to demonstrate competence and skills in the use of

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equipment and performance of techniques and procedures necessary to provide basic and/or specialized health care services for individuals with health needs and to demonstrate current knowledge of community emergency medical resources.

3.14. Related Services are defined as transportation and such developmental, corrective, and other supportive services as are required to assist an eligible exceptional student to benefit from education as defined in West Virginia Board of Education Policy 2419: Regulations for the Education of Exceptional Students (W.Va.126CSR16) (hereinafter Policy 2419). The term includes, but is not limited to, audiology, speech and language pathology, psychological services, physical and/or occupational therapy, counseling/social services, school health services, early identification and assessment, medical services for diagnostic or evaluation purposes and parent training.

3.15. Retrained is defined as a proper demonstration and/or instruction, as deemed necessary by the certified school nurse.

3.16. School Employee as defined by W.Va. Code §18-5-22 means teachers, as defined in W.Va. Code §18-1-1, secretaries, as defined in W.V. Code §18A-4-8 and aides, as defined in W.Va. Code §18A-4-8.

3.17. School Health Manager is defined as a certified school nurse who reviews and interprets medical data related to student health problems and coordinates all school health services.

3.18. School Related Events is defined as any curricular or co-curricular activity, as defined by West Virginia Board of Education Policy 2510: Assuring the Quality of Education: Regulations for Education Programs (W.Va. 126CSR42), that is conducted outside of the school environment and/or instructional day. Examples of co-curricular activities include the following: band and choral presentations; theater productions; science or social studies fairs; mathematics field days; career/technical student organizations' activities; or other activities that provide in-depth exploration or understanding of the content standards and objectives appropriate for the students' grade levels.

3.19. Specialized Health Care Procedures are defined as procedures ordered by the student's licensed prescriber(s) requiring medical and/or health-related training for the individual who performs the procedures.

3.20. Supervision of Designated School Employees is defined as periodic on-site review and documentation by the certified school nurse verifying the competency of that individual in performing basic and/or specialized health care procedures and maintaining appropriate records.

3.21. Direct Supervision. A certified school nurse shall be present on the same school campus as the employee being supervised and available for consultation and/or referral for appropriate assistance.

3.22. Indirect Supervision. A certified school nurse shall be available to the qualified, designated school employee, either in person or through electronic means to provide necessary instruction, consultation and/or referral for appropriate assistance.

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3.23. Training is defined as instruction and demonstration provided to designated school employees in preparation to be qualified for the performance of basic and/or specialized health care procedures.

3.24. School Personnel, as referred to in this policy and the Basic and Specialized Health Care Procedure Manual, includes any school employee, as defined in W.Va. Code §18-5-22 that is not a licensed health care provider but has been designated, trained and deemed competent by a certified school nurse and approved by a school administrator to provide basic and/or specialized health care procedure(s) to students in West Virginia public schools.

§126-25A-4. State Administrative Procedures.

4.1. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools shall be utilized as the minimum standard for safe practice as adopted by the State Division of Health in the Specialized Health Procedures in Public Schools Rule, 64 W.Va. CSR 66, 1992.

4.2. Training Program. School employees who provide basic and/or specialized health care procedures for students with special health needs, shall undergo training or demonstrate competency in the performance of Required procedures that are set forth in Section 4.2.1 of this policy. In addition, applicable Basic and/or Specialized training will be required for all school employees performing health care procedures.

4.2.1. Required training: All employees defined in Section 4.2 must be trained in:

- a. Handling and disposal of body fluids;
- b. Basic first aid;
- c. CPR;
- d. Confidentiality.

A. Employees performing basic health care procedures may be exempt from Required training of first aid and CPR, if deemed unnecessary by the certified school nurse.

4.2.2. Basic training: Individualized training in the performance of any one or more basic health care procedures as applicable to employee job assignment.

4.2.3. Specialized training: Individualized training in the performance of any one or more specialized health care procedures as applicable to employee job assignment.

4.3. Training and retraining must be provided and/or coordinated by a certified school nurse.

4.4. An assessment of the performance of each procedure shall be completed by the certified school nurse. This assessment shall include the completion of a critical skills performance check list

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and shall be conducted in relation to changes in student health care needs, licensed prescriber's orders and medical/health technology.

4.5. The category of supervision required (direct or indirect) in each situation shall be determined by the certified school nurse.

4.6. Training shall be provided through simulation or use of training models. Initial practice of the procedure shall be simulated or done on models rather than the student, whenever possible.

4.7. Personnel shall be retrained, every two years on performance of all basic and/or specialized health care procedures that are currently prescribed and being performed by said personnel.

§126-25A-5. Organization and Management.

5.1. School employees will be certified for completion of Required training and applicable basic and/or specialized health care procedures.--

5.1.1. Required training certification must assure:

a. Completion of Required training program stipulated for all employees defined in Section 4.2.

b. Demonstrated competency in Required training to be performed in Section 4.2.1.

5.1.2. Basic and Specialized certification must assure:

a. Completion of Required training program stipulated for all employees defined in Section 4.2. Completion of training in all basic and/or specialized health care procedures to be performed.

b. Demonstrated competency based on a performance checklist.

5.2. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools must be used for teaching and training basic and specialized health care procedures. The training may be provided by:

5.2.1. Schools of nursing;

5.2.2. Vocational schools;

5.2.3. Independent faculty approved by a certified school nurse;

5.2.4. Certified school nurses;

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- 5.2.5. Public health department;
- 5.2.6. Contracted school nurse;
- 5.2.7. Contracted licensed health care provider.

5.3. This policy/rule will be updated, as necessary, by the Council of School Nurses, as outlined in §126-25A-8.

§126-25A-6. System for School Admission and Care.

6.1. For students needing specialized health care procedures, the certified school nurse shall assess the student, review the licensed prescriber's order and assure implementation of needed health and safety procedures. This assessment shall be completed prior to initial school attendance and following any absence in which a health condition may have changed, necessitating reevaluation.

6.2. The licensed prescriber's orders are kept on file in the student's permanent record. These orders are valid for a maximum of one year, unless changed by the licensed prescriber.

6.3. Certified school nurses shall determine delegation of any aspect of basic and/or specialized health care.

§126-25A-7. Health Care Plan.

7.1. A health care plan is required for all students receiving specialized health care procedure(s) during the school day and school related events.

7.2. The health care plan must be prepared by the certified school nurse based on assessment of student and/or a written order by a licensed prescriber.

7.3. A review of the health care plan will be conducted with staff member(s) assigned by the administrator to carry out the plan.

7.4. The plan should contain:

- 7.4.1. Nursing assessment,
- 7.4.2. Nursing diagnosis,
- 7.4.3. Goals and expected outcomes,
- 7.4.4. Interventions and
- 7.4.5. Evaluation.

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7.5. Health care plans are reviewed annually or more frequently as the student's condition warrants.

§126-25A-8. Quality Assurance.

8.1. A needs assessment conducted by county school nurses within each Regional Education Service Agency (RESA) will be the basis for revision of the Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools will be revised, as deemed necessary, by the West Virginia Council of School Nurses based on the needs assessments conducted by school nurses.

8.2. The Council of School Nurses shall meet at least bi-annually, or more frequently, as deemed necessary by the Chair of the Council in consultation with the West Virginia Department of Education for review of certification and training program(s) regarding school employees designated to perform basic and/or specialized health care procedures.

8.3. The certified school nurse shall participate in continuing education programs which provide:

8.3.1. Training related to new specialized health care procedures.

8.3.2. Staff development applicable to effective school health practice.

8.4. The certified school nurse must develop a monitoring system with appropriate timeframes to ensure safety and effective monitoring of the delegation of all basic and/or specialized health care procedures.

§126-25A-9. School Health Records.

9.1. All records are confidential and shall not be released except under existing law and West Virginia Board of Education policies.

9.2. An individual record will be maintained for each student needing a specialized health care procedure. It will include date and time procedure was performed, any notes on events and/or interactions and signature of person performing/supervising procedure.

§126-25A-10. Staffing Requirements.

10.1. Certified school nurses must be employed in sufficient numbers to ensure adequate provision of services to severely handicapped pupils. Registered nurses have the authority and the ability to teach and to supervise other persons in rendering selected health services and/or procedures.

10.2. The certified school nurse must have a current license as a registered professional nurse in the State of West Virginia (W.Va. Code §30-7-1, et seq.). The school nurse must be certified as a

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school nurse as set forth in Policy 5202. The certified school nurse must be employed by the county board of education or the county health department (W.Va. Code §18-5-22) which contracts to provide equivalent services to boards of education. Performance of professional nursing service means both independent nursing functions and health related services which require specialized knowledge, judgment, and skills as governed by the West Virginia Nurse Practice Act (W.Va. Code §30-7-1, et seq.) and the National Association of School Nurses, Inc. "Scope and Standards of Professional School Nursing Practice".

10.3. The licensed practical nurse must be currently licensed in the State of West Virginia (W.Va. Code §30-7A-1, et seq.) and must function under the supervision of the registered professional nurse or licensed physician. The practical nurse shall not function as a school nurse.

10.4. Medical contacts, referrals and interpretations of medical data shall be managed by the certified school nurse. The nurse serves as the manager for health related problems and decisions. In the role of manager, the nurse is responsible for standards of school nurse practice in relation to health appraisal and health care planning. School employees, with the approval of the principal and the county board of education, may elect or in some cases be required to provide approved specialized health care procedures and such procedures shall be delegated by the certified school nurse as deemed appropriate. The school nurse shall provide for training, retraining, and supervision, and, upon completion, certify satisfactory level of competence before school employees perform basic and/or specialized health care procedures. A qualified designated school employee may be deemed not qualified in the performance of delegated basic and/or specialized health care procedures based on the ongoing monitoring and supervision by the school nurse.

10.5. A licensed prescriber and/or professional nurse may be held liable for delegating professional responsibilities to individuals not qualified to perform them.

§126-25A-11. Student Rights.

11.1. Students are entitled to the assignment of qualified personnel.

11.2. Students are afforded the right to privacy, dignity, respect and courtesy, in accordance with The Family Education Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99).

§126-25A-12. Penalties.

12.1. Failure of any school personnel to comply with the above rules will result in personnel disciplinary actions based on state and local board of education policy.

§126-25A-13. Administrative Due Process.

13.1. Families dissatisfied with the health care plan and its handling by personnel should:

13.1.1. Schedule a meeting with the certified school nurse and school principal or

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designee.

13.1.2. Follow due process procedure as outlined in the Policy 2419 and/or in the West Virginia Board of Education Policy 7211: Appeals Procedures for Citizens (W.Va. 126CSR188).

13.1.3. Appeal unacceptable outcomes at the fourth step to the State Superintendent of Schools.

§126-25A-14. Severability.

14.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.

APPENDIX L

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 27
MEDICATION ADMINISTRATION (2422.8)

§126-27-1. General.

1.1. Scope. – This legislative rule establishes standards for administration of all medication in the West Virginia public school system.

1.2. Authority. – W.Va. Constitution, Article XII, §2 and W.Va. Code §§18-1-1, 18-2-5, 18-5-22, 18-5-22a, 18-5-22b, 18A-4-8, and 30-7-1, et seq.

1.3. Filing Date. – April 19, 2004 _____

1.4. Effective Date. – July 1, 2004 _____

1.5. Repeal of Former Rule. – None. This is a new policy.

§126-27-2. Purpose.

2.1 Good health and safety are essential to student learning. The administration of medication to students during the school day should be discouraged unless absolutely necessary for the student's health. Administration of medication during the school day is essential to allow some students to attend school. This policy establishes the standards that must be followed when any medication is required to be administered during attendance at school or school related events and to provide for emergency medication administration, when necessary.

2.2. An objective of this medication administration policy is to promote individual responsibility. This can be achieved by educating students and their families.

§126-27-3. Application.

3.1. These regulations apply to school nurses, administrators, other authorized school employees, contracted school nurses, and contracted licensed health care providers (as specified in W.Va. Code §18-5-22a) administering medication to students in the West Virginia public school system.

3.2 County Boards of Education shall develop or amend medication administration policies to meet or exceed the standards set forth in W.Va. Code §18-5-22a

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as well as the components set forth in this policy.

3.3 The West Virginia Department of Education (STATE DEPARTMENT) may issue and periodically update advisories to provide guidance on the administration of medication to students in the West Virginia public school system.

3.4 This policy shall not impact the operating procedures of School Based Health Centers. It is not the intent of this policy to interfere with existing policies and procedures of health care providers managing School Based Health Centers.

§126-27-4. Definitions.

4.1. "Administration of medication" means a health care procedure, which may be performed by school personnel who are designated, qualified, trained and authorized to administer medications to students.

4.2. "Administrator's designee" means an employee (excluding the school nurse or contracted provider of nursing services) who is designated by the building administrator, is trained to administer non-prescribed medication, and agrees to administer non-prescribed medications.

4.3 Contracted licensed health care provider" means a licensed health care provider, as set forth in Section 4.6 of this policy, providing health care services under a contract with county boards of education. Health care services may be contracted after the ratio of one nurse for every 1,500 students, kindergarten through seventh grade, is provided to county schools.

4.4 "Contracted school nurse" means an employee of a public health department providing services under a contract with a county board of education to provide services considered equivalent to those required in W.Va. Code §18-5-22.

4.5 "Designated qualified personnel" means an employee or contracted provider who agrees to administer medications, is authorized by the administrator, successfully completes training as defined in West Virginia Board of Education Policy 2422.7 – Standards for Basic and Specialized Health Care Procedures (126CSR25A), hereinafter Policy 2422.7, and is qualified for the delegation of the administration of prescribed medications.

4.6. "Licensed health care provider" means a medical doctor or doctor of osteopathy, podiatrist, registered nurse, practical nurse, registered nurse practitioner, physician assistant, dentist, optometrist, pharmacist or respiratory care professional licensed under Chapter Thirty of W.Va. Code.

4.7. "Licensed prescriber" means licensed health care providers with the authority to prescribe medication.

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4.8. "Long-term and Emergency Prescribed Medication" means medication ordered by a licensed prescriber that is used to treat acute and chronic health conditions including both daily and PRN (as needed) medication.

4.9. "Medication document" means the individual medication record or medicine log used to record the administration of medication to a student.

4.10. "Non-prescribed Medication" means medication and food supplements that have been approved by the Food and Drug Administration and may be obtained over-the-counter (OTC) without a prescription from a licensed prescriber.

4.11. "Parent/Guardian Authorization Form" means a form completed and signed by parent/guardian in order to authorize medication administration to said parent's/guardian's child. The form must include the following: student name; date; allergies; medication name, dosage, time and route; intended effect of medication; other medication(s) taken by student; and parent/guardian signature.

4.12. "Prescribed Medication" means medication with a written order signed by a licensed prescriber.

4.13. "School Based Health Centers" means clinics located in schools that: 1) are sponsored and operated by community based health care organizations; 2) provide primary health care services (including but not limited to diagnosis and treatment of acute illness, management of chronic illness, physical exams, immunizations, and other preventive services) to students who are enrolled in the health center; and 3) follow state and federal laws, policies, procedures, and professional standards for provision of medical care.

4.14. "School Nurse" is defined as a registered professional nurse, licensed by the West Virginia Board of Examiners for Registered Professional Nurses (W.Va. Code §30-7-1, et seq.), who has completed a West Virginia Department of Education approved program as defined in West Virginia Board of Education Policy 5100 – Approval of Educational Personnel Preparation Programs (126CSR114) and meets the requirements for certification contained in West Virginia Board of Education Policy 5202 – Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classification (126CSR136). The school nurse must be employed by the county board of education or the county health department as specified in W.Va. Code §18-5-22.

4.15. "School-related event" means any curricular or co-curricular activity, as defined in West Virginia Board of Education Policy 2510 – Assuring the Quality of Education: Regulations for Education Programs (126CSR42), that is conducted outside of the school environment and/or instructional day. Examples of co-curricular activities include the following: band and choral presentations; theater productions; science or social studies fairs; mathematics field days; career/technical student organizations' activities; or other activities that provide in-depth exploration or understanding of the content standards and objectives appropriate for the students' grade levels.

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4.16. "Self-administration" means medication administered by the student under the supervision of the school nurse, designated qualified personnel, administrator or administrator's designee. The self-administration of prescribed medication may also include medication taken by a student in an emergency or an acute situation (e.g., rescue inhaler).

§126-27-5. Authorization.

5.1. Authorized personnel include trained school nurses, other licensed health care providers, administrators, teachers, aides and secretaries as defined in W.Va. Code §§18-1-1, 18A-4-8 and 18-5-22.

§126-27-6. Roles and Responsibilities.

6.1 Role of the school administrator(s).

6.1.1. Provide for appropriate, secure, and safe storage and access of medications.

6.1.2. Provide a clean, safe environment for medication administration.

6.1.3. Provide a mechanism for safely receiving, counting and storing medications.

6.1.4. Provide a mechanism for receiving and storing appropriate medication authorization forms.

6.1.5. Select potential candidates for medication administration (prescribed and non-prescribed).

6.1.6. Assign qualified employees, who meet a satisfactory level of competence for prescribed medication administration as defined in Policy 2422.7 and non-prescribed medication as determined by the STATE DEPARTMENT.

6.1.7 Coordinate development of procedures for the administration of medication during school-related events with classroom teachers, school nurses, parents/guardians, designated qualified personnel and administrator's designees.

6.2. Role of the school nurse and contracted licensed health care provider.

6.2.1. Determine if the administration of prescribed medication may be safely delegated to designated qualified personnel, as defined in Section 4.4.

6.2.2. Contact the parent/guardian or licensed health care provider to clarify any questions about prescribed medication that is to be administered in the West Virginia public school system.

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6.2.3. Manage health related problems and decisions. In the role of manager, the nurse is responsible for standards of school nurse practice in relation to health appraisal, health care planning and maintenance of complete and accurate documentation. For students needing long-term and emergency prescription medication to attend school, the school nurse shall assess the student, review the licensed prescriber's orders, assure implementation of needed health and safety procedures, and develop a health care plan.

6.2.4. Utilize the "West Virginia Board of Examiners for Registered Professional Nurses Guidelines for Determining Acts that May be Delegated or Assigned by Licensed Nurses", January 2001, and any revisions thereof, as the mechanism for determining whether or not the administration of prescribed medications may be delegated.

6.2.5. Provide and/or coordinate training, as defined in Policy 2422.7, for all school employees designated to administer prescribed medication.

6.2.6. Validate and document student knowledge and skills related to self-administration of prescribed medication.

6.3. Role of designated qualified personnel/administrator's designee.

6.3.1. Successfully complete the Cardiopulmonary Resuscitation (CPR), First Aid, and the medication administration portion of training, as defined in Policy 2422.7.

6.3.2. Store and administer medication, complete the medication document and report medication incidents as outlined in Sections 7.4. and 8.5.

6.4. Role of the parent/guardian.

6.4.1. Administer the initial dose of any medication at home, except for emergency medications and unless otherwise directed by the licensed prescriber and/or a court order.

6.4.2. Complete and sign a parent/guardian authorization form (to be designed by each county), which indicates student name; date; allergies; medication name; dosage, time, and route; intended effect of medication; other medication(s) taken by student; and parent/guardian signature.

6.4.3. Provide school with completed licensed prescriber authorization form for prescribed medication(s).

6.4.4. Supply medication and ensure that medication arrives safely at school in a current and properly labeled container (see Sections 7.2 and 8.3). Give the medication

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to the person authorized by the administrator to receive, store, and administer medication. Maintain effective communication pertaining to medication administration.

6.4.5. Replenish long-term and emergency prescribed medication as needed.

6.4.6. Retrieve unused or outdated medicine from school personnel no later than thirty days after the authorization to give the medication expires or on the last day of school.

6.5. Role of the student.

6.5.1. Consume the medication in the specified manner, in as much as his/her age, development and maturity permit.

6.5.2. Self-administer prescribed emergency or acute medications, such as but not limited to a Epi-pen or ibuprofen when the prescription indicates that said student must maintain possession of the medication. The student must be able to bring the medication to school, carry the medication in a safe and responsible manner, and use the medication only as prescribed. At the discretion of county boards of education, high school students (not below grade 9) may be allowed to carry and self-administer non-prescribed medication (OTC) with parent/guardian authorization, unless restricted by the administrator.

§126-27-7. Administration of Prescribed Medication.

7.1. Prescribed medications shall be administered after written authorization from a licensed prescriber and parent/guardian are received.

7.2. Prescribed medication shall be in the originally labeled container, which includes the following:

7.2.1. Prescribed medication(s) from a pharmacy

- a. student's name,
- b. name of the medication,
- c. reason(s) for the medication (if to be given only for specific symptoms),
- d. dosage, time and route,
- e. reconstitution directions, if applicable, and
- f. the date the prescription and/or medication expires.

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7.2.2. Prescribed Over-the-Counter Medication(s)

- a. student's name (affixed to original manufacturer's bottle),
- b. name of the medication,
- c. reason(s) for the medication (if to be given only for specific symptoms),
- d. dosage, time and route,
- e. reconstitution directions, if applicable, and
- f. the date the prescription and/or medication expires.

7.2. Medication administration steps must be followed exactly as outlined in Policy 2422.7.

7.3.1. Medication administration must take place in a clean and quiet environment where privacy may be established and interruptions are minimal.

7.3.2. The school nurse is to be contacted immediately when a prescribed medication's appearance or dosage is questioned. The school nurse shall take the appropriate steps to assure the medication is safe to administer.

7.3.3. The school nurse is to be contacted immediately when a student's health condition suggests that it may not be appropriate to administer the medication.

7.3.4. When a student's medical condition requires a change in the medication dosage or schedule, the parent must provide a new written authorization form from a licensed prescriber and container. This must be given to designated personnel within an appropriate time frame.

7.4. Medication administration incidents include, but are not limited to, any deviation from the instructions provided by the licensed health care provider. The school nurse and administrator shall be contacted immediately in the event of a medication incident. The school nurse or administrator shall do the following:

7.4.1. Contact the physician and parent/guardian, if necessary.

7.4.2. Implement the school nurse or administrator recommendation/licensed prescriber order in response to a medication incident.

7.4.3. Document all circumstances, orders received, actions taken and student's status.

7.4.4. Submit a written report to the administrator and county

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superintendent at the time of the incident. The report should include the name of the student, the parent/guardian name and phone number, a specific statement of the medication incident, who was notified, and what remedial actions were taken.

7.5. Self-administration of asthma medication shall be permitted in accordance with W.Va. Code §18-5-22b after the following conditions are met:

7.5.1. A written authorization is received from the parent/guardian for self-administration of asthma medication.

7.5.2. A written statement is received from a licensed prescriber which contains the student name, purpose, appropriate usage, dosage, time or times at which, or the special circumstances under which the medication is to be administered.

7.5.3. The student has demonstrated the ability and understanding to self-administer asthma medication by passing an assessment by the school nurse evaluating the student's technique of self-administration and level of understanding of the appropriate use of the asthma medication.

7.5.4. The parent/guardian has acknowledged in writing that they have read and understand a notice provided by the county board of education stating that the school, county school board and its employees and agents are exempt from any liability, except for willful and wanton conduct, as a result of any injury arising from the self-administration of asthma medication.

7.5.5. The permission to self-administer asthma medication shall be effective for the school year for which it is granted and all documents related to the self-administration of asthma medication shall become part of the student health record.

7.5.6. The permission to self-administer asthma medication may be revoked if the school administrator finds that the student's technique and understanding of the use of asthma medication is not appropriate or is willfully disregarded.

§126-27-8. Administration of Non-Prescription Medication.

8.1. Non-prescribed medications shall be administered only after meeting the following requirements:

8.1.1. Parent/guardian authorization form is provided.

8.1.2. The school administrator has the authority to determine if the administration of the non-prescribed medication may be safely delegated to the administrator's designee as defined in Section 4.2.

8.1.3. The school administrator has the authority to contact the parent/guardian or a licensed health care provider to clarify any questions about the medication

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being administered.

8.2. Any non-prescribed medication(s) must be provided by the parent/guardian.

8.3. Non-prescribed medication shall be in the manufacturer's original packaging clearly marked with the following:

8.3.1. student's name (affixed to original manufacturer's bottle),

8.3.2. name of medication,

8.3.3. ingredients,

8.3.4. dosage, time and route,

8.3.5. reconstitution directions, if applicable, and

8.3.6. medication expiration date.

8.4. Medication administration steps must be followed exactly as outlined by the STATE DEPARTMENT.

8.4.1. Medication administration must take place in a clean and quiet environment where privacy may be established and interruptions are minimal.

8.4.2. The parent/guardian is to be contacted immediately when a medication's appearance or dosage is questioned. The administrator's designee shall take the appropriate steps to assure the medication is safe to administer.

8.4.3. The parent/guardian is to be contacted immediately when a student's health condition suggests that it may not be appropriate to administer the medication.

8.5. Medication administration incidents include, but are not limited to, any deviation from the instructions provided by the parent/ guardian. The school administrator shall be contacted immediately in the event of a medication incident. The school administrator will then contact the parent/ guardian, if necessary. The school administrator or designee shall:

8.5.1. Implement the parent's/guardian's recommended response to a medication incident.

8.5.2. Document all circumstances, orders received, actions taken and student's status.

8.5.3. Submit a written report to the administrator and county

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superintendent at the time of the incident. The report should include the name of the student, the parent/guardian name and phone number, a specific statement of the medication incident, who was notified, and what remedial actions were taken.

8.5.4. When a parent/guardian authorizes a non-prescribed medication to be given in addition to a known prescribed medication, the administrator or school nurse shall validate the safety of multiple medications. At times, this validation process may require a licensed provider order.

§126-27-9. Medication Storage, Inventory, Access and Disposal.

9.1. Each school shall designate space in the building to store student medication, at the correct temperature, in a secure, locked, clean cabinet or refrigerator, as required.

9.2. All medication shall be entered on a medication inventory and routinely monitored for expiration and disposal.

9.3. Access to medications shall be under the authority of the administrator of the school in conjunction with the school nurse assigned to that school. If there is a full-time school nurse assigned to the building, the school nurse shall have authority over the access to prescribed medications.

9.4. An appropriate supply of long-term and emergency prescribed medication may be maintained at the school in amounts not to exceed school dosages within each calendar month.

9.5. School personnel shall dispose of unused or outdated medicine unclaimed by the parent/guardian no later than 30 days after the parent/guardian medication authorization expires or on the last day of school.

9.6. Medication disposal shall be done in a manner in which no other individual has access to any unused portion. Two individuals will witness the disposal of the medication and the procedure must be documented on the appropriate form related to the specific student.

§126-27-10. Confidentiality and Documentation.

10.1. Student information related to diagnosis, medications ordered and medications given must be maintained according to The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) and in such a manner that no one could view these records without proper authorization as specified in West Virginia Board of Education Policy 4350 - Procedures for the Collection, Maintenance and Disclosure of Student Data (126CSR94).

10.2. Documentation of medication administration shall include the following information:

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- 10.2.1. student name,
- 10.2.2. medication(s) name,
- 10.2.3. dosage, time and route of medication('s) administration,
- 10.2.4. reaction(s) or untoward effects,
- 10.2.5. reason(s) the medication was not administered; and
- 10.2.6. date and signature of person administering medication.

§126-27-11. Consequences of Policy Violation.

11.1. If a student violates the policy regarding medication administration, action will be based upon West Virginia Board of Education Policy 4373 - Student Code of Conduct (126CSR99) and/or West Virginia Board of Education Policy 2422.5 - Substance Abuse (126CSR23).

11.2. Failure of school personnel to comply with the above rules shall result in personnel disciplinary actions based on West Virginia Board of Education Policy 5310 - Performance Evaluation of School Personnel (126CSR142) and West Virginia Board of Education Policy 5902 - Employee Code of Conduct (126CSR162).

§126-27-12. Severability.

12.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.

APPENDIX M

TITLE 126
PROCEDURAL RULE
BOARD OF EDUCATION

SERIES 4
RULES OF PROCEDURE FOR ADMINISTRATIVE
HEARINGS AND APPEALS (1340)

§126-4-1. General.

1.1. Scope. - The "Rules of Procedure for Administrative Hearings and Appeals" are promulgated to assure procedural due process and expeditious processing of administrative proceedings before the State Superintendent of Schools. Nothing herein should be interpreted to give rise to an action on the part of any county school personnel; all remedies which are allowable by a county board of education or county school superintendent should be exhausted before appealing to the State Superintendent to hear a controversy. Employee grievances are governed by the provisions of West Virginia Code §18-29-1, *et seq.*

1.2. Authority. - W.Va. Const., Article XII, §2; W.Va. Code §§6-9A-1 *et seq.*, 18-2-5, 18-3-4, 18A-3-2a, and 18A-3-6.

1.3. Filing Date. - June 7, 2002.

1.4. Effective Date. - July 7, 2002.

1.5. Repeal of Former Rule. This procedural rule repeals and replaces Legislative Rule W. Va. §126CSR4 "Rules of Procedure for Administrative Hearings and Appeals" filed February 15, 2002 and effective March 17, 2002.

§126-4-2. Foreword.

2.1. This policy governs the disposition of all administrative proceedings as well as the hearing of appeals and the adjudication of controversies and disputes arising under school laws by the State Superintendent of Schools, including citizens' appeals under WVBE Policy 7211.

§126-4-3. General Rules.

3.1. Definition of "Designee." As used in these rules, "Designee" shall mean that employee of the West Virginia Department of Education (STATE DEPARTMENT) designated by the Superintendent to hear and determine issues pursuant to the terms and conditions of this policy.

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3.2. Definition of "Superintendent." As used in these rules, unless a different meaning appears from the context, "Superintendent" shall mean the State Superintendent of Schools.

3.3. Definition of "Party." "Party" shall mean petitioner, respondent, and/or intervener. "Party" shall also mean teacher to the extent pertinent.

3.4. All parties shall receive notice at least ten (10) days prior to the hearing. The notice of hearing shall include:

3.4.1. the date, time and place of the hearing,

3.4.2. a concise statement of the purpose,

3.4.3. mention that either the Superintendent or a designee of the Superintendent shall conduct the hearing.

3.5. A copy of this policy shall be provided to the parties to the hearing.

3.6. Appearance Pro Se. Any person may either appear in person or be represented by a representative or an attorney at law admitted and authorized to practice in this State.

3.7. Authority of Superintendent. The Superintendent shall have authority to administer oaths and affirmations; examine witnesses and receive evidence; rule upon offers of proof; issue subpoenas; take or cause depositions to be taken whenever the ends of justice would, in the Superintendent's opinion, be served thereby; regulate the course of the hearing; and dispose of procedural requests or similar matters. The authority of the Superintendent shall extend to his/her designee in all cases arising under this policy when the matter is heard by the designee at the request of the Superintendent.

3.7.1. The Superintendent may also call witnesses and question them. The Superintendent may limit the number of witnesses who will be called, within reason, and may also limit the length of oral argument.

3.7.2. A hearing may be adjourned from one day to another or to another place either by announcement by the Superintendent at the hearing or by appropriate notice.

3.7.3. The Superintendent may grant a continuance for good cause shown by the requesting party or upon his/her own motion.

3.8. Evidence. The formal rules of evidence shall be relaxed. Evidence will be admissible if it is material and relevant to the matter; however, irrelevant, immaterial or unduly repetitious evidence shall be excluded. All evidence, including any records, investigations, reports and documents which the Superintendent desires to consider as

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evidence in making a decision, shall be offered and made a part of the record in the proceeding. The Superintendent may take official notice of any fact which may be judicially noticed by a Court and, in addition, may take official notice of general, technical or scientific facts within the Superintendent's knowledge. Parties may be given a fair opportunity to refute the facts so noticed. The requirements of this rule shall not apply to cases in which the truth of the particular fact or matter is admitted or to a determination of appropriate relief.

3.9. Stenographic Transcript. Where there is available a stenographic transcript of proceedings before a county board of education, or before any court of record or other official or body whose action is called into question before the Superintendent, either party may, if at least ten (10) days' notice of intention to do so has been given to opposing parties or counsel, offer the transcript of testimony of any witness or witnesses named in said notice in lieu of producing said witness or witnesses at the hearing.

3.10. Briefs and Oral Argument. All parties shall have the opportunity to submit briefs on the matter, and to present oral argument if requested. Oral argument shall be limited to thirty (30) minutes for each party, unless the Superintendent shall otherwise order. Briefs, if any, shall be submitted within the time fixed by the Superintendent.

3.11. Failure to Cooperate. The Superintendent, on his or her own initiative or at the request of the designee, may institute judicial proceedings for punishment of persons for contemptuous conduct directed to the Superintendent or the designee, in the course of a proceeding.

3.12. Written Decision. Every determination shall be embodied in a written decision which shall contain both findings of fact and conclusions of law and an appropriate recommended order. Such decisions shall be issued by the Superintendent's designee. Upon receipt of the recommended order with findings and conclusions from such designee, the Superintendent shall review the same along with the record and issue an order adopting the findings, conclusions, and/or recommendations of the designee; rejecting the findings, conclusions and/or recommendations of the designee; or remanding the matter back to the designee with instructions for further evidence or findings, conclusions and/or recommendations. When the case is heard directly by the Superintendent, the Superintendent shall issue both a written decision, which shall set forth findings of fact and conclusions of law, and an appropriate order. Said orders shall be filed in the office of the Superintendent and copies thereof shall be served or mailed to the parties of record affected thereby or their attorneys of record within thirty (30) days following the Superintendent's receipt of any recommendation from his or her designee or within thirty (30) days following the hearing when heard directly by the Superintendent.

3.13. Waiving of Rules. Any of the provisions of these rules relating to the presentation of his/her case or argument may be waived by any party or his/her attorney.

3.14. Hearings shall be recorded by electronic means or by a court reporter.

§126-4-4. Rules for Hearings on Certification Suspension/Revocation/Denial for Cause.

4.1. Definitions of terms used in this section.

4.1.1. "Hearing Officer." As used in these rules, unless a different meaning appears from the context, "Hearing Officer" shall mean the State Superintendent of Schools, the Professional Practice Panel, the Licensure Appeal Panel, or a STATE DEPARTMENT employee designated by the Superintendent to hear and determine issues of teaching certificate suspension and/or revocation and/or denial for cause.

4.1.2. "Teacher." As used in these rules, the word "Teacher" (and its derivatives) shall mean any person certified or otherwise professionally licensed by the Superintendent pursuant to policy, rule, or regulation of the West Virginia Board of Education or pursuant to statute, including but not limited to administrators, professionals, paraprofessionals, coaches, and holders of service certificates.

4.1.3. "Applicant." As used in these rules, the word "Applicant" (and its derivatives) shall mean any person applying for a teacher license issued by the Superintendent pursuant to policy, rule, or regulation of the West Virginia Board of Education or pursuant to statute.

4.1.4. "Party." "Party" shall mean petitioner, respondent, and/or intervener. "Party" shall also mean teacher to the extent pertinent.

4.1.5. "Suspension." "Suspension", as used in these rules, shall mean a temporary revocation imposed for a fixed and definite period of time. After a period of suspension has expired, the affected individual must reapply for licensure.

4.1.6. "Professional Practice Panel." "Professional Practice Panel" shall mean the seven (7) individuals selected to hear and make recommendations to the Superintendent regarding revocation for cause of a teacher's license, pursuant to West Virginia Board of Education Policy 5050.

4.1.7. "Licensure Appeal Panel." "Licensure Appeal Panel" shall mean the seven (7) individuals selected to hear and make recommendations to the Superintendent regarding denial for cause of a teacher's license, pursuant to West Virginia Board of Education Policy 5050.

4.2. Grounds for Revocation or Suspension of Certificates. The Superintendent may, after ten (10) days' notice and upon proper evidence, revoke or suspend the certificate(s) of any teacher for drunkenness, untruthfulness, immorality, or for any physical, mental or moral defect which would render him/her unfit for the proper performance of his or her duties, or for any neglect of duty or refusal to perform the same, or for using fraudulent, unapproved, or insufficient credit; or for any other cause which would have justified the withholding of a certificate when the same was issued. (West

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Virginia Code §§18A-3-2a, 18A-3-6)

4.3. Grounds for Denial of Licensure for Cause. A certificate shall not be issued to any person who is not of good moral character and physically, mentally, and emotionally qualified to perform the duties for which the certification would be granted or for any other cause which would justify the revocation or suspension of certification. (West Virginia Code §§18A-3-2a, 18A-3-6)

4.4. Duty of County Superintendent. It shall be the duty of any county superintendent who knows of any immorality or neglect of duty on the part of any teacher, including student teachers, to report the same, together with all the facts and evidence, to the Superintendent for such action as may be proper. In the case of a student teacher, the county superintendent must also send the report to the appropriate teacher preparation institution. Failure to report such information, if willful, may be grounds for revocation of the certificate of the county superintendent.

4.5. Recalling Certificates for Correction. If a certificate has been granted through an error, oversight, or misinformation, the Superintendent shall have authority to recall the certificate and make such corrections as will conform to the requirements of law and WVBE of Education policy.

4.6. Teaching Certificate Revocation and Suspension Proceedings; Notice. Teaching certificate revocation proceedings shall be conducted before the Hearing Officer. The teacher shall receive notice ten (10) days prior to the hearing.

4.6.1. The notice shall include:

4.6.1.a. the date, time and place of the hearing,

4.6.1.b. a concise statement of the charges,

4.6.1.c. indicate that the Superintendent or his/her designee shall conduct the hearing, and

4.6.1.d. the possible actions to be taken against the certificate of the teacher.

4.6.2. Upon timely request by the teacher, a more definite statement of the charges shall be received by the teacher at least ten (10) days prior to the hearing.

4.6.3. Appearance Pro Se. Any person may either appear in person with or without a representative or an attorney at law admitted and authorized to practice in this State.

4.6.4. A quorum shall be required. A majority of Professional Practice Panel members shall constitute a quorum.

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4.7. Denial for Cause Proceedings. Denial for cause proceedings shall be conducted before the Hearing Officer. The applicant may submit a written request for an appeal hearing within thirty (30) days of notification of a recommendation of a denial for cause from the Office of Professional Preparation. If no such hearing request is timely received, the application may be denied for cause by the Superintendent. If an appeal hearing request is received, the applicant shall receive notice ten (10) days prior to the hearing.

4.7.1. The notice shall include:

4.7.1.a. the date, time and place of the hearing,

4.7.1.b. a concise statement of the reasons for the denial recommendation, and

4.7.1.c. indicate that the Superintendent or his/her designee shall conduct the hearing as the Hearing Officer.

4.7.2. Appearance Pro Se. Any person may either appear in person with or without a representative or attorney at law admitted and authorized to practice in this State.

4.7.3. A quorum shall be required. A majority of Licensure Appeal Panel members shall constitute a quorum.

4.8. Hearing on Teaching Certification. A teaching certificate suspension, revocation, or denial for cause hearing is a continuation of the Superintendent's investigation into whether a professional teaching or administrative certificate or lesser license, a paraprofessional certificate or lesser license, a service certificate or lesser license, or a coaching certificate or lesser license should be suspended, revoked or denied for cause.

4.8.1. A teaching certificate suspension, revocation or denial for cause hearing shall be open to the public, unless the teacher or applicant requests that it be closed.

4.8.2. The purpose of a teaching certificate suspension, revocation or denial for cause hearing is to allow the teacher or applicant due process regarding the asserted causes for revocation, suspension, or denial of the teaching certificate. The teacher or applicant may present his or her position through presentation of evidence, examination and cross-examination of witnesses, and oral argument.

4.8.3. The Hearing Officer may also call witnesses and question them, as well as those called by the teacher or applicant. The Hearing Officer may limit the number of witnesses who will be called, within reason, and may also limit the length of oral argument.

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4. 8.4. A hearing may be adjourned from one day to another or to another place either by announcement by the Hearing Officer at the hearing or by appropriate notice.

4. 8.5. The Superintendent or his or her designee may grant a continuance for good cause shown by the requesting party or upon his/her own motion.

4.9. Authority of Hearing Officer. The Hearing Officer shall have authority to administer oaths and affirmations; examine witnesses and receive evidence; rule upon offers of proof; issue subpoenas; take or cause depositions to be taken whenever the ends of justice would, in the Hearing Officer's opinion, be served thereby; regulate the course of the hearing; and dispose of procedural requests or similar matters.

4.9.1. The Hearing Officer shall have authority to recommend that a teacher's certificate be revoked, suspended, or denied for cause by the Superintendent.

4.10. Evidence. The formal rules of evidence shall be relaxed. Evidence will be admissible if it is material and relevant to the matter before the Hearing Officer; however, irrelevant, immaterial or unduly repetitious evidence shall be excluded. All evidence, including any records, investigations, reports and documents which the Hearing Officer desires to consider as evidence in making a decision, shall be offered and made a part of the record in the proceeding. The Hearing Officer may take official notice of any fact which may be judicially noticed by a Court and, in addition, may take official notice of general, technical or scientific facts within the Hearing Officer's knowledge. Parties may be given a fair opportunity to refute the facts so noticed. The requirements of this rule shall not apply to cases in which the truth of the particular fact or matter is admitted, or to a determination of appropriate relief. Revocation, suspension, or other action against the certificate of a teacher in another jurisdiction or refusal by another jurisdiction to issue a teacher certificate shall be *prima facie* evidence of grounds for revocation, suspension, denial for cause or other action against the certificate in West Virginia.

4.11. Stenographic Transcript. Where there is available a stenographic transcript of proceedings before a county board of education, or before any court of record or other official or body concerning issues which form or support the basis for the hearing before the Hearing Officer, either party may provide to the Hearing Officer and the other party copies of said transcripts to be used as substantive evidence in the proceedings. The transcript of testimony of any witness or witnesses may be used in lieu of producing said witness or witnesses at the hearing. The use of transcripts may also be directed by the Hearing Officer in the interest of time.

4.12. Briefs and Oral Argument. All parties shall have the opportunity to submit briefs on the matter, and to present oral argument if requested. Oral argument shall be limited to thirty (30) minutes for each party, unless the Hearing Officer shall otherwise order. Briefs, if any, shall be submitted within the time fixed by the Hearing Officer.

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4.13. Failure to Participate. Upon failure of a teacher or applicant to contest the asserted causes for revocation of a certificate or lesser license or for the denial for cause of a certificate or lesser license, or upon failure of a party respondent to appear and defend against the petitioner's claims, all of the allegations/claims duly made may be accepted by the Hearing Officer as confessed.

4.14. Failure to Cooperate. The Superintendent, on his or her own initiative or at the request of the designee, may institute judicial proceedings for punishment of persons for contemptuous conduct directed to the Hearing Officer in the course of a proceeding.

4.15. Written Decision. Every decision of the Hearing Officer shall be embodied in a written recommendation which shall contain both findings of fact and conclusions of law and an appropriate recommended order. Such written decisions shall be issued by the Hearing Officer to the Superintendent. An appropriate Order setting forth a decision regarding revocation of certification, denial for cause or other action shall be issued by the Superintendent. The Order shall either adopt the recommendation of the Hearing Officer or contain a factual or legal basis for varying from the recommendation of the Hearing Officer. When the case is heard directly by the Superintendent, the Superintendent shall issue a written decision which shall set forth the findings of fact and conclusions of law and an appropriate order. Said Orders shall be filed in the office of the Superintendent and copies thereof shall be served or mailed to the parties of record affected thereby or their attorneys of record within thirty (30) days following the receipt of the recommendations by the Superintendent or within thirty (30) days of the hearing if the same was conducted by the Superintendent.

4.16. Waiving of Rules. Any of the provisions of these rules relating to the presentation of his/her case or argument may be waived by any party or his/her attorney.

4.17. Hearings shall be recorded by electronic means or by a court reporter.

§126-4-5. Other Hearings.

5.1. Hearing on Removal of a School Official. Hearings conducted for removal of a county school official shall be conducted following the general rules in §126-4-3 of this policy.

§126-4-6. Appeal to Circuit Court.

6.1. Any party not satisfied with the decision rendered by the Superintendent or his or her designee may appeal the same to the Circuit Court within 30 days of mailing of the order to the last known address of the party.

6.2. Upon the West Virginia Department of Education's receipt of notice of an appeal, a transcript of the proceedings held in accordance with the provisions of this policy shall be forwarded to all named parties at the expense of the West Virginia Department of

Education.

§126-4-7. Severability.

7.1. If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this rule.

APPENDIX N

**TITLE 126
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION**

**SERIES 51
COMMUNICABLE DISEASE CONTROL (2423)**

§126-51-1. General.

1.1. Scope. - The legislative rule requires establishment of county policies related to communicable disease control.

1.2. Authority. - West Virginia Constitution, Article XII, §2, W. Va. Code §§16-3-4, 16-3-4a, 16-3-5, 16-3C-1 through 16-3C-9, 18-2-5, 18-5-9, 18-5-22, 18-5-34 and 18A-5-1.

1.3. Filing Date. - September 14, 2007

1.4. Effective Date. - October 15, 2007

1.5. Repeal of Former Rules. - This rule amends W. Va. §126CSR51 "Communicable Disease Control (2423)," filed May 12, 2006 and effective July 1, 2007.

§126-51-2. Purpose.

2.1. Good health and safety are essential to student learning. The education and monitoring of communicable diseases during the school year is necessary to keep students healthy and learning. This policy establishes the standards that must be placed in county policy for addressing issues and educating students and school personnel on communicable diseases. The knowledge of standard/universal precautions, transmission, prevention and treatment of communicable diseases will enhance health education, prevention and equality for all.

2.2. The objective of this policy is to allow for procedures to be in place for detection of potential communicable diseases, inclusion and exclusion, standard/universal precautions and enhancement of knowledge to ensure preventative measures occur for students and school personnel. This policy will assist in developing a working relationship with school personnel, parents/guardians, the students' medical home and the local health department while decreasing duplication of health services offered by the school and the medical home and/or the community serving the students.

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§126-51-3. Application.

3.1. County boards of education shall develop or amend communicable disease policies to reflect understanding of disease transmission in the school setting and to reflect understanding of student/staff rights to attend school or remain employed. The goal of the policy is to protect individual students, staff members and the school population in general.

3.2. The potential for unnecessary exclusion from the school setting is cause for concern. This problem makes it necessary for counties to develop a policy that is protective of the educational process and the health and safety rights of students and staff.

3.3. Each county should seek the assistance of school nurses, school personnel, parents and guardians, public health, medical personnel and community leaders in developing the communicable disease policy. Technical assistance will be provided by the West Virginia Department of Education to any county upon request.

3.4. The county school system will work cooperatively with the county health department to enforce and adhere to the W. Va. Code §§18A-5-1, 16-3-4, 16-3D-1, 16-3-5, 16-3C-1 through 16-3C-9, 18-2-5, 18-5-9, 18-5-22, and 18-5-34 for prevention, control and containment of communicable disease in schools.

§126-51-4. Definitions.

4.1. "Airborne Pathogens" are defined as the transmission of infectious agents through either airborne droplet nuclei (small-particle residue [five μm or smaller in size] of evaporated droplets that may remain suspended in the air for long periods of time) or dust particles containing infectious agents. These pathogens include but are not limited to tuberculosis (TB), rubella (measles) and varicella (chickenpox).

4.2. "Airborne Precautions" are not normally utilized in the school setting. It is defined as the isolation of an airborne pathogen to reduce the risk of airborne transmission of infectious agents. Airborne precautions entail wearing a respiratory protection mask (N95 respirator) when entering the room of a student receiving home/hospital instruction with known or suspected disease transmitted via airborne droplet nuclei, student placement in private hospital room with negative air pressure and placing a mask on the student for hospital transporting.

4.3. "American Academy of Pediatrics" also known as the AAP, is defined as a national organization of pediatricians, founded in 1930, committed to the attainment of optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults.

4.4. "Blood Borne Pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), hepatitis B virus (HBV) and hepatitis C virus (HCV).

4.5. "Casual Contact" means day-to-day interaction between individuals and others in the home, at school or in the work place. It does not include intimate contact, such as sexual or drug use

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interactions, and it implies closer contact than chance passing in the hallway or sharing a lunch table.

4.6. “Centers for Disease Control and Prevention” also known as CDC, is defined as one of the thirteen major operating components of the United States Department of Health and Human Services (USDHHS), which is the principal agency in the United States government for protecting the health and safety of all Americans and for providing essential human services, especially for those people who are least able to help themselves. CDC remains at the forefront of public health efforts to prevent and control infectious and chronic diseases, injuries, workplace hazards, disabilities and environmental health threats.

4.7. “Communicable Disease” means a disease that may be transmitted directly or indirectly from one individual to another.

4.8. “Direct Contact” means a disease that is spread through the exposure of blood and/or body fluids to mucus membranes, open skin wounds, semen or intravenous transfusion. HIV/AIDS is spread by direct blood transmission into the blood stream of another and by semen or vaginal fluid contact. Hepatitis A can be spread by direct or indirect contact with feces while Hepatitis B and C can be spread by direct contact with semen and blood. These diseases do not pose a risk in school if body fluids such as blood and feces are handled using standard/universal precautions.

4.9. “Droplet Contact” means contact of the conjunctivae or the mucous membranes of the nose or mouth of a susceptible person with large-particle droplets (larger than five μm in size) containing microorganisms generated from a person who has a clinical disease or who is a carrier of the microorganism. Droplets are generated from the source person primarily during coughing, sneezing, or talking and during the performance of certain procedures such as suctioning. Transmission via large-particle droplets requires close contact between source and recipient persons, because droplets do not remain suspended in the air and generally travel only short distances, usually three feet or less, through the air. These pathogens include, but are not limited to, bacterial infections, such as Pertussis (whooping cough), streptococcal (group A) pharyngitis, pneumonia or scarlet fever, Diphtheria (pharyngeal), Haemophilus *influenzae* type b and *Neisseria meningitidis* disease, including meningitis, pneumonia and sepsis. Serious viral infections spread by droplet contact include but are not limited to adenovirus, influenza (flu), mumps and rubella (German measles).

4.10. “Droplet Precautions” is defined as droplet pathogen isolation utilized around individuals known or suspected to be infected with microorganisms transmitted by droplets (large-particle droplets [larger than five μm in size] that can be generated by the person during coughing, sneezing, talking, or the performance of procedures). Droplet precautions entail being in the a private environment, like the student’s home, wearing a mask while within three feet of the individual infected and utilizing standard/universal precautions. Because droplets do not remain suspended in the air, special air handling and ventilation are not required to prevent droplet transmission. Masks may be worn to protect the health of a student who is immunocompromised.

4.11. “Health or Safety Emergency Situation” is determined on a case-by-case basis, and is defined as a specific situation that presents imminent danger or threat to students or other members of the community, or requires an immediate need for information in order to avert or diffuse serious

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threats to the safety or health of a student or other individuals. Any release of confidential medical information must be narrowly tailored considering the immediacy and magnitude of the emergency and must be made only to parties who can address the specific emergency in question. This exception is temporally limited to the period of the emergency and generally does not allow a blanket release of personally identifiable information from a student's education records to comply with general requirements under state law. Certainly an outbreak of diseases such as measles, rubella, mumps, and polio not only pose threat of permanent disability or death for the individual, but have historically presented themselves as epidemic in nature. Thus, disclosure of personally identifiable information from students' education records to state health officials for an outbreak of a communicable disease would generally be permitted under Family Educational Rights and Privacy Act's (FERPA) health or safety emergency provisions.

4.12. "Immunocompromised" is defined as reduced immune response due to immunosuppressive drugs, radiation, disease or malnutrition.

4.13. "Legitimate Educational Reason" is defined as school officials who have been determined to have genuine concern related to the student's educational achievement and performance allowing access and review pertinent educational records including medical and health information. A record of disclosure must be maintained and include: (1) the parties who have requested the information from the education records, and (2) the legitimate interests the parties had in requesting or obtaining the information.

4.14. "Occupational Safety and Health Administration (OSHA)" is defined as a division of the United States Department of Labor that provides standards and guidelines for the health and safety of America's workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health.

4.15. "School Nurse" is defined as a registered professional nurse, licensed by the West Virginia Board of Examiners for Registered Professional Nurses (W. Va. Code §30-7-1, et seq.), who has completed a West Virginia Department of Education approved program as defined in 126CSR114 West Virginia Board of Education Policy 5100, Approval of Educational Personnel Preparation Programs and meets the requirements for certification contained in 126CSR136 West Virginia Board of Education Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classification. The school nurse must be employed by the county board of education or as specified in W. Va. Code §18-5-22.

4.16. "Standard/Universal Precautions" is a body substance isolation approach to infection control. Standard Precautions apply to 1) blood; 2) all body fluids, secretions, and excretions, *except sweat*, regardless of whether or not they contain visible blood; 3) non-intact skin; and 4) mucous membranes. According to the concept of standard/universal precautions, all human blood and all other human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens. There are three types of transmission: contact, airborne and droplet.

4.17. "West Virginia Department of Health and Human Resources (WVDHHR)" is the lead public health agency in West Virginia working to help shape the environments within which people and communities can be safe and healthy.

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4.18. "West Virginia Education Information System (WVEIS)" is a comprehensive, uniform, integrated, on-line management information system (MIS) for schools and county school systems (districts). The system began implementation in 1991 with all schools and districts currently participating. The system provides for doing the business of the schools and districts in areas such as student demographics, special programs participation, grades, schedules, attendance, payroll, accounts payable, warehousing, student health records, immunizations, etc. Districts submit to the West Virginia Department of Education data from WVEIS required for state and federal reporting.

§126-51-5. Disease Prevention Measures.

5.1. All county boards of education must incorporate hand washing, as defined and outlined in The Basic and Specialized Health Care Procedures Manual for West Virginia Public Schools that accompanies 126CSR25A, West Virginia Board of Education Policy 2422.7, Standards For Basic and Specialized Health Care Procedures, into the county board of education communicable disease policy. It is best practice to wash the hands with soap and clean running water for twenty seconds. However, if soap and clean water are not available, use an alcohol-based product to clean the hands. Alcohol-based hand rubs significantly reduce the number of germs on skin and are fast acting. Good hand hygiene is the single most effective procedure to prevent the spread of communicable disease in the school setting. An allowance for hand washing should be incorporated into the daily routine of all students in West Virginia public schools, especially before eating, after blowing the nose, coughing, or sneezing, after going to the bathroom and as deemed necessary by the school.

5.2. Students must be in compliance with the required immunization schedule as set forth by the WVDHHR State Health Officer. The WVDHHR State Health Officer, or his/her designee (local health officer) shall make the final determination in cases in which an authorized medical practitioner's written medical exemption is challenged by school personnel as inappropriate or invalid. The immunization record shall be entered and reviewed annually into the West Virginia Education Information System (WVEIS).

5.2.1. All children entering prekindergarten (Pre-k), kindergarten and a West Virginia public school for the first time must have immunizations and show proof upon enrollment as defined by W.Va. Code §16-3-4. All Pre-k students shall also meet requirements in 126CSR28 West Virginia Board of Education Policy 2525, West Virginia's Universal Access to a Quality Early Education System.

5.2.2. It is strongly recommended that students entering grades six and nine receive adolescent immunizations as defined by the United States Department of Health and Human Services (USDHHS), Centers for Disease Control and Prevention (CDC) and WVDHHR State Health Officer. The immunization record for each student in grades six and nine shall be entered into the West Virginia Education Information System (WVEIS) in order to ensure that updated immunization information is readily available to health officials in the event of a communicable disease outbreak that presents an imminent danger to students or other members of the community.

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5.3. Instruction on the principle modes by which communicable diseases, including, but not limited to, human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS) are prevented, spread and transmitted shall be taught to students as outlined in 126CSR44E West Virginia Board of Education Policy 2520.5, Health Content Standards and Objectives. An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission and spread of HIV/AIDS and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in such instruction. The parent or guardian may exempt such child from participation in such instruction by giving notice to that effect in writing to the school principal as set forth in W. Va. Code §18-2-9.

5.4. An educational inservice on the prevention, transmission and treatment of current communicable diseases shall include, but not limited to, human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), shall be provided to all school personnel every two years by the county boards of education, as specified in W. Va. Code §18-2-9 and §18- 5-15d.

§126-51-6. Disease Control Measures.

6.1. Distinctions will be made related to diseases that are communicable in the school setting versus those known not to be spread by casual contact e.g. AIDS, Hepatitis B, Hepatitis C and other like diseases.

6.2. Each reported case of disease known not to be spread by casual contact will be validated by a designated individual such as a school nurse (W. Va. §18A-5-1 and W. Va. §18-5-22).

6.3. The administrator or school nurse shall exclude from the school any pupil or pupils known to have or suspected of having any infectious disease known to be spread by casual contact and is considered to be a health threat to the school population. The superintendent has the authority to exclude a staff member from school when reliable evidence or information from a qualified source confirms him/her of having a potential communicable disease that is known to be spread by any form of casual contact and is considered a health threat to the school population. Such a student or staff member shall be excluded in accordance with guidelines of American Academy of Pediatrics and WVDHHR unless his/her physician approves school attendance and the condition is no longer considered contagious. All reportable communicable diseases will be referred to the county health department, without disclosure of personally identifiable information, as set forth in West Virginia Bureau for Public Health Legislative Rule 64CSR7, Reportable Diseases, Events and Conditions. The county health department is able to provide reportable communicable disease guidance or go to <http://www.wvdhhr.org/idep/#Disease%20%20Reporting>.

6.4. Mandatory screening for communicable diseases that are known not to be spread by casual contact is not warranted as a condition for school entry or for employment or continued employment, nor is it legal based on W. Va. Code §16-3C-1. All screenings performed in the public school setting should be age appropriate deemed effective and necessary through evidence-based and scientific researched-based practice utilizing standard procedures and with the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. §1232h. W. Va. Code §18-5-22 allows county boards to provide proper medical and dental inspections for all students attending school and gives authority to take any other necessary actions to protect students from infectious diseases.

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6.5. Irrespective of the disease presence, standard/universal precautions shall be used and adequate sanitation facilities will be available for handling blood or body fluids within the school setting or school buses. Blood and body fluids from any person in the school setting shall be treated with standard/universal precautions; no exception shall be made when handling blood and body fluids. School personnel will be trained in standard/universal precautions as set forth by the Occupational Safety and Health Administration recommendations and guidelines at <http://www.osha.gov/>.

§126-51-7. Confidentiality.

7.1. All persons privileged with any medical information that pertains to students or staff members shall be required to treat all proceedings, discussions and documents as confidential information. Before any medical information is shared with anyone in the school setting a "legitimate educational reason" or "health or safety emergency situation" must exist, all other releases of confidential medical and health information shall be released only with the consent of the parent/guardian, student if over 18, employee or their representative as outlined in 126CSR94, West Virginia Board of Education Policy 4350, Procedures for the Collection, Maintenance and Disclosure of Student Data, Family Educational Rights and Privacy Act of 1988 and Family Educational Rights and Privacy: Final Regulations. Part II, 34 CFR Part 99.

7.2. Information from health records is part of the educational record and should be shared with the child's parents/guardians and pass freely among the school and medical home/health care provider to enhance student health and prevent duplication of services, only after permission is obtained from the student's parent/guardian.

§126-51-8. Severability.

8.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Education

Address: 1900 Kanawha Boulevard, East,
Building 6 Room 318
Charleston, WV 25305

Phone Number: 304. 558.2711

Email: bshew@access.k12.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No state costs or revenues will be impacted by the proposed repeal and replacement of W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual
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Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-" for decrease)	Next Increase/Decrease (use "-" for decrease)	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual, Policy 4336

3. **Explanation of above estimates (including long-range effect);**
Please include any increase or decrease in fees in your estimated total revenues.

No state costs or revenues will be impacted by the proposed repeal and replacement of W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

No state costs or revenues will be impacted by the proposed repeal and replacement of W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual, Policy 4336. The amendments proposed will provide regulations for the employees of local boards of education, students, and staff pertaining to the transportation of students to and from school and school related events. It sets standards for training, physical examinations, physical performance and administrative requirements.

Signature of Agency Head or Authorized Representative

Date

/S/ Dr. Jack McClanahan

5/2/08

UPDATED 8-13-08
Policy 4336: West Virginia School Bus Transportation Policy and Procedures Manual
COMMENT LOG

Action
Type
 N: No Response -Negative
 NA: Not Accepted +Positive
 A: Accepted or Neutral

Date	Individual/Organization	Comments	Action /Type	Rationale
		§126-92-1. General		
		§126-92-2. Incorporation by Reference		
6-19-08	Robert Knittle, Executive Director, West Virginia Board of Medicine	Thank you for the opportunity to comment on a proposed change in the above policy, which would include chiropractors as eligible to give a physical examination to school bus drivers. This is a very important proposed policy change and the lives of our children will be affected by it. In forming its opinion, the Board has reviewed a great deal of information supplied to your agency by the West Virginia Chiropractic Society, including the Palmer College of Chiropractic curriculum. The Board of Medicine has studied the rule and is of the opinion that a chiropractor is not qualified to make many of the clinical diagnoses required and should not be included in the definition of "Medical Examiner," at 15.2.10. If chiropractors are allowed to perform the physical examinations of bus drivers, the examination would not be performed with the same level of expertise and detail as if performed by a medical doctor. This would not be in the interests of public health, safety, and welfare. Significantly, the definition of "Chiropractic" in W. Va. Code § Code 30-16-3, reveals that there is no language there indicating that performing a physical examination as required by Policy 4336 is a part of the scope of practice of a chiropractor. West Virginia law should be	N/--	

6-26-08		<p>followed in this regard and must be read in conjunction with any regulation of the Federal Motor Carrier Safety Administration. We continue in this country to have state systems of professional licensure. If you authorize chiropractors to perform the examination as contained in the policy, it would appear that you are authorizing something beyond the chiropractor's lawful scope of practice in the State of West Virginia.</p> <p>Appendix B 3.3.1 This section does not clarify training. Does training in school bus operation mean to become certified to operate a school bus or just the ability and understanding of how to operate a school bus? Does training in personnel laws and regulations mean Service Personnel laws and regulations only - specifically laws and regulations affecting transportation or does it mean all personnel laws and regulations including professional personnel?</p>	NA/--	
6-26-08	<p>David Baber Nicholas County Schools Email: dbaber@access.k12.wv.us Title: Director of Transportation 400 Old Main Drive Summersville, WV 26651 Role: School System Staff</p>	<p>I am appalled in the lack of research that the WVBOE has done on Chiropractors. There must be an underlying agenda. Rebecca King states the law incorrectly as to how much education Chiropractors have or need. WV has some very antiquated ideas about the roles of DCs in the medical profession. In Fla DCs MDs, DOs PTs and RNs and work together and work well. There is no backstabbing, or acting like children protecting their territory. All medical professions must unite. Patients come first. We must be free to choose our medical practitioners. Chiropractors have thousands of hours of education like MDs & Dos. It's something to think about.</p>	A	

6-23-08	<p>Mary Frances Horton Business Health Services - WVUH-East mhorton@cityhospital.org Client Relations Representative 2000 Foundation Way, Suite 2200 MARTINSBURG, WV 25401 Role: Business-Industry</p>	<p>Regarding the Medical Examination Report: Our medical staff is glad to see that you are revising the Medical Examination Report for Bus Drivers to match the form used by the Federal Motor Carrier Safety Administration. The slight differences between the "old" school bus driver requirements and the general DOT requirements has sometimes caused confusion in the past. We believe this is a very positive change. Thank you!</p>	A/+	No change required
6-17-08	<p>David Seay Fayette County Schools DSeay@access.k12.wv.us Transportation Director 111 Fayette Ave Fayetteville, WV 25840 Role: School System Staff</p>	<p>In reading Policy 4336, we have an issue with paragraph 15.2.7 on page 22. It says that a trainee must drive 12 hours, including 2 at night with a certified school bus driver. The hours are fine, but shouldn't it say certified school bus driver instructor? For example I am a certified school bus driver instructor, but not a certified school bus driver, although I do have an S endorsement on my license.</p>	A/+	Added "instructor"
6-19-08	<p>Tim Reinard Hancock County Schools transportation@hancockschools.org Coordinator 64 Rockside Rd New Cumberland, WV 26047 Role: Professional Support</p>	<p>2.5.1 presentation of certs and license - are we doing this again? Last couple inspections we inspected the buses without drivers here 3.3 How would a driver know unless a student is required to carry an ID card. IE driver does not have a high school run but has a mid school run in an area - a high school student states they slept in and needs a ride / driver does not know student. A rule that we can not abide by is tough. 4.1 states parents shall - which means they are responsible - what are consequences if the parents don't do 4.1.1 or 4.1.2 4.2.7 If bus is on an extra curricular trip of distance and coach or chaperone brings food - this rule states no eating, drinking etc - if bus is pulled over and stopped can team eat?</p>	A/+ N/A N/A N/A	<p>No change This is for eligibility, not driver's responsibility Counties' responsibility Will contact county</p>

	<p>4.2.15 - I would like to see "within" added to section "into and from the bus" does not cover someone flinging something at the driver from within the bus.</p> <p>5.4 What do we mean by "persistently"? Does not sound like something we will win if their lawyer or advocate shows up at the hearing.</p> <p>5.6 does not mention IEP as listed in 5.7 and I am not sure what a 504 plan is. The transportation director gets Emer Health Care plan and Ind health care plan, Can we share these with the drivers? If a student is on a bus without a lift and aide and there is something alarming in the health plan what do we do? Put on a bus with an aide?</p> <p>5.7.1 states aides will receive training. When does this Policy become the Policy and when is it effective? If Policy becomes effective in Oct do I have to train my aides immediately?</p> <p>7.1.1 states the student shall be notified by the school bus operator. When the Principal or designee has student in the office and is notifying the parent why not have principal notify student and send a written notification out to the driver stating discipline taken. 7.1.3 would then be the reverse of 7.1.1 if we put in the words "in writing" after the words "notifies the bus operator"</p> <p>9.1 put words "in writing" after "shall notify bus operator"</p> <p>9.2 put words "and the school bus operator" after "has given student"</p> <p>10.1 What does this mean? Bus stops .2 miles out of the traffic stream?</p> <p>11.1.2.c why would we activate turn signal if we are stopping on the main road? Would not a driver think we are turning into a stop and possibly try to go around?</p> <p>11.1.2.f In rural areas with no sidewalks that will mean the kids may have to leave the path where they stand and walk through the tall weeds - would be nice and maybe should be where possible to do safely.</p> <p>11.1.2.h - what about buses with separate switch for red lights - how about just stating activate red lights</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>Meaning the same</p> <p>Renewed by attorneys</p> <p>Will speak with county director</p> <p>Will speak with county director</p> <p>Will speak with county</p> <p>County may not have time</p> <p>Duplication Will contact county</p> <p>Changed policy to eliminate turn signal</p> <p>Federal regulations</p> <p>Federal redulations</p>
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	<p>11.2.3 is tough. Driver is watching kids load, glancing in mirrors for on coming and approaching vehicles and attempting to count the students who were standing in the dark in a rural area from behind the pine tree - would be nice but don't think it is realistic.</p> <p>11.2.9.g What does this mean</p> <p>11.2.11.c what is our "as required or recommended by your state or local regulations" We being the state should put our regulation(s) here</p> <p>11.3.1 There is no subsection listed at the end of the writing 11.4.1.a suggest students "shall" not "should" walk 10" away</p> <p>11.4.1.d.3 Wait for your signal should be "wait for the Driver's signal"</p> <p>11.4.1.d.4 should be upon seeing the driver's signal, the students "shall" not "should".</p> <p>11.4.1.d.5 for the driver's signal not "your"</p> <p>11.5.a.2.A Is subsection 10.2.1 the right subsection?</p> <p>11.5.a.3.F Do we have to use flashing red lights at the schools? I thought law was activating lights on roadways only 11.5.a.3.F turn on left turn signal ???</p> <p>11.5.a.3.I congested traffic???</p> <p>11.6.2 third line, to confirm that they do not (???) what word or words missing 11.7.2.b place the transmission in park - I do not know that I agree - you may need power immediately - you need to come to a complete stop but not change gears to park or neutral 11.7.2.d When does the driver close the door and when do you shut off hazard lights??</p> <p>11.8 Change may report to should report - "may" sounds too passive</p> <p>11.9 "a young child's" should be pre-k or kindergarten student to be more specific</p> <p>12.3 and any other time limited sections spell out time and put numerical value beside 13.10 Appendix I is correct one I believe</p> <p>13.14 Can we attach copies of the standard as another appendix?</p> <p>13.16.3 In the case of football and track should we require an equipment vehicle. on a two hour trip the pads generally migrate to the floor and then end up in the aisle?</p>	<p>N/A</p> <p>N/A</p> <p>A</p> <p>A</p> <p>A</p> <p>A</p> <p>A</p> <p>A</p> <p>N/A</p> <p>N/A</p> <p>A</p> <p>N/A</p> <p>A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>Federal regulations</p> <p>Will contact county director Delete "state of"</p> <p>Added 11.1.2</p> <p>Added "driver's". Changed</p> <p>Changed Changed to 10</p> <p>Federal regulations</p> <p>Will contact director Eliminate language Federal regulations</p> <p>Added language</p> <p>No change</p> <p>County shall decide age of student</p> <p>Pertinent sections are in policy</p> <p>Will discuss with county</p>
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	<p>13.18.3 Can we include the words or designee after supervisor of transportation</p> <p>13.19.1 M is not the right Appendix - don't see an appendix in the packet that refers to drug an alcohol testing</p> <p>14.2 Since it mentions "regularly scheduled" runs what about someone who takes an extra curricular trip and does not get back in time for 6 hours off duty?</p> <p>14.2 a & b I don't know what these mean</p> <p>14.2.c - How would I know if my driver is doing commercial vehicle work unless the individual tells me.</p> <p>15.1.a If the school or booster's club leases the coaches car for \$10 is the coach and the students in the car covered by BRIM? and who would check the validity of the license? I wouldn't necessarily know that the boosters rented a van or the coach's car for the students to travel in to a meet.</p> <p>15.2.4 "J" should be "H"</p> <p>15.2.6 Does the CEUs on line = the 40 hours required?</p> <p>15.2.7 Why "night driving"? No problem with just wanted to know why this particular type of driving and not snow and ice etc</p> <p>15.2.9 Can we specify which 1st aid and CPR training is acceptable? Only ones I know of is American Heart and Red Cross</p> <p>15.2.12 Can we specify "WV Department of Education" rather then by the state department? May confuse DMV with us.</p> <p>15.2.14.b did we use test examiner to be generic when presently we use State of WV School Bus Inspectors to administer test?</p> <p>15.3.1.h and i. What is a preponderance of evidence and who establishes what is preponderance? Also, who besides the Trans Directors and bus drivers are going to know what is in this policy to intervene in presenting evidence?</p> <p>Are drivers not innocent until proven guilty by constitution and the judicial system not the administrative system?</p> <p>15.3.1.k Same as h & i - great idea but maybe ought to talk to legal first - How about if one is found guilty or pleads non-contendere to a</p>	<p>N/A</p> <p>A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>Responsibility of director</p> <p>Deleted reference to appendix Will contact county</p> <p>Federal regulations Will contact county Federal regulations Will contact county</p> <p>Will contact county</p> <p>Changed to "H" Will contact county Will contact county</p> <p>Policy outlines approval process Outlined in Section 1.2 Will contact county</p> <p>Legal time. Will contact county</p> <p>Same as above</p>
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	<p>charge of these types</p> <p>16.1 letter "F" not "I" appendix</p> <p>17.2 does the school supt have to keep original or can designee control.</p> <p>17.3.4 who approves hearing aides?</p> <p>17.3.12 who is OTEA needs spelled out in ()</p> <p>18.1 Not appendix I should be "F"</p> <p>18.2 Who designates the physician and / or psychologist? County Boards?</p> <p>18.4 Why do we recommend 12 hours? With the changes in this policy we still need 18 or more. There are enough policy changes on local and state level, rules by USDOT and others that need communicated on a yearly basis with the drivers to keep them up to date. With the In Service Days and Continuing education days we should keep the number at 18.</p> <p>19.1.7 What if county board has a no tolerance policy on alcohol and / or drugs? The way I read this section, the second positive test mentioned in the third sentence sort of guarantees that there will be a second chance. I understand this is on a state leave for certification and maybe that this section does not over rule any local board policies is all we need to state.</p> <p>21.1.1 far enough in advance should be three weeks in my opinion - this would help out the trans directors and get the supt out of saying go ahead every time the same person forgets</p> <p>21.1.2 Does this mean that putting a sub driver on a bus to replace a regular driver is interference?</p> <p>21.3 Same as 15.1.a</p> <p>21.4.2,3,4 and 5 going to be addressed - my vendors of charters are from Pa and know to have the drivers have in their possession their Title 34 and 151 clearances, a valid driver's license, and the county trip designee / sponsor must check the above items plus that the inspection sticker and registration card for plate have valid expiration dates.(not within the time frame of the trip) Thanks for the chance to</p>	<p>A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>Changed to "F" Will contact county</p> <p>Same as above</p> <p>Spelled out in 15.2.11</p> <p>Changed to "F" Will contact county director</p> <p>Minimum of 12 hours</p> <p>Will contact county</p> <p>County's responsibility</p> <p>Will contact county director</p> <p>For emphasis Will contact county</p>
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6-20-08	Dr. Steve Thaxton B.S. D.C. Chiropractic Physician 304 988-1922	give input.																					
<p>In reference to the bus driver physicals: Section 126CSR92 I have done multiple bus driver physicals over the years and thousands of school physicals. As a matter of fact, we have done almost 400 school physicals already in the month of June 2008; of these, around 350 of them for free as a public service to the communities I serve in Kanawha and Jackson Counties. I find Ms. King's letter inaccurate and ignorant of the facts. I'm in touch with many Chiropractic educators regularly, and aside from their continued increase in Chiropractic school entrance requirements and graduation requirements, the state of West Virginia has continued to require higher and higher education requirements. Contrary to Ms. King's opinion, to practice Chiropractic you must have a B.S. degree. That requires 128 college hours, not 60, as well as a Doctor of Chiropractic degree and pass both the State and National Board exams. In addition, as of 1988 when I started Chiropractic school, the differences in a Chiropractic education and Medical education are as follows:</p> <table border="0" data-bbox="284 1050 1385 1413"> <thead> <tr> <th>Chiropractic hours Minimum</th> <th>Subject</th> <th>Medical hours Minimum</th> </tr> </thead> <tbody> <tr> <td>456</td> <td>Anatomy/Embryology</td> <td>215</td> </tr> <tr> <td>243</td> <td>Physiology</td> <td>174</td> </tr> <tr> <td>296</td> <td>Pathology</td> <td>507 (this includes Geriatrics and Pediatrics)</td> </tr> <tr> <td>161</td> <td>Chemistry</td> <td>100</td> </tr> <tr> <td>145</td> <td>Microbiology</td> <td>145</td> </tr> <tr> <td>408</td> <td>Diagnosis</td> <td>113 (Including EENT and Dermatology)</td> </tr> </tbody> </table>		Chiropractic hours Minimum	Subject	Medical hours Minimum	456	Anatomy/Embryology	215	243	Physiology	174	296	Pathology	507 (this includes Geriatrics and Pediatrics)	161	Chemistry	100	145	Microbiology	145	408	Diagnosis	113 (Including EENT and Dermatology)	A
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	<p>Board of Osteopathy is in the exact same position and since neither Mr. Knittle, Ms. Schreiber nor Ms. King or, as far as I can tell, any of their "Board" members have actually graduated from Chiropractic school, how can their opinion on what Chiropractors can and cannot do have any bearing or basis in this arena?</p>		<p>A+</p>	<p>Changed "monthly" to "bi-monthly"</p>
<p>6-26-08</p>	<p>Victor L. Gabriel, Administrative Assistant Support Services Harrison County Schools</p>	<p>I have reviewed the Regulations Policy 4336 and have comments regarding Page 3, Section 2.76. I do not think we should require each and every school bus to be safety inspected <u>every month</u>. I know the intent is correct and if counties had the needed number of employees to perform this task, it would be an obtainable goal. While I agree with the theory, I am confident counties cannot complete this requirement. I do not believe we should place something into policy that counties cannot achieve. Some months school is not in session enough to complete the task. I therefore respectfully recommend that we change to bi-monthly or 40 working days.</p>		
<p>6-19-08</p>	<p>Tim Reinard Hancock County Schools <a href="mailto:transportation@hancoc
kschools.org">transportation@hancoc kschools.org Coordinator 64 Rockyside Rd New Cumberland, WV 26047 Role: Professional Support</p>	<p>16.1 Is there a list of otc drugs to go with appendix F and can it be included? 18.1 "and medical examiner" who is this person? Does the board need to hire or identify one for the county? In appendix F under medical disqualification, third paragraph there is a <blank> company physician. Will this be rewritten as a part of the policy? 17.3.7 seems to disagree with the form in appendix G section 5 in that the form lists < or = to 140/90 and under the column marked recertification the same < or = 140/90 appears and even states that a one -time certificate for over 141-159/91-99 can be issued In appendix G section 7 at bottom of the form has a box for two year certification and also 3 & 6 months and other. Also same appendix "physical qualifications for drivers" drivers role, third column should be changed to refer to section 18.1 and if added the present document in the policy regarding notification. also do not site hypertension section 391.41(b)(6) because of numerical values contradicting 17.3.7 Appendix H back page can we add a box for child abuse, sexual</p>	<p>N/A N/A N N N/A N/A</p>	<p>Changed often. Will contact county Will contact county Form will reflect "less than 140/90" Changed to one year certification Same regulation Does not contradict</p>

		<p>misconduct etc?</p> <p>Appendix I While this form seems general enough, If I check any of these things does that mean if the highway department won't or can not afford to fix then my Board is responsible for the repairs or reconfiguration? Also, Should not a civil engineer or highway engineer fill out this form? It would be nice to send a filled out copy to the DOH and have their department take responsibility for correcting the items or telling me they disagree and then we can argue over the facts. Also, are these records going to be Subpoenaed if God forgive a child gets hurt at one of these locations that I could not fix or get fixed?</p> <p>Found the answer to my question in 15.2.9 - might be advantageous to refer to Appendix K section 3.2 under 4.2 can we add be at the bus stop 5 minutes prior to the scheduled stop time and be visible to the driver? This was the first year that my driver asked a parent to have their child out 5 minutes prior to her stop in case she was running early and the lady refused. Then a couple other parents had their kids sit in the car until the bus stopped then the child would get out of the car, put on their coat, get their book bag, go around the car and kiss mom, open the back door and pet the dog, head for the bus and turn around and go back to the car to get their lunch then of course they have to kiss mom again. While the bus waits with their lights on and traffic held up.</p> <p>Section 5.5.3, do we need to include bus aides instead of just putting the aides in 5.7.1 with no specific hours requirement? And should not at least the aides be trained on 2422.8?</p> <p>15.2.10 The candidate shall pass a physical examination from a medical examiner (doctor of medicine, doctors of osteopathy, physician assistants, advanced practice nurses) Omit: doctors of chiropractic whereas little if any internal medicine is provided from chiropractic schools. Omit: reference to FMCSA regulations Positive additions to the policy. Add: definition for medical examiner reflecting the wording in 15.2.10 In general, many improvement have</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>A+</p>	<p>National Standards Form. Will discuss with county</p> <p>Will contact county</p> <p>Will contact county</p>
<p>6-16-08</p>	<p>Woodrow E. Wilson Roane County Schools/MWAPT wwilson@access.k12.wv.us Transportation Director/President P.O. Box 609</p>			

	167 E. Main Street Spencer, WV 25276 Professional Support	been incorporated and I encourage passage of 4336 so it might be in place for the 2008-09 school year.		
6-14-08	Kathy Lane lane19@verizon.net Service Personnel	I think we need a state policy regarding the drop off of kindergartners. It should be stated that a parent of guardian must be at the bus stop to receive them.	N/A	Already added to policy
6-7-08	Allan Chamberlain, M.D. Huntington ascrrc@hotmail.com	I am a physician who employs PA's and Nurse Practitioners. I have heard that you are considering a rule to allow these providers, and chiropractors, to perform bus driver physicals. I would support such a rule, based on my experience with mid-level providers. I wouldn't know whether chiropractors are competent for this or not. Of course, only properly licensed practitioners should be allowed. Someone who has a degree as a mid-level, but is still licensed at a lower level might not be practicing with timely access to consultation and quality assurance protections. Such a trained but unlicensed practitioner might lack the skills necessary to perform this function safely.	N	
6-10-08	Michael Krasnow, D.O., Ph.D. mkrasnow@marshall.edu Professor and Chief of Ophthalmology Joan C. Edwards School of Medicine, Marshall University	Chiropractors are not qualified to medical evaluations of bus drivers or anyone else. These exams involve evaluations of mental status, eyes, reflexes, etc. These evaluations should be in the hands of physicians, nurse practitioners, and physicians assistants.	N	
6-16-08	Michael Megehee, DC megehee@wtechlink.us	I am writing regarding your review of the chiropractic profession in performing school bus driver physicals. From my extensive experience with the Federal Motor Carrier Safety Administration, and it's regulations, I am pleased to provide you with additional information	N	

for your consideration. Please find enclosed a copy of my CV. I am in receipt of copies of letters from the West Virginia Board of Osteopathy and the West Virginian Board of Medicine. According to one of these letters, within your department there exists an evaluation based on curriculum, and an opinion that doctors of chiropractic are not qualified to perform school bus driver physicals. The opinions contained in these two letters do not agree with the opinions reflected in the US Department of Transportation regulations regarding the ability of doctors of chiropractic to perform driver physicals, nor the scope of chiropractic practice in West Virginia. West Virginia law does state that a chiropractor can perform physicals contrary to the statement contained in the letter from the West Virginia Board of Medicine. Section 30-16-3 Definitions states that doctors of chiropractic may use the term "Chiropractic Physician" and that doctors of chiropractic may employ practices and procedures which are based on training received in and through accredited chiropractic colleges of the Council of Chiropractic Education. The Federation of Chiropractic Licensing Boards, the Council on Chiropractic Education, and the National Board of Chiropractic Examiners can provide detailed and extensive information regarding physical examination training for chiropractic physicians at your request. DOT Medical Examiners perform the commercial motor vehicle driver physical examination and issue the medical examination certification card. This includes bus drivers, including in many cases, school bus drivers. Some school bus drivers are exempted from this requirement by federal regulation. Doctors of Chiropractic serve as Medical Examiners in the DOT Medical Examiner program (49CFR 390.5 Definition: Medical Examiner) as long as the state scope of practice allows the chiropractic profession to perform physical examinations. Doctors of Chiropractic are allowed to perform CMV driver physicals in 49 of the 51 US jurisdictions. This is congruent with their training in accredited chiropractic colleges and examination by the National Board of

Chiropractic Examiners as mentioned earlier. Note that this provision is directed only toward state scope of practice limitations, and does not question the examination skills or education of doctors of chiropractic. Only the states of Washington and Michigan have scope of practice laws which will not allow the chiropractic profession to perform physical examinations.

Federal regulations regarding school bus driver physical examination is complex because several regulations come into play. Federal regulations exempt school bus drivers when the driver is an employee of a city, county, or state entity (390.3 (f) (2)). Public school systems are a part of these entities. Private schools are not included. Regulation 49CFR 390.3 (f) (1) states that school bus drivers conducting school bus operations as defined in 49CFR 390.5. are exempted. School bus operation is specifically defined as transport of school children and/or school personnel from home to school, and from school to home. Field trips, school or sporting excursions do not qualify as "school bus operation" for public or private schools. A "contracted" school bus driver even when driving for a public school, who is conducting sport team travel, or school outings is not exempted from the federal regulations. Therefore, every state has a mixture of school bus drivers, some who are exempted from federal regulation, and some who are not.

Most, if not all states have adopted laws requiring a medical examination for all school bus drivers. Failure to do so would cause inequity. As a result, most states have adopted the federal guidelines which allow chiropractors to perform these exams in 49 US jurisdictions. Some states require additional requirements such as being able to climb a step at 17.5", climb out of emergency exits, or to lift or drag a weight a certain distance. Although states may adopt higher health requirements, I am not aware of any state that has disenfranchised an accepted group of health care providers as a mechanism to achieve a "higher" health standard or healthier drivers. I am also unaware of any state adopted driver health requirement that

	<p>precluded the chiropractic profession from performing these examinations.</p> <p>Should the West Virginia Department of Education decide not to allow chiropractors to perform these exams, it must still accept school bus drivers from other states whose medical exam was performed by a chiropractor. Failure to do so would impede interstate transportation and violates federal law. For those bus drivers required by federal law to have a physical exam, the driver would likely be able to travel outside West Virginia and have a chiropractor perform that exam. Although the state of Washington does not allow doctors of chiropractic in their state to perform a driver physical, a Washington CMV driver may go to another state (except Michigan) and get their CMV physical from a doctor of chiropractic.</p> <p>Preventing the chiropractic profession from performing these exams would cause some school bus drivers to fall under the Federal regulations that otherwise allow doctors of chiropractic in your state to perform these exams, versus those that fall solely under state regulation.</p> <p>You may not be aware of the Federal Motor Carrier Safety Administration's new program called the National Registry of Certified Medical Examiners (NRCME). Likely to be introduced before the end of 2008, the NRCME will require <i>all</i> medical examiners to become certified by attending the approved physician training and passing a certification test. Only Certified Medical Examiners will be allowed to perform the CMV (including bus and school bus) driver physical examination. The training program and certification test will be identical for all participating health care professions.</p> <p>The Federal Department of Transportation, which regulates all interstate transportation, recognizes by federal regulation the doctor of chiropractic's skill to perform driver physicals. Doctors of chiropractic will be certified in the FMCSA National Registry of Certified Medical Examiners whose mission is to produce "trained, certified medical examiners who can effectively determine if a commercial motor vehicle</p>	
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	<p>driver's health meets Federal Motor Carrier Safety Administration standards". Doctors of chiropractic are trained in accredited chiropractic colleges, tested by the National board of Chiropractic Examiners, and permitted by definition in both West Virginia law and federal regulation to perform this function.</p> <p>In summary, doctors of chiropractic should be allowed to provide school bus driver physicals in the State of West Virginia.</p>			
6-30.08	<p>Susan Dickey Kanawha County Schools TSJMB@suddenlink.net Nurse Practitioner 200 Elizabeth Street Charleston , WV 25311 Professional Support</p>	<p>15.2.10 Agree with the definition of medical examiner. Nurse Practitioners have adequate education and training to conduct these physicals. They are approved to conduct physicals for CDL's in West Virginia. Health care dollars and time are scarce resources. It is important to use our health care providers effectively to meet the needs of the bus drivers, and the community. West Virginia is a rural state that has many rural health clinics. These clinics use Federal dollars and are required to have either nurse practitioners or physician assistants as part of the medical team.</p> <p>Consequently, some bus drivers may have as their primary health care provider, a nurse practitioner. This is a good change.</p> <p>15.2.10d Change physician to appropriate health care provider.</p> <p>Nurses, PAs, and Nurse practitioners may do this certification in their respective countries.</p> <p>17.3.6c Collapse is a vague term, and should be removed. Syncope listed as 17.3.6a should meet this need.</p> <p>17.3.6d Congestive Cardiac failure has several diagnostic levels and for some individuals they may be asymptomatic. Would suggest changing this to acute congestive heart failure.</p> <p>18.2 Change designated physician to designated health care provider. Change psychologist to psychologist/psychiatrist. Psychologists do not do medication management. Thank you.</p>	<p>A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>A</p>	<p>NPs and PAs under the supervision of a physician thus allowing consultation and review by a MD or DO</p> <p>Language mirrors the</p> <p>As per federal code</p> <p>As per federal code</p> <p>Made change</p>
6-23-08	<p>Stephen Herto, MS DC Every Body's Chiropractic PLLC</p>	<p>I understand the issue of chiropractors performing school bus driver examinations is being reviewed and wish to add my comments to the discussion.</p>	<p>N</p>	

	<p>23 Preston Plaza Drive Kingwood, WV 26537 Phone: 329-1000 Fax: 329-1001 www.DrHerto.com</p>	<p>I have been performing US DOT physicals for CDL drivers for years in my office. The standard is much higher at a federal level and DC's are licensed in all 50 states to perform these physical examinations and approved for such by DOT. The school bus examination is very similar in scope. DC's are trained in differential diagnosis and are easily capable to handle these exams. A letter from Rebecca King RN suggests that DC's "overall lack of curriculum" compared to MD's is an issue. The credit hours are similar but the curriculums are different. Our diagnosis and manipulative technique hours exceed the MD's. It is more a matter of focus of practice versus quality training. Has a DC performing an examination led to any difficulties or driver impairment issues? Why change a long standing policy? Are physician assistants and licensed practical nurses curriculums similar to an MD's? Thank you for considering my comment.</p>		
6-19-08	<p>Dr. Marcia S. Beissell P.O. Box 149 Bruceton Mills, WV 26525 Telephone: 379-7000</p>	<p>Chiropractic physicians are well trained to perform physicals. It is essential that we be able to diagnosis in order to properly render care to a patient. A physical examination is part of an office call. I am therefore recommending that chiropractic physicians perform physical examinations for school bus drivers.</p>	N	
7-1-08	<p>John Haines jhaines@access.k12.wv.us</p>	<p>13.10 Page 18 The appendix should be I instead of L. 13.14 Page 18 The Headstart regulations say that we must have three evacuation drills per year. I am faxing the sheet and standards that address this issue. One of the drills has to be within the first 30 days of school. (Headstart starts later). We were written up by a federal review team this school year. Please advise. 15.2.4 Page 22 Should be appendix H instead of J 16.1 Page 25 Should be appendix F instead of I</p>	N/A A N/A N/A	<p>Previously corrected Will change to 3 for Pre-K students Previously corrected Previously corrected</p>
6-22-08	<p>Mark Hughes, D.C.</p>	<p>I would like to take the opportunity to address the issue regarding</p>	N	

South Hills Chiropractic

whether chiropractors are qualified to perform physical examinations for WV public school bus drivers, and to address the information provided by Ms. King and the Boards of Osteopathy and Medicine.

Allow me to begin by stating that I have been practicing as a chiropractic physician since 2000, and therefore, I am fully aware of the requirements for attaining chiropractic licensure prior to July of 2005, which is referenced in Ms. King's letter. Although there has remained a significant level of ignorance regarding the chiropractic profession since its inception, I have only felt the need to address such egregious distortions of truth twice during my education and career, with this being the second.

Again, Ms. King in her letter to the Boards of Osteopathy and Medicine stated that prior to July of 2005; chiropractors were able to be licensed with 2 years and 60 hours of college. This statement is false. I ask you to use your own common sense for a moment and think if any individual with the title of doctor (whether it be a doctor of medicine, osteopathy, chiropractic, philosophy, religion etc.) is able to attain such a degree with only two years of education. The answer is an obvious no. In addition to undergraduate education, chiropractic education is comprised of an additional four years of graduate education. From a credit standpoint, chiropractic programs are approximately five years, however, the program continues without pause and can therefore be completed in approximately four years.

The chiropractic program is quite stringent. In fact, as the literature I provided will demonstrate, the number of chiropractic classroom hours is comparable if not greater than a medical program. Although the focus is somewhat different, chiropractors are required to take the same courses as our fellow medical doctors. In addition, chiropractors undergo four National Board Examinations as well as State Board Examinations prior to licensure. The chiropractic program, however,

does not include a residency program but rather includes an inherent clinical experience as part of the curriculum. The true difference lies in the fact that our area of specialty is manual medicine not allopathic medicine. Therefore, the focus of the chiropractic program is directed more toward diagnosis and manual therapies, rather than exposure to pharmacology like our medical counterparts.

In regards to the opinions submitted by the Boards of Osteopathy and Medicine, they are not surprising. After all, how can one speak wisely regarding the schooling and training of a chiropractor if one has never been exposed to it? In addition, the history between chiropractic and allopathic medicine has been, for the most part, a torrid one. In the early 1960's, the American Medical Association attempted to contain and eliminate Chiropractic as a profession. The AMA's purpose was to prevent medical physicians from referring patients to chiropractors as well as preventing them from accepting referrals from chiropractors; to prevent chiropractors from obtaining access to hospital diagnostic and radiological services; to prevent medical physicians from teaching at chiropractic colleges or engaging in any joint research; and to prevent any other cooperation between the two groups. The AMA also told its membership, medical students, insurance companies, and the general public that chiropractic was illegitimate and unscientific. In 1976, a lawsuit was filed against the AMA (and other named entities) for violation of the Sherman Anti-Trust Laws. After 15 years of litigation, the U.S. Court of Appeals stated that the AMA intended to "destroy a competitor," and that there was evidence "showing that the AMA was motivated by economic concerns." The court found that the AMA had concealed evidence showing its guilt and was caught "doctoring" documents. The AMA was also "guilty of systematic, long term wrong doing and has not acknowledged its lawlessness." Despite the favorable ruling attained by the Chiropractic profession, the AMA was still somewhat successful in spreading the anti-sentiment, which continues to prevail to some degree in the form of

		<p>misguided perceptions.</p> <p>Fortunately, there also presently exists a large contingency of medical doctors that are more informed and support the Chiropractic profession. In my own practice, I have a number of medical doctors that are patients, and I can therefore only assume that they respect my knowledge and clinical skills. In fact, a patient of mine who is also a medical doctor happens to be my best source of patient referrals. Furthermore, I am certified to perform disability evaluations and impairment ratings. The Office of Judges, on several occasions, has deemed my examination findings to be more valid than those submitted by medical doctors. It is incomprehensible that I can evaluate and rate an individual's impairment, which determines their level of disability and compensable award, yet I would not be qualified to perform a physical evaluation on a school bus driver.</p> <p>I can only hope that my efforts have helped to enlighten the misled. I question why information regarding the training and education of chiropractors was not obtained directly from the Board of Chiropractic or a chiropractic institution, as it seems an obvious course of action. In closing, I will share that I come from a family in which my father was a former school administrator, my mother a former RN (Registered Nurse), my sister a physical therapist, and my wife an Advance Practice Nurse working as a Nurse Practitioner. I allowed each of them to read the letters written by Ms. King and the Boards of Osteopathy and Medicine, and their sentiment was the same, "they don't have a clue."</p>	
7-2-08	Rodney C. Thompson, DC Thompson Chiropractic Clinic P.O. Box 728 Wayne, WV 25570	<p>I am writing to respectfully submit a comment on the proposed POLICY 4336—The West Virginia School Bus Transportation Policy and Procedures Manual.</p> <p>It is my opinion that there should not be <u>exclusion of chiropractic physicians from examination of public school bus drivers.</u></p> <p>My personal opinion concerning this matter arises from my experience</p>	N

in both the health care and educational spheres during the last thirty years.

Chiropractic health care in West Virginia has been my profession since 1979. It has also been my pleasure to serve as an elected member of the Wayne County Board of Education for the last fourteen years. I was also elected by the state's other 274 school board members to represent them as President of the West Virginia State School Board's Association. I continue to serve on my county board, and I remain a member of the Executive Committee of the State Association.

My comments are as follows:

1. The educational requirements for a qualified examiner are fully met by a chiropractic physician. I have seen some very negative "position papers" by representatives of other non-chiropractic associations. They certainly have the right to vigorously advance the perceived "best interests" of their groups, but I doubt that those writing the position papers have been around as long as I have. There are both medical doctors and osteopaths practicing today who graduated from high school the same year as I did—1964. If we go back to the medical curricula available at that time at West Virginia University (for example, Marshall University Medical School was only a dream at this time), we will find in the WVU med school catalog a description of a "combined program" of medical education which allowed the medical student to finish in six years.

Many of these fine doctors are still practicing and are well respected, and some are leaders of the medical community, I suspect. Back in 1964, the Osteopathic School at Lewisburg, WV was not the same as today, either. Their program was very "1950ish". The status of osteopaths in West Virginia was not on a par with that of medical doctors. Doctors graduating during these years are still practicing and doing a fine job. They are the respected elder DO. Some are professors, I suspect. Let us not forget the foreign doctors and local residents who chose to complete

		<p>their medical education in the off-shore medical schools. They are still practicing and as far as I can tell, doing a fine job. They may be professors and leaders of the medical community as well.</p> <p>2. Historical amnesia by the authors of anti-chiropractic position papers is selective and ignores the plain facts. Those facts are that medicine, osteopathy, and all the other health care disciplines including chiropractic have evolved over the years.</p> <p>3. My final point is a single one. If a health care professional has been trained to administer physical examination; graduated from a nationally accredited school; passed the national board examinations (including the physical examination portion); and passed the West Virginia State Board Exam, being licensed in the State of West Virginia—that doctor should not be selectively discriminated against by anyone.</p> <p>Finally, as a side note, I would state that I do not speak for the state school board association, but I will point out that certification by training followed by standardized testing on a national and local level is a universal method to determine qualification. Chiropractic physicians meet the criteria. And, it is my personal opinion that those, who for reasons of their own, oppose the inclusion of chiropractic physicians as examiners of bus drivers are opening a can of worms. If a health care provider is trained, tested, and licensed in a field of endeavor, that person should not be excluded for other reasons.</p>	
7-6-08	<p>Carl S. McCale, D.C. President West Virginia Chiropractic Society RIVERVIEW HEALTH CLINIC, PLLC 1605 Grand Central Ave Vienna, WV 26105 (304) 295-5505</p>	<p>This letter is to reiterate to you the fact that chiropractors licensed in the state of West Virginia are qualified to perform school bus driver physical examinations. When licensed in West Virginia, chiropractors are categorized as primary care physicians and are thus qualified to perform physical examinations on many levels, including those necessary for school bus drivers.</p> <p>As current President of the West Virginia Chiropractic Society I assure you that chiropractors in our state strive to make our profession the best it can possibly be. Since 2005, to be eligible for a chiropractic license in the state of WV, a chiropractor must have a 4-year degree</p>	

7-7-08	R. Austin Wallace, MD President	<p>along with their Doctor of Chiropractic degree. The State Board of Chiropractic Examiners also requires a score of 475 on their National Board Exam. This score is significantly higher than the national requirement, and our state is one of few in the nation to require a higher than average score.</p> <p>I ask that you maintain the proposed language in Policy 4336, which does maintain doctors of chiropractic as providers who can perform examinations for school bus drivers. Should you have any questions or concerns, please feel free to contact me.</p> <p>Per your request for comment on the proposed rule rewriting the policy manual on school bus transportation, I am submitting the following comments on behalf of the West Virginia State Medical Association (WVSMA).</p> <p>The WVSMA is critically concerned about the risk to public safety with the proposed language change in section 15.5.10 which discusses the healthcare providers who will be considered qualified to perform the required physical examinations of school bus driver candidates. The new language would open that pool of qualified providers to include physician assistants, nurse practitioners and chiropractors along with the current allopathic (MD) and osteopathic (DO) physicians as specified under the definition of "medical examiner" by the Federal Motor Carrier Safety Administration (FMCSA).</p> <p>Physician assistants and nurse practitioners receive their educational training in the allopathic medical model. They are trained and function commonly as primary care providers, as well as in sub-specialty practices. In these roles they deal with many of the disease states that one would need to be familiar with in order to safely clear a candidate for school bus operator as medically fit to operate a bus.</p> <p>The WVSMA does not have any objections to adding physician assistants and nurse practitioners to this rule <i>as long as they are</i></p>	N	
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supervised by a physician. To the extent a physician is needed to take a closer look at certain symptoms the physician assistant or nurse practitioner may not be able to fully diagnose, they can call upon their supervising physician to advise. This relationship with a physician provides essentially an additional safety net which is important to have when dealing with the safety of our children and others traveling our State roads.

By nature of their profession physician assistants function under the supervision of a physician; however, nurse practitioners are only required to do so when holding prescriptive privileges. A central component of the physical examination as set out in your proposed, revised policy is ensuring the candidate's driving ability is not impaired by the prescription or over the-counter medications they are taking. Knowledge of pharmacology and having a clear understanding of how drugs interact within a patient is crucial. The WVSMA recommends that the rule clarify the nurse practitioners who would be considered qualified to perform the physical examinations hold prescriptive privileges.

The WVSMA; however, takes the position that **chiropractors are in fact not qualified nor permitted within their scope of practice in West Virginia**, to perform the physical examination required in this policy and strongly object to their inclusion in this rule.

Chiropractors simply lack the medical education and training necessary to perform the physical exam as required under this policy. Such physicals must be done by a medical person who has the ability and training to diagnose normality and abnormality as they relate to a broad spectrum of diseases and conditions including diabetes, hypertension, seizure disorders and vision and hearing difficulties. Doctors of chiropractic medicine have an entirely different training which does not include all of the necessary skills to diagnose and treat

these medical problems and others which may be found on these types of physical exams. Additionally, as indicated in the Chiropractic Board's rule 4 CSR 1, section 3.1.d. it was only after July 1, 2005 that the West Virginia Board of Chiropractic required that licensees hold at least a baccalaureate degree. It is our understanding that prior to that date only one college of chiropractic in the United States required a baccalaureate upon admission.

Chiropractors hold a unique and important position among the healthcare continuum. The Association of Chiropractic Colleges (ACC) states on their web site at <http://www.chirocolleges.org> that the practice of chiropractic focuses on the relationship between structure (primarily the spine) and function (as coordinated by the nervous system) and how that relationship affects the preservation and restoration of health. The profession is based in its roots upon the following three assumptions:

1. There is a fundamental and important relationship between the spine and health that is mediated through the nervous system.
2. Mechanical and functional disorders of the spine or subluxations can have a deleterious effect on health status.
3. Correction of the spinal disorders by way of adjustments may restore health.

The ACC describes that chiropractic focuses particular attention on the subluxation as "a complex of functional and/or structural and/or pathological articular changes that compromise neural integrity and that may influence organ system function and general health. Additionally the ACC defines chiropractic as "a health care discipline which emphasizes the inherent recuperative power of the body to heal itself without the use of drugs or surgery." Chiropractors take no courses in surgery or pharmacology. Instead of surgery and Pharmacology, Chiropractors take courses in Biomechanics,

	<p>Engineering, Physics and the study of movement (Kinesiology) and especially manipulation also called adjusting.</p> <p>While chiropractors provide certain healthcare services, their training, focus and scope of practice does not run the full spectrum of health conditions which must be covered by the physical examination for bus drivers.</p> <p>The physical examination is not merely checking boxes and asking a patient about their prior medical history. Many of these diseases and conditions, which could impact an applicants' ability to safely operate a school bus, could be unknown to the applicant but need to be detected by a skilled "medical examiner" and diagnosed prior to placing prospective drivers behind the steering wheel of a school bus.</p> <p>The role of the chiropractor is not as a primary care provider. The majority of chiropractic patients (>95%) seek care for musculoskeletal, mainly spine-related pain complaints, not the range of ailments seen by primary care providers. Chiropractic clinical training clearly does not provide the broad diagnostic competency required of a provider to competently complete this physical examination. The limited set of therapies available within the chiropractic scope of practice are poorly suited to diagnosing the vast majority of health conditions that present to the examiner. These are conditions that require interventions and care that are outside of their legally determined scope of practice.</p> <p>Furthermore, particularly important is that Chiropractors do not have medication prescribing authority and by the core philosophy of their practice provide care "without the use of drugs". Without having comprehensive ongoing education throughout their career in pharmacology it would be highly improbable that a healthcare provider would have the skills necessary to understand the subtleties of the interplay between the medications and physical and cognitive</p>		
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	<p>responses. These subtleties, if missed, pose a huge liability to the healthcare provider, the candidate and the county and state school systems.</p> <p>Chiropractors do not work under a collaborative agreement with physicians. The community would not be provided with the same safety net provided to the more suitably trained physician assistants and nurse practitioners.</p> <p>The physical examination form within this policy that must be completed by the healthcare provider appears to not specify who must complete the vision and hearing testing. An issue of public safety could arise especially with the eye and ear tests that must be administered if a chiropractor attempts to rule out all of the various tests or conditions required on the physical examination form. Along the same lines as discussed above the chiropractors education and scope of practice does not provide them with the ability to perform this section of the exam.</p> <p>Additionally, the physical examination form requires the medical examiner diagnose whether there are abnormalities or conditions that exist with the body system of the individual seeking the physical examination. These include a review of the individual's body system including: general appearance; eyes; ears; mouth and throat; heart (murmurs, enlarged heart, extra sounds, pacemaker, implantable defibrillator); lungs and chest, not including breast examination (abnormal chest wall expansion, abnormal respiratory rate, impaired respiratory function, etc.); abdomen and viscera (enlarged liver, enlarged spleen, masses, bruits, hernia, significant abdominal wall muscle weakness, etc.); vascular system (abnormal pulse, and amplitude, carotid or arterial bruits, varicose veins); genitor-urinary system (hernias); impaired extremities; spine or musculoskeletal (deformities, limitation to motion); neurological (impaired equilibrium,</p>	
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	<p>coordination or speech pattern, asymmetric deep tendon reflexes, sensory or positional abnormalities, ataxia, etc.)</p> <p>Though qualified to determine muscular-skeletal conditions, chiropractors would be functioning well beyond their scope of practice as established by the ACC and within West Virginia Code (30-16-3 definition of "chiropractic" and 30-16-18 "scope of practice") if they were to perform an examination comprehensive enough to rule out <i>all</i> of the abnormalities listed above.</p> <p>With all of this said, the WV SMA offers the following language as a replacement to the language used in section 15.5.10 of this rule:</p> <p><i>"The candidate shall pass a physical examination from a licensed allopathic physician, licensed osteopathic physician, licensed physician assistant or licensed advanced nurse practitioner with prescriptive authority."</i></p> <p>In researching this issue, we polled our membership as to their opinion on the proposed change to your rule. We have attached over 22 responses received from physicians who granted permission for their emails to be shared with you. We have received double this amount of responses nearly all with the same message.</p> <p>We thank you for the opportunity to provide input to the Board regarding this proposed rule and hope that you find our comments helpful as you finalize the document.</p>	
7-7-08	Robert Orford, MD President American College of Occupational and	I am writing on behalf of the American College of Occupational and Environmental Medicine (ACOEM) in response to the Board's request for public comment on Policy 4336, <i>West Virginia School Bus Transportation Policy and Procedures Manual</i> . Proposed changes

Environmental Medicine	<p>include allowing physician assistants, advanced practice nurses and chiropractors, to perform required driver physical examinations.</p> <p>The National Transportation Safety Board has published reports of accidents where the probable cause was the driver's underlying medical condition. There is, therefore, no question that this is an important public safety issue. Also, the Association for the Advancement of Automotive Medicine has pointed out the high error rate on the performance of driver medical examinations. So it is important to assure the quality of the examination process.</p> <p>ACOEM is the pre-eminent medical organization committed to enhancing the health, safety, and productivity of workers, retirees, and their families. In its established role as a leader in the area of fitness for duty, ACOEM has offered courses on medical fitness of commercial drivers and on serving as a medical review officer, and has published newsletters on both topics. ACOEM is the only medical specialty uniquely involved in the matching of the worker's capabilities to the job requirements.</p> <p>ACOEM's 6,000 members perform hundreds of thousands of physical examinations for commercial truck and bus driver medical certification annually. ACOEM was the first professional organization to sponsor and promote the ongoing education of physicians and other health professionals in the performance of these examinations, and works closely with the Federal Motor Carrier Safety Administration to improve highway safety by producing trained medical examiners who can effectively determine whether a driver's health meets the requisite standard for public safety.</p> <p><u>Recommendation</u> ACOEM recommends that the Policy 4336 be revised as follows (revised text is <u>underlined and in bold</u>):</p>	
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	<p>“15.2.10 The candidate shall pass a physical examination from a Medical Examiner, defined by the Federal Motor Carrier Safety Administration regulation to be doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses and doctors of chiropractic (hereinafter “Medical Examiner”). <u>The Medical Examiner shall meet all requirement and regulations set forth by the Federal Motor Carrier Safety Administration.</u>”</p> <p>This recommendation will allow the Board to take advantage of significant changes that will be forthcoming from the FMCSA. Section 4116 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires the Federal Motor Carrier Safety Administration (FMCSA) to establish a national registry of medical examiners who are qualified to perform examinations and issue medical certificates. The FMCSA National Registry of Certified Medical Examiners (NRCME) program will require medical examiners to receive training and pass a certification test before being listed on the Registry. This registry will be available to commercial motor vehicle (CMV) drivers and motor and bus carriers to identify medical examiners authorized to conduct the CMV driver physical examination.</p> <p>The NRCME program will establish core curriculum specifications for training that address the range of knowledge, skills and abilities required to perform physical examinations of CMV drivers. The NRCME program is integral to FMCSA’s medical program and will be the only program to qualify and list certified medical examiners that perform the required physical examination of CMV drivers.</p> <p>I urge the Board to ensure that medical examiners are in compliance with current and future requirements from the FMCSA. Thank you for your consideration of our comments. If you have any questions or</p>	A+	Will add as written
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		<p>need additional information, please contact Patrick O'Connor at 202-223-6222.</p>	
5-28-08	<p>Cheryl Schreiber Executive Secretary State of West Virginia Board of Osteopathy 334 Penco Road Weirton, WV 26062 (304) 723-4638</p>	<p>The West Virginia Board of Osteopathy reviewed the information you provided regarding Chiropractors in the state of WV being comparable in practice to a licensed osteopathic physician and fully qualified to perform a comprehensive physical at the same level of expertise and detail as an osteopathic physician. The Board agreed with your assessment of their curriculum in comparison to that of an osteopathic physician, and therefore, would not recommend chiropractors as being fully qualified to perform comprehensive physicals at the same level of expertise and detail as an osteopathic physician.</p>	N
5-22-08	<p>Robert C. Knittle West Virginia Board of Medicine 101 Dee Drive, Suite 103 Charleston, WV 25311 304.558.2921</p>	<p>The above noted letter was discussed at the Executive and Management Committee Meeting of the Board of Medicine on May 11, 2008, after a thorough review by the members not only of the letter but also of the enclosures which accompanied it. We understand that you are requesting the Board of Medicine's opinion on whether the initial and annual physical examinations required of West Virginia public school bus drivers if performed by a licensed chiropractor would be performed with the same level of expertise and detail as if performed by a medical doctor. The answer is no. Further, a chiropractor is not a "licensed physician," therefore, the members of the Executive and Management Committee do not understand how it would be lawful to permit a chiropractor to perform the physical examination under your rule 126 CSR 92. We are pleased that you consulted the Board of Medicine about this matter in the interests of public safety.</p>	N
7-02-08	<p>Scott W. Harris, DC</p>	<p>I would like to comment on the proposed Policy 4336- The West Virginia School Bus Transportation Policy and Procedures Manual. I feel that doctors of chiropractic would be very qualified to perform physical examinations of school bus drivers. I feel the requirements to get into and graduate from Chiropractic College are very high. I am</p>	N

		<p>personally a graduate of New York Chiropractic College (NYCC) and practice chiropractic in West Virginia. At this time, the academic requirements for admission into the Doctor of Chiropractic program at NYCC are 90 semester hours of college credit from an accredited degree-granting institution. These credits must be completed with a Grade Point Average of 2.5 or higher. I completed a Bachelor of Science in Biology and had a minor in chemistry at West Virginia Wesleyan College (WVWC). I graduated Cum Laude with a grade point average of 3.5.</p> <p>Of the 90 hours required for admission, Inorganic Chemistry I and II, Organic Chemistry I and II, Biology I and II and Physics I and II (all with labs) are required. Also, 24 hours of social sciences and humanities are required. As a Biology major at WVWC, I had all of these required class plus several more. I feel these requirements are very adequate and prepare you well for continuing an education on a professional level. Also, these requirements are equal to most professional schools of any doctorate program. These are the requirements for admission to NYCC.</p> <p>Once you have been accepted to NYCC, in order to graduate with a Doctor of Chiropractic, a total of 4,620 hours must be completed. These include 585 hours of anatomy, 75 hours of biochemistry, 345 hours of physiopathology, 120 hours of microbiology and public health, 525 hours of diagnosis, 270 hours of diagnostic imaging, 75 hours of clinical laboratory, 165 hours of associated studies, 135 hours of chiropractic philosophy, 615 hours of chiropractic technique, 90 hours of ancillary therapeutic procedures, 75 hours of clinical practice issues, 1320 hours of clinical experience and outpatient services and 225 hours of elective courses. I graduated from NYCC Cum Laude with a grade point average of 3.5.</p> <p>Upon completion of the above mentioned requirements, and before</p>	
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6-30-08	Nunzio Pagano, DC, DAAPM GlenelG Health and Wellness Center 440 Water St Summersville, WV 26651 304-872-3333	<p>becoming licensed in West Virginia and most other states, national board exams must be passed. These are regulated by the National Board of Chiropractic Examiners. There are four parts of the boards to be taken and passed, with the fourth part being a practical exam. The West Virginia Board of Chiropractic requires that all four parts of the national boards be passed, along with a state examination, before a license is granted.</p> <p>I feel that licensed Doctors of Chiropractic in West Virginia are very qualified to perform physical examinations of all patients, including WV public school drivers. As a parent myself, I feel the bus driver's physical examination is of utmost importance for the student's safety. I would feel very comfortable knowing my son was riding on a bus on which the driver had been certified by a Doctor of Chiropractic. I perform physical, neurological and orthopedic exams on every new patient or condition that is seen in my office, as applicable. In addition to this, I perform Independent Medical Examinations and provide impairment ratings as needed. I feel that any Doctor of Chiropractic, or other health care provider that is licensed in the State of West of Virginia by their appropriate licensing board, is qualified to perform physical examinations.</p>	N	
		<p>This letter is in response to Proposed policy 4336 regarding the physical examinations of school bus drivers. Please be advised that we have been performing physicals for the Department of Transportation and the Nicholas County School Board for years now. We also do drug testing for the Federal Probation Department and many other area businesses. For years I have been performing comprehensive Pre-Employment Examinations for a number of different industries in three county areas.</p> <p>We perform these examinations because it falls within our scope of practice and chiropractors have been instructed and trained on how to perform these examinations. Also because we are accessible, affordable and no appointment is necessary is another reason they</p>		

6-18-08	<p>Bobby G. Green, D.C. Fayette County Chiropractic P.O. Box 200 Smithers, WV 25186 (304) 442-5188</p> <p>119 Main Street West, Suit B Oak Hill, WV 25901 (304) 465-2153</p>	<p>choose this facility. Over the years I have been performing these examinations and we have yet to have any complaints from a patient or any company that has referred someone to this facility. Since chiropractic physicians have the training and expertise to perform these examinations, I simply can't understand why anyone would try to exclude the profession from performing these services. If you have any questions or concerns, please feel free to contact me at this facility.</p>	N	
		<p>This letter is written to provide you both expert and accurate input, as well as to clarify your proposed changes in policy 4336 concerning who may perform physical examinations of school bus drivers.</p> <p>It has come to my attention that there seems to be some question as to whether or chiropractic physicians are qualified to perform physical examinations for school bus drivers in the state of WV. I have included a break down of the number of educational hours for each subject that chiropractors are trained and that we attend during our chiropractic college. This breakdown, as you can see, clearly shows that we are not only as well trained in physical diagnosis as any other physician, but in some cases our training exceeds that of other physicians.</p> <p>I will also point out that chiropractors are already doing DOT physicals in this state and every other state in the union and that certainly if the federal government believes we are qualified, I see no reason that the state of WV should try to assert that we are not. I am in possession of letters written by Ms. Rebecca J. King of the WV department of Education-Office of Healthy Schools, in which apparently for some unknown reason she has asked for opinions from the WV Board of Osteopathy as well as the WV Board of Medicine as to whether or not chiropractors are true physicians and if we are qualified to do physicals and she was told from both that according to the information she has</p>		

sent them, we are not. I will tell you that this lady has not sent the correct information and was not given the correct information, if indeed she ever asked for the correct information concerning the true education of a chiropractor. She asserts that chiropractors are able to become licensed after only 2 years of education and that is of course flat out wrong. That was the basic educational requirement before a chiropractor could apply to attend any chiropractic college in the United States. Once accepted into the chiropractic college, just as any other health care field, a chiropractor must attend approximately the equivalent of another 5 years of education and do rigorous internships and multiple national and state board examinations before we are allowed to practice as a chiropractic physician.

If Ms. King had bothered to actually investigate this further, she would have known this and I find this to be a serious breach of her duties and I am also disappointed that the Medical and Osteopathy boards should take what Ms. King said at face value without further investigation as most certainly they are aware of a chiropractors medical training.

I state all these facts as a chiropractor with more than 15 years of experience and as a chiropractor who is also on the staff of Plateau Medical Center hospital in Oak Hill WV, where I can assure you they would not let me practice if I only had 2 years of education. In closing, I, once again, urge you to fully investigate the true educational requirements and training of a chiropractic physician before you attempt to make any decisions to exclude us from being able to do what are basically very simple and straight forward physicals for the bus drivers, not only in the interest of protecting the public but also in the interest of fairness and making this as easy as possible for the many bus drivers in the state to obtain the required physical so they can continue to work.

I thank you for your time and attention to this matter and if I may be of

6-18-08	Edward R. Lilly, D.C. edwardrilly@yahoo.com	further assistance, please feel free to contact me. *Also see attachment. ("What is The Education of a Chiropractor?")	N	
6-30-08	Julian Chipley, DC, ACRR, CSCS, CICE Chipley Chiropractic Home of the Whiplash Pro 409 N. Kanawha Street Beckley, WV 25801	I have appreciated your questions and concerns regarding the physical examinations given to your school bus drivers. In regard to this, when I was licensed in the state of West Virginia I was licensed as a chiropractic physician. This means to me that I must be able to do physicals in order to ascertain if there is anything wrong with a patient, and when necessary, treat or refer for treatment. My education includes and associate degree, a bachelor in arts, a bachelor in science and a doctor of chiropractic. As far as I know, a doctor in my field must have at least a four year undergraduate degree before attending chiropractic school, and then four years of chiropractic training. The training at chiropractic school included diagnosis, and treatment as a primary care physician. I myself specialized in supervising physical examinations. In 1992, the Federal Supreme Court upheld a federal courts finding which said that the AMA, American Osteopathic Association, and several other organizations were proven beyond all doubt, guilty, of a violation of the Federal Antitrust laws regarding their trying to contain and eliminate chiropractic. I had hoped that we had all gone beyond this, but apparently not. An exam to find out if a person is able to do something safely is warranted especially when it involves the lives of so many. I have grand children who ride the bus in Summers county, and I assure you that I would feel a lot safer knowing that I had done the exam on their driver. This is a response from me based on past correspondences on your offices official letterhead by Rebecca J. King, RN to the WV Board of Osteopathic Medicine and to the WV Board of Medicine requesting each organization to opine as to whether chiropractors were qualified to perform bus driver physical examinations. Clearly her letter is very biased stating, "I have great concern with the	N	

<p>304-252-0200 Kanawha@whiplashpro.com</p>	<p>lack of physical diagnosis/ clinical medicine skills, behavioral medicine, lack of pharmacological background and overall lack of curriculum as compared to the medical doctor. The current law states chiropractors were able to be licensed with 2 years and 60 hours of college prior to July 2005.”</p> <p>The difference in the actual education of a chiropractor and a medical doctor are significant. While we do have less training in pharmacology, fundamentals are covered as part of our toxicology course work. Further, we have a significantly greater training in the functional biomechanics of the human body. Clearly, the average chiropractor has significantly greater training than the average family practice medical doctor in biomechanical structure and physical function of the human body.</p> <p>As for Ms. King’s statement regarding 2-years and 60 hours of training required for a chiropractor, this is misleading. While it is true that the state and many schools used to only require 60 semester hours of specific course work to enter chiropractic school, these 60 hours met the same science requirements necessary for medical school, pharmacy school, optometry school, dental school and podiatry school. So essentially, medical school required an additional year of liberal arts classes to apply. No medical schools were requiring any additional science classes to apply or enroll. Also, like all professions we have continued to raise the standards.</p> <p>As of 2005, the WV Board of Chiropractic Examiners raised the bar so that only those chiropractors with a full 4-year degree as well as a doctor of chiropractic degree can apply to sit for the state board of chiropractic in WV. In other words, since 2005, a chiropractor must have one additional year of college compared to an MD or DO to practice in WV.</p> <p>Also, when considering the length of chiropractic school, it should be</p>	
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noted that the US Department of Education has fully accredited all of the active chiropractic colleges as a professional doctoral level degree program. They list the doctor of chiropractic as a five-year academic professional degree with a 5-year academic student loan program. This is one additional year greater than the core 4-year medical academic program.

First, let me state that we (chiropractic physicians) are not medical or osteopathic physicians. We do not prescribe medications or perform surgery. We treat the body with manual therapies to alleviate physical and structural dysfunction. We are fully trained and licensed as a primary care physician. We are just as liable for missing a fracture on x-ray or misdiagnosing a pain as muscular that turns out to be cancerous. Yet our malpractice insurance is on average one tenth of that of a family practice doctor. Malpractice insurance is based on risk and clearly there is a perceived safer outcome with chiropractic evaluation and treatment of neuro-musculo-skeletal conditions.

Many of the chiropractic physicians in WV (myself included) have completed a continuing education seminar in federal commercial drivers license (CDL) training and were certified in alcohol and drug testing as well as the full federal CDL physical exam process. Dr. Paine, how many primary physicians in WV do you think have completed such a thorough certification?

The American Medical Association has been quite clear in stating that current medical doctors do not get enough training in physical medicine. Their own findings revealed that 82% of medical graduates examined failed to demonstrate basic competency in musculo-skeletal medicine. They have stated, "... and it is reasonable to conclude that medical school preparation in musculo-skeletal medicine is inadequate." (American Medical Association House of Delegates Resolution 310 (A-03)).

I believe the letter questioning the competency of a chiropractor by Rebecca King, RN is flawed on many levels. The letter shows clear bias against chiropractors in her initial position. The letter was sent to the MD and DO board, but it was never sent to the WV Board of Chiropractic Examiners (The board responsible for regulating the scope and practice of chiropractors in WV). The responses from the WV Board of Osteopathy merely state an opinion that they are more qualified and show agreement to a curriculum assessment bias that was presented to them by Ms. King. The bias is clearly more evident in the WV Board of Medicine when they state, "... a chiropractor is not a "licensed physician" ..." This is clearly opinionated rhetoric as chiropractors are licensed primary care physicians in the state of WV and chiropractors are licensed to perform Federal CDL examinations.

Dr. Paine, I merely ask you to review this discrimination being perpetrated vicariously by your office first hand. The letter from Ms. King and the responses from the boards are opinionated rhetoric. They are lacking in fact and they show poor objective research by your office.

The American Medical Association was found guilty of monopolistic practices in the 1980's and they were forced by Federal Court to cease and desist their efforts to destroy the chiropractic profession. In light of that, it appears odd that our state medical board would be used for an opinion of the chiropractors training.

Most chiropractors practicing in WV have a strong background. To practice in our great state, chiropractors must score significantly higher than the national board passing score. For the record, I am a homegrown chiropractor having graduated from Athens High School in Mercer County prior to graduating from Concord College with a Bachelor of Science in Biology and Chemistry. I then attended Palmer

7-7-08	Nelson Robinson, Jr. Executive Director WV Chiropractic Society 2210 Washington Street, East Charleston, WV 25311	<p>College of Chiropractic from 1991 to 1995 where I graduated cum laude with a Doctor of Chiropractic degree. I do not perform bus driver physicals and I do not perform athletic physicals for students. I choose not to because my practice is focused on injury rehabilitation. However, just because I choose not to perform an exam / test / or study, doesn't mean that I am not qualified to perform it. Attached is my resume for your review. I would appreciate your review and assistance in this issue.</p> <p>After much deliberation I am responding to your letters of April 16, 2008 sent to the WV Board of Medicine and WV Board of Osteopathy. With your background in nursing, I am surprised by your lack of knowledge regarding the chiropractic profession and their educational background. As the Coordinator of Healthy Schools, I would respectfully suggest you acclimate yourself to the chiropractic profession. I'm sure you will be surprised but nutrition is another area of expertise for most if not all chiropractors. However, I want to address a few points that you would have found out had you taken the time to contact the WV Board of Chiropractic Examiners. Instead you chose to contact licensing boards that have <i>no</i> jurisdiction over the chiropractic profession and then conclude your letter with inaccurate and misleading remarks. You state you did a "thorough review" of their education and curriculum but I would conclude you did not!</p> <p>For a chiropractic physician to be licensed in WV they must hold a bachelors degree consisting of no less than 128 semester hours with a <i>minimum of 60 hours in basic sciences</i>. The licensing requirements for chiropractors in West Virginia are statutory and are higher than the requirements to be admitted to the WV School of Medicine and the WV School of Osteopathic Medicine. To be admitted, these two schools <i>do not</i> require a bachelor degree and/or 60 hours in sciences. Contrary to their responses with biased opinions and your comments of April 16th, the facts are that the average classroom and clinical study of a chiropractor exceeds that of a MD or DO. I have attached a curriculum</p>	N	
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		<p>analysis from Palmer College of Chiropractic and invite you to review the hours in <i>diagnosis</i> which exceeds over 600 plus hours. What is more important than a correct diagnosis after examining a patient? Please find a comparable curriculum for a MD, DO, Physician Assistant or Advanced Practice Nurse that compares to that of a chiropractor in diagnosis and other related subjects. Chiropractic physicians are taught to be a "portal of entry" provider which requires an extensive background and no supervision as required of a PA or APN. Chiropractic education includes clinical examination, urinalysis, hematology procedures such as blood counts, clinical chemistry, microbiology, immunology procedures or profiles on human blood and/or other body fluids, evaluation and management of patients etc... The most important point that I want to make is a doctor of chiropractic is clearly educated to perform physical examinations as it is required of every patient who comes through their office door. I also maintain that chiropractors are very much concerned about the safety of our children.</p> <p>Should you desire any information to support anything that I have stated it is readily available for your perusal. I would be most happy to meet with you or anyone else regarding this very important issue regarding proposed Policy 4336.</p>	
<p>Peter B. Ajluni, DO AOA President</p>		<p>The American Osteopathic Association (AOA) is writing in response to the request for public comment on Policy 4336. We would like to express our concerns with this policy, more specifically section 15.2.10, which allows chiropractors to perform physical examinations for drivers receiving CDL's.</p> <p>The AOA proudly represents its professional family of more than 61,000 osteopathic physicians (DOs), promotes public health, encourages scientific research, serves as the primary certifying body for DOs, and is the accrediting agency for all osteopathic medical colleges and health care facilities.</p>	<p>N</p>

		<p>All 50 states and the District of Columbia provide for the unrestricted licensing and scope of practice for DOs and MDs in recognition of their education, post graduate training, and competency licensing examinations (COMLEX-USA and USMLE) in providing comprehensive patient care. Given this fact, it is the AOA's official position that duly-licensed DOs and MDs should remain at the center of the "team approach" to providing health care to patients, this includes performing annual physical examinations for drivers. With respect to non-physicians the AOA also holds the position that any new scope of practice authorized to these healthcare professionals should be based on adequate education, clinical experience, and examination to protect the public welfare and patient safety.</p> <p>For years, the chiropractic profession has sought new practice authorities in various states that amount to the practice of medicine without adequately expanding their education and training to take on the new clinical privileges they seek. The AOA believes chiropractors provide a valuable service to patients, however the education and training of a chiropractor is far less rigorous and expansive than that of a DO or MD. Osteopathic medicine has taken the position that as the most highly trained, examined, experienced, and regulated health care professionals, DOs and MDs should remain the "team leader" in patient care. With unrestricted licenses to practice medicine and surgery based on their education, examinations, and experience. DOs are uniquely qualified to manage all aspects of a patient's care.</p> <p>DOs' training includes four years of osteopathic medical school that comprehensively educates aspiring physicians in all aspects of medicine and surgery through substantial classroom and clinical</p>		
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¹ The necessary future of chiropractic education: a North American perspective. *Chiropractic and Osteopathy*. 2005; 13:10. available at <http://www.pubmedcentral.nih.gov/articlerender.fcgi?tool=pmcentrez&artid=1181629> on July 10, 2008.

² National Board of Chiropractic Examiners, *Job Analysis of Chiropractic 2005*, available at <http://www.nbce.org/publication/job-analysis.html> (last visited July 10, 2008).

7-7-08	Holly L. Harvey, D.C. Creekside Chiropractic Clinic Rt 1 Box 104 Union, WV 24945 304-832-6420	<p>Many health care professionals advocate for annual physical examinations because these exams play an important role in preventative care. In a study of primary care physicians, most agreed that an annual physical examination provides time to counsel patients about preventive health services (696/739 [94%]), improves patient-physician relationships (693/737 [94%]), and is desired by most patients (572/737 [78%]). Most also believe that an annual physical examination improves detection of subclinical illness (545/738 [74%]) and is of proven value (461/736 [63%]).³ The AOA believes that proper training is essential in detecting medical conditions during annual physical exams. Therefore, the AOA respectfully disagrees with allowing chiropractors to perform annual physical exams as stated in section 15.2.10.</p> <p>Thank you for considering the AOA's views on this important public policy matter. We hope that the West Virginia board of Education view policy 4336 as a major concern for quality health care examinations for school bus drivers. Adequate oversight and proper limitations on health professionals' scope of practice, based on training, education, experience, and examination, are essential components to protecting the public health and patient safety. Should you have any questions, please contact Linda Mascheri, Director of AOA's Division of State Government Affairs, at (800) 621-1773, ext. 8185 or lmascheri@osteopathic.org.</p>	N	
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³ Allan V. Prochazka, et al.. *Support of Evidence-Based Guidelines for the Annual Physical Examination*, *Arch Intern Med.* 2005;165:1347-1352.

physician group that serves our state very well.

I would like to introduce myself as a resident of Monroe County. My husband and I have practiced chiropractic in West Virginia for 15 years. We have two children who currently attend James Monroe High School under Superintendent Dr. Lyn Guy. I work with Dr. Guy on the board of the Monroe County Education Foundation and serve as president. I graduated as valedictorian of my high school class, received a Bachelor's degree in Exercise Physiology from WVU and completed an additional (4) years of chiropractic school at Life Chiropractic College in Atlanta, GA. After graduating, my husband & I returned here to WV to practice (he is also a WV native).

Currently, our chiropractic clinic in Monroe County has a good working relationship with every medical and osteopathic physician within our patient radius, including our county health center. These physicians refer frequently to us and we to them. We consult often, using each other's strengths to work for the good of our mutual patients. Moving into a time when progressive doctors are striving to integrate their professions to create the best in healthcare, I find it sad that Ms. King is moving backward by approaching these boards in regard to their opinions about the qualifications of another profession and subsequently creating strife that is unnecessary.

I know that by now you have probably received plenty of information about chiropractic curriculum so I will only stress that a comparison of chiropractic to medical or osteopathic curriculum clearly shows that they are different, with emphasis in different areas. If this is considered to be a problem, then I feel that the best approach would be to ask all groups performing these exams to become certified through standardized training specifically for performing school bus driver physical examinations.

		<p>I don't sense the same concern for our school children coming from the people in my county. Our office is frequented often by school children referred by other doctors, brought in by parents, sent by coaches and it is not unusual for my husband or myself to be pulled out of the stands at a sporting event to evaluate an injured player. I feel that most of the chiropractors in this state are competent doctors who know their capabilities and limitations. I think that perhaps Ms. King's concern is unnecessary and I am sure that you will be able to find a solution to this issue that is fair and good for all those concerned.</p>		
6-20-08	<p>Vincent J. King 99 Presidio Pointe Cross Lanes, WV 25313 Phone: (304) 744-7577 Fax: (304) 744-7729 Cell: (304) 541-1099 E-mail: viking@suddenlink.net</p>	<p>I write in the hopes of avoiding the creation of a temporary conflict in law and protracted litigation that seems entirely unnecessary. Specifically, I know that a proposed change to State Board of Education Rule 126 WVCSR 92 (Policy 4366 of the West Virginia School Bus Transportation Policy and Procedure Manual) is currently out for public comment and, thereafter, you will further advise the Board, and the Board will ultimately decide the issue.</p> <p>I also know that Nelson Robinson previously supplied you with documentation reflecting prior, analogous, decisions. I have no way of knowing whether that information was reviewed or supplied to the Board. In summary, however, that documentation establishes that Chiropractors have previously, and specifically, been determined to be <u>qualified</u> in each of the following similar situations:</p> <p>Secondary Schools Activities Commission requirement that "a licensed medical physician" order athletic supports - See Attorney General Opinion dated August 29, 1995 (note, in particular, interpretation that West Virginia statutory law requires that the terms "chiropractor" and "physician" be interpreted</p>	N	

synonymously) and the Commission's reconsideration letter from William R. Wooten dated June 24, 1996.

Secondary Schools Activities Commission physical exam requirement - See letter from Warren Carter, Executive Secretary, dated March 22, 1994 (note also that the SSAC first sought the opinion of its insurance carrier which advised that chiropractors are authorized to perform such exams nationwide).

Wood County Schools interpretation of Policy 2510 requiring certification by a "licensed physician" for homebound instruction - See reconsideration letter from Dianne Boggess, Coordinator, dated July 29, 1999, noting that its earlier contrary position was based on interpretation by the Board of Medicine but with the benefit of review of then recent legislation, it would forthwith consider chiropractors to be physicians under West Virginia Board of Education Policy 2510.

I should also note that there are no known final decisions otherwise. In other words, a decision by the State Board of Education to the contrary, would be at odds with all other final decisions, and the West Virginia Chiropractic Society obviously could not stand idly by, and would necessarily have to legally challenge the contrary interpretation of clear West Virginia law.

I am aware of the (renewed) opinion by the West Virginia Board of Medicine, as well as the West Virginia Board of Osteopathy, dated April 16, 2008, and May 28, 2008, respectively. As you may or may not know, I have done a FOIA request to each of those Boards seeking "any and all minutes, notes, memos, e-mails, telephone message slips, tallies, video tapes, audio tapes or other documentary evidence reflecting any research, study, comparison, discussion,

6-6-2008	Alvin H. Moss, MD Professor of Medicine and Director Center for Health Ethics and Law Section of Nephrology Robert C. Byrd Health Sciences Center	<p>debate, poll, vote, or other data compiled preliminary thereto". It is painfully obvious that there was absolutely no independent consideration whatsoever. Instead, each of the Boards received Ms. King's request for a letter opposing the use of chiropractors, and the Boards complied in robotic like fashion.</p> <p>I also noticed that your memo to the Board focused not on the issue of whether West Virginia law prohibited exclusion of chiropractors but, instead, on the contrary result oriented issue of whether federal law permitted the adoption of more a restrictive regulation (than the chiropractic inclusive regulation promulgated with respect to the federal CDL physical exam requirement) without the forfeiture of federal highway monies. You concluded that 49 CFR 390.9 authorized the States to promulgate more restrictive regulation without forfeiture. Admittedly, it is not a model of clarity, but I am not prepared to concede even that point. I read it to say that, except as otherwise indicated, the provisions of Subchapter B do not preclude States from promulgating more restrictive regulations (i.e., more restrictive than the regulations contained in Subchapter B.) Subchapter B, while dealing with qualifications of school bus drivers generally, is not the subsection dealing with the physical which appears in Subchapter E, and therefore I am reading the authorization you cited as inapplicable. Even assuming it is me who is mis-reading that provision, however, I hope you and the Board will give consideration to the West Virginia law which I believe to be dispositive and under which we would seek relief from the court.</p> <p>I have worked with physician assistants and nurse practitioners. I am aware of their training requirements. I think nurse practitioners and physician assistants are competent to perform physical examinations on bus drives. I am not confident that chiropractors are sufficiently competent clinically to exam bus drivers and would recommend against it.</p>	N	
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	West Virginia University			
6-7-08	Wayne Spiggle wspiggle@mac.com	<p>To Whom it may Concern:</p> <p>Thank you for requesting my input on this matter. To inform you, I have had extensive experience in collaborative clinical practice with advance practice nurses and physician assistants and my professional relationships with chiropractors are cordial and mutually beneficial. Advanced practice nurses and physician assistants who have had at least three years of clinical practice are qualified to perform bus driver examinations.</p> <p>Chiropractors are not.</p> <p>A bus driver examination requires an intimate knowledge of disease mechanisms, including but not exclusive of diabetes, hypertension, thyroid dysfunction and early renal failure. Also required are the physical examination skills necessary to discriminate heart failure, congenital or acquired valvular disease, organomegaly and the dermatological manifestations of internal organ disease. While chiropractors are well equipped to appreciate the essentials of the musculoskeletal examination, the aforementioned are beyond their scope of practice.</p>	N	
6-12-08	Krista Hopkins, M.D. kristahopkins@mac.com	I would not include chiropractors, but the other health professionals listed are qualified in my opinion to do annual physical exams.	N	
6-6-08	William Given, MD Doug1g@msn.com	I believe the nurse practitioners I work with and have worked with are more than competent to do the physicals for bus drivers	N	
6-6-08	drdaveavery@verizon.net David Avery, MD	PA's and NP's usually have courses in physical exams including the heart and lungs, do chiropractors? That is my concern. If they do ok but need to be convinced, as I am also concerned with my specialists in medicine doing them also, eg. do ent's or orthopediacs do heart and lungs routinely day to day in their practice ?	N	
6-7-08	Manu Patel, MD mnpuuuu@gmail.com	I approve of above motion. The allied medical practitioner may engage in providing annual physical for the bus drivers provided they have approved training and pass a competency examination, and subject to	N	

6-10-08	John Holloway, MD DrJohnFACP@aol.com	an oversight body of licensed physicians. In principal, I am opposed to anyone other than physicians performing this type of work. An incorrect evaluation by a practitioner of a school bus driver could have serious consequences to the students in a bus.	N	
7-3-08	Edgar C. Gamponia, M.D. egamponia@readocs.com	In general I feel like allied health professionals are always trying to carve out more and more responsibilities which are not always in the best interest of the public. While I am generally opposed to allowing these groups to expand their scope of practice I do think that there can be a compromised position. Based on training and education, I would think that Nurse Practitioners should be able to provide a physical exam to a bus driver, and obviously a Physician Assistant could also since they are already under the supervision of an M.D. However, I don't think that a Chiropractor should be allowed to conduct such an exam because they clearly lack the medical education and training necessary to perform an adequate exam. And, I do think that there is tremendous potential liability at stake. Please feel free to use these comments to the BOE. Please don't hesitate to contact me if you need anything further.	N	
6-16-08	Mike Panger, MD mpanger@suddenlink.net	The issue that you have asked me to comment on is disturbing for several reasons. First, as a physician, I feel that a medical examination of a patient must be done by a medical person who has the ability and training to diagnose normality and abnormality. Chiropractors do not fit into this category in any way, and APN's and PA's do not have the necessary training to fulfill the needs of diagnosis. I can get past the APN's and PA's as long as there is physician oversight but I do not support the inclusion of chiropractors in any way. Secondly, as a parent of children who ride buses, I want drivers to who have been cleared by personnel with adequate training. I will be happy to discuss these issues further if you so desire but this is, briefly, my view on the subject.	N	
6-7-08	Gene Cordell, MD flyfish000@suddenlink.net	My feeling is that Advanced Nurse Practitioners may be qualified to perform these exams as part of their scope of practice. However, physician assistants examinations have to be signed off by their	N	

			<p>physicians, so the physician is taking full responsibility for an examination that he or she has not performed. In the case of a school bus driver, I would think that the physician would prefer to perform the examination, since they are taking responsibility for the well-being of many children each day. Chiropractors, in my opinion, do not have the skills or training for this type of examination.</p> <p>So, bottom line, ANP's are possibly OK (although I am not in favor of it). Physician assistants and chiropractors are not OK.</p>		
6-11-08	Jim Baek, MD ibaek@suddenlink.net		<p>The only objection would be the inclusion of chiropractors. This was the consensus at the council meeting [Kanawha County Medical Society]last night.</p>	N	
6-9-08	phblom@radiology-inc.com Paul Blom, MD		<p>In my opinion Nurse Practitioners and Physician Assistants should be able to perform annual physical examinations with the appropriate Physician oversight; however, Chiropractors are NOT appropriately trained to perform a comprehensive physical examination.</p>	N	
6-9-08	Tom Sporck, MD entsporck@suddenlink.net		<p>None of those listed are physicians. The answer is NO!</p>	N	
6-6-08	mofidler@suddenlink.net Mike Fidler, MD		<p>I am of the opinion that Advanced Nurse Practitioners and certainly Physician Assistants are qualified to do physical exams. At CAMC, we have ANPs who are trauma nurses and routinely do admission H&Ps. At St. Francis Hospital, and others, there are numerous PAs who do H&Ps by the dozens each week.</p> <p>On the other hand, chiropractors are not trained in the so-called allopathic tradition of medical science, and therefore are not qualified to detect maladies such as abnormal chest or heart findings, abdominal abnormalities, genitor-urinary problems, etc. There is no way chiropractors should be allowed to do these examinations. I have no problem with you using my comments. I think it would be important to note that ANPs and PAs work with the oversight of a physician. I assume a supervising physician would be part of the mix. However, it is hard to imagine a scenario where an allopathic physician would supervise the work of a chiropractor, given the</p>	N	

6-8-08	nnimish@hotmail.com Nimish Mehta, MD	completely different medical theories. I think this is the first time I've been asked to weigh in on a situation such as this. My initial feeling was that PA's and NP's should be able to do this (I can't comment on Chiropractors because I don't know what education and training they receive). After more thought, I have noted in my line of work that these providers do have a tendency to miss the subtleties in disease processes (of course there will be varying degrees of competency among individuals). I think I would have to go on record as saying that these bus drivers should be examined by physicians.	N	
6-11-08	Cathy M. Funk, MD cathymfunk@hotmail.com	I believe that physician assistants and advanced nurse practitioners are qualified to complete these physical exams.	N	
6-13-08	Beth Santmyire-Rosenberger, MD wvderm@hotmail.com	I think the PA and NP are fine given they are properly supervised, etc by an MD/DO as state laws require. However, I do not think a chiropractor would be appropriate to assess (SO) stroke or cardiovascular risk/health.	N	
6-7-08	kevincox2005@meer.net Kevin Cox, MD	No. They should have an eye exam by an ophthalmologist or optometrist and a physical by a P.A. or FNP at least - not a chiropractor.	N	
6-6-08	David C Jude, MD jude@marshall.edu	Yes to PA's and Nurse practitioners for routine healthy exams, no to chiropractors.	N	
6-6-08	Timothy S. Nelson, MD Twnmd@aol.com	I am concerned that school bus drivers could be responsible for the safety of our children without having been examined by a physician. While qualified to perform history and physical exams for same day surgery, hospital admissions and problem oriented examinations, advanced practice nurses, physician assistants and doctors of chiropractic are not trained to elicit subtle clinical findings, complex histories and interpret their significance. This is especially true with respect to psychiatric, neurological and cardiovascular findings. Indeed, the general nature of the practice role and the focus of training of each of these specialties is exemplified by the term "physician's assistant". They assist physicians, just as advanced	N	

		<p>practice nurses do and are not meant to practice independent of that physician supervision.</p> <p>Ambitious physician assistants, advanced practice nurses and chiropractors have exploited opportunities that a health care system that is short on physicians and faced with downward pressures on cost have provided. They are not happy with the role they are trained to fill and have decided that they are qualified to practice medicine.</p> <p>However, we as a caring society need to avoid the temptation to allow someone to drive a bus load of children several hours a day on West Virginia's winding roads in all types of extreme conditions from heat to freezing temperatures without the clearance of a medical or osteopathic physician. Anything less is to neglect the safety of these children.</p>		
6-7-08	Shonda M. Asaad, MD sasaad@laxonc.com	<p>By law, Physician Assistants and Nurse Practitioners are overseen by licensed medical physicians. They are trained and licensed to practice medicine and have a physician to defer to if a problem should arise.</p> <p>Therefore, I believe it is very appropriate to allow them to conduct physicals. However, Doctors of chiropractic medicine have an entirely different training which does NOT include all of the necessary skills to diagnose and treat many medical problems which may be found on these types of physical exams. I DO NOT believe it would be safe to allow chiropractors to perform a comprehensive health evaluation in this setting. Their role should be limited to their expertise.</p>	N	
6-6-08	Cynthia A. Winger, MD winger@marshall.edu	<p>I don't have any problems with PA's and advanced degree nurses performing bus driver physicals but I don't think that chiropractors have the training to do so. They would not be able to evaluate anything but the musculoskeletal system. Although this is very important, I think that the general medical condition of the driver's is probably more important for the safety of the children. A chiropractor would not be able to evaluate someone with coronary artery disease or seizures for example.</p>	N	
6-7-08	Kelly R. Nelson, M.D. Medbrook Medical	<p>How do they define advance practice nurses? Do school nurse apply or does that term refer to nurse practitioners?</p>	N	

	<p>Associates 304-669-5242 knelson@medbrook.com</p>	<p>I think PA's and nurse practitioners are capable of performing these exams. Having chiropractors do them is beyond belief. Chiropractors are not trained to do these types of exams and allowing them to expand their scope of practice could endanger lives.</p>		
6-9-08	<p>John G. Brehm, MD, FACP Chief Medical Officer West Virginia Medical Institute 3001 Chesterfield Place Charleston, WV, 25304 304 346 9864 ext 2238 jbrehm@wvmi.org</p>	<p>I do not believe that Chiropractors are qualified for this function, but the other two categories are.</p>	N	
6-9-08	<p>Danny Westmoreland, MD drw2@citynet.net</p>	<p>The expansion of privileges of the NP, Chiropractor and PA is really doing our public an injustice. Chiropractors have no medication training and NP and PA are becoming dangerous in that a little knowledge can be the most dangerous. Just had a patient in whose husband saw a NP and was called back at home 5 days later to tell them it may not be a hiatal hernia, he was in the hospital 3 days post op open heart. I am not against the state boards in my comments. I truly care about my patients and the public and I feel somebody has to speak out since WV seems to only look at the bottom line and not quality or qualifications.</p>	N	



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South Charleston

Carlos C. Jimenez, MD
Glen Dale

Michael L. Ferrebee, MD
Morgantown

Vettivelu Maheswaran, MD
Charles Town

Angelo N. Georges, MD
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Bill May, DPM
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Doris M. Griffin, MBA
Martinsburg

Joe E. Miller, LtCol USMC (Ret), MA
Hurricane

M. Khalid Hasan, MD
Beckley

Badshah J. Wazir, MD
South Charleston

Beth Hays, MA
Bluefield

Kenneth Dean Wright, PA-C
Huntington

State of West Virginia
West Virginia Board of Medicine
101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone 304.558.2921
Fax 304.558.2084

May 22, 2008

Rebecca J. King RN, MSN, MEd
Coordinator
West Virginia Department of Education
Office of Healthy Schools
1900 Kanawha Boulevard, East, Building 6
Charleston, West Virginia 25305-0330

Re: Your April 16, 2008, letter

Dear Ms. King:

The above noted letter was discussed at the Executive and Management Committee Meeting of the Board of Medicine on May 11, 2008, after a thorough review by the members not only of the letter but also the enclosures which accompanied it. We understand that you are requesting the Board of Medicine's opinion on whether the initial and annual physical examinations required of West Virginia public school bus drivers if performed by a licensed chiropractor would be performed with the same level of expertise and detail as if performed by a medical doctor.

The answer is no. Further, a chiropractor is not a "licensed physician", therefore, the members of the Executive and Management Committee do not understand how it would be lawful to permit a chiropractor to perform the physical examination under your rule 126 CSR 92. We are pleased that you consulted the Board of Medicine about this matter in the interests of public safety.

Sincerely,

Robert C. Knittle

lab

PRESIDENT
John A. Wade, Jr., MD
Point Pleasant

VICE PRESIDENT
J. David Lynch, Jr., MD
Morgantown

SECRETARY
Catherine Slomp, MD, MPH
Charleston

EXECUTIVE DIRECTOR
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Charleston

COUNSEL
Deborah Lewis Rodecker
Charleston

DISCIPLINARY COUNSEL
John K. McHugh
Charleston



STATE OF WEST VIRGINIA
BOARD OF OSTEOPATHY

334 PENCO ROAD
WEIRTON, WV 26062

TELEPHONE
(304) 723-4638
FAX
(304) 723-6723

May 28, 2008

Rebecca King, RN, MSN, Med
Coordinator
West Virginia Department of Education
Office of Healthy Schools
Building 6, Room 309
1900 Kanawha Boulevard, East
Charleston, WV 25305-0330

A handwritten signature in black ink, appearing to be "SK".

Dear Ms. King,

The West Virginia Board of Osteopathy reviewed the information you provided regarding Chiropractors in the state of WV being comparable in practice to a licensed osteopathic physician and fully qualified to perform a comprehensive physical at the same level of expertise and detail as an osteopathic physician.

The Board agreed with your assessment of their curriculum in comparison to that of an osteopathic physician, and therefore, would not recommend chiropractors as being fully qualified to perform comprehensive physicals at the same level of expertise and detail as an osteopathic physician.

Sincerely,

A handwritten signature in black ink, appearing to be "Cheryl Schreiber".

Cheryl Schreiber
Executive Secretary

MESSAGE FROM WVSMA TO MEMBERS REGARDING BOE POLICY CHANGE:

From: WVSMA- Amy Tolliver [mailto:amy@wvsma.com]
Sent: Friday, June 06, 2008 1:54 PM
Subject: Request for input on Bd of Ed Rule

The message below is from the WV Department of Education. They are seeking input regarding a policy change which addresses the scope of practice of Advanced Nurse Practitioners, Physician Assistants and Chiropractors. The question is are these allied health professionals competent to perform annual physical examinations of bus drivers? The Board of Education is requesting comment. The WVSMA is also requesting that you reply to us with your comments so that we may incorporate them into our response.

You may just hit reply to this message.

Thank you,
Amy Tolliver
Government Relations Specialist
WV State Medical Association

Dear School Health Professionals,

Policy 4336-WEST VIRGINIA SCHOOL BUS TRANSPORTATION POLICY AND PROCEDURES MANUAL is on public comment period for 30-days. The WV State Board of Education(WVSBOE) is seeking comments from health professionals regarding the addition of PAs, ANPs and Chiropractors performing annual physical examinations for bus drivers. The rule has ALWAYS allowed physicians ONLY to perform the examinations. The Federal Motor Carrier Safety Administration(FMCSA) allows doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic to perform physical for a driver to receive CDLs. This definition was included in the WVSBOE proposed rule. For more information on FMCSA see the link below in Mr. Shew's email.

The WVSBOE have been provided with feedback regarding the inclusion of chiropractors from the WV Chiropractic Society, WV Board of Medicine, WV Board of Osteopathic Medicine and myself. Please assist the WVSBOE in making this critical rule change by providing your professional comments on this policy, specifically Section 15.2.10.

15.2.10. The candidate shall pass a physical examination from a Medical Examiner, defined by the Federal Motor Carrier Safety Administration (hereinafter "FMCSA") regulations to be doctors of medicine, doctors of osteopathy

[REDACTED]

I have highlighted the sections of this policy which incorporate school nurses and health care providers. AGAIN, please comment! The policy should be placed on the website for a 30 day public comment by the end of the day on Monday, June 9, 2008. Go to <http://wvde.state.wv.us/policies/> , after Monday, to make your comments.

Sincerely,

Becky

*Rebecca King RN
WVDE-Office of Healthy Schools
HIV/ AIDS Education and School Health Services Coordinator
Bldg 6 Room 309
1900 Kanawha Blvd.
Charleston, W.V. 25305*

*Phone: (304)-558-8830
Fax: (304)-558-3787
Email: rjking@access.k12.wv.us*

RESPONSES RECEIVED BY WVSMA:

From: Alvin Moss [mailto:amos@hsc.wvu.edu]
Sent: Friday, June 06, 2008 5:05 PM
To: Amy Tolliver
Subject: Re: Request for input on Bd of Ed Rule

Amy,

I have worked with physician assistants and nurse practitioners. I am aware of their training requirements. I think nurse practitioners and physician assistants are competent to perform physical examinations on bus drivers. I am not confident that chiropractors are sufficiently competent clinically to exam bus drivers and would recommend against it.

Dr. Moss

Woody Moss

Alvin H. Moss, MD
Professor of Medicine and Director
Center for Health Ethics and Law
Section of Nephrology
Robert C. Byrd Health Sciences Center
West Virginia University

P.O. Box 9022
Morgantown, WV 26506-9022

From: Wayne Spiggle [mailto:wspiggle@mac.com]

> Sent: Saturday, June 07, 2008 7:16 AM

> To: Amy Tolliver

> Subject: Re: Request for input on Bd of Ed Rule

>

> To Whom it may Concern:

> Thank you for requesting my input on this matter. To inform you, I

> have had extensive experience in collaborative clinical practice with

> advance practice nurses and physician assistants and my professional

> relationships with chiropractors are cordial and mutually beneficial.

>

> Advanced practice nurses and physician assistants who have had at

> least three years of clinical practice are qualified to perform bus

> driver examinations.

>

> Chiropractors are not.

>

> A bus driver examination requires an intimate knowledge of disease

> mechanisms, including but not exclusive of diabetes, hypertension,

> thyroid dysfunction and early renal failure. Also required are the

> physical examination skills necessary to discriminate heart failure,

> congenital or acquired valvular disease, organomegaly and the

> dermatological manifestations of internal organ disease. While

> chiropractors are well equipped to appreciate the essentials of the

> musculoskeletal examination, the aforementioned are beyond their scope

> of practice.

>

> Respectfully submitted,

>

> Wayne C. Spiggle, M.D.

>

From: G. Brad Hopkins [mailto:kristahopkins@mac.com]

Sent: Thursday, June 12, 2008 8:50 PM

To: Amy Tolliver

Subject: Re: Request for input on Bd of Ed Rule

I would not include chiropractors, but the other health professionals listed are qualified in my opinion to do annual physical exams.

Krista Hopkins, M.D.

From: William Given [mailto:doug1g@msn.com]
Sent: Friday, June 06, 2008 2:29 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Dear Amy, I believe the nurse practitioners I work with and have worked with are more than competent to do the physicals for bus drivers.

William Given, MD

From: D W Avery [mailto:drdaveavery@verizon.net]
Sent: Friday, June 06, 2008 6:50 PM
To: Amy Tolliver
Subject: Re: Request for input on Bd of Ed Rule

PA's and NP's usually have courses in physical exams including the heart and lungs, do chiropractors? that is my concern. If they do ok but need to be convinced, as I am also concerned with my specialists in medicine doing them also, eg. do ent's or orthopediacs do heart and lungs routinely day to day in their practice ? etc da

David Avery, MD

From: Manu Patel [mailto:mnpuuuu@gmail.com]
Sent: Saturday, June 07, 2008 8:05 AM
To: Amy Tolliver
Subject: Re: Request for input on Bd of Ed Rule

Dear Ms Tolliver,
I approve of above motion. The allied medical practioner may engage in providing annual physical for the bus drivers provided they have approved training and pass a competency examination, and subject to an oversight body of licensed physicians.

regards.

Manu Patel, MD

From: DrJohnFACP@aol.com [mailto:DrJohnFACP@aol.com]
Sent: Tuesday, June 10, 2008 10:41 PM
To: Amy Tolliver
Subject: Re: Request for input on Bd of Ed Rule

Amy,

In principal, I am opposed to anyone other than physicians performing this type of work. An incorrect evaluation by a practitioner of a school bus driver could have serious consequences to the students in a bus.

John Holloway, MD

From: Edgar Gamponia [mailto:egamponia@readocs.com]
Sent: Thursday, July 03, 2008 4:55 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Amy,

In general I feel like allied health professionals are always trying to carve out more and more responsibilities which are not always in the best interest of the public. While I am generally opposed to allowing these groups to expand their scope of practice I do think that there can be a compromised position. Based on training and education, I would think that Nurse Practitioners should be able to provide a physical exam to a bus driver, and obviously a Physician Assistant could also since they are already under the supervision of an M.D. However, I don't think that a Chiropractor should be allowed to conduct such an exam because they clearly lack the medical education and training necessary to perform an adequate exam. And, I do think that there is tremendous potential liability at stake. Please feel free to use these comments to the BOE. Please don't hesitate to contact me if you need anything further.

Thanks,
Edgar C. Gamponia, M.D.

-----Original Message-----

> From: mpanger@suddenlink.net [mailto:mpanger@suddenlink.net]
> Sent: Monday, June 16, 2008 9:49 AM
> To: Amy Tolliver
> Subject: Re: Request for input on Bd of Ed Rule
>
> Amy,
>
> Sorry for the delay in getting back to you but I was out of town last
> week. The issue that you have asked me to comment on is disturbing
> for several reasons. First, as a physician, I feel that a medical
> examination of a patient must be done by a medical person who has the
> ability and training to diagnose normality and abnormality.
> Chiropractors do not fit into this category in any way, and APN's and
> PA's do not have the necessary training to fulfill the needs of
> diagnosis. I can get past the APN's and PA's as long as there is
> physician oversight but I do not support the inclusion of
> chiropractors in any way. Secondly, as a parent of children who ride
> buses, I want drivers to who have been cleared by personnel with
> adequate training.
>
> I will be happy to discuss these issues further if you so desire but
> this is, briefly, my view on the subject. Sincerely,
> Mike Panger, MD

From: flyfish000@suddenlink.net [mailto:flyfish000@suddenlink.net]
> Sent: Saturday, June 07, 2008 4:38 PM
> To: Amy Tolliver
> Subject: Re: Request for input on Bd of Ed Rule
>
> 6/7/08
>
> My feeling is that Advanced Nurse Practitioners may be qualified to
> perform these exams as part of their scope of practice. However,
> physician assistants examinations have to be signed off by their
> physicians, so the physician is taking full responsibility for an
> examination that he or she has not performed. In the case of a school
> bus driver, I would think that the physician would prefer to perform the
> examination, since
> they are taking responsibility for the well-being of many children
> each day. Chiropractors, in my opinion, do not have the skills or
> training for this type of examination.
>
> So, bottom line, ANP's are possibly OK (although I am not in favor of
> it). Physician assistants and chiropractors are not OK.
>
> REC
Gene Cordell, MD
>

From: jbaek@suddenlink.net [mailto:jbaek@suddenlink.net]
> Sent: Wednesday, June 11, 2008 7:31 AM
> To: Amy Tolliver
> Subject: Re: Request for input on Bd of Ed Rule
>
> Hi Amy,
>
> The only objection would be the inclusion of chiropractors. This was
> the consensus at the council meeting [Kanawha County Medical Society]last
night.
>
> Regards,
> Jim Baek, MD

From: Blom, Paul [mailto:phblom@radiology-inc.com]
Sent: Monday, June 09, 2008 12:49 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Dear Amy,
In my opinion Nurse Practitioners and Physician Assistants should be able to perform annual physical examinations with the appropriate Physician oversight; however, Chiropractors are NOT appropriately trained to perform a comprehensive physical examination.
Thank you for allowing me to share my opinion.

Sincerely,
Paul Blom, MD

From: entsporck@suddenlink.net [mailto:entsporck@suddenlink.net]
> Sent: Monday, June 09, 2008 8:48 AM
> To: Amy Tolliver
> Subject: Re: Request for input on Bd of Ed Rule
>
> None of those listed are physicians. The answer is no!
F. Tom Sporck, MD

From: Michael Fidler [mailto:mofidler@suddenlink.net]
Sent: Friday, June 06, 2008 9:40 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Amy: I am of the opinion that Advanced Nurse Practitioners and certainly Physician Assistants are qualified to do physical exams. At CAMC, we have ANPs who are trauma nurses and routinely do admission H&Ps. At St. Francis Hospital, and others, there are numerous PAs who do H&Ps by the dozens each week.

On the other hand, chiropractors are not trained in the so-called allopathic tradition of medical science, and therefore are not qualified to detect maladies such as abnormal chest or heart findings, abdominal abnormalities, genitor-urinary problems, etc. There is no way chiropractors should be allowed to do these examinations.

Mike Fidler, MD

From: Michael Fidler [mailto:mofidler@suddenlink.net]
Sent: Thursday, July 03, 2008 9:31 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Amy: I have no problem with you using my comments. I think it would be important to note that ANPs and PAs work with the oversight of a physician. I assume a supervising physician would be part of the mix. However, it is hard to imagine a scenario where an allopathic physician would supervise the work of a chiropractor, given the completely different medical theories.
Mike Fidler, MD

From: Nimish Mehta [mailto:nnimish@hotmail.com]
Sent: Sunday, June 08, 2008 5:39 AM

To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Hi Amy,

I think this is the first time I've been asked to weigh in on a situation such as this. My initial feeling was that PA's and NP's should be able to do this (I can't comment on Chiropractors because I don't know what education and training they receive). After more thought, I have noted in my line of work that these providers do have a tendency to miss the subtleties in disease processes (of course there will be varying degrees of competency among individuals). I think I would have to go on record as saying that these bus drivers should be examined by physicians.

Nimish Mehta, MD

From: Cathy Funk [mailto:cathymfunk@hotmail.com]
Sent: Wednesday, June 11, 2008 11:18 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

I believe that physician assistants and advanced nurse practice are qualified to complete these physical exams.

Cathy M Funk, MD

From: Beth Santmyire-Rosenberger [mailto:wvderm@hotmail.com]
Sent: Friday, June 13, 2008 10:16 AM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

I think the PA and NP are fine given they are properly supervised, etc by an MD/DO as state laws require. However, I do not think a chiropractor would be appropriate to assess (SO) stroke or cardiovascular risk/health.

Beth Santmyire-Rosenberger MD

>From: Kevin Cox [mailto:kevincox2005@meer.net]
>Sent: Saturday, June 07, 2008 5:52 PM
>To: Amy Tolliver
>Subject: Re: Request for input on Bd of Ed Rule

>
>No. They should have an eye exam by an ophthalmologist or optometrist
>and a physical by a P.A. or FNP at least - not a chiropractor.

>
>Kevin Cox MD

From: Jude, David C [mailto:jude@marshall.edu]
Sent: Friday, June 06, 2008 3:57 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Yes to PA's and Nurse practitioners for routine healthy exams, no to chiropractors.

David Jude, MD

From: Twnmd@aol.com [mailto:Twnmd@aol.com]
Sent: Friday, June 06, 2008 10:49 PM
To: Amy Tolliver
Subject: Re: Request for input on Bd of Ed Rule

Amy,

I am concerned that school bus drivers could be responsible for the safety of our children without having been examined by a physician. While qualified to perform history and physical exams for same day surgery, hospital admissions and problem oriented examinations, advanced practice nurses, physician assistants and doctors of chiropractic are not trained to elicit subtle clinical findings, complex histories and interpret their significance. This is especially true with respect to psychiatric, neurological and cardiovascular findings. Indeed, the general nature of the practice role and the focus of training of each of these specialties is exemplified by the term "physician's assistant". They assist physicians, just as advanced practice nurses do and are not meant to practice independent of that physician supervision.

Ambitious physician assistants, advanced practice nurses and chiropractors have exploited opportunities that a health care system that is short on physicians and faced with downward pressures on cost have provided. They are not happy with the role they are trained to fill and have decided that they are qualified to practice medicine. However, we as a caring society need to avoid the temptation to allow someone to drive a bus load of children several hours a day on West Virginia's winding roads in all types of extreme conditions from heat to freezing temperatures without the clearance of a medical or osteopathic physician. Anything less is to neglect the safety of these children.

Sincerely,

Timothy W. Nelson, M.D.

From: Shonda M. Asaad [mailto:sasaad@lexonc.com]
Sent: Saturday, June 07, 2008 8:22 AM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Dear Amy,

By law, Physician Assistants and Nurse Practitioners are overseen by licensed medical physicians. They are trained and licensed to practice medicine and have a physician to defer to if a problem should arise. Therefore, I believe it is very appropriate to allow them to conduct physicals. However, Doctors of chiropractic medicine have an entirely different training which does NOT include all of the necessary skills to diagnose and treat many medical problems which may be found on these types of physical exams. I DO NOT believe it would be safe to allow chiropractors to perform a comprehensive health evaluation in this setting. Their role should be limited to their expertise.

Thank you.
Shonda M. Asaad, MD

From: Winger, Cynthia A [mailto:winger@marshall.edu]
Sent: Friday, June 06, 2008 3:07 PM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

Amy,

I don't have any problems with PA's and advanced degree nurses performing bus driver physicals but I don't think that chiropractors have the training to do so. They would not be able to evaluate anything but the musculoskeletal system. Although this is very important, I think that the general medical condition of the driver's is probably more important for the safety of the children. A chiropractor would not be able to evaluate someone with coronary artery disease or seizures for example.

Cindy Winger, MD

From: Kelly Nelson [mailto:knelson@medbrook.com]
Sent: Saturday, June 07, 2008 10:29 AM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

How do they define advance practice nurses? Do school nurse apply or does that term refer to nurse practitioners?

I think PA's and nurse practitioners are capable of performing these exams. Having chiropractors do them is beyond belief. Chiropractors are not trained to do these types of exams and allowing them to expand their scope of practice could endanger lives.

Kelly R. Nelson, M.D.
Medbrook Medical Associates
304-669-5242
knelson@medbrook.com

From: Brehm, John [mailto:jbrehm@wvmi.org]
Sent: Monday, June 09, 2008 8:59 AM
To: Amy Tolliver
Subject: RE: Request for input on Bd of Ed Rule

I do not believe that Chiropractors are qualified for this function, but the other two categories are.

John G. Brehm, MD, FACP
Chief Medical Officer

West Virginia Medical Institute
3001 Chesterfield Place
Charleston, WV, 25304
304 346 9864 ext 2238
jbrehm@wvmi.org

From: Danny R Westmoreland [mailto:drw2@citynet.net]
Sent: Monday, June 09, 2008 2:53 PM
To: Amy Tolliver
Subject: Re: Request for input on Bd of Ed Rule

The expansion of privileges of the NP,Chiropractor and PA is really doing our public an injustice. Chiropractors have no medication training and NP and PA are becoming dangerous in that a little knowledge can be the most dangerous. Just had a patient in whose husband saw a NP and was called back at home 5 days later to tell them it may not be a hiatal hernia, he was in the hospital 3 days post op open heart.

I am not against the state boards in my comments. I truly care about my patients and the public and I feel somebody has to speak out since WV seems to only look at the bottom line and not quality or qualifications.

Dr. Westmoreland
Danny Westmoreland, MD

Sherry Sadler

From: Becky King [rjking@access.k12.wv.us]
Sent: Friday, June 13, 2008 9:49 AM
To: ssadler@access.k12.wv.us
Cc: Ben Shew
Subject: FW: chiropractors

Please add to public comment log.

Many thanks!
Becky



From: Krasnow, Michael [mailto:mkrasnow@marshall.edu]
Sent: Tuesday, June 10, 2008 12:53 PM
To: rjking@access.k12.wv.us
Subject: chiropractors

Chiropractors are not qualified to medical evaluations of bus drivers or anyone else. These exams involve evaluations of mental status, eyes, reflexes, etc. these evaluations should be in the hands of physicians, nurse practioners, and physicians assistants. Sincerely, m. krasnow D.O., Ph.D, Professor and chief of Ophthalmology, Joan C Edwards School of medicine. Marshall university

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 16, 2008 8:31 AM
To: 'Sherry Sadler'
Subject: FW: Comment Received for Policy (2008-06-14 12:09:34)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Saturday, June 14, 2008 12:10 PM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-14 12:09:34)



Please save this email in a "Comments Received Online" folder.
Your folder will be a backup. All comments are saved in our database.
The Complete Comments Report from the database can be found here:
<http://129.71.2.32/r.html?id=4b085c10d5cb296d05a5cee1fd7fd1b8>
This is an encrypted URL. Please Bookmark it.

Comment Received for Policy

#####

#

Name: Kathy Lane
Organization:
Email: lane19@verizon.net
Title:
Address1:
Address2:
City/State/Zip: ,
Role: Service Personnel
Posted: 2008-06-14 12:09:34
Posted from IP: 70.16.169.41

Comments for section 126-92-1 General

I think we need a state policy regarding the drop off of kindergartners. It should be stated that a parent of guardian must be at the bus stop to receive them.

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual, Policy 4336 (note section number when submitting comments)

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 23, 2008 8:48 AM
To: 'Sherry Sadler'
Subject: FW: Comment Received for Policy (2008-06-17 11:28:33)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Tuesday, June 17, 2008 11:29 AM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-17 11:28:33)

Please save this email in a "Comments Received Online" folder.
Your folder will be a backup. All comments are saved in our database.
The Complete Comments Report from the database can be found here:
<http://129.71.2.32/r.html?id=4b085c10d5cb296d05a5cee1fd7fd1b8>
This is an encrypted URL. Please Bookmark it.

Comment Received for Policy

#####

#

Name: David Seay
Organization: Fayette County Schools
Email: DSeay@access.k12.wv.us
Title: Transportation Director
Address1: 111 Fayette Ave
Address2:
City/State/Zip: Fayetteville, WV 25840
Role: School System Staff
Posted: 2008-06-17 11:28:33
Posted from IP: 168.216.25.203



Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual, Policy 4336 (note section number when submitting comments)

In reading Policy 4336, we have an issue with paragraph 15.2.7 on page 22.

It says that a trainee must drive 12 hours, including 2 at night with a certified school bus driver.

The hours are fine, but shouldn't it say certified school bus driver instructor? For example I am a certified school bus driver instructor, but not a certified school bus driver, although I do have an S endorsement on my license.



June 16, 2008

Rebecca King, Rn MSN, Med Coordinator
West Virginia Department of Education
Office of Healthy Schools
Building 6 Room 309
1900 Kanawha Boulevard, East
Charleston, WV 25305-0330

Re: Federal Regulations regarding School Bus Driver Physicals, Doctors of Chiropractic

Dear Ms. King,

I am writing regarding your review of the chiropractic profession in performing school bus driver physicals. From my extensive experience with the Federal Motor Carrier Safety Administration, and its regulations, I am pleased to provide you with additional information for your consideration. Please find enclosed a copy of my CV.

I am in receipt of copies of letters from the West Virginia Board of Osteopathy and the West Virginian Board of Medicine. According to one of these letters, within your department there exists an evaluation based on curriculum, and an opinion that doctors of chiropractic are not qualified to perform school bus driver physicals.

The opinions contained in these two letters do not agree with the opinions reflected in the US Department of Transportation regulations regarding the ability of doctors of chiropractic to perform driver physicals, nor the scope of chiropractic practice in West Virginia.

West Virginia law *does* state that a chiropractor can perform physicals contrary to the statement contained in the letter from the West Virginia Board of Medicine. Section 30-16-3 Definitions states that doctors of chiropractic may use the term "Chiropractic Physician" and that doctors of chiropractic may employ practices and procedures which are based on training received in and through accredited chiropractic colleges of the Council of Chiropractic Education. The Federation of Chiropractic Licensing Boards, the Council on Chiropractic Education, and the National Board of Chiropractic Examiners can provide detailed and extensive information regarding physical examination training for chiropractic physicians at your request.

DOT Medical Examiners perform the commercial motor vehicle driver physical examination and issue the medical examination certification card. This includes bus

drivers, including in many cases, school bus drivers. Some school bus drivers are exempted from this requirement by federal regulation.

Doctors of Chiropractic serve as Medical Examiners in the DOT Medical Examiner program (49CFR 390.5 Definition: Medical Examiner) as long as the state scope of practice allows the chiropractic profession to perform physical examinations. Doctors of Chiropractic are allowed to perform CMV driver physicals in 49 of the 51 US jurisdictions. This is congruent with their training in accredited chiropractic colleges and examination by the National Board of Chiropractic Examiners as mentioned earlier. Note that this provision is directed only toward state scope of practice limitations, and does not question the examination skills or education of doctors of chiropractic. Only the states of Washington and Michigan have scope of practice laws which will not allow the chiropractic profession to perform physical examinations.

Federal regulations regarding school bus driver physical examination is complex because several regulations come into play. Federal regulations exempt school bus drivers when the driver is an employee of a city, county, or state entity (390.3 (f) (2)). Public school systems are a part of these entities. Private schools are not included. Regulation 49CFR 390.3 (f) (1) states that school bus drivers conducting school bus operations as defined in 49CFR 390.5. are exempted. School bus operation is specifically defined as transport of school children and/or school personnel from home to school, and from school to home. Field trips, school or sporting excursions do not qualify as "school bus operation" for public or private schools. A "contracted" school bus driver even when driving for a public school, who is conducting sport team travel, or school outings is not exempted from the federal regulations. Therefore, every state has a mixture of school bus drivers, some who are exempted from federal regulation, and some who are not.

Most, if not all states have adopted laws requiring a medical examination for all school bus drivers. Failure to do so would cause inequity. As a result, most states have adopted the federal guidelines which allow chiropractors to perform these exams in 49 US jurisdictions. Some states require additional requirements such as being able climb a step at 17.5", climb out of emergency exits, or to lift or drag a weight a certain distance. Although states may adopt higher health requirements, I am not aware of any state that has disenfranchised an accepted group of health care providers as a mechanism to achieve a "higher" health standard or healthier drivers. I am also unaware of any state adopted driver health requirement that precluded the chiropractic profession from performing these examinations.

Should the West Virginia Department of Education decide not to allow chiropractors to perform these exams, it must still accept school bus drivers from other states whose medical exam was performed by a chiropractor. Failure to do so would impede interstate transportation and violates federal law. For those bus drivers required by federal law to have a physical exam, the driver would likely be able to travel outside West Virginia and have a chiropractor perform that exam. Although the state of Washington does not allow doctors of chiropractic in their state to perform a driver physical, a Washington CMV

driver may go to another state (except Michigan) and get their CMV physical from a doctor of chiropractic.

Preventing the chiropractic profession from performing these exams would cause some school bus drivers to fall under the Federal regulations that otherwise allow doctors of chiropractic in your state to perform these exams, versus those that fall solely under state regulation.

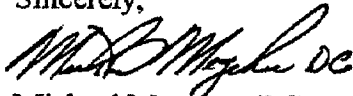
You may not be aware of the Federal Motor Carrier Safety Administration's new program called the National Registry of Certified Medical Examiners (NRCME). Likely to be introduced before the end of 2008, the NRCME will require *all* medical examiners to become certified by attending the approved physician training and passing a certification test. Only Certified Medical Examiners will be allowed to perform the CMV (including bus and school bus) driver physical examination. The training program and certification test will be identical for all participating health care professions.

The Federal Department of Transportation, which regulates all interstate transportation, recognizes by federal regulation the doctor of chiropractic's skill to perform driver physicals. Doctors of chiropractic will be certified in the FMCSA National Registry of Certified Medical Examiners whose mission is to produce "trained, certified medical examiners who can effectively determine if a commercial motor vehicle driver's health meets Federal Motor Carrier Safety Administration standards". Doctors of chiropractic are trained in accredited chiropractic colleges, tested by the National board of Chiropractic Examiners, and permitted by definition in both West Virginia law and federal regulation to perform this function.

In summary, doctors of chiropractic should be allowed to provide school bus driver physicals in the State of West Virginia.

Should you have any questions, please feel free to contact me.

Sincerely,



Michael Meghee, DC

Michael Megehee, DC

Michael Megehee, DC, is a member of the Federal Motor Carrier Safety Administration (FMCSA) Education Working Integrated Product Team (WIPT) constructing the core curriculum for physician training and testing to become a Certified Medical Examiner in the FMCSA National Registry of Certified Medical Examiners (NRCME). He is a FMCSA designated Subject Matter Expert and a member of the NRCME Regional Brainstorming Sessions. He is a member of the FMCSA Survey WIPT that constructed the NRCME survey instrument which serves as the basis for the NRCME training and testing program. Dr. Megehee is a member of the Oregon Board of Chiropractic Examiners (OBCE), the OBCE Rules Committee, and is Vice President of the American Chiropractic Association Council on Occupational Health (ACACOH). He served as the 2006 Alternate Delegate for the National Board of Chiropractic Examiners and the Federation of Chiropractic Licensing Boards. Dr. Megehee received the 2006 ACACOH President's Award.

Graduating with honors from Western States Chiropractic College (WSCC) in Portland, Oregon, Dr. Megehee received the 1990 WSCC Faculty Award for Clinical Excellence. For the past seventeen years, he has provided chiropractic care and occupational services at Blue Mountain Chiropractic Clinic in Pendleton, Oregon. Having completed the Medical Review Officer (MRO), Alcohol and Drug Testing, and the Substance Abuse Evaluation Training from the American Association of Medical Review Officers (AAMRO), Dr. Megehee provides Third Party Administration (TPA) and commercial motor vehicle operator related services. Dr. Megehee is a Drug and Alcohol Testing Industry Association (DATIA) Certified Professional Collector/Trainer, a DOT Certified Breath Alcohol Technician (BAT), a DOT Screening Test Technician (SST) and has been a Certified BAT Instructor for a national manufacturer of alcohol testing equipment.

Dr. Megehee encourages the Chiropractic profession to become Certified Medical Examiners in the NRCME and to participate in alcohol and drug testing services. He has presented Board approved continuing education training to certify Doctors of Chiropractic as BATs and STTs, and has provided TPA and MRO-like training. He has certified DCs and office staff as DATIA Certified Professional Collectors and has trained physicians regarding how to perform the CMV Driver Physical examination. Articles written by Dr. Megehee have appeared in professional magazines and the "Journal of the American Chiropractic Association" and he has given presentations across the country regarding the NRCME and the CMV driver's physical examination.

Dr. Megehee received his BS Degree in Accounting from Brigham Young University in Provo, Utah, in 1976. From 1991 to 1998, he was a member of the part-time faculty at Blue Mountain Community College, Pendleton, Oregon, as an instructor of Anatomy and Physiology. Dr. Megehee served as Chairman and Vice-Chairman of the East Oregon Regional Airport Commission from 1993-2002. As Author/Chief Petitioner of three statewide health care initiatives, HB3864 was sponsored and introduced to the 2001 Oregon Legislature. Dr. Megehee is an eagle scout, and a private pilot. He has been married to Jill for over 30 years and they have two adult aged children.

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 16, 2008 1:09 PM
To: 'Sherry Sadler'
Subject: FW: Comment Received for Policy (2008-06-16 10:00:47)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Monday, June 16, 2008 10:01 AM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-16 10:00:47)



Please save this email in a "Comments Received Online" folder.
Your folder will be a backup. All comments are saved in our database.
The Complete Comments Report from the database can be found here:
<http://129.71.2.32/r.html?id=4b085c10d5cb296d05a5cee1fd7fd1b8>
This is an encrypted URL. Please Bookmark it.

Comment Received for Policy

#####

Name: Woodrow E. Wilson
Organization: Roane County Schools/WVAPT
Email: wwilson@access.k12.wv.us
Title: Transportation Director/President
Address1: P.O. Box 609
Address2: 167 E. Main Street
City/State/Zip: Spencer, WV 25276
Role: Professional Support
Posted: 2008-06-16 10:00:47
Posted from IP: 75.111.169.81

Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

15.2.10 The candidate shall pass a physical examination from a medical examiner (doctor of medicine, doctors of osteopathy, physician assistants, advanced practice nurses) Omit: doctors of chiropractic whereas little if any internal medicine is provided from chiropractic schools. Omit: reference to FMCSA regulations

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual, Policy 4336 (note section number when submitting comments)

Positive additions to the police. Add: definition for medical examiner reflecting the wording in 15.2.10 In general, many improvements have been incorporated and I encourage passage of 4336 so it might be in place for the 2008-09 school year.

To: West Virginia Department of Education
Executive Director of School Transportation
Building 6, Room 318
1900 Kanawha Blvd. East
Charleston, WV 25305

From: Edward Lilly, D.C.

Dear West Virginia Department of Education,

I have appreciate your questions and concerns regarding the Physical Examinations given to your school bus drivers. In regards to this, When I was licensed in the state of West Virginia I was licensed as A Chiropractic Physician. This means to me that I must be able to Do Physicals in order to ascertain if there is anything wrong with a Patient, and when necessary treat or refer for treatment.

My education includes an Associate Degree, A Bachelor in Arts, a Bachelor in Science, and a Doctor of Chiropractic. As far as I know, A Doctor in my field must have at least a 4 year undergraduate degree Before attending Chiropractic School, and then 4 years of Chiropractic Training. The training at Chiropractic School includes diagnosis, And Treatment as a primary care physician. I myself specialized in Supervising physical Examinations.

In 1992, the Federal Supreme Court upheld a federal courts Finding which said the AMA , American Osteopathic Association and several other organizations were proven beyond all doubt, guilty, of a violation of the Federal Antitrust laws regarding their trying to contain and eliminate Chiropractic. I had hoped that We had all gone beyond this, but apparently not.

An exam to find out if a person is able to do something safely is Warranted especially when it involves the lives of so many. I have Grandchildren who ride the bus in Summers county, and I assure you That I would feel a lot safer knowing that I had done the exam on Their driver.

Sincerely,



Edward R. Lilly, D.C.

edwardrlilly@yahoo.com



FOLWELL CHIROPRACTIC CLINIC, Inc.

3211 Emerson Avenue
Parkersburg, WV 26104
Telephone: (304) 485-9124
Fax: (304) 485-9127

Tuesday June 17, 2008

West Virginia Department of Education
Attention: Executive Director of School Transportation &
Building 6, Room 318
1900 Kanawha Blvd. East
Charleston, West Virginia 25305

**RE: Policy 4336-The West Virginia School Bus
Transportation Policy and Procedures Manual**

Dear Executive Director of School Transportation:

I was recently made aware of efforts to change or augment the West Virginia School Bus Transportation Policy and Procedures Manual (Policy 4336) as it relates to Doctors of Chiropractic performing physical examination of school bus drivers. In an apparent effort to obtain support of this policy change, Ms. King, RN, MSN, MEd, Coordinator from the Office of Healthy Schools wrote the West Virginia Boards of Medicine and Osteopathy for a request of opinion with responses provided May 22, 2008 and May 18, 2008, respective.

In a letter from Ms. King, to the West Virginia Board of Medicine, dated April 16, 2008, several inaccurate statements are perpetuated onto those respected and honorable Boards. The letter Ms. King writes attempts to build a false foundation on the training and education of the chiropractic physician. Specifically, Ms. King stated her concerns with, and I quote, "lack of physical diagnosis/clinical medicine and skills, behavioral medicine, lack of pharmacological background and overall lack of curriculum as compared to the medical doctor."

The educational requirements of the doctor of chiropractic has been compared to that of the medical and osteopathic professions and reflect the rigorous requirements to become a doctor of chiropractic. I am providing a paper on the subject of chiropractic education from the American Chiropractic Association. As noted from this document, chiropractic students spend a significant portion of their curriculum studying clinical subjects related to evaluating and caring for patients. In total, the curriculum includes a minimum of 4,200 hours of classroom, laboratory and clinical experience. The course of study is approved by an accrediting agency which is fully recognized by the U.S. Department of Education. This has been the case for more than 25 years.

**RE: Policy 4336-The West Virginia School Bus
Transportation Policy and Procedures Manual**

A pre-medical degree (same as medical/osteopathic school) was expected to enter a school of chiropractic and earlier this decade, a four-year bachelor's degree, in addition to core requirements of a pre-medical degree, is necessary to enter a school of chiropractic. The statement by Ms. King on the licensing requirements of a doctor of chiropractic by the West Virginia Board of Chiropractic Examiners simply does not exist. The extensive education of a doctor of chiropractic in the healing sciences of anatomy, physiology, and rehabilitation is followed by national board examinations and state-licensing test requirements.

I share with Ms. King the difference of pharmacological training between the professions as this aspect of medical and osteopathic training remains one of the cornerstones of their trade. Sadly, Ms. King failed to highlight the significant numbers of injury and death associated with 'appropriately determined' prescription medication intake among the American people. Over 106,000 individuals per year were recently reported to die from recommended medication prescribed by their physician or hospitalist.

It is apparent, Ms. King has failed to do her home work. Obtaining a Masters in Education is no easy feat. I was surprised and quite frankly, greatly dismayed to read the obvious effort to discredit the chiropractic physicians of this great state. These antics were once perpetuated by those in the medical field and periodically surface at the cost of our citizens who are subject to this ongoing discriminatory behavior. The chiropractic profession remains a leading advocate in preventative medicine as defined by improvement in lifestyle measures for those who seek chiropractic services and should remain unimpeded and fully accessible by the people of West Virginia.

It has been said by those who perpetuate misrepresentations for support of their positions, "Let us not allow the facts to be clouded by the truth." Perhaps Ms. King can redeem her reputation by offering an apology to the chiropractic profession and to become 'better educated' on the organization she works to condemn. The Office of Healthy Schools, as a part of the West Virginia Department of Education, requires staff leadership from informed health care officials while representing an important department of the executive branch...that of education (and not a lack thereof).

Let me close by making a point from our current history of events unfolding even as this letter is being written. Tim Russert, a well-respected and honest journalist recently passed away from a heart attack, this according to the press reports. Mr. Russert's family physician was on Larry King and noted that a stress test was performed on Mr. Russert just a few weeks ago in which no pathology was detected or concerns were expressed. Was Mr. Russert's physician diligent in his work or has medicine yet to reach the pinnacle of success? I am sure his family remains perplexed. Simply put, medicine does not have the corner on health care.

**RE: Policy 4336-The West Virginia School Bus
Transportation Policy and Procedures Manual**

As a Christian, I constantly teach those around me to, "Do the right thing, even when no one is looking." I hope you too will consider doing the right thing and work with our profession for the good of all that is good, in our great state of West Virginia that would be its people. I invite you to come to my office to become better educated on the knowledge we as chiropractic physicians enjoy. May God Bless.

Sincerely,



Byron R. Folwell, D.C.
Doctor of Chiropractic

Enclosure:

✓ Chiropractic Education, American Chiropractic Association, 2 pages

Pc/West Virginia Board of Chiropractic Examiners
West Virginia Chiropractic Society, Attention: Nelson Robinson
West Virginia Board of Medical Examiners, Attention: Robert C. Knittle
West Virginia Board of Osteopathy, Attention: Cheryl Schreiber
Rebecca J. King, RN, MSN, MEd, Coordinator for the Office of Healthy Schools,
West Virginia Department of Education



Patients

- Find a Doctor
- What is Chiropractic?
- Chiropractic Research
- Back Pain Facts & Statistics
- History of Chiropractic Care
- Chiropractic Education
- Consumer Health Tips
- Frequently Asked Questions
- Health & Wellness Links

Chiropractic Education

Educational requirements for doctors of chiropractic are among the most stringent of any of the health care professions.

The typical applicant at a chiropractic college has already acquired nearly four years of pre-medical undergraduate college education, including courses in biology, inorganic and organic chemistry, physics, psychology and related lab work. Once accepted into an accredited chiropractic college, the requirements become even more demanding — four to five academic years of professional study are the standard. Because of the hands-on nature of chiropractic, and the intricate adjusting techniques, a significant portion of time is spent in clinical training.

Doctors of chiropractic — who are licensed to practice in all 50 states, the District of Columbia, and in many nations around the world — undergo a rigorous education in the healing sciences, similar to that of medical doctors. In some areas, such as anatomy, physiology, and rehabilitation, they receive more intensive education than most medical doctors or physical therapists.

Curriculum Requirements For the Doctor of Chiropractic Degree (DC) in comparison to the Doctor of Medicine Degree (MD) and the Doctor of Physical Therapy Degree (DPT) ^{1,2}

	Average Program Length	Average Classroom and Clinical Study Hours Prior to Graduation*	Advanced Certification Available
Chiropractic Curriculum	4 years	4,820	Yes
Medical Curriculum	4 years	4,670	Yes
Physical Therapy Curriculum	3 years	3,398	Yes

* Does not include hours attributed to post-graduation residency programs

Like other primary health care doctors, chiropractic students spend a significant portion of their curriculum studying clinical subjects related to evaluating and caring for patients. Typically, as part of their professional training, they must complete a minimum of a one-year clinical-based program dealing with actual patient care. In total, the curriculum includes a minimum of 4,200 hours of classroom, laboratory and clinical experience. The course of study is approved by an accrediting agency which is fully recognized by the U.S. Department of Education. This has been the case for more than 25 years.

Before they are allowed to practice, doctors of chiropractic must pass national board examinations and become state-licensed. Chiropractic colleges also offer post-graduate continuing education programs in specialty fields ranging from sports injuries and occupational health to orthopedics and neurology. These programs allow chiropractors to specialize in a healthcare discipline or meet state re-licensure requirements.

This extensive education prepares doctors of chiropractic to diagnose health care problems, treat the problems when they are within their scope of practice and refer patients to other health care practitioners when appropriate.

[Click here to learn about a career in chiropractic.](#)

References

1. *Meeker W, Haldeman H. Chiropractic: A Profession at the Crossroads of Mainstream and Alternative Medicine. Annals Internal Medicine 2002, Vol 136, No 3.*
2. *American Physical Therapy Association, 2005-2006 Fact Sheet, Physical Therapist Education Programs January 2007*

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R. Curtis Arnold, DPM
South Charleston

Michael L. Ferrebee, MD
Morgantown

Angelo N. Georges, MD
Wheeling

Doris M. Griffin, MBA
Martinsburg

M. Khalid Hasan, MD
Beckley

Beth Hays, MA
Bluefield

Carlos C. Jimenez, MD
Glen Dale

Vettivelu Maheswaran, MD
Charles Town

Bill May, DPM
Huntington

Joe E. Miller, LtCol USMC (Ret), MA
Hurricane

Badshah J. Wazir, MD
South Charleston

Kenneth Dean Wright, PA-C
Huntington

State of West Virginia

West Virginia Board of Medicine

101 Dee Drive, Suite 103

Charleston, WV 25311

Telephone 304.558.2921

Fax 304.558.2084

June 19, 2008

Mr. Ben Shew
Office of School Transportation
West Virginia Department of Education
Capitol Building 6, Room 318
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

Re: 126 CSR 92, West Virginia School Bus Transportation Policy and Procedures
Manual, Policy 4336

Dear Mr. Shew:

Thank you for the opportunity to comment on a proposed change in the above policy, which would include chiropractors as eligible to give a physical examination to school bus drivers. This is a very important proposed policy change and the lives of our children will be affected by it. In forming its opinion, the Board has reviewed a great deal of information supplied to your agency by the West Virginia Chiropractic Society, including the Palmer College of Chiropractic curriculum. The Board of Medicine has studied the rule and is of the opinion that a chiropractor is not qualified to make many of the clinical diagnoses required and should not be included in the definition of "Medical Examiner," at 15.2.10. If chiropractors are allowed to perform the physical examinations of bus drivers, the examination would not be performed with the same level of expertise and detail as if performed by a medical doctor. This would not be in the interests of public health, safety, and welfare.

Significantly, the definition of "Chiropractic" in W. Va. Code § Code 30-16-3, reveals that there is no language there indicating that performing a physical examination as required by Policy 4336 is a part of the scope of practice of a chiropractor. West Virginia law should be followed in this regard and must be read in conjunction with any regulation of the Federal Motor Carrier Safety Administration. We continue in this country to have state systems of professional

PRESIDENT
John A. Wade, Jr., MD
Point Pleasant

VICE PRESIDENT
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Morgantown

SECRETARY
Catherine Slemp, MD, MPH
Charleston

EXECUTIVE DIRECTOR
Robert C. Knittle
Charleston

COUNSEL
Deborah Lewis Rodecker
Charleston

DISCIPLINARY COUNSEL
John K. McHugh
Charleston

Mr. Shew
Page Two
June 19, 2008

licensure. If you authorize chiropractors to perform the examination as contained in the policy, it would appear that you are authorizing something beyond the chiropractor's lawful scope of practice in the State of West Virginia.

I hope we have been of assistance to you in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Knittle". The signature is written in a cursive style with a large initial "R".

Robert C. Knittle
Executive Director

RCK/meb

Dr. Marcia S. Beissell

Post Office Box 149, Bruceton Mills, WV 26525

Telephone (304) 379-7000

June 19, 2008

Dear Sir or Madam:

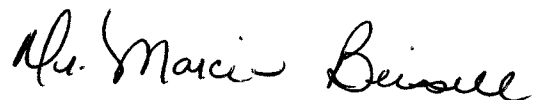


Chiropractic physicians are well trained to perform physicals. It is essential that we be able to diagnosis in order to properly render care to a patient. A physical examination is part of an office call.

I am therefore recommending that chiropractic physicians perform physical examination for school bus drivers.

Thank you.

Sincerely,



Dr. Marcia S. Beissell
cdw

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 23, 2008 8:47 AM
To: 'Sherry Sadler'
Subject: FW: Comment Received for Policy (2008-06-19 13:31:43)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Thursday, June 19, 2008 1:32 PM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-19 13:31:43)



Please save this email in a "Comments Received Online" folder. Your folder will be a backup. All comments are saved in our database. The Complete Comments Report from the database can be found here: <http://129.71.2.32/r.html?id=4b085c10d5cb296d05a5cee1fd7fd1b8> This is an encrypted URL. Please Bookmark it.

Comment Received for Policy

#####

#

Name: Tim Reinard
Organization: Hancock County Schools
Email: transportation@hancockschools.org
Title: coordinator
Address1: 64 Rockyside Rd
Address2:
City/State/Zip: New Cumberland, wv 26062
Role: Professional Support
Posted: 2008-06-19 13:31:43
Posted from IP: 168.216.202.110

Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual, Policy 4336 (note section number when submitting comments)

- 16.1 Is there a list of otc drugs to go with appendix F and can it be included?
- 18.1 "and medical examiner" who is this person? Does the board need to hire or identify one for the county?

In appendix F under medical disqualification, third paragraph there is a <blank> company physician. Will this be rewritten as a part of the policy?

17.3.7 seems to disagree with the form in appendix G section 5 in that the form lists < or = to 140/90 and under the column marked recertification the same < or = 140/90 appears and even states that a one time certificate for over 141-159/91-99 can be issued In appendix G section 7 at bottom of the form has a box for two year certification and also 3 & 6 months and other. Also same appendix "physical qualifications for drivers" drivers role, third column should be changed to refer to section 18.1 and if added the present document in the policy regarding notification. also do not site hypertension section 391.41(b)(6) because of numerical values contradicting 17.3.7 Appendix H back page can we add a box for child abuse, sexual misconduct etc?

Appendix I While this form seems general enough, If I check any of these things does that mean if the highway department won't or can not afford to fix then my Board is responsible for the repairs or reconfiguration? Also, Should not a civil engineer or highway engineer fill out this form? It would be nice to send a filled out copy to the DOH and have their department take responsibility for correcting the items or telling me they disagree and then we can argue over the facts. Also, are these records going to be Subpoenaed if God forgive a child gets hurt at one of these locations that I could not fix or get fixed?

Found the answer to my question in 15.2.9 - might be advantageous to refer to Appendix K section 3.2 under 4.2 can we add be at the bus stop 5 minutes prior to the scheduled stop time and be visible to the driver? This was the first year that my driver asked a parent to have their child out 5 minutes prior to her stop in case she was running early and the lady refused. Then a couple other parents had their kids sit in the car until the bus stopped then the child would get out of the car, put on their coat, get their book bag, go around the car and kiss mom, open the back door and pet the dog, head for the bus and turn around and go back to the car to get their lunch then of course they have to kiss mom again. While the bus waits with their lights on and traffic held up.

section 5.5.3 do we need to include bus aides instead of just putting the aides in 5.7.1 with no specific hours requirement? And should not at least the aides be trained on 2422.8?

Vincent J. King

Attorney * Mediator * Insurance Consultant

Contact Information:

99 Presidio Pointe
Cross Lanes, WV 25313
Phone: (304) 744-7577
Fax: (304) 744-7729
Cell: (304) 541-1099
E-mail: vjking@suddenlink.net

Insurance Licenses:

Life Agent
Accident & Sickness Agent
Property & Casualty Agent
Surplus Lines Broker
Company Adjuster
Public Adjuster

June 20, 2008

Sherri Goodman, Esquire c/o Fax No.: 558-0048
West Virginia Department of Education
1900 Kanawha Boulevard East, Building 6
Chareleston, WV 25305-0330

RE: Bus Driver Exams

Dear Sherri:

I write in the hopes of avoiding the creation of a temporary conflict in law and protracted litigation that seems entirely unnecessary. Specifically, I know that a proposed change to State Board of Education Rule 126 WVCSR 92 (Policy 4366 of the West Virginia School Bus Transportation Policy and Procedure Manual) is currently out for public comment and, thereafter, you will further advise the Board, and the Board will ultimately decide the issue.

I also know that Nelson Robinson previously supplied you with documentation reflecting prior, analogous, decisions. I have no way of knowing whether that information was reviewed or supplied to the Board. In summary, however, that documentation establishes that Chiropractors have previously, and specifically, been determined to be qualified in each of the following similar situations:

Secondary Schools Activities Commission requirement that "a licensed medical physician" order athletic supports - See Attorney General Opinion dated August 29, 1995 (note, in particular, interpretation that West Virginia statutory law requires that the terms "chiropractor" and "physician" be interpreted synonymously) and the Commission's reconsideration letter from William R. Wooten dated June 24, 1996.

Secondary Schools Activities Commission physical exam requirement - See letter from Warren Carter, Executive Secretary, dated Mach 22, 1994 (note also that the SSAC first sought the opinion of its insurance carrier which advised that chiropractors are authorized to perform such exams nationwide).

Wood County Schools interpretation of Policy 2510 requiring certification by a "licensed physician" for homebound instruction - See reconsideration letter

Sherri Goodman, Esquire

June 20, 2008

Page 2

from Dianne Boggess, Coordinator, dated July 29, 1999, noting that its earlier contrary position was based on interpretation by the Board of Medicine but with the benefit of review of then recent legislation, it would forthwith consider chiropractors to be physicians under West Virginia Board of Education Policy 2510.

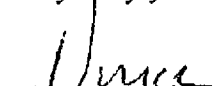
I should also note that there are no known final decisions otherwise. In other words, a decision by the State Board of Education to the contrary, would be at odds with all other final decisions, and the West Virginia Chiropractic Society obviously could not stand idly by, and would necessarily have to legally challenge the contrary interpretation of clear West Virginia law.

I am aware of the (renewed) opinion by the West Virginia Board of Medicine, as well as the West Virginia Board of Osteopathy, dated April 16, 2008, and May 28, 2008, respectively. As you may or may not know, I have done a FOIA request to each of those Boards seeking "any and all minutes, notes, memos, e-mails, telephone message slips, tallies, video tapes, audio tapes or other documentary evidence reflecting any research, study, comparison, discussion, debate, poll, vote, or other data compiled preliminary thereto". It is painfully obvious that there was absolutely no independent consideration whatsoever. Instead, each of the Boards received Ms. King's request for a letter opposing the use of chiropractors, and the Boards complied in robotic like fashion.

I also noticed that your memo to the Board focused not on the issue of whether West Virginia law prohibited exclusion of chiropractors but, instead, on the contrary result oriented issue of whether federal law permitted the adoption of more a restrictive regulation (than the chiropractic inclusive regulation promulgated with respect to the federal CDL physical exam requirement) without the forfeiture of federal highway monies. You concluded that 49 CFR 390.9 authorized the States to promulgate more restrictive regulation without forfeiture. Admittedly, it is not a model of clarity, but I am not prepared to concede even that point. I read it to say that, except as otherwise indicated, the provisions of Subchapter B do not preclude States from promulgating more restrictive regulations (i.e., more restrictive than the regulations contained in Subchapter B.) Subchapter B, while dealing with qualifications of school bus drivers generally, is not the subsection dealing with the physical which appears in Subchapter E, and therefore I am reading the authorization you cited as inapplicable. Even assuming it is me who is mis-reading that provision, however, I hope you and the Board will give consideration to the West Virginia law which I believe to be dispositive and under which we would seek relief from the court.

Thanking you for your further deliberation, I remain

Very truly yours,


Vincent J. King

pc: Nelson B. Robinson, Executive Director c/o Fax No.: 343-4251

emailed 6/27

Worldwide Chiropractic & Sports Medicine

7717 Sissonville Drive
Sissonville, WV 25320
Phone (304) 988-1922
Fax (304) 988-0130

238 South Church Street
Ripley, WV 25271
Phone (304) 372-1372
Fax (304) 372-1373

TO: Ben Shew

FROM: Steve Thaxton D.C. ^{Self}

FAX: _____

DATE: 6-20-08

PHONE: _____

PAGES (including cover): 3

RE: _____

- Urgent
- Please Reply
- Please Comment
- Please Review
- For Your Information

sthaxtondc@aol.com
jme32atc@aol.com

Additional Notes / Comments:

Bus driver physicals Section 126CSR92

*Thank you for your
consideration.
Steve*

This fax message and the content within is intended for use by the individual or entity to which it was addressed and may contain information that is privileged and confidential and exempt from disclosure under applicable law. If the reader of this information is not intended to be the recipient of this agent, you are hereby notified that any dissemination, distribution, or copying of this information is strictly prohibited. If you have received this fax in error, please notify us immediately and send the original fax via the United States Post Office. a

In reference to the bus driver physicals: Section 126CSR92

I have done multiple bus driver physicals over the years and thousands of school physicals. As a matter of fact, we have done almost 400 school physicals already in the month of June 2008; of these, around 350 of them for free as a public service to the communities I serve in Kanawha and Jackson Counties. I find Ms. King's letter inaccurate and ignorant of the facts.

I'm in touch with many Chiropractic educators regularly, and aside from their continued increase in Chiropractic school entrance requirements and graduation requirements, the state of West Virginia has continued to require higher and higher education requirements. Contrary to Ms. King's opinion, to practice Chiropractic you must have a B.S. degree. That requires 128 college hours, not 60, as well as a Doctor of Chiropractic degree and pass both the State and National Board exams. In addition, as of 1988 when I started Chiropractic school, the differences in a Chiropractic education and Medical education are as follows:

Chiropractic hours Minimum	Subject	Medical hours Minimum
456	Anatomy/Embryology	215
243	Physiology	174
296	Pathology	507 (this includes Geriatrics and Pediatrics)
161	Chemistry	100
145	Microbiology	145
408	Diagnosis	113 (Including EENT and Dermatology)
149	Neurology	171
271	X-ray	13
56	Psychology/Psychiatry	323
66	Obstetrics & Gynecology	284
168	Orthopedics	2

2,419 Total Hours 2,047

These Class hours for basic science comparisons were compiled and averaged following a review of curricula of 18 Chiropractic Colleges and 22 Medical schools, based on the 1988-89 Association of American Medical Colleges Curriculum Directory (AAMC), Vickie Ahari, Editor, and the Chiropractic College Admissions and Curriculum Directory 1988-89, K. Magarian and K. McNamee, editors.

As you can see, based on education, we are more qualified than a Doctor of Medicine or a Doctor of Osteopathy to do these physicals because of the amount of education we receive in Diagnosis, nearly 300 more hours, (408 hours compared to 113 hours) which is the basis for the Physical Examination to begin with.

I would also like to address Mr. Robert C. Knittle's comments for the State Board of Medicine. His lack of knowledge of state law is no excuse for trying to influence this matter. State law governing the practice of Chiropractic in the State of West Virginia states in 4-1-15.2 "All licensees practicing chiropractic in West Virginia shall use the word(s) 'Chiropractic' or 'Chiropractic Physician' or the initials 'D.C.' in conjunction with their names on all signs, letterheads, business cards and/or similar places of business wherein he is practicing." This does make us "licensed physicians" and while I realize this is simply a "turf" battle and Mr. Knittle is simply trying to protect the bank accounts of the people who pay him, there is no excuse for trying to discourage the public's opinion of the Chiropractic profession and discredit the Chiropractic Physicians licensed in this state. Ms. Schreiber with the Board of Osteopathy is in the exact same position and since neither Mr. Knittle, Ms. Schreiber nor Ms. King or, as far as I can tell, any of their "Board" members have actually graduated from Chiropractic school, how can their opinion on what Chiropractors can and cannot do have any bearing or basis in this arena?

Sincerely,
Dr. Steve Thaxton B.S. D.C.
Chiropractic Physician
304 988-1922

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 23, 2008 8:47 AM
To: 'Sherry Sadler'; 'Becky King'
Subject: FW: Comment Received for Policy (2008-06-20 15:54:30)

FYI

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Friday, June 20, 2008 3:55 PM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-20 15:54:30)

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<http://129.71.2.32/r.html?id=4b085c10d5cb296d05a5cee1fd7fd1b8>
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Comment Received for Policy

#####

Name: Stephen R. Thaxton D.C.
Organization: Worldwide Chiropractic and Sports Medicine
Email: sthaxtondc@aol.com
Title: Doctor of Chiropractic
Address1: 7717 Sissonville Dr.
Address2:
City/State/Zip: Sissonville, WV 25320
Role: Community Member
Posted: 2008-06-20 15:54:30
Posted from IP: 24.32.254.242

Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual, Policy 4336 (note section number when submitting comments)

In reference to the bus driver physicals: Section 126CSR92

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states in 4-1-15.2 "All licensees practicing chiropractic in West Virginia shall use the word(s) 'Chiropractic' or 'Chiropractic Physician' or the initials 'D.C.' in conjunction with their names on all signs, letterheads, business cards and/or similar places of business wherein he is practicing." This does make us "licensed physicians" and while I realize this is simply a "turf" battle and Mr. Knittle is simply trying to protect the bank accounts of the people who pay him, there is no excuse for trying to discourage the public's opinion of the Chiropractic profession and discredit the Chiropractic Physicians licensed in this state. Ms. Schreiber with the Board of Osteopathy is in the exact same position and since neither Mr. Knittle, Ms. Schreiber nor Ms. King or, as far as I can tell, any of their "Board" members have actually graduated from Chiropractic school, how can their opinion on what Chiropractors can and cannot do have any bearing or basis in this arena?

Sincerely,
Dr. Steve Thaxton B.S. D.C.
Chiropractic Physician
304 988-1922



Every Body's Chiropractic PLLC
23 Preston Plaza Drive
Kingwood, WV 26537
Phone: 304-329-1000
Fax: 304-329-1001
www.DrHerto.com

June 23, 2008

WV Dept of Education

Dr. Stephen Herto

Certifications

Electrodiagnosis

Pediatric Chiropractic
(F.I.C.P.A)

Strength and Conditioning
(C.S.C.S)

Chiropractic Sports Physician
(C.C.S.P)

Whiplash/Spinal Trauma

Auto Accident
Constructionist

Acupuncture

Emergency Medical
Technician (E.M.T.-B)

Clinical Biomechanics of
Posture (C.B.P)

Licensure

West Virginia, Virginia,
Pennsylvania, Maryland

RE: Chiropractors and School Bus Driver Examinations

To Whom It May Concern;

I understand the issue of chiropractors performing school bus driver examinations is being reviewed and wish to add my comments to the discussion.

I have been performing US DOT physicals for CDL drivers for years in my office. The standard is much higher at a federal level and DC's are licensed in all 50 states to perform these physical examinations and approved for such by the DOT.

The school bus examination is very similar in scope. DC's are trained in differential diagnosis and are easily capable to handle these exams. A letter from Rebecca King RN suggests that DC's "overall lack of curriculum" compared to MD's is an issue. The credit hours are similar but the curriculums are different. Our diagnosis and manipulative technique hours exceed the MD's. It is more a matter of focus of practice versus quality training.

Has a DC performing an examination led to any difficulties or driver impairment issues? Why change a long standing policy? Are physician assistants and licensed practical nurses curriculums similar to an MD's?

Thank you for considering my comments.

Sincerely,

Stephen Herto MS DC

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 23, 2008 3:38 PM
To: 'Sherry Sadler'
Subject: FW: Comment Received for Policy (2008-06-23 14:57:43)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Monday, June 23, 2008 2:58 PM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-23 14:57:43)

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Comment Received for Policy

#

Name: Mary Frances Horton
Organization: Business Health Services - WVUH-East
Email: mhorton@cityhospital.org
Title: Client Relations Representative
Address1: 2000 Foundation Way, Suite 2200
Address2:
City/State/Zip: MARTINSBURG, WV 25401
Role: Business-Industry
Posted: 2008-06-23 14:57:43
Posted from IP: 64.127.50.2



Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual, Policy 4336 (note section number when submitting comments)

Regarding the Medical Examination Report: Our medical staff is glad to see that you are revising the Medical Examination Report for Bus Drivers to match the form used by the Federal Motor Carrier Safety Administration. The slight differences between the "old" school bus

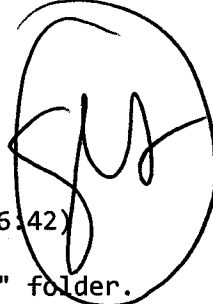
driver requirements and the general DOT requirements has sometimes caused confusion in the past. We believe this is a very positive change. Thank you!

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 23, 2008 8:47 AM
To: 'Sherry Sadler'
Subject: FW: Comment Received for Policy (2008-06-19 10:46:42)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Thursday, June 19, 2008 10:47 AM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-19 10:46:42)



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Comment Received for Policy

#

Name: Tim Reinard
Organization: Hancock County Schools
Email: transportation@hancockschools.org
Title: Coordinator
Address1: 64 Rockyside Rd
Address2:
City/State/Zip: New Cumberland, WV 26047
Role: Professional Support
Posted: 2008-06-19 10:46:42
Posted from IP: 168.216.202.110

Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual,
Policy 4336 (note section number when submitting
comments)

2.5.1 presentation of certs and license - are we doing this again? Last couple inspections
we inspected the buses without drivers here
3.3 How would a driver know unless a student is required to carry an ID card. IE driver does
not have a high school run but has a mid school run in an area - a high school student states

they slept in and needs a ride / driver does not know student. A rule that we can not abide by is tough.

4.1 states parents shall - which means they are responsible - what are consequences if the parents don't do 4.1.1 or 4.1.2

4.2.7 If bus is on a extra curricular trip of distance and coach or chaperone brings food - this rule states no eating, drinking etc - if bus is pulled over and stopped can team eat?

4.2.15 - I would like to see "within" added to section "into and from the bus" does not cover someone flinging something at the driver from within the bus.

5.4 What do we mean by "persistently"? Does not sound like something we will win if their lawyer or advocate shows up at the hearing.

5.6 does not mention IEP as listed in 5.7 and I am not sure what a 504 plan is. The transportation director gets Emer Health Care plan and Ind health care plan, Can we share these with the drivers? If a student is on a bus without a lift and aide and there is something alarming in the health plan what do we do? Put on a bus with an aide?

5.7.1 states aides will receive training. When does this Policy become the Policy and when is it effective? If Policy becomes effective in Oct do I have to train my aides immediately?

7.1.1 states the student shall be notified by the school bus operator. When the Principal or designee has student in the office and is notifying the parent why not have principal notify student and send a written notification out to the driver stating disipline taken. 7.1.3 would then be the reverse of 7.1.1 if we put in the words "in writing" after the words "notifies the bus operator"

9.1 put words "in writing" after "shall notify bus operator"

9.2 put words "and the school bus operator" after "has given student"

10.1 What does this mean? Bus stops .2 miles out of the traffic stream?

11.1.2.c why would we activate turn signal if we are stopping on the main road? Would not a driver think we are turning into a stop and possibly try to go around?

11.1.2.f In rural areas with no sidewalks that will mean the kids may have to leave the path where they stand and walk through the tall weeds - would be nice and maybe should be where possible to do safely.

11.1.2.h - what about buses with separate switch for red lights - how about just stating activate red lights

11.2.3 is tough. Driver is watching kids load, glancing in mirrors for on coming and approaching vehicles and attempting to count the students who were standing in the dark in a rural area from behind the pine tree - would be nice but don't think it is realistic.

11.2.9.g What does this mean

11.2.11.c what is our "as required or recommended by your state or local regulations" We being the state should put our regulation(s) here

11.3.1 There is no subsection listed at the end of the writing 11.4.1.a suggest students "shall" not "should" walk 10" away

11.4.1.d.3 Wait for your signal should be "wait for the Driver's signal"

11.4.1.d.4 should be upon seeing the driver's signal, the students "shall" not "should".

11.4.1.d.5 for the driver's signal not "your"

11.5.a.2.A Is subsection 10.2.1 the right subsection?

11.5.a.3.F Do we have to use flashing red lights at the schools? I thought law was activating lights on roadways only 11.5.a.3.F turn on left turn signal ???

11.5.a.3.I congested traffic???

11.6.2 third line, to confirm that they do not (??? what) word or words missing 11.7.2.b place the transmission in park - I do not know that I agree - you may need power immediately - you need to come to a complete stop but not change gears to park or neutral 11.7.2.d When does the driver close the door and when do you shut off hazard lights??

11.8 Change may report to should report - "may" sounds too passive

11.9 "a young child's" should be pre-k or kintergarden student to be more specific

12.3 and any other time limited sections spell out time and put numerical value beside 13.10 Appendix I is correct one I believe

13.14 Can we attach copies of the standard as another appendix?

13.16.3 In the case of football and track should we require an equipment vehicle. on a two hour trip the pads generally migrate to the floor and then end up in the aisle?

13.18.3 Can we include the words or designee after supervisor of transportation

13.19.1 M is not the right Appendix - don't see an appendix in the packet that refers to drug in alcohol testing

14.2 Since it mentions "regularly scheduled" runs what about someone who takes an extra curricular trip and does not get back in time for 6 hours off duty?

14.2 a & b I don't know what these mean

14.2.c - How would I know if my driver is doing commercial vehicle work unless the individual tells me.

15.1.a If the school or booster's club leases the coaches car for \$10 is the coach and the students in the car covered by BRIM? and who would check the validity of the license? I wouldn't necessarily know that the boosters rented a van or the coach's car for the students to travel in to a meet.

15.2.4 "J" should be "H"

15.2.6 Does the CEUs on line = the 40 hours required?

15.2.7 Why "night driving"? No problem with just wanted to know why this particular type of driving and not snow and ice etc

15.2.9 Can we specify which 1st aid and CPR training is acceptable? Only ones I know of is American Heart and Red Cross

15.2.12 Can we specify "WV Department of Education" rather than by the state department? May confuse DMV with us.

15.2.14.b did we use test examiner to be generic when presently we use State of WV School Bus Inspectors to administer test?

15.3.1.h and .i What is a preponderance of evidence and who establishes what is preponderance? Also, who besides the Trans Directors and bus drivers are going to know what is in this policy to intervene in presenting evidence?
Are drivers not innocent until proven guilty by constitution and the judicial system not the administrative system?

15.3.1.k Same as h & i - great idea but maybe ought to talk to legal first - How about if one is found guilty or pleads non-contendere to a charge of these types

16.1 letter "F" not "I" appendix

17.2 does the school supt have to keep original or can designee control.

17.3.4 who approves hearing aides?

17.3.12 who is OTETA needs spelled out in ()

18.1 Not appendix I should be "F"

18.2 Who designates the physican and / or psychologist? County Boards?

18.4 Why do we recommend 12 hours? With the changes in this policy we still need 18 or more. There are enough policy changes on local and state level, rules by USDOT and others that need communicated on a yearly basis with the drivers to keep them up to date. With the In Service Days and Continuing education days we should keep the number at 18.

19.1.7 What if county board has a no tolerance policy on alcohol and / or drugs? The way I read this section, the second positive test mentioned in the third sentence sort of guarantees that there will be a second chance. I understnad this is on a state leve for certification and maybe that this section does not over rule any local board policies is all we need to state.

21.1.1 far enough in advance should be three weeks in my opinion - this would help out the trans directors and get the supt out of saying go ahead every time the smae person forgets

21.1.2 Does this mean that putting a sub driver on a bus to replace a regular driver is interference?

21.3 Same as 15.1.a

21.4.2,3,4 and 5 going to be addressed - my vendors of charters are from Pa and know to have the drivers have in their pocession their Title 34 and 151 clearances, a valid driver's license, and the coounty trip designee / sponsor must check the above items plus that the inspection sticker and registration card for plate have valid expiration dates.(not within the time frame of the trip) Thanks for the chance to give input.

Tim Reinard

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Friday, June 27, 2008 8:49 AM
To: 'Sherry Sadler'
Subject: FW: Comment Received for Policy (2008-06-26 11:25:48)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Thursday, June 26, 2008 11:26 AM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-26 11:25:48)



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Comment Received for Policy

#####

#

Name: David Baber
Organization: Nicholas County Schools
Email: dbaber@access.k12.wv.us
Title: Director of Transportation
Address1: 400 Old Main Drive
Address2:
City/State/Zip: Summersville, WV 26651
Role: School System Staff
Posted: 2008-06-26 11:25:48
Posted from IP: 168.216.58.66

Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual, Policy 4336 (note section number when submitting comments)

Appendix B 3.3.1 This section does not clarify training. Does training in school bus operation mean to become certified to operate a school bus or just the ability and understanding of how to operate a school bus? Does training in personnel laws and regulations mean Service Personnel laws and regulations only - specifically laws and regulations

...
affecting transportation or does it mean all personnel laws and regulations including professional personnel?

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Friday, June 27, 2008 8:46 AM
To: 'Sherry Sadler'; 'Becky King'
Subject: FW: Comment Received for Policy (2008-06-26 18:24:27)

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Thursday, June 26, 2008 6:24 PM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-26 18:24:27)

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Comment Received for Policy

#####

#

Name: karen camara jones
Organization:
Email: kcjones@meer.net
Title:
Address1: 405 glendale ave
Address2:
City/State/Zip: elkins, wv 26241
Role: Parent-Family
Posted: 2008-06-26 18:24:27
Posted from IP: 198.207.198.127



Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

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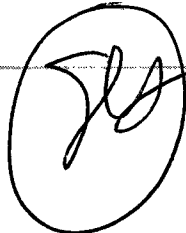
I am appalled in the lack of research that the WVBOE has done on Chiropractors. There must be an underlying agenda. Rebecca King states the law incorrectly as to how much education Chiropractors have or need. WV has some very antiquated ideas about the roles of DCs in the medical profession. In Fla DCs MDs, DOs PTs and RNs and work together and work well.

There is no backstabbing, or acting like children protecting their territory.
All medical professions must unite. Patients come first. We must be free to choose our
medical practitioners. Chiropractors have thousands of hours of
education like MDs & DOs Its something to think about.

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Friday, June 27, 2008 8:50 AM
To: 'Sherry Sadler'
Subject: FW: Policy 4336

From: Patty Britton [mailto:pbritton@access.k12.wv.us]
Sent: Thursday, June 26, 2008 10:11 AM
To: 'Ben Shew'
Subject: Policy 4336



I have reviewed the Regulations Policy 4336 and have comments regarding Page 3, Section 2.76. I do not think we should require each and every school bus to be safety inspected every month. I know the intent is correct and if counties had the needed number of employees to perform this task, it would be an obtainable goal. While I agree with the theory, I am confident counties cannot complete this requirement. I do not believe we should place something into policy that counties cannot achieve. Some months school is not in session enough to complete the task. I therefore respectfully recommend that we change to bi-monthly or 40 working days.

Victor L. Gabriel, Administrative Assistant
Support Services
Harrison County Schools

Sherry Sadler

From: Ben Shew [bshew@access.k12.wv.us]
Sent: Monday, June 30, 2008 3:29 PM
To: 'Sherry Sadler'; 'Becky King'
Subject: FW: Comment Received for Policy (2008-06-30 14:49:40)

Sherry

Please add to comments.

Ben

-----Original Message-----

From: Nobody [mailto:nobody@wvde.state.wv.us]
Sent: Monday, June 30, 2008 2:50 PM
To: fibanez@wvde.state.wv.us; bshew@access.k12.wv.us
Subject: Comment Received for Policy (2008-06-30 14:49:40)



Please save this email in a "Comments Received Online" folder.
Your folder will be a backup. All comments are saved in our database.
The Complete Comments Report from the database can be found here:
<http://129.71.2.32/r.html?id=4b085c10d5cb296d05a5cee1fd7fd1b8>
This is an encrypted URL. Please Bookmark it.

Comment Received for Policy

#####

Name: Susan Dickey
Organization: Kanawha County Schools
Email: TSJMB@suddenlink.net
Title: Nurse Practioner
Address1: 200 Elizabeth Street
Address2:
City/State/Zip: Charleston , WV 25311
Role: Professional Support
Posted: 2008-06-30 14:49:40
Posted from IP: 75.108.95.203

Comments for section 126-92-1 General

Comments for section 126-92-2 Incorporation by Reference

Comments for section 126-92-3 Severability

Comments for section 126CSR92, WV School Bus Transportation Policy and Procedures Manual,
Policy 4336 (note section number when submitting
comments)

15.2.10 Agree with the definition of medical examiner. Nurse Practitioners have adequate education and training to conduct these physicals. They are approved to conduct physicals for CDL's in West Virginia. Health care dollars and time are scarce resources. It is important to use our health care providers effectively to meet the needs of the bus drivers, and the community. West Virginia is a rural state that has many rural health clinics. These clinics use Federal dollars and are required to have either nurse practitioners or physician assistants as part of the medical team.

Consequently, some bus drivers may have as their primary health care provider, a nurse practitioner. This is a good change.

15.2.10d Change physician to appropriate health care provider. Nurses, PAs, and Nurse practitioners may do this certification in their respective counties.

17.3.6c Collapse is a vague term, and should be removed. Syncope listed as 17.3.6a should meet this need.

17.3.6d Congestive Cardiac failure has several diagnostic levels and for some individuals they may be asymptomatic. Would suggest changing this to acute congestive heart failure.

18.2 Change designated physician to designated health care provider.

Change psychologist to psychologist/psychiatrist. Psychologists do not do medication management.

Thank you.



www.WhiplashPro.com

Dr. Julian Chiplew • Dr. Melissa McMillen

Dr. Vince Wardlow • Dr. P.J. Short

Beckley • 409 N. Kanawha St. • 304-252-0200

Beckley • 204 N. Eisenhower Drive • 304-253-7820

Beckley • Kohl's Plaza • 304-252-5999

Princeton • 508 Lazenby Ave. • 304-487-3820

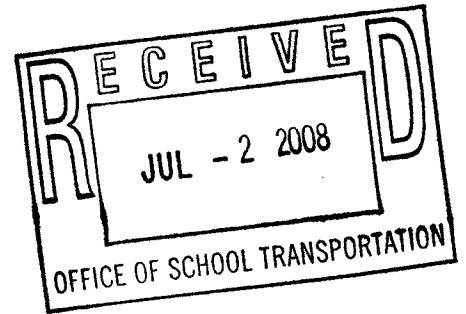
Oceana • Cook Parkway • 304-682-8100

Business Office: 409 N. Kanawha St, Beckley WV, 25801 Phone: 304-252-0200 • Fax: 304-252-0256

Kanawha@whiplashpro.com

June 30, 2008

Attn: Dr. Steven L. Paine, State Superintendent of Schools
WV Department of Education
1900 Kanawha Blvd. East, Building 6
Charleston, WV 25305-0330



Re: Chiropractic Physician Performance of Bus Driver Physical Examination

Dear Dr. Paine:

This is a response from me based on past correspondences on your offices official letterhead by Rebecca J. King, RN to the WV Board of Osteopathic Medicine and to the WV Board of Medicine requesting each organization to opine as to whether chiropractors were qualified to perform bus driver physical examinations.

Clearly her letter is very biased stating, "I have great concern with the lack of physical diagnosis/ clinical medicine skills, behavioral medicine, lack of pharmacological background and overall lack of curriculum as compared to the medical doctor. The current law states chiropractors were able to be licensed with 2 years and 60 hours of college prior to July 2005."

The difference in the actual education of a chiropractor and a medical doctor are significant. While we do have less training in pharmacology, fundamentals are covered as part of our toxicology course work. Further, we have a significantly greater training in the functional biomechanics of the human body. Clearly, the average chiropractor has significantly greater training than the average family practice medical doctor in biomechanical structure and physical function of the human body.

As for Ms. King's statement regarding 2-years and 60 hours of training required for a chiropractor, this is misleading. While it is true that the state and many schools used to only require 60 semester hours of specific course work to enter chiropractic school, these 60 hours met the same science requirements necessary for medical school, pharmacy school, optometry school, dental school and podiatry school. So essentially, medical school required an additional year of liberal arts classes to apply. No medical schools were requiring any additional science classes to apply or enroll. Also, like all professions we have continued to raise the standards.

*Control #
08-686
Follow-up*

As of 2005, the WV Board of Chiropractic Examiners raised the bar so that only those chiropractors with a full 4-year degree as well as a doctor of chiropractic degree can apply to sit for the state board of chiropractic in WV. In other words, since 2005, a chiropractor must have one additional year of college compared to an MD or DO to practice in WV.

Also, when considering the length of chiropractic school, it should be noted that the US Department of Education has fully accredited all of the active chiropractic colleges as a professional doctoral level degree program. They list the doctor of chiropractic as a five-year academic professional degree with a 5-year academic student loan program. This is one additional year greater than the core 4-year medical academic program.

First, let me state that we (chiropractic physicians) are not medical or osteopathic physicians. We do not prescribe medications or perform surgery. We treat the body with manual therapies to alleviate physical and structural dysfunction. We are fully trained and licensed as a primary care physician. We are just as liable for missing a fracture on x-ray or misdiagnosing a pain as muscular that turns out to be cancerous. Yet our malpractice insurance is on average one tenth of that of a family practice doctor. Malpractice insurance is based on risk and clearly there is a perceived safer outcome with chiropractic evaluation and treatment of neuro-musculo-skeletal conditions.

Many of the chiropractic physicians in WV (myself included) have completed a continuing education seminar in federal commercial drivers license (CDL) training and were certified in alcohol and drug testing as well as the full federal CDL physical exam process. Dr. Paine, how many primary physicians in WV do you think have completed such a thorough certification?

The American Medical Association has been quite clear in stating that current medical doctors do not get enough training in physical medicine. Their own findings revealed that 82% of medical graduates examined failed to demonstrate basic competency in musculo-skeletal medicine. They have stated, "... and it is reasonable to conclude that medical school preparation in musculo-skeletal medicine is inadequate." (American Medical Association House of Delegates Resolution 310 (A-03)).

I believe the letter questioning the competency of a chiropractor by Rebecca King, RN is flawed on many levels. The letter shows clear bias against chiropractors in her initial position. The letter was sent to the MD and DO board, but it was never sent to the WV Board of Chiropractic Examiners (The board responsible for regulating the scope and practice of chiropractors in WV). The responses from the WV Board of Osteopathy merely state an opinion that they are more qualified and show agreement to a curriculum assessment bias that was presented to them by Ms. King. The bias is clearly more evident in the WV Board of Medicine when they state, "... a chiropractor is not a "licensed physician"..." This is clearly opinionated rhetoric as chiropractors are licensed primary care physicians in the state of WV and chiropractors are licensed to perform Federal CDL examinations.

Dr. Paine, I merely ask you to review this discrimination being perpetrated vicariously by your office first hand. The letter from Ms. King and the responses from the boards are opinionated rhetoric. They are lacking in fact and they show poor objective research by your office.

The American Medical Association was found guilty of monopolistic practices in the 1980's and they were forced by Federal Court to cease and desist their efforts to destroy the chiropractic profession. In light of that, it appears odd that our state medical board would be used for an opinion of the chiropractors training.

Most chiropractors practicing in WV have a strong background. To practice in our great state, chiropractors must score significantly higher than the national board passing score. For the record, I am a homegrown chiropractor having graduated from Athens High School in Mercer County prior to graduating from Concord College with a Bachelor of Science in Biology and Chemistry. I then attended Palmer College of Chiropractic from 1991 to 1995 where I graduated cum laude with a Doctor of Chiropractic degree. I do not perform bus driver physicals and I do not perform athletic physicals for students. I choose not to because my practice is focused on injury rehabilitation. However, just because I choose not to perform an exam / test / or study, doesn't mean that I am not qualified to perform it. Attached is my resume for your review. I would appreciate your review and assistance in this issue.

Sincerely,



Julian Chipley, DC, ACRR, CSCS, CICE

Curriculum Vitae: Julian Chipley, BS, DC, CSCS, ACRR, CICE (revised 6-01-08)

Educational Background

- Concord College, Athens, WV 24712; Years Attended: 1988-1991;
Degree obtained: Bachelor of Science (Biology and Chemistry Interdisciplinary)
- Palmer College of Chiropractic, Davenport, IA 52801; Years Attended: 1991-1995; Degree obtained: Doctor of Chiropractic *cum laude*

Post Graduate Certifications

- 1995-Certified by the National Board of Chiropractic Examiners
- 1995-Certified by the West Virginia Board of Chiropractic Examiners
- 1995-Certified by Erhardt X-ray program
One hundred hour graduate x-ray course of advanced radiology
- 1998-Certified Strength and Conditioning Specialist (CSCS) National Strength and Conditioning Association
- 1998-American Chiropractic Rehabilitation Board Certified (ACRR) American Chiropractic Board of Rehabilitation
- 1999- Certified in Rehabilitation, WV Board of Chiropractic Examiners
- 2000-Certified in Low Speed Automobile Crash Reconstruction Spine Research Institute of San Diego and Texas A&M University
- 2003- Certified in Whiplash and Brain Injury Traumatology, Spine Research Institute of San Diego
- 2004- Certified in Impairment and Disability Rating by the American Board of Forensic Professionals, Based on the *AMA Guides to the Evaluation of Permanent Impairment*
- 2004 Certified by the American Board of Independent Medical Examiners (CICE)
- 2004 Certified in Impairment Rating by the WV Board of Chiropractic Examiners
- 2004 Advanced Certification in Whiplash and Brain Injury Traumatology, Spine Research Institute of San Diego
- 2005- Certified in Motor Vehicle Crash Forensic Risk Analysis, Spine Research Institute of San Diego
- 2008- Certified in Dynamic Motion X-ray, WV Board of Chiropractic Examiners

Continuing Education:

- 1996 - Rehabilitation Protocol (12 hour)- Northwestern College of Chiropractic -Roanoke, VA.
- 1996-97 - Year one of the American Chiropractic Rehabilitation Diplomat (120 hour) program - Palmer College of Chiropractic - Knoxville, TN.
- 1997 - WV Workers Compensation Independent Medical Eval. (8 hour) - WV School of Osteopathic Medicine - Lewisburg, WV.
- 1997 - Sexual Boundaries in the workplace (6 hour)-WV Chiropractic Society-Charleston, WV.
- 1997-98 - Year two of the American Chiro. Rehab Diplomat program (24 hour)-Canadian Memorial Chiropractic College - Charlotte, NC and Pittsburgh, PA.
- 1999 - Kaplan Impairment Rating of spinal disorders (12 hour)-WV Chiropractic Society - Charleston, WV.
- 1999 - Record keeping practices and protocol (6 hour)-WV Chiropractic Society-Charleston, WV.
- 2000 - Whiplash and Brain Injury Traumatology: Module 1,(12 hour)- Spine Research Institute of San Diego and Southern CA University of Health Sciences- Boston, MA.
- 2000 - Whiplash and Brain Injury Traumatology: Module 2, Auto Crash Reconstruction (12 hour)- San Diego Spine Research Institute and Southern California University of Health Sciences - Chicago, IL

Certified in Low Speed Rear Impact Automobile Crash Reconstruction, Motor Vehicle Crash Forensic Risk Analysis, Rehabilitation, Whiplash and Brain Injury Traumatology, Dynamic Motion X-ray, Impairment and Disability Rating, & Independent Medical Examination

C. Curriculum

1. Program Length

A chiropractic program consists of 4 academic years of professional education averaging a total of 4,822 hours, and ranging from 4,400 hours to 5,220 hours in the 16 colleges.¹ This includes an average of 1,975 hours in clinical sciences and 1,405 hours of clinical clerkship. The minimum hours for accreditation by the Council on Chiropractic Education is 4,200 hours.

2. Structure and Organization

The program of study at all chiropractic schools is divided into Basic and Clinical Sciences. The average total number of basic science contact hours is 1,420, which accounts for 30 percent of the entire chiropractic program.² Basic sciences education includes an average of 570 hours of anatomy (40 percent of all basic science hours), 305 hours of physiology (21 percent), 205 hours of pathology (14 percent), 150 hours of biochemistry (11 percent), 120 hours of microbiology (8 percent), and 70 hours of public health (5 percent).

On average, 70 percent of the program is composed of clinical education. Chiropractic schools devote an average of 3,380 contact hours to clinical education: 1,975 hours (58 percent) are spent in chiropractic clinical sciences and the remaining 1,405 hours (42 percent) are spent in clinical clerkships. These contact hours are in lectures, laboratories, and clinics. Table 5 shows the distribution of hours in these three settings for both basic and clinical sciences.

Table 5. Chiropractic Education in Terms of Average Hours of Lectures, Laboratories, and Clinics in 16 Chiropractic Colleges

Variable	Chiropractic Schools		
	Total	Basic Science	Clinical Science
Lecture hours	2675	1020	1655
Laboratory hours	1115	400	715
Clinical hours	1010	0	1010
Total	4800	1420	3380

Source: Center for Studies in Health Policy, Inc., Washington, DC. Personal communication of 1995 unpublished data from Meredith Gonyea, PhD.

3. Content

The sequencing of subjects in two chiropractic colleges are illustrated in Tables 7 and 8 (Coulter, submitted). Table 7 represents a year-round trimester program and Table 8 illustrates a semester program. Both programs are representative of other colleges in terms of total numbers of hours of clinical and basic sciences. The program from Table 7 is spread over 4 years with 10 trimesters. The first 2 years of the program are heavily focused on the basic and clinical sciences. In year 1 (three trimesters of 15 weeks each) there are a total of 1,515 contact hours (960 hours in basic sciences and 555 in clinical education), of which 585 are spent in lectures and 930 in the laboratory. This represents an average of 34 contact hours per week for the students.

In year 2, the focus is again on basic sciences (375 hours) and clinical sciences (1,110 hours). There are a total of 1,485 contact hours in year 2 (795 in lectures, 690 in laboratory), and there are an average of 33 contact hours per week. In year 3, all of the contact hours are spent on clinical education (which includes clinical sciences and clinical clerkships). Year 3 has a total of 1,410 contact hours (330 in lectures, 300 in laboratory, 780 in clinic), an average of 31 contact hours per week. Year 4 is given over to a clinical internship for 15 weeks (one trimester) for a total of 450 hours or 30 hours per week.

Table 6. Average Total Contact Hours in Specific Clinical Subjects Taught in 16 Chiropractic Colleges (Includes lectures and laboratories).

Clinical subject	Hours	% of Total
Adjustive technique/spinal analysis	555	22%
Physical/clinical/laboratory diagnosis	410	17%
Diagnostic imaging, radiology	305	12%
Principles of chiropractic	245	10%
Orthopedics	135	6%
Physiologic therapeutics	120	5%
Nutrition/dietetics	90	4%
Professional practice & ethics	65	3%
Biomechanics	65	3%
Gynecology/obstetrics	55	2%
Psychology	55	2%
Research methods	50	2%
Clinical pediatrics & geriatrics	50	2%
First aid & emergency	45	2%
Dermatology	30	1%
Otolaryngology	25	1%
Other	160	7%
Total hours of clinical training	2460	100%

Source: Center for Studies in Health Policy, Inc., Washington, DC. Personal communication of 1995 unpublished data from Meredith Gonyea, PhD.

4. Faculty

Despite a growing body of literature about chiropractic education, the role of faculty has received little attention. As a result of standards set by the Council on Chiropractic Education (CCE) for chiropractic college faculty, all basic sciences faculty members at chiropractic colleges have earned university degrees of MS or PhD in their discipline, and many of the D.C. faculty also hold higher degrees (Wardwell, 1992). Clinical sciences faculty must either have a baccalaureate degree, several years of chiropractic experience, or teaching experience at an institution of higher education (CCE, 1995).

Table 7. Subjects Taught in a Typical Trimester-Based Chiropractic Program, by Year and Numbers of Contact Hours

Year 1	Year 2	Year 3	Year 4
General anatomy (210)*	Pharmacotoxicology (30)	Integrated chiropractic clinical application (90)	Clinical internship (450)
Functional anatomy and biomechanics (210)	Clinical microbiology (90)	Physiological therapeutics (30)	
Histology (90)	Pathology (135)	Chiropractic principles (75)	
Human biochem. (105)	Chiropr. principles (60)	Practice management (75)	
Chiropr. principles (90)	Chiropr. procedures (300)	Imaging interpretation (90)	
Clinical chiropractic (60)	Physics and clinical imaging (90)	Radiological position and technique (30)	
Palpation (120)	Clinical orthopedics and neurology (180)	Differential diagnosis (90)	
Neuroscience (120)	Nutritional assessment (60)	Clinical application of manual procedures (60)	
Normal radiological anatomy (90)	Community health (60)	Clinical internship (390)	
Human physiology (135)	Physiological therapeutics (105)	Dermatology (15)	
Fundamentals of nutrition (60)	Clinical nutrition (60)	Clinical psychology (15)	
Introduction to physical examination skills (120)	Research methods (30)	Obstetrics/gynecology (15)	
Chiropractic procedures (105)	Practice management (30)	Pediatrics (15)	
	Imaging interpretation (75)	Geriatrics (15)	
	Differential diagnosis (90)	Clinical laboratory clerkship (15)	
	Clinical chiropr. applied (90)		
Total hours: 1,515	TOTAL HRS: 1,485	TOTAL HRS: 1,410	TOTAL: 450

*Number of contact hours is noted in parentheses.

Source: Los Angeles College of Chiropractic, Whittier, California.

5. Recent Trends and Innovations

Within the health sciences in the past decade there have been numerous innovations in educational principles and practice. In chiropractic, most of the teaching institutions are involved in curriculum reform. Key innovations include the move to problem-based learning, self-directed learning, computer-assisted learning, the use of standardized patients, and the use of objective structured clinical examinations (Adams, 1991; Traina, 1994).

Unlike most public- and private-sector institutions of higher learning, limited external education and research funding have hindered chiropractic institutional development thereby contributing to excessive tuition dependence. Recent Federal initiatives focusing on developing and prioritizing research within the chiropractic profession have highlighted this issue, emphasizing the need for directed educational research and faculty development (Adams, 1997). A number of chiropractic schools are well aware of the challenges confronting their programs and attempts are under way to fund innovative ways of enhancing chiropractic educational programs (Adams, 1997). However, if significant improvement is to occur, substantial resources will need to be identified and earmarked for educational enhancement.

Table 8. Subjects Taught in a Typical Semester-Based Chiropractic Program, by Year and Number of Contact Hours

Division	First Year	HRS.	Second Year	HRS.	Third Year	HRS.	Fourth Year	HRS.
Biologic. Sciences	Human Anatomy	180	Pathology	174	Lab. Diagnosis (II)	32	Clinical Nutrition	26
	Microscopic Anatomy	140	Lab. Diagnosis (I)	40	Toxicology	13	Community Health	39
	Neuroanatomy	72	Microbiology & Infectious Dis.	100				
	Neuroscience (I)	32	Neuroscience (II)	87				
	Biochemistry	112	Nutrition	58				
	Physiology (I)	36	Immunology	13				
Chiropr. Sciences	Chiropractic Principles (I)	56	Chiropractic Principles (II)	58	Chiropractic Principles (III)	42	Integrated Chiropractic Practice	95
	Basic Body Mechanics	96	Chiropractic Skills (II)	145	Clinical Biomechanics	100	Jurisprudence & Pract. Development	46
	Chiropractic Skills (I)	100	Spinal Mechs.	42	Chiropractic Skills (III)	145		
					Aux. Chiro. Therapy	58		
					Intro Jurisprudence & Practic. Develop.	16		
Clinical Science	Normal Radiographic Anatomy	16	Intro. Diagnosis	87	Orthopedics & Rheumatology	92	Clinical Psychology	46
	Rad. Biophysics & Protection	44	Intro. Bone Pathology	48	Neurodiagnosis	42	Emergency Care	52
			Normal Roentgen Variations & Roentgenometrics	39	Differential DX.	32	Child Care	20
					DX. & Symptomatology	116	Female Care	29
					Radiological Techn.	39	Geriatrics	20
					Arthritis & Trauma	48	Abdomen, Chest, Special X-Ray Procedures	40
Clinical Education	Observer (I)		Observer (II)		Observer (III)	406	Internship	752
							Auxiliary Chiropr. Therapy Clerkship	33
							Clin. Lab Clerkship	21
							Clin. X-Ray	71

						Clerkship	21
						Clin. Lab Clerkship	
						Clin. X-Ray Techn.	71
						Clin X-Ray	
						Interpretation	69
						Chiropr. Mgmt.	31
						Observer (IV)	
<hr/>							
Research					Applied Research & Biometrics	32	Research Investigation Project
<hr/>							
TOTALS		912		978		1213	1390

Comparison of Hours of Basic Sciences Education in Medical and Chiropractic Schools

Subject	Chiropractic Schools		Medical Schools	
	Hours	% of Total	Hours	% of Total
Anatomy	570	40	368	31
Biochemistry	150	11	120	10
Microbiology	120	8	120	10
Public Health	70	5	289	24
Physiology	305	21	142	12
Pathology	205	14	162	14
Total Hours	1,420	100	1,200	100

Comparisons of the Overall Curriculum Structure for Chiropractic and Medical Schools

	Chiropractic Schools		Medical Schools	
	Mean	Percentage	Mean	Percentage
Basic science hours	1416	29%	1200	26%
Clinical science hours	3406	71%	3467	74%
Chiropractic science hours	1975	41%	0	0
Clerkship hours	1405	29%	3467	74%
Total Contact Hours	4822	100%	4667	100%

Source for both above charts: Center for Studies in Health Policy, Inc., Washington, DC. Personal communication of 1995 unpublished data from Meredith Gonyea, PhD.

4. The Curriculum

Two questions are of paramount importance in comparing the curricula of the two professions; what subjects are taught and how much is taught? The two programs are relatively similar in total student contact hours: an average of 4,822 hours in chiropractic schools compared with 4,667 hours in medical schools (Coulter, et al, submitted).

Basic science comprises 25-30 percent of the total contact hours in both the chiropractic and medical programs (Table 9) and the two programs have roughly similar contact hours in biochemistry, microbiology, and pathology (Table 10). Chiropractors receive substantially more hours in anatomy education and physiology but many fewer in public health.

Table 9. Comparisons of the Overall Curriculum Structure for Chiropractic and Medical Schools

	Chiropractic Schools		Medical Schools	
	Mean	Percentage	Mean	Percentage
Total Contact Hours	4822	100%	4667	100%
<hr/>				
Basic science hours	1416	29%	1200	26%
Clinical science hours	3406	71%	3467	74%
<hr/>				
Chiropractic science hours	1975	41%	0	0
Clerkship hours	1405	29%	3467	74%

Source: Center for Studies in Health Policy, Inc., Washington, DC. Personal communication of 1995 unpublished data from Meredith Gonyea, PhD.

Table 10. Comparison of Hours of Basic Sciences Education in Medical and Chiropractic Schools

Subject	Chiropractic Schools		Medical Schools	
	Hours	% of Total	Hours	% of Total
Anatomy	570	40	368	31
Biochemistry	150	11	120	10
Microbiology	120	8	120	10
Public Health	70	5	289	24
Physiology	305	21	142	12
Pathology	205	14	162	14
Total Hours	1,420	100	1,200	100

Source: Center for Studies in Health Policy, Inc., Washington, DC. Personal communication of 1995 unpublished data from Meredith Gonyea, PhD.

The contrast between the two programs is dramatic in the area of *clinical clerkships*, which averaged 3,467 hours in medicine versus 1,405 hours in chiropractic. In medicine this comprises, on average, 74 percent of the total contact hours, while in chiropractic it comprises only 29 percent (Table 9). Part of the difference can be explained by the way in which the programs are structured. In chiropractic 41 percent of the program (averaging 1,975 hours) is allocated to chiropractic clinical sciences, which consists of extensive laboratory and hands-on training in manual procedures and has no equivalent in medicine. Combining the chiropractic clinical sciences with the clinical clerkships, the percentage of a chiropractic program devoted to *clinical education* is 70 percent compared to medicine's 74 percent. The major difference therefore is in didactic teaching and clinical experience.

Thus, on average, medical students receive twice the number of hours in clinical experience but receive over 1,000 fewer hours in lectures and laboratory education. If the medical residency is included, the total number of hours of clinical experience for medicine rises to 6,413 (Coulter, submitted).

1. Center for Studies in Health Policy, Inc., Washington, DC. Personal communication of 1995 unpublished data from Meredith Gonyea, PhD.
2. Source: Center for Studies in Health Policy, Inc., Washington, DC. Personal communication of 1995 unpublished data from Meredith Gonyea, PhD.

References

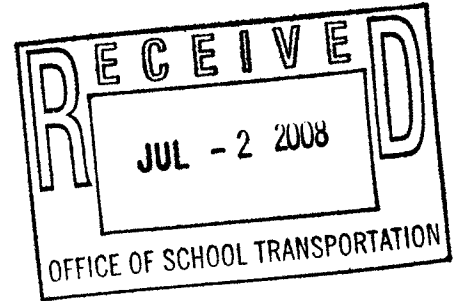
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SL



June 22, 2008

West Virginia Department of Education
Executive Director of School Transportation
Building 6, Room 318
1900 Kanawha Blvd. East
Charleston, WV 25305



doc@southhillschiropractic.com

Dear West Virginia Department of Education,

I would like to take the opportunity to address the issue regarding whether chiropractors are qualified to perform physical examinations for WV public school bus drivers, and to address the information provided by Ms. King and the Boards of Osteopathy and Medicine.

Allow me to begin by stating that I have been practicing as a chiropractic physician since 2000, and therefore, I am fully aware of the requirements for attaining chiropractic licensure prior to July of 2005, which is referenced in Ms. King's letter. Although there has remained a significant level of ignorance regarding the chiropractic profession since its inception, I have only felt the need to address such egregious distortions of truth twice during my education and career, with this being the second.

Again, Ms. King in her letter to the Boards of Osteopathy and Medicine stated that prior to July of 2005; chiropractors were able to be licensed with 2 years and 60 hours of college. This statement is false. I ask you to use your own common sense for a moment and think if any individual with the title of doctor (whether it be a doctor of medicine, osteopathy, chiropractic, philosophy, religion etc.) is able to attain such a degree with only two years of education. The answer is an obvious no. In addition to undergraduate education, chiropractic education is comprised of an additional four years of graduate education. From a credit standpoint, chiropractic programs are approximately five years, however, the program continues without pause and can therefore be completed in approximately four years.

The chiropractic program is quite stringent. In fact, as the literature I provided will demonstrate, the number of chiropractic classroom hours is comparable if not greater than a medical program. Although the focus is somewhat different, chiropractors are required to take the same courses as our fellow medical doctors. In addition, chiropractors undergo four National Board Examinations as well as State Board

Examinations prior to licensure. The chiropractic program, however, does not include a residency program but rather includes an inherent clinical experience as part of the curriculum. The true difference lies in the fact that our area of specialty is manual medicine not allopathic medicine. Therefore, the focus of the chiropractic program is directed more toward **diagnosis** and manual therapies, rather than exposure to pharmacology like our medical counterparts.

In regards to the opinions submitted by the Boards of Osteopathy and Medicine, they are not surprising. After all, how can one speak wisely regarding the schooling and training of a chiropractor if one has never been exposed to it? In addition, the history between chiropractic and allopathic medicine has been, for the most part, a torrid one. In the early 1960's, the American Medical Association attempted to contain and eliminate Chiropractic as a profession. The AMA's purpose was to prevent medical physicians from referring patients to chiropractors as well as preventing them from accepting referrals from chiropractors; to prevent chiropractors from obtaining access to hospital diagnostic and radiological services; to prevent medical physicians from teaching at chiropractic colleges or engaging in any joint research; and to prevent any other cooperation between the two groups. The AMA also told its membership, medical students, insurance companies, and the general public that chiropractic was illegitimate and unscientific. In 1976, a lawsuit was filed against the AMA (and other named entities) for violation of the Sherman Anti-Trust Laws. After 15 years of litigation, the U.S. Court of Appeals stated that the AMA intended to "destroy a competitor," and that there was evidence "showing that the AMA was motivated by economic concerns." The court found that the AMA had concealed evidence showing its guilt and was caught "doctoring" documents. The AMA was also "guilty of systematic, long term wrong doing and has not acknowledged its lawlessness." Despite the favorable ruling attained by the Chiropractic profession, the AMA was still somewhat successful in spreading the anti-sentiment, which continues to prevail to some degree in the form of misguided perceptions.

Fortunately, there also presently exists a large contingency of medical doctors that are more informed and support the Chiropractic profession. In my own practice, I have a number of medical doctors that are patients, and I can therefore only assume that they respect my knowledge and clinical skills. In fact, a patient of mine who is also a medical doctor happens to be my best source of patient referrals. Furthermore, I am certified to perform disability evaluations and impairment ratings. The Office of Judges, on several occasions, has deemed my examination findings to be more valid than those submitted by medical doctors. It is incomprehensible that I can evaluate and rate an individual's impairment, which determines their level of disability and compensable award, yet I would not be qualified to perform a physical evaluation on a school bus driver.

I can only hope that my efforts have helped to enlighten the misled. I question why information regarding the training and education of chiropractors was not obtained

directly from the Board of Chiropractic or a chiropractic institution, as it seems an obvious course of action. In closing, I will share that I come from a family in which my father was a former school administrator, my mother a former RN (Registered Nurse), my sister a physical therapist, and my wife an Advance Practice Nurse working as a Nurse Practitioner. I allowed each of them to read the letters written by Ms. King and the Boards of Osteopathy and Medicine, and their sentiment was the same, "they don't have a clue."

Respectfully Yours,

A handwritten signature in cursive script that reads "Mark E. Hughes, D.C." The signature is written in black ink and is positioned above the printed name.

Mark E. Hughes, D.C.

FAYETTE COUNTY CHIROPRACTIC

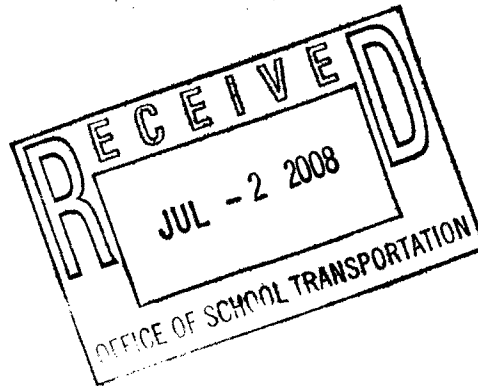
Set



Dr. Bobby Green

June 18, 2008

WV Department of Education
Executive Director of School Transportation
Building 6 Room 318
1900 Kanawha Blvd. East
Charleston, WV 25305



To Whom It May Concern:

This letter is written to provide you both expert and accurate input, as well as to clarify your proposed changes in policy 4336 concerning who may perform physical examinations of school bus drivers.

It has come to my attention that there seems to be some question as to whether or chiropractic physicians are qualified to perform physical examinations for school bus drivers in the state of WV. I have included a break down of the number of educational hours for each subject that chiropractors are trained and that we attend during our chiropractic college. This breakdown, as you can see, clearly shows that we are not only as well trained in physical diagnosis as any other physician, but in some cases our training exceeds that of other physicians.

I will also point out that chiropractors are already doing DOT physicals in this state and every other state in the union and that certainly if the federal government believes we are qualified, I see no reason that the state of WV should try to assert that we are not. I am in possession of letters written by Ms. Rebecca J. King of the WV department of Education-Office of Healthy Schools, in which apparently for some unknown reason she has asked for opinions from the WV Board of Osteopathy as well as the WV Board of Medicine as to whether or not chiropractors are true physicians and if we are qualified to do physicals and she was told from both that according to the information she has sent them, we are not. I will tell you that this lady has not sent the correct information and was not given the correct information, if indeed she ever asked for the correct information concerning

P.O. Box 200
Smithers, WV 25186
(304) 442-5188

119 Main Street West, Suite B
Oak Hill, WV 25901
(304) 465-2153

FAYETTE COUNTY CHIROPRACTIC



Dr. Bobby Green

the true education of a chiropractor. She asserts that chiropractors are able to become licensed after only 2 years of education and that is of course flat out wrong. That was the basic educational requirement before a chiropractor could apply to attend any chiropractic college in the United States. Once accepted into the chiropractic college, just as any other health care field, a chiropractor must attend approximately the equivalent of another 5 years of education and do rigorous internships and multiple national and state board examinations before we are allowed to practice as a chiropractic physician.

If Ms. King had bothered to actually investigate this further, she would have known this and I find this to be a serious breach of her duties and I am also disappointed that the Medical and Osteopathy boards should take what Ms. King said at face value without further investigation as most certainly they are aware of a chiropractors medical training.

I state all these facts as a chiropractor with more than 15 years of experience and as a chiropractor who is also on the staff of Plateau Medical Center hospital in Oak Hill WV, where I can assure you they would not let me practice if I only had 2 years of education. In closing, I, once again, urge you to fully investigate the true educational requirements and training of a chiropractic physician before you attempt to make any decisions to exclude us from being able to do what are basically very simple and straight forward physicals for the bus drivers, not only in the interest of protecting the public but also in the interest of fairness and making this as easy as possible for the many bus drivers in the state to obtain the required physical so they can continue to work.

I thank you for your time and attention to this matter and if I may be of further assistance, please feel free to contact me.

Sincerely,

Bobby G. Green, D.C.
BGG/bf

Enclosure

P.O. Box 200
Smithers, WV 25186
(304) 442-5188

119 Main Street West, Suite B
Oak Hill, WV 25901
(304) 465-2153

What is The Education of a Chiropractor?

Directory of Chiropractic Colleges

Becoming A Chiropractor

How does one become a Doctor of Chiropractic and earn a D.C. degree? As with any school of advanced learning, pre-requisites—that is, subjects required before admission—are needed for chiropractic college.

Entrance into a chiropractic college requires at least two years college undergraduate work (Associate Degree) with credits in biology, chemistry and other "pre-med" subjects. The exact pre-requisites vary slightly from college to college. Chiropractic colleges are generally four year institutions. Approximately 25% of chiropractic school graduates are women, with that percentage steadily growing.

In addition to classroom work, training includes an internship period where student chiropractors take care of patients under the supervision of chiropractic instructors, and an externship period where students may assist field chiropractors in their offices. The majority of the school work, however, is done in the classroom and the laboratories.

How Does Chiropractic Compare?

A lot of people ask how chiropractic education compares to medical education. Since both work with the human body there is much similarity in their studies—but there are important differences as well. The chart on this page compares medical and chiropractic education. It was compiled from a review of the curriculum catalogues of 22 medical schools and 11 chiropractic colleges and updates from the National Health Federation Bulletin.

State License Exam

After graduation the new chiropractor must pass license exams in the states in which he or she wishes to practice. Each state has its own licensing laws and licensing examinations.

College Directory

United States
Cleveland Chiropractic College
6401 Rockhill Road, Kansas City, MO 64131
(816) 333-8230

Cleveland Chiropractic College of L.A.
590 North Vermont Avenue
Los Angeles, CA 90004
(213) 660-6166

Life University School of Chiropractic
1269 Barclay Circle, Marietta, GA 30060
(800) 543-3202, (770) 426-2884

Life Chiropractic College-West
2005 Via Barrett, P.O. Box 367
San Lorenzo, CA 94580
(800) 788-4476, (415) 276-9013

Logan College of Chiropractic
1851 Schoettler Road, P.O. Box 1065
Chesterfield, MO 63006-1065
(800) 782-3344, (314) 227-2100

Los Angeles College of Chiropractic
16200 E. Amber Valley Drive
Whittier, CA 90609-1166
(800) 221-LACC, (562) 947-8755 x216

National College of Chiropractic
200 East Roosevelt Road
Lombard, IL 60148
(800) 629-NATL, (630) 889-6723

New York Chiropractic College
2360 State Rte 89, Seneca Falls, NY 13148
(800) 234-NYCC, (315) 568-3000

Northwestern College of Chiropractic
2501 W. 84th Street, Bloomington, MN 55431
(612) 888-4777

Palmer College of Chiropractic
1000 Brady Street, Davenport, IA 52803
(800) 722-3648, (319) 326-9600

Palmer College of Chiropractic-West
90 E. Tasman Drive, San Jose, CA 95134
(800) 422-4476

Parker College of Chiropractic
2500 Walnut Hill Lane, Dallas, TX 75229
(800) GET-MYDC, (214) 438-6932

Sherman College of Straight Chiropractic
P.O. Box 1452, Spartanburg, SC 29304
(800) 849-8771, (864) 578-8770

Texas Chiropractic College
5912 Spencer Highway, Pasadena, TX 77505
(800) 822-2586, (713) 487-1170

University of Bridgeport
College of Chiropractic
75 Linden Avenue, Bridgeport, CT 06601
(888) UB-CHIRO, (203) 576-4352

Western States Chiropractic College
2900 N.E. 132nd Avenue, Portland, OR 97230
(800) 641-5641, (503) 256-3180

South Africa
Technikon Natal
P.O. Box 953 Natal 4000, South Africa
(31) 224153

COURSE (in classroom hours)		
Chiropractic		Medicine
540	Anatomy	508
240	Physiology	326
360	Pathology	401
165	Chemistry	325
120	Microbiology	114
630	Diagnosis	324
320	Neurology	112
360	X-Ray	148
60	Psychiatry	144
60	Obstetrics	148
210	Orthopedics	156
3,065	TOTAL HOURS	2,706
OTHER REQUIRED SUBJECTS		
<i>Spinal Adjustments Manipulation Advanced Radiology</i>		<i>Pharmacology Immunology General Surgery</i>
GRAND TOTAL CLASS HOURS		
4,485		4,248

Australia

Royal Melbourne University
School of Chiropractic and Osteopathy
Plenty Road, Bundoora, Victoria 3083, Australia
(61) (3) 468-2596

Center for Chiropractic, Macquarie University
P.O. Box 178, Summer Hill 2130, NSW, Australia
(61) (2) 798-7952

Canada

Canadian Memorial Chiropractic College
1900 Bayview Avenue
Toronto, Ontario, Canada M4G 3E6
(416) 482-2340

Université du Québec à Trois-Rivières
Doctorate Program in Chiropractic
3351 Boul Des Forges
Trois-Rivières, Quebec, Canada G9A 5H7
(819) 376-5113

England

Anglo-European Chiropractic College
13-15 Parkwood Road
Bournemouth, BH5, 2DF, England
(44) (202) 431021

France

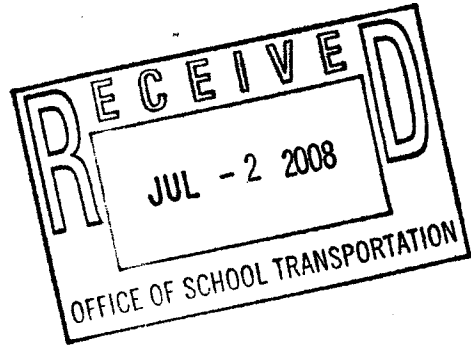
French Institute of Chiropractic
44 Rue Duhesme, 75018 Paris, France
(33) (1) 42-59-80-20

Japan

Shiokawa School of Chiropractic
Wakore Kameari 2-7-1 Towa
Adachi-Ku, Tokyo, Japan
(03) 3606-9396



jsa



6-30-08

Mr. Ben Shew
WV Department of Education
Building 6, Room 318
1900 Kanawha Blvd. East
Charleston, WV 25305

Dear Sir:

This letter is in response to Proposed Policy 4336 regarding the physical examinations of school bus drivers. Please be advised that we have been performing physicals for the Department of Transportation and the Nicholas County School Board for years now. We also do drug testing for the Federal Probation Department and many area businesses. For years I have been performing comprehensive Pre-Employment Examinations for a number of different industries in three county areas.

We perform these examinations because it falls within our scope of practice and chiropractors have been instructed and trained on how to perform these examinations. Also because we are accessible, affordable and no appointment is necessary is another reason they choose this facility.

Over the years I have been performing these examinations and we have yet to have any complaints from a patient or any company that has referred someone to this facility.

Since chiropractic physicians have the training and expertise to perform these examinations, I simply can't understand why anyone would try to exclude the profession from performing these services.

If you have any questions or concerns, please feel free to contact me at this facility.

Sincerely,

Nunzio Pagano, DC, DAAPM

shannon_johnson@yahoo.com



RIVERVIEW
HEALTH CLINIC, PLLC

1605 Grand Central Avenue • Vienna, WV 26105 • (304) 295-5505 • Fax (304) 295-0503

July 7, 2008

Mr. Ben Shew
Executive Director of School Transportation
Building 6, Room 318
1900 Kanawha Boulevard East
Charleston, WV 25305

A handwritten signature in black ink, appearing to be the initials 'JLS', is written to the right of the recipient's address.

RE: Policy 4336 - The School Bus Transportation Policy and Procedures Manual

Dear Mr. Shew:

This letter is to reiterate to you the fact that chiropractors licensed in the state of West Virginia are qualified to perform school bus driver physical examinations. When licensed in West Virginia, chiropractors are categorized as primary care physicians and are thus qualified to perform physical examinations on many levels, including those necessary for school bus drivers.

As current President of the West Virginia Chiropractic Society I assure you that chiropractors in our state strive to make our profession the best it can possibly be. Since 2005, to be eligible for a chiropractic license in the state of WV, a chiropractor must have a 4-year degree along with their Doctor of Chiropractic degree. The State Board of Chiropractic Examiners also requires a score of 475 on their National Board Exam. This score is significantly higher than the national requirement, and our state is one of few in the nation to require a higher than average score.

I ask that you maintain the proposed language in Policy 4336 which does maintain doctors of chiropractic as providers who can perform examinations for school bus drivers. Should you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to be 'Carl S. McCale', is written below the word 'Sincerely,'.

Carl S. McCale, D.C.
President West Virginia Chiropractic Society

RIVERVIEW HEALTH CLINIC, PLLC
1605 GRAND CENTRAL AVENUE, VIENNA, WEST VIRGINIA 26105

(304) 295-5505
FAX: (304) 295-0503

FACSIMILE

Date: 7-7-08
Sent To: Mr. Ben Shew
Fax No: 304-558-6268
From: Dr. McCale

Riverview Health Clinic, PLLC
1605 Grand Central Avenue
Vienna, West Virginia 26105

Phone: (304) 295-5505
Fax: (304) 295-0503

Number of Pages: 2 (including cover page)

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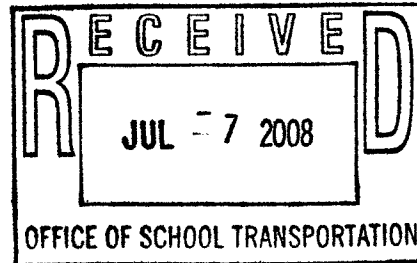


Harris Family Chiropractic
Scott W. Harris, DC

1500 Harrison Avenue - Suite C • Elkins, West Virginia 26241
(304) 637-2326 • Fax: (304) 637-0404

July 2, 2008

SW
West Virginia Department of Education
Executive Director of School Transportation
Building 6, Room 318
1900 Kanawha Blvd. East
Charleston, WV 25305



To Whom It May Concern:

I would like to comment on the proposed Policy 4336- The West Virginia School Bus Transportation Policy and Procedures Manual. I feel that doctors of chiropractic would be very qualified to perform physical examinations of school bus drivers. I feel the requirements to get into and graduate from Chiropractic College are very high. I am personally a graduate of New York Chiropractic College (NYCC) and practice chiropractic in West Virginia. At this time, the academic requirements for admission into the Doctor of Chiropractic program at NYCC are 90 semester hours of college credit from an accredited degree-granting institution. These credits must be completed with a Grade Point Average of 2.5 or higher. I completed a Bachelor of Science in Biology and had a minor in chemistry at West Virginia Wesleyan College (WVWC). I graduated Cum Laude with a grade point average of 3.5.

Of the 90 hours required for admission, Inorganic Chemistry I and II, Organic Chemistry I and II, Biology I and II and Physics I and II (all with labs) are required. Also, 24 hours of social sciences and humanities are required. As a Biology major at WVWC, I had all of these required class plus several more. I feel these requirements are very adequate and prepare you well for continuing an education on a professional level. Also, these requirements are equal to most professional schools of any doctorate program. These are the requirements for admission to NYCC.

Once you have been accepted to NYCC, in order to graduate with a Doctor of Chiropractic, a total of 4,620 hours must be completed. These include 585 hours of anatomy, 75 hours of biochemistry, 345 hours of physiopathology, 120 hours of microbiology and public health, 525 hours of diagnosis, 270 hours of diagnostic imaging, 75 hours of clinical laboratory, 165 hours of associated studies, 135 hours of chiropractic philosophy, 615 hours of chiropractic technique, 90 hours of ancillary therapeutic procedures, 75 hours of clinical practice issues, 1320 hours of clinical experience and outpatient services and 225 hours of elective courses. I graduated from NYCC Cum Laude with a grade point average of 3.5.

Upon completion of the above mentioned requirements, and before becoming licensed in West Virginia and most other states, national board exams must be passed. These are regulated by the National Board of Chiropractic Examiners. There are four parts of the boards to be taken and passed, with the fourth part being a practical exam.

The West Virginia Board of Chiropractic requires that all four parts of the national boards be passed, along with a state examination, before a license is granted.

I feel that licensed Doctors of Chiropractic in West Virginia are very qualified to perform physical examinations of all patients, including WV public school drivers. As a parent myself, I feel the bus driver's physical examination is of utmost importance for the student's safety. I would feel very comfortable knowing my son was riding on a bus on which the driver had been certified by a Doctor of Chiropractic. I perform physical, neurological and orthopedic exams on every new patient or condition that is seen in my office, as applicable. In addition to this, I perform Independent Medical Examinations and provide impairment ratings as needed. I feel that any Doctor of Chiropractic, or other health care provider that is licensed in the State of West of Virginia by their appropriate licensing board, is qualified to perform physical examinations.

Sincerely,

Scott W. Harris D.C.

Scott W. Harris, DC

2210 Washington Street, East
Charleston, WV 25311

West Virginia Chiropractic Society

Phone: (304) 345-9219
Fax: (304) 343-4251

www.wvchiropractic.com

July 3, 2008

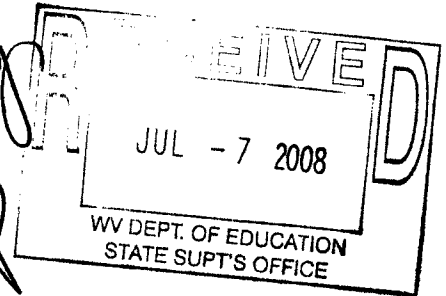
Rebecca J. King, RN, MSN, MED
West Virginia Department of Education
Coordinator, Office of Healthy Schools
1900 Kanawha Boulevard, East, Building 6
Charleston, WV 25305

Dear Ms. King,

After much deliberation I am responding to your letters of April 16, 2008, sent to the WV Board of Medicine (WVBOM) and WV Board of Osteopathy (WVBO). With your background in nursing, I am surprised by your lack of knowledge regarding the chiropractic profession and the extensive educational background of chiropractic physicians. However, I want to address a few points that you would have found out had you taken the time to contact the WV Board of Chiropractic Examiners. Instead you chose to contact licensing boards that have *no* jurisdiction over the chiropractic profession. You state in your letters you did a "thorough review" of their education and curriculum but I would conclude you did not!

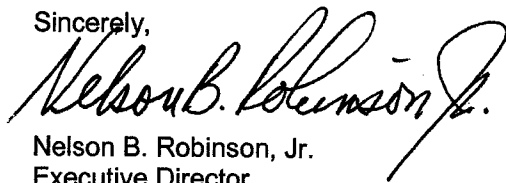
For a chiropractic physician to be licensed in WV they must hold a bachelors degree consisting of no less than 128 semester hours with a *minimum of 60 hours in basic sciences*. The licensing requirements for chiropractors in West Virginia are statutory and are higher than the requirements to be admitted to the WV School of Medicine and the WV School of Osteopathic Medicine. To be admitted, these two schools require less than a bachelor degree and/or 60 hours in sciences. Contrary to the biased opinions of the WVBOM, WVBO and your comments of April 16th, the facts are that the average classroom and clinical study of a chiropractor exceeds that of an MD or DO. For your perusal I have attached a curriculum analysis from Palmer College of Chiropractic. You state in your letters you have great concern about the lack of physical diagnosis, clinical skills, lack of curriculum etc... I invite you to review the hours in *diagnosis* which exceeds over 600 plus hours, 705 hours in clinical experience. What is more important than a correct diagnosis after examining a patient? Please find a curriculum for an MD, DO, Physician Assistant or Advanced Practice Nurse that compares to that of a chiropractor in diagnosis and other related subjects. In addition, chiropractic education includes clinical examination, urinalysis, hematology procedures such as blood counts, clinical chemistry, microbiology, immunology procedures or profiles on human blood and/or other body fluids, evaluation and management of patients etc... Chiropractic physicians are taught to be a "portal of entry" provider which requires an extensive background and no supervision as it is required for a PA or APN. The most important point that I want to make is a doctor of chiropractic is clearly educated to perform physical examinations. I also maintain that chiropractors are as concerned as anyone else when it comes to the safety of our children on a school bus.

As the Coordinator of Healthy Schools, I would respectfully suggest you acclimate yourself to the chiropractic profession. I am sure you will be surprised but nutrition is another area of expertise for most if not all chiropractors.



Should you desire any information to support anything that I have stated it is readily available for your review. I would be most happy to meet with you or others regarding this very important policy decision.

Sincerely,



Nelson B. Robinson, Jr.
Executive Director

NBRJr/vll

Attachment

cc: Steve Paine
Ben Shew
WVCS membership

Curriculum Analysis - Palmer College of Chiropractic - Davenport Campus

**Credit
Hours**

**Hours Completed by
Student**

Anatomy

ANAT 51200	Neuroanatomy I	4		
ANAT 51210	Spinal Anatomy I	2		
ANAT 51202	Gross Anatomy I	4		
ANAT 51208	Embryology	5		
ANAT 52204	Gross Anatomy II	4		
ANAT 52211	Spinal Anatomy II	4		
ANAT 61205	Organ Histology	4		
ANAT 61206	Neuroanatomy II	5		
		<u>32</u>	15	480

Dissection in Anatomy

ANAT 51200	Neuroanatomy I	1		
ANAT 51202	Gross Anatomy I	2		
ANAT 52204	Gross Anatomy II	2		
ANAT 52211	Spinal Anatomy II	1		
ANAT 61205	Organ Histology	1		
		<u>7</u>	15	105

Physiology (must include laboratory work)

PHCH 51341	Fundamentals of Neurophysiolog	3		
PHCH 52331	Cellular Physiology	3		
PHCH 52337	Neurophysiology	3		
PHCH 52338	Endocrinology	3		
PHCH 61339	C.V.P. Physiology	4		
PHCH 61342	Adv. Neuro Physiology	2		
PHCH 62340	Renal Physiology	3		
		<u>21</u>	15	315

Chemistry and Biochemistry

PHCH 51301	Biochemistry I	6		
PHCH 52305	Biochemistry II	5		
DIAG 81705	Visceral Disorders	4		
		<u>15</u>	15	225

Pathology

PATH 61408	Fundamentals of Pathology	4		
PATH 61415	Immunology & Com. Disease	2		

PATH 62410	Systems Pathology	7		
PHIL 72114	Philosophy IV (subluxation path)	2		
CBPM 82140	Special Topics	2		
		<u>17</u>	15	255

Microbiology, Bacteriology

PATH 61416	Microbiology	5	15	75
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Toxicology

PATH 71413	Toxicology	3	15	45
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Hygiene, First Aid & Emergency Procedures, Public Health

PATH 62441	Public Health	3		
CLIN 81806	Emergency Procedures	3		
CLIN 91802	Regulatory Issues	2		
CLIN 72803	Intro to Clinical Practice	2		
		<u>10</u>	15	150

Diagnosis , including clinical and laboratory diagnosis

DIAG 71708	Physical Diagnosis	8		
DIAG 81705	Visceral Disorders	1		
DIAG 91712	Geriatrics	2		
DIAG 71707	NMS I	5		
DIAG 72703	NMS II	5		
CLIN 81805	Clinical Methods	5		
CLIN 82820	CCC I	3		
CLIN 91821	CCC II	3		
CLIN 92822	CCC III	6		
DIAG 81716	Clinical Psychology	2		
		<u>40</u>	15	600

Pediatrics

DIAG 72713	Obstetrics/Pediatrics	2	15	30
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Dermatology, syphilology, and serology

DIAG 71708	Physical Diagnosis	2		
PATH 61415	Immunology	1		
		<u>3</u>	15	45

X-ray procedures and interpretation

ROEN 62505	Radiology I	6		
ROEN 71508	Radiology II	4		
ROEN 72507	Radiology III	6		
ROEN 81504	Radiology IV	5		
		<u>21</u>	15	315

Principles and Practice of Chiropractic

including: diagnosis and treatment of disorders of the body and manipulative adjustive technique, including but not limited to the spine, cranium, extremities and adjacent tissues of the body and musculoskeletal and nervous systems

TECH 61602	Palpation	2		
TECH 62603	Toggle Recoil	5		
TECH 62605	Instrumentation	2		
TECH 71604	Cervical Technique	5		
TECH 71613	Biomechanics	4		
TECH 72606	Thor/Lumbar Technique	5		
TECH 72612	Pelvic Technique	5		
TECH 81614	Technique Review	5		
TECH 81615	Extremity Adjustment	5		
		<u>38</u>	15	570

Nutrition

PHCH 62304	Digestion-Nutrition	3	15	45
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Practical clinical experience (total hours treating patients in the clinic)

CLIN 82816	Clinic I	14		
CLIN 91817	Clinic II	14		
CLIN 92815	Clinic III	19		
		<u>47</u>	15	705

Obstetrics and gynecology

DIAG 72713	Obstetrics/Pediatrics	3		
DIAG 81717	Gender Disorders	4		
		<u>7</u>	15	105

Rehabilitative procedures including physiological therapeutics and/or ancillary therapeutics

REHB71851	Physiotherapy I	4		
REHB72852	Physiotherapy II	4		
		<u>4</u>		

Required Electives

CBPM 51110	Rights and Responsibilities	1		
CBPM 81134	Chiropractic Practice Marketing	2		
CBPM 82801	Legal Issues	2		
CBPM 82135	Financial Mgmt. Strategies	2		
CBPM 91137	Practice Mgmt. Strategies	4		
CBPM 92139	Planning for Practice Success	3		
PHIL 51111	Philosophy I	2		
PHIL 52112	Philosophy II	2		
PHIL 62113	Philosophy III	2		
PHIL 82115	Philosophy V	4		
PHIL 91116	Philosophy VI	2		
LIBR 51110	Information Literacy	1		
RSCH 91841	Evidence Based Chiropractic	2		
		<u>29</u>	15	435

Minimum Total Contact Hours Required for Graduation**4620****Number Completed
by Student****Number of Physical Exams Performed** **25****Number of Urinalyses Performed** **25****Number of Blood Chemistries Performed** **30****Number of Patient Treatments including Spinal Adjustive
Technique Ribs, Extremities, and Patient Evaluation** **250****Number of treatments in rehabilitative Procedures including
Physiological and Ancillary Procedures** **30****Written Interpretations of X-Rays** **30**

Sherry Sadler

From: Delcie [renee.thompsonchiro@suddenlinkmail.com]
Sent: Monday, July 07, 2008 3:59 PM
To: ssadler@access.k12.wv.us
Subject: Policy 4336

July 2, 2008



WV Department of Education RE: POLICY #4336

Ben Shew

Executive Director of School Transportation

Building 6, Room 318

1900 Kanawha Blvd. East

Charleston, WV 25305

I am writing to respectfully submit a comment on the proposed POLICY 4336—The West Virginia School Bus Transportation Policy and Procedures Manual.

It is my opinion that there should not be exclusion of chiropractic physicians from examination of public school bus drivers.

My personal opinion concerning this matter arises from my experience in both the health care and educational spheres during the last thirty years.

Chiropractic health care in West Virginia has been my profession since 1979. It has also been my pleasure to serve as an elected member of the Wayne County Board of Education for the last fourteen years. I was also elected by the state's other 274 school board members to represent them as President of the West Virginia State School Board's Association. I continue to serve on my county board, and I remain a member of the Executive Committee of the State Association.

My comments are as follows:

1. The educational requirements for a qualified examiner are fully met by a chiropractic physician. I have seen some very negative "position papers" by representatives of other non-chiropractic associations. They certainly have the right to vigorously advance the perceived "best interests" of their groups, but I doubt that those writing the position papers have been around as long as I have. There are both medical doctors and osteopaths practicing today who graduated from high school the same year as I did—1964. If we go back to the medical curricula available at that time at West Virginia University (for example, Marshall University Medical School was only a dream at this time), we will find in the WVU med school catalog a description of a "combined program" of medical education which allowed the medical student to finish in six years.

July 2, 2008

Page 2

RE: POLICY 4336

Many of these fine doctors are still practicing and are well respected, and some are leaders of the medical community, I suspect.

Back in 1964, the Osteopathic School at Lewisburg, WV was not the same as today, either. Their program was very "1950ish". The status of osteopaths in West Virginia was not on a par

with that of medical doctors. Doctors graduating during these years are still practicing and doing a fine job. They are the respected elder DO. Some are professors, I suspect. Let us not

forget the foreign doctors and local residents who chose to complete their medical education in the off-shore medical schools. They are still practicing and as far as I can tell, doing a fine job.

They may be professors and leaders of the medical community as well.

2. Historical amnesia by the authors of anti-chiropractic position papers is selective and ignores the plain facts. Those facts are that medicine, osteopathy, and all the other health care disciplines including chiropractic have evolved over the years.

3. My final point is a single one. If a health care professional has been trained to administer

physical examination; graduated from a nationally accredited school; passed the national board examinations (including the physical examination portion); and passed the West Virginia State Board Exam, being licensed in the State of West Virginia—that doctor should not be selectively discriminated against by anyone.

Finally, as a side note, I would state that I do not speak for the state school board association, but I will point out that certification by training followed by standardized testing on a national and local level is a universal method to determine qualification. Chiropractic physicians meet the criteria. And, it is my personal opinion that those, who for reasons of their own, oppose the inclusion of chiropractic physicians as examiners of bus drivers are opening a can of worms.

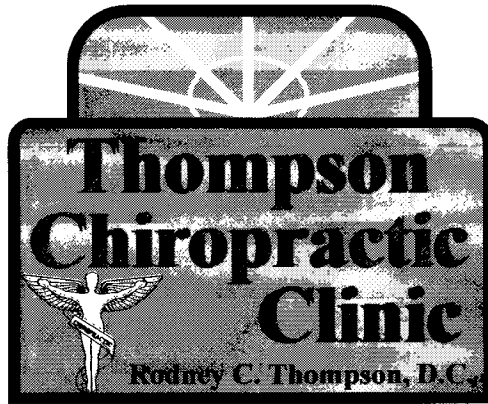
If a health care provider is trained, tested, and licensed in a field of endeavor, that person should not be excluded for other reasons.

Respectfully submitted,

Rodney C. Thompson, DC

/drt

Rodney C. Thompson, D.C.
P.O. Box 728
Wayne, WV 25570



Phone (304) 522-6473
Fax (304) 522-6477

July 2, 2008

WV Department of Education
Ben Shew
Executive Director of School Transportation
Building 6, Room 318
1900 Kanawha Blvd. East
Charleston, WV 25305

RE: POLICY #4336

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July 2, 2008

Page 2

RE: POLICY 4336

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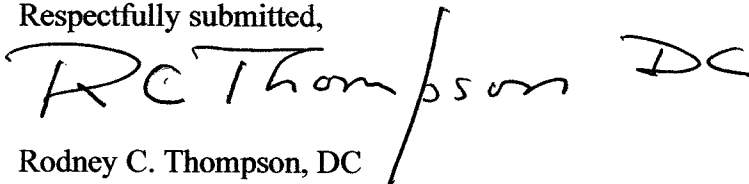
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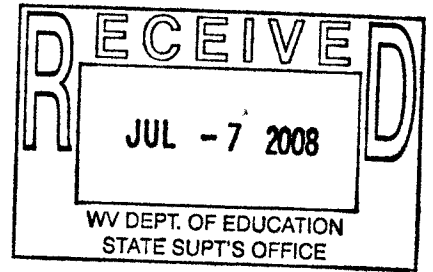
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Respectfully submitted,

Handwritten signature of Rodney C. Thompson, DC. The signature is written in cursive and includes the letters "DC" at the end.

Rodney C. Thompson, DC
/drt

Creekside Chiropractic Clinic
Rt. 1 Box 104
Union, WV 24945



7/10/08
Becky King
Another add to
comment log
Thales

July 2, 2008

Dr. Steven L. Paine, State Superintendent of Schools
West Virginia Department of Education
Building 6, Room 318
1900 Kanawha Blvd. East
Charleston, WV 25305

Dear Dr. Paine,

I am writing this letter in regard to the ability of a chiropractor in the state of WV to perform school bus driver physical examinations. I understand that the WV Department of Education is currently addressing this issue in light of a letter put forth by a Ms. Rebecca J. King and her concern for the health and well being of our school children. However, since the overwhelming majority of the states in our nation include chiropractors as physicians able to perform these examinations, I am unclear as to why WV would choose to exclude a physician group that serves our state very well.

I would like to introduce myself as a resident of Monroe County. My husband and I have practiced chiropractic in West Virginia for 15 years. We have two children who currently attend James Monroe High School under Superintendent Dr. Lyn Guy. I work with Dr. Guy on the board of the Monroe County Education Foundation and serve as president. I graduated as valedictorian of my high school class, received a Bachelor's degree in Exercise Physiology from WVU and completed an additional (4) years of chiropractic school at Life Chiropractic College in Atlanta, GA. After graduating, my husband & I returned here to WV to practice (he is also a WV native).

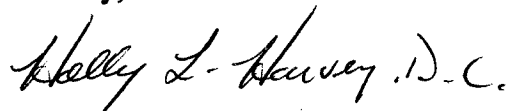
Currently, our chiropractic clinic in Monroe County has a good working relationship with every medical and osteopathic physician within our patient radius, including our county health center. These physicians refer frequently to us and we to them. We consult often, using each other's strengths to work for the good of our mutual patients. Moving into a time when progressive doctors are striving to integrate their professions to create the best in healthcare, I find it sad that Ms. King is moving backward by approaching these boards in regard to their opinions about the qualifications of another profession and subsequently creating strife that is unnecessary.

Control #
08-716

I know that by now you have probably received plenty of information about chiropractic curriculum so I will only stress that a comparison of chiropractic to medical or osteopathic curriculum clearly shows that they are different, with emphasis in different areas. If this is considered to be a problem, then I feel that the best approach would be to ask all groups performing these exams to become certified through standardized training specifically for performing school bus driver physical examinations.

I don't sense the same concern for our school children coming from the people in my county. Our office is frequented often by school children referred by other doctors, brought in by parents, sent by coaches and it is not unusual for my husband or myself to be pulled out of the stands at a sporting event to evaluate an injured player. I feel that most of the chiropractors in this state are competent doctors who know their capabilities and limitations. I think that perhaps Ms. King's concern is unnecessary and I am sure that you will be able to find a solution to this issue that is fair and good for all those concerned.

Sincerely,

A handwritten signature in cursive script that reads "Holly L. Harvey, D.C.".

Holly L. Harvey, D.C.

Cc: Lowell Johnson,
Greenbrier County



AMERICAN COLLEGE OF
OCCUPATIONAL AND
ENVIRONMENTAL MEDICINE

July 7, 2008

Ben Shew
Office of School Transportation
West Virginia Department of Education
Capitol Building 6, Room 318
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

Re: Policy 4336

To Whom It May Concern:

I am writing on behalf of the American College of Occupational and Environmental Medicine (ACOEM) in response to the Board's request for public comment on Policy 4336, *West Virginia School Bus Transportation Policy and Procedures Manual*. Proposed changes include allowing physician assistants, advanced practice nurses and chiropractors, to perform required driver physical examinations.

The National Transportation Safety Board has published reports of accidents where the probable cause was the driver's underlying medical condition. There is, therefore, no question that this is an important public safety issue. Also, the Association for the Advancement of Automotive Medicine has pointed out the high error rate on the performance of driver medical examinations. So it is important to assure the quality of the examination process.

ACOEM is the pre-eminent medical organization committed to enhancing the health, safety, and productivity of workers, retirees, and their families. In its established role as a leader in the area of fitness for duty, ACOEM has offered courses on medical fitness of commercial drivers and on serving as a medical review officer, and has published newsletters on both topics. ACOEM is the only medical specialty uniquely involved in the matching of the worker's capabilities to the job requirements.

ACOEM's 6,000 members perform hundreds of thousands of physical examinations for commercial truck and bus driver medical certification annually. ACOEM was the first professional organization to sponsor and promote the ongoing education of physicians and other health professionals in the performance of these examinations, and works closely with the Federal Motor Carrier Safety Administration to improve highway safety by producing trained medical examiners who can effectively determine whether a driver's health meets the requisite standard for public safety.

Recommendation

ACOEM recommends that the Policy 4336 be revised as follows (revised text is **underlined and in bold**):

"15.2.10 The candidate shall pass a physical examination from a Medical Examiner, defined by the Federal Motor Carrier Safety Administration regulation to be doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses and doctors of chiropractic (hereinafter "Medical Examiner"). **The Medical Examiner shall meet all requirement and regulations set forth by the Federal Motor Carrier Safety Administration.**"

This recommendation will allow the Board to take advantage of significant changes that will be forthcoming from the FMCSA. Section 4116 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires the Federal Motor Carrier Safety Administration (FMCSA) to establish a national registry of medical examiners who are qualified to perform examinations and issue medical certificates. The FMCSA National Registry of Certified Medical Examiners (NRCME) program will require medical examiners to receive training and pass a certification test before being listed on the Registry. This registry will be available to commercial motor vehicle (CMV) drivers and motor and bus carriers to identify medical examiners authorized to conduct the CMV driver physical examination.

The NRCME program will establish core curriculum specifications for training that address the range of knowledge, skills and abilities required to perform physical examinations of CMV drivers. The NRCME program is integral to FMCSA's medical program and will be the only program to qualify and list certified medical examiners that perform the required physical examination of CMV drivers.

I urge the Board to ensure that medical examiners are in compliance with current and future requirements from the FMCSA. Thank you for your consideration of our comments. If you have any questions or need additional information, please contact Patrick O'Connor at 202-223-6222.

Sincerely,



Robert Orford, MD
President



July 7, 2008

Ben Shew, Executive Director
Office of School Transportation
West Virginia Department of Education
Capitol Building 6, Room 318
1900 Kanawha Boulevard. East
Charleston, West Virginia 25305-0330

RE: Comment on Proposed Rule 126 CSR 92; West Virginia School Bus Transportation Policy and Procedures Manual (4336)

Dear Mr. Shew,

Per your request for comment on the proposed rule rewriting the policy manual on school bus transportation, I am submitting the following comments on behalf of the West Virginia State Medical Association (WVSMA).

The WVSMA is critically concerned about the risk to public safety with the proposed language change in section 15.5.10 which discusses the healthcare providers who will be considered qualified to perform the required physical examinations of school bus driver candidates. The new language would open that pool of qualified providers to include physician assistants, nurse practitioners and chiropractors along with the current allopathic (MD) and osteopathic (DO) physicians as specified under the definition of "medical examiner" by the Federal Motor Carrier Safety Administration (FMCSA).

Physician assistants and nurse practitioners receive their educational training in the allopathic medical model. They are trained and function commonly as primary care providers, as well as in sub-specialty practices. In these roles they deal with many of the disease states that one would need to be familiar with in order to safely clear a candidate for school bus operator as medically fit to operate a bus.

The WVSMA does not have any objections to adding physician assistants and nurse practitioners to this rule *as long as they are supervised by a physician*. To the extent a physician is needed to take a closer look at certain symptoms the physician assistant or nurse practitioner may not be able to fully diagnose, they can call upon their supervising physician to advise. This relationship with a physician provides essentially an additional safety net which is important to have when dealing with the safety of our children and others traveling our State roads.

By nature of their profession physician assistants function under the supervision of a physician; however, nurse practitioners are only required to do so when holding prescriptive privileges. A central component of the physical examination as set out in your proposed, revised policy is ensuring the candidate's driving ability is not impaired by the prescription or over-the-counter medications they are taking. Knowledge of pharmacology and having a clear understanding of how drugs interact within a patient is crucial. The WVSMA recommends that the rule clarify the nurse practitioners who would be considered qualified to perform the physical examinations hold prescriptive privileges.

The WVSMA; however, takes the position that **chiropractors are in fact not qualified nor permitted within their scope of practice in West Virginia**, to perform the physical examination required in this policy and strongly object to their inclusion in this rule.

Chiropractors simply lack the medical education and training necessary to perform the physical exam as required under this policy. Such physicals must be done by a medical person who has the ability and training to diagnose normality and abnormality as they relate to a broad spectrum of diseases and conditions including diabetes, hypertension, seizure disorders and vision and hearing difficulties. Doctors of chiropractic medicine have an entirely different training which does not include all of the necessary skills to diagnose and treat these medical problems and others which may be found on these types of physical exams. Additionally, as indicated in the Chiropractic Board's rule 4 CSR 1, section 3.1.d. it was only after July 1, 2005 that the West Virginia Board of Chiropractic required that licensees hold at least a baccalaureate degree. It is our understanding that prior to that date only one college of chiropractic in the United States required a baccalaureate upon admission.

Chiropractors hold a unique and important position among the healthcare continuum. The Association of Chiropractic Colleges (ACC) states on their web site at <http://www.chirocolleges.org> that the practice of chiropractic focuses on the relationship between structure (primarily the spine) and function (as coordinated by the nervous system) and how that relationship affects the preservation and restoration of health. The profession is based in its roots upon the following three assumptions:

1. There is a fundamental and important relationship between the spine and health that is mediated through the nervous system.
2. Mechanical and functional disorders of the spine or subluxations can have a deleterious effect on health status.
3. Correction of the spinal disorders by way of adjustments may restore health.

The ACC describes that chiropractic focuses particular attention on the subluxation as "a complex of functional and/or structural and/or pathological articular changes that compromise neural integrity and that may influence organ system function and general health. Additionally the ACC defines chiropractic as "a health care discipline which emphasizes the inherent recuperative power of the body to heal itself *without the use of drugs or surgery.*" Chiropractors take no courses in surgery or pharmacology. Instead of surgery and Pharmacology, Chiropractors take courses in

Biomechanics, Engineering, Physics and the study of movement (Kinesiology) and especially manipulation also called adjusting.

While chiropractors provide certain healthcare services, their training, focus and scope of practice does not run the full spectrum of health conditions which must be covered by the physical examination for bus drivers.

The physical examination is not merely checking boxes and asking a patient about their prior medical history. Many of these diseases and conditions, which could impact an applicants' ability to safely operate a school bus, could be unknown to the applicant but need to be detected by a skilled "medical examiner" and diagnosed prior to placing prospective drivers behind the steering wheel of a school bus.

The role of the chiropractor is not as a primary care provider. The majority of chiropractic patients (>95%) seek care for musculoskeletal, mainly spine-related pain complaints, not the range of ailments seen by primary care providers. Chiropractic clinical training clearly does not provide the broad diagnostic competency required of a provider to competently complete this physical examination. The limited set of therapies available within the chiropractic scope of practice are poorly suited to diagnosing the vast majority of health conditions that present to the examiner. These are conditions that require interventions and care that are outside of their legally determined scope of practice.

Furthermore, particularly important is that Chiropractors do not have medication prescribing authority and by the core philosophy of their practice provide care "without the use of drugs". Without having comprehensive ongoing education throughout their career in pharmacology it would be highly improbable that a healthcare provider would have the skills necessary to understand the subtleties of the interplay between the medications and physical and cognitive responses. These subtleties, if missed, pose a huge liability to the healthcare provider, the candidate and the county and state school systems.

Chiropractors do not work under a collaborative agreement with physicians. The community would not be provided with the same safety net provided to the more suitably trained physician assistants and nurse practitioners.

The physical examination form within this policy that must be completed by the healthcare provider appears to not specify who must complete the vision and hearing testing. An issue of public safety could arise especially with the eye and ear tests that must be administered if a chiropractor attempts to rule out all of the various tests or conditions required on the physical examination form. Along the same lines as discussed above the chiropractors education and scope of practice does not provide them with the ability to perform this section of the exam.

Additionally, the physical examination form requires the medical examiner diagnose whether there are abnormalities or conditions that exist with the body system of the individual seeking the physical examination. These include a review of the individual's body system including: general

appearance; eyes; ears; mouth and throat; heart (murmurs, enlarged heart, extra sounds, pacemaker, implantable defibrillator); lungs and chest, not including breast examination (abnormal chest wall expansion, abnormal respiratory rate, impaired respiratory function, etc.); abdomen and viscera (enlarged liver, enlarged spleen, masses, bruits, hernia, significant abdominal wall muscle weakness, etc.); vascular system (abnormal pulse, and amplitude, carotid or arterial bruits, varicose veins); genitor-urinary system (hernias); impaired extremities; spine or musculoskeletal (deformities, limitation to motion); neurological (impaired equilibrium, coordination or speech pattern, asymmetric deep tendon reflexes, sensory or positional abnormalities, ataxia, etc.)

Though qualified to determine muscular-skeletal conditions, chiropractors would be functioning well beyond their scope of practice as established by the ACC and within West Virginia Code (30-16-3 definition of "chiropractic" and 30-16-18 "scope of practice") if they were to perform an examination comprehensive enough to rule out *all* of the abnormalities listed above.

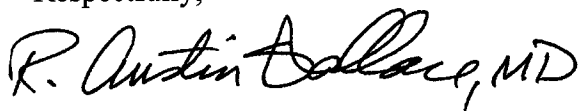
With all of this said, the WVSMA offers the following language as a replacement to the language used in section 15.5.10 of this rule:

"The candidate shall pass a physical examination from a licensed allopathic physician, licensed osteopathic physician, licensed physician assistant or licensed advanced nurse practitioner with prescriptive authority."

In researching this issue, we polled our membership as to their opinion on the proposed change to your rule. We have attached over 22 responses received from physicians who granted permission for their emails to be shared with you. We have received double this amount of responses nearly all with the same message.

We thank you for the opportunity to provide input to the Board regarding this proposed rule and hope that you find our comments helpful as you finalize the document.

Respectfully,



R. Austin Wallace, MD
President



AMERICAN OSTEOPATHIC ASSOCIATION

142 East Ontario Street, Chicago, IL 60611-2864 312 202 8000 | 800 621 1773

July 10, 2008

Dr. Steven L. Pain
State Superintendent of Schools
Charleston, WV 25305

RE: Policy 4336-West Virginia School Bus Transportation Policy and Procedures Manual

Dear Dr. Pain:

The American Osteopathic Association (AOA) is writing in response to the request for public comment on Policy 4336. We would like to express our concerns with this policy, more specifically section 15.2.10, which allows chiropractors to perform physical examinations for drivers receiving CDL's.

The AOA proudly represents its professional family of more than 61,000 osteopathic physicians (DOs), promotes public health, encourages scientific research, serves as the primary certifying body for DOs, and is the accrediting agency for all osteopathic medical colleges and health care facilities.

All 50 states and the District of Columbia provide for the unrestricted licensing and scope of practice for DOs and MDs in recognition of their education, post graduate training, and competency licensing examinations (COMLEX-USA and USMLE) in providing comprehensive patient care. Given this fact, it is the AOA's official position that duly-licensed DOs and MDs should remain at the center of the "team approach" to providing health care to patients, this includes performing annual physical examinations for drivers. With respect to non-physicians the AOA also holds the position that any new scope of practice authorized to these healthcare professionals should be based on adequate education, clinical experience, and examination to protect the public welfare and patient safety.

For years, the chiropractic profession has sought new practice authorities in various states that amount to the practice of medicine without adequately expanding their education and training to take on the new clinical privileges they seek. The AOA believes chiropractors provide a valuable service to patients, however the education and training of a chiropractor is far less rigorous and expansive than that of a DO or MD. Osteopathic medicine has taken the position that as the most highly trained, examined, experienced, and regulated health care professionals, DOs and MDs should remain the "team leader" in patient care. With unrestricted licenses to practice medicine and

surgery based on their education, examinations, and experience. DOs are uniquely qualified to manage all aspects of a patient's care.

DOs' training includes four years of osteopathic medical school that comprehensively educates aspiring physicians in all aspects of medicine and surgery through substantial classroom and clinical experiential training, followed by at least three to seven years of clinical post graduate training in a particular specialty area. Licensing boards in all 50 U.S. states and the District of Columbia require candidates for medical licensure to pass all steps/levels of a national examination sequence (i.e. COMLEX or the USMLE). Passage of these exams indicates that physicians have met rigorous standards to safely and competently practice medicine and surgery.

Chiropractic colleges may offer hospital rotations to externs in their fourth year and spend a number of weeks working with physicians in specialty areas such as radiography, orthopedics, sports medicine, family practice, rheumatology, and neurosurgery. However, when compared to the clinical rotations of DOs, chiropractic externs experience far fewer volume and variety of patient encounters.¹ Today, chiropractic externs are currently required to complete 250 joint manipulations, 20 complete history and physical exams, 20 radiology studies, and 15 complete patient workups during their final year of chiropractic schools. This difference in training brings to light the disparity in scope of practice abilities.

Chiropractic graduates are eligible to participate in part-time post-graduate education programs or full-time residencies in certain fields, although this training is far less rigorous and far fewer chiropractors complete them than formal internship/residency programs required of DOs. According to NBCE, 63.3% of licensed chiropractors in 2003 had no formal clinical training after graduating from chiropractic colleges before obtaining their licenses; only 30% completed a one-year clinical internship; and less than 1% of licensed chiropractors completed a post-graduate clinical training program in 2003 prior to licensure.²

Many health care professionals advocate for annual physical examinations because these exams play an important role in preventative care. In a study of primary care physicians, most agreed that an annual physical examination provides time to counsel patients about preventive health services (696/739 [94%]), improves patient-physician relationships (693/737 [94%]), and is desired by most patients (572/737 [78%]). Most also believe that an annual physical examination improves detection of subclinical illness (545/738 [74%]) and is of proven value (461/736 [63%]).³ The AOA believes that proper training is essential in detecting medical conditions during annual physical exams. Therefore, the AOA respectfully disagrees with allowing chiropractors to perform annual physical exams as stated in section 15.2.10.

¹ The necessary future of chiropractic education: a North American perspective. *Chiropractic and Osteopathy*. 2005; 13:10. available at <http://www.pubmedcentral.nih.gov/articlerender.fcgi?tool=pmcentrez&artid=1181629> on July 10, 2008.

² National Board of Chiropractic Examiners, *Job Analysis of Chiropractic 2005*, available at <http://www.nbce.org/publication/job-analysis.html> (last visited July 10, 2008).

³ Allan V. Prochazka, et al. *Support of Evidence-Based Guidelines for the Annual Physical Examination*, *Arch Intern Med*. 2005;165:1347-1352.

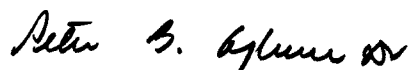
Delores W. Cook

8/13/2008

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Thank you for considering the AOA's views on this important public policy matter. We hope that the West Virginia board of Education view policy 4336 as a major concern for quality health care examinations for school bus drivers. Adequate oversight and proper limitations on health professionals' scope of practice, based on training, education, experience, and examination, are essential components to protecting the public health and patient safety. Should you have any questions, please contact Linda Mascheri, Director of AOA's Division of State Government Affairs, at (800) 621-1773, ext. 8185 or lmascheri@osteopathic.org.

Sincerely,



Peter B. Ajluni, DO
AOA President

cc: Carlo J. DiMarco, DO, AOA President-Elect
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Deadly Tolls: Sick truckers causing fatal wrecks Associated Press Online July 21, 2008 Monday 2:04 PM GMT

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July 21, 2008 Monday 2:04 PM GMT

SECTION: WASHINGTON DATELINE

LENGTH: 1499 words

HEADLINE: Deadly Tolls: Sick truckers causing fatal wrecks

BYLINE: By HOPE YEN and FRANK BASS, Associated Press Writers

DATELINE: WASHINGTON

BODY:

Hundreds of thousands of tractor-trailer and bus drivers in the United States carry commercial driver's licenses despite also qualifying for full federal disability payments, and some of those drivers have suffered seizures, heart attacks or unconscious spells, according to a new U.S. safety study obtained by The Associated Press.

The problems threatening highway travelers persist despite years of government warnings and hundreds of deaths and injuries blamed on commercial truck and bus drivers who blacked out, collapsed or suffered major health problems behind the wheels of vehicles that can weigh 40 tons or more.

The U.S. agency responsible for cracking down on unfit truckers, the Federal Motor Carrier Safety Administration, acknowledges it hasn't completed any of eight recommendations that U.S. safety regulators have proposed since 2001. One would set minimum standards for officials who determine whether truckers are medically safe to drive. Another would prevent truckers from "doctor shopping" to find a physician who might overlook a risky health condition. It's unclear whether any of the eight recommendations will be done before President Bush leaves office.

"We have a major public safety problem, and we haven't corrected it," said Gerald Donaldson, senior research director at the Washington-based Advocates for Highway and Auto Safety, whose members include consumer, health and safety groups and insurance companies. "You have an agency that is favorably disposed to maintaining the integrity of the industry's economic situation."

Truckers violating federal medical rules have been caught in every state, according to a review by the AP of 7.3 million commercial driver violations compiled by the Transportation Department in 2006, the latest data available. Texas, Maryland, Georgia, Florida, Indiana, Pennsylvania, Illinois, Michigan, Alabama, New Jersey, Minnesota and Ohio were states where drivers were sanctioned most frequently for breaking medical rules, such as failing to carry a valid medical certificate. Those 12 states accounted for half of all such violations in the United States.

Consider these cases:

A Florida bus driver who suffers from lung disease and uses three daily inhalers to control breathing told congressional investigators that he "occasionally blacks out and forgets things." He works as a substitute driver despite not having a medical certificate, and his commercial license expires in 2010. The driver, who was not identified but will figure prominently in a congressional hearing this week, has collected Social Security benefits since 1994. He confided to investigators that he "gets winded" walking to his mailbox but has no problem driving a passenger bus.

A Virginia trucker with a prosthetic leg from a farm accident more than 10 years ago is permitted to drive tanker trucks until at least 2012, even though he doesn't have the proper federal paperwork required for amputees. Virginia revoked the medical license for the official who approved him to drive over charges the official was caught illegally distributing controlled substances.

George Albright Jr., 61, smashed his 70,000-pound tractor-trailer into congested traffic on Interstate 70 in June 2006, killing four women in a Ford sedan about 30 miles east of Columbia, Mo. Albright's employer agreed earlier this year to pay \$18 million in a settlement. A Missouri jury acquitted Albright this month on four counts of second-degree

involuntary manslaughter, after his lawyers argued in court that a diabetic episode "put him in an altered state of consciousness." Albright wasn't injured.

A gasoline tanker plunged from an overpass and exploded in flames on Interstate 95 near Baltimore in January 2004, killing four people. Witnesses reported the driver slumped over the wheel. Maryland investigators concluded the driver, Jackie M. Frost, had suffered a heart attack or other medical emergency, but his family disputed that.

The driver of a 15-passenger "Tippy Toes" day-care bus traveling 63 mph on Interstate 240 in Memphis, Tenn., in April 2002 crashed into a bridge, killing the driver and four of the six children aboard. The National Transportation Safety Board said the driver, Wesley B. Hudson, 27, fell asleep, "quite likely due to an undiagnosed sleep disorder." Investigators said children sometimes had to wake up Hudson, whom the NTSB described as obese and a marijuana user.

A 55-passenger bus rolled off Interstate 610 in New Orleans in May 1999, killing 22 passengers. The NTSB said the bus driver, Frank Bedell, 46, suffered life-threatening kidney and heart conditions but held a valid license and medical certificate. Moments before the crash, a passenger recounted seeing the driver slumped in his seat. Bedell died three months later of an apparent heart-related illness. Investigators said he was treated at least 20 times in the 21 months before the accident for various ailments.

Some truckers said the government should enforce existing rules, not make new ones.

"Do you enjoy your clothing and house? Without the truck driver you would have none of it," said Gary Hull, 52, a trucker for a Louisiana company, as he drove from Edinburg, Texas, to Mansfield, La. "Our economy is based on the truck. People don't understand the ramifications of making it more restrictive for truck drivers to drive."

Hull said most drivers are hard workers who earn a modest salary and cope with rising diesel prices. New regulations could add to costs and force truckers to evade the rules, he said.

The Transportation Department said 5,300 people died in crashes involving large commercial trucks or buses in 2006, the latest year for which figures are available, and about 126,000 more were injured. A federal safety study last summer found that cases where drivers fell asleep, suffered heart attacks or seizures or otherwise were physically impaired were a leading cause of serious crashes involving large trucks. But those cases included healthy drivers who fell asleep.

"The problem is major. It's one of the biggest causes of occupational death in the United States today," said Dr. Kurt Hegmann, chairman of the FMCSA's medical oversight board, which is urging more doctor visits in many cases for truckers with serious medical conditions.

While it may be years before any of the board's proposals take effect, there is nothing preventing doctors from stepping up scrutiny of drivers' medical conditions right away, Hegmann said.

Congress may take action soon. The House Transportation and Infrastructure Committee, led by Rep. James Oberstar, D-Minn., will conduct oversight hearings Thursday. One proposal would create a clearinghouse for drug test results for commercial truck drivers to make it easier for employers to conduct checks. Oberstar's committee asked the Government Accountability Office to investigate unfit truck drivers.

The 30-page GAO study, obtained by the AP in advance of its release later this week, said 563,000 commercial drivers were determined by the Veterans Affairs Department, Labor Department or Social Security Administration to also be eligible for full disability benefits over health issues. It said disability doesn't necessarily mean a driver is unfit to operate a commercial vehicle, but its investigators found alarming examples that raised doubts about the safety of the nation's highways. They identified more than 1,000 drivers with vision, hearing or seizure disorders, which generally would prohibit a trucker from obtaining a valid commercial license.

The chief safety officer for the Federal Motor Carrier Safety Administration, Rose McMurray, acknowledged problems that could lead to unfit truck drivers on the roads. She blamed delays in reforms on a lack of federal money and difficulty coordinating with 50 states. McMurray said changes to strengthen the medical oversight program may not be done for months or even years.

"We have done a lot to recognize the deficiencies in our medical oversight program, and the building blocks we're establishing are very smart and very strong," McMurray said.

Families of crash victims said stronger safety rules can't happen soon enough.

Deadly Tolls: Sick truckers causing fatal wrecks Associated Press Online July 21, 2008 Monday 2:04 PM GMT

William Hieronymus II of Salina, Kan., said he remembers eating cereal each morning with his 10-month-old son. His son William and wife, Amanda, died in May 2005 when a truck crossed a median and struck their SUV.

The driver, Scott A. Wegrzyn, pleaded guilty to two counts of vehicular homicide. Prosecutors said Wegrzyn knew he suffered from sleep apnea and went to a second doctor without disclosing the condition to obtain the medical certification he needed to drive.

"I try to go through a day without crying," Hieronymus said during Wegrzyn's trial. "I wonder every day what (Will) would have grown up to be, what he would have stood for."

On the Net:

Federal Motor Carrier Safety Administration: <http://www.fmcsa.dot.gov/>

Advocates for Highway and Auto Safety: <http://www.saferoads.org/>

Government Accountability Office: <http://www.gao.gov/>

LOAD-DATE: July 21, 2008



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July 23, 2008

Mr. Ben Shew
Office of School Transportation
West Virginia Department of Education
Capitol Building 6, Room 318
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

Dear Mr. Shew:

Given the recent activity that we are aware that the Office of School Transportation is involved in, attached you will find two articles which I believe are relevant to your Office's current efforts. These articles were pulled from a national newspaper clipping service which focuses on newsworthy items of a medical nature. I believe both articles express the concern for proper and necessary medical oversight and the tragic consequences when it is found wanting.

The Board of Medicine realizes the importance of your current efforts and supports your desire to ensure proper medical oversight for those given the responsibility of transporting our children.

Sincerely,

Robert C. Knittle

RCK/eb
Enclosures

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NTSB's 8 proposals to bar medically unfit drivers The Associated Press State & Local Wire July 21, 2008 Monday 9:17 AM GMT

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The Associated Press State & Local Wire

July 21, 2008 Monday 9:17 AM GMT

SECTION: STATE AND REGIONAL

LENGTH: 267 words

HEADLINE: NTSB's 8 proposals to bar medically unfit drivers

BYLINE: By The Associated Press

BODY:

Since 2003, the National Transportation Safety Board has put medical oversight of commercial truck and bus drivers on its "most wanted" list, calling the Federal Motor Carrier Safety Administration's overall response "unacceptable."

The NTSB issued eight safety recommendations to crack down on unfit commercial drivers who seek to evade federal rules that require special physicals at least every two years. None of the recommendations have been implemented, although FMCSA has begun taking steps to address three of them in part.

The recommendations are medical oversight programs that would:

Ensure medical examiners are qualified and educated about occupational issues for commercial drivers.

Establish tracking mechanisms so every prior application by a driver seeking medical certification is recorded and reviewed.

Periodically update medical certification regulations so trained medical examiners will have clear guidance on which drivers with common medical conditions should be certified.

Ensure medical examiners have access to resources if they have questions about certifying drivers.

Prevent, identify or correct the inappropriate issuance of medical certification.

Enable enforcement authorities to identify invalid medical certification during safety inspections and routine stops.

Enable enforcement authorities to prevent an uncertified driver from driving until an appropriate medical examination takes place.

Establish mechanisms for reporting medical conditions to appropriate authorities, such as a driver's health care provider and employer.

Source: National Transportation Safety Board

LOAD-DATE: July 21, 2008



West Virginia Association of Physician Assistants

July 29, 2008

Ben Shew, Executive Director
Office of School Transportation
West Virginia Department of Education
Capitol Building 6, Room 318
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

RE: Comment on Proposed Rule 126 CSR 92; West Virginia School Bus Transportation Policy and Procedures Manual (4336)

Dear Mr. Shew,

I am submitting the following comments on behalf of the West Virginia Association of Physician Assistants (WVAPA).

The WVAPA strongly endorses the proposed rule to include physician assistants (PAs) in section 15.5.10 which identifies the health care providers who will be considered qualified to perform required physical examinations of school bus driver candidates. The new language would include physician assistants as specified under the definition of "medical examiner" by the Federal Motor Carrier Safety Administration (FMCSA).

I thank you for the opportunity to provide comments regarding this proposed rule as you finalize the document. Furthermore, I would be happy to provide any additional information if needed. Feel free to contact me at vincentct@ab.edu as you deem appropriate.

Sincerely,

Cynthia T. Vincent, MMS, PA-C, President
West Virginia Association of Physician Assistants