December 13, 2010

Monday, December 13, 2010

1:00 p.m. to 3:00 p.m.

Legislative Rule-Making
Review Committee
(Code §29A-3-10)

Earl Ray Tomblin
ex officio nonvoting member

Richard Thompson
ex officio nonvoting member

Senate		House
Minard, Chairman	Absent	Brown, Chairwoman
Snyder, Vice Chair	Absent	Poling, Vice Chair
Prezioso	Absent	Fleischauer
Unger	Absent	Talbott
Boley	Absent	Overington
Facemyer	Absent	Sobonya

The meeting was called to order by Delegate Brown, Co-Chair.

Delegate Sobonya called for a quorum. A quorum was lacking.

Delegate Brown adjourned the meeting.

DECEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
December 13, 14 and 15, 2010

Monday, December 13, 2010

1:00 pm - 3:00 pm

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex officio nonvoting member _____

Thompson, ex officio nonvoting member _____

Senate		House	
Minard, Chair	_____	Brown, Chair	✓
Snyder, Vice Chair	_____	Poling, D., Vice Chair	✓
Prezioso	_____	Fleischauer	✓
Unger	_____	Talbott	✓
Boley	_____	Overington	✓
Facemyer	_____	Sobonya	✓

I certify that the attendance as noted above is correct.

Debra A. Graham
Staff Person

Debra Graham

Please return to Brenda in Room 132-E or Fax to 347-4819 ASAP, due to payroll deadline.

TENTATIVE AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Monday, December 13, 2010

1:00 p.m. to 3:00 p.m.

Senate Judiciary Committee Room

1. **Approval of Minutes** - Meetings of November 15 & 16, 2010

2. **Review of Legislative Rules:**

   a. **Division of Air Quality - DEP**
   Ambient Air Quality Standards
   45CSR8

      - Approve

   b. **Division of Air Quality - DEP**
   Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration
   45CSR14

      - Approve as Modified

   c. **Division of Air Quality - DEP**
   Standards of Performance for New Stationary Sources
   45CSR16

      - Approve

   d. **Division of Air Quality - DEP**
   Control of Air Pollution from Combustion of Solid Waste
   45CSR18

      - Approve as Modified

   e. **Division of Air Quality - DEP**
   Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution Which Cause or Contribute to Nonattainment
   45CSR19

      - Approve

f. **Division of Air Quality - DEP**
Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities
45CSR25

- Approve

g. **Division of Air Quality - DEP**
Emission Standards for Hazardous Air Pollutants
45CSR34

- Approve

h. **Racing Commission**
Thoroughbred Racing
178CSR1

- Approve as Modified

i. **Racing Commission**
Greyhound Racing
178CSR2

- Approve as Modified

j. **Racing Commission**
Pari-Mutuel Wagering
178CSR5

- Approve as Modified

3. Other Business

TENTATIVE AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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Earl Ray Tomblin, ex officio nonvoting member	____	Richard Thompson, ex officio nonvoting member	____

Senate		**House**	
Minard, Chair	____	Brown, Chair	✓
Snyder, Vice Chair	____	Poling, Vice Chair	✓
Prezioso	____	Fleischauer	✓
Unger	____	Talbott	✓
Boley	____	Overington	✓
Facemyer	____	Sobonya	____

- Delegate Brown called meeting to order
- Delegate Sobonya ? quorum
- Delegate Brown adjourned

December 14, 2010

Tuesday, December 14, 2010

5:00 p.m. to 7:00 p.m.

Legislative Rule-Making
Review Committee
(Code §29A-3-10)

Earl Ray Tomblin
ex officio nonvoting member

Richard Thompson
ex officio nonvoting member

Senate		House
Minard, Chairman	Absent	Brown, Chairwoman
Snyder, Vice Chair		Poling, Vice Chair
Prezioso		Fleischauer
Unger	Absent	Talbott
Boley	Absent	Overington
Facemyer	Absent	Sobonya

The meeting was called to order by Delegate Brown, Co-Chair.

Senator Snyder moved that the minutes of the November 15 & 16, 2010, meeting be approved. The motion was adopted.

Rita Pauley, Associate Counsel, explained her abstract on the rule proposed by the **Division of Highways, Transportation of Hazardous Wastes Upon the Roads and Highways.**

Senator Snyder moved that the proposed rule be approved. The motion was adopted.

Charles Roskovensky, Associate Counsel, reviewed his abstract on the rule proposed by the **WV Board of Physical Therapy, General Provisions, 16CSR1,** and stated that the Commission has agreed to technical modifications.

Senator Snyder moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Roskovensky explained his abstract on the rule proposed by the **WV Board of Physical Therapy, Fees for Physical Therapists and Physical Therapy Assistants, 16CSR4.**

Senator Snyder moved that the proposed rule be approved. The motion was adopted.

Mr. Roskovensky reviewed his abstract on the rule proposed by the **Board of Optometry, Expanded Prescriptive Authority, 14CSR2,** and responded to questions from the Committee.

Dr. Steve Powell addressed the Committee and responded to questions.

Dr. Greg Moore, O.D. and President of the Board, responded to questions and addressed the Committee.

Delegate Fleischauer moved to amend the rule on page four, subsection 9.2, by striking the period inserting a comma and the following, "and include hands-on supervised clinical training.";

And,

On page four, subsection 10.2, after the words "standards of" by inserting the words, "education and";

And,

On page four, by adding a new subsection 10.3 to read as follows. "10.3 A new oral drug used for a new indication may not be started on a patient until discussed with the patient's osteopathic or allopathic physician, and documented in the patient's record, in order to identify and minimize potential adverse reactions and drug interactions.";

And,

On page four, by adding a new subsection 10.4 to read as follows. "10.4 If the patient does not have a primary care provider or refuses to provide written permission to report the oral drug(s) to his or her primary care provider the certificate holder may provide a written statement to the patient regarding the oral drug(s) administered with instruction to the patient to give the listed information to his or her current primary care provider or any primary care provider they would choose to see in the future.".

The motion was adopted.

Senator Snyder moved that the proposed rule be approved as modified and amended. The motion was adopted.

Mr. Roskovensky reviewed his abstract on the rule proposed by the **Board of Optometry, Injectable Pharmaceutical Agents Certificate, 14CSR11,** stated that the Board has agreed to technical modifications and responded to questions from the Committee.

Dr. Powell addressed the Committee and responded to questions.

Dr. Moore responded to questions and addressed the Committee.

Delegate Fleischauer moved to amend the rule on page page two, by inserting a new subsection 5.6, to read as follows:

"5.6 The licensee must present proof of hands-on supervised clinical training of a minimum of twenty-five patients for each type of injection and each medication where the licensee actually gave injections to patients under supervision. A log book with dates, medications, route of injection, name of supervising doctor and patient identification by number for review by the Board.";

And,

On page five, by adding a new section eleven to read as follows: "**§14-11-11. Restrictions.**

11.1 A certificate holder may not establish a pharmacy in an optometric office or sell injectable pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff or present when the prescription is filled. Nothing in this rule shall prohibit the optometrist from charging a usual and customary fee for performing the injection.

11.2 A certificate holder may not inject any medication into a child under the age of 18.

11.3 An injection may not be given to a patient without consultation with the patient's osteopathic or allopathic physician in order to identify and minimize potential adverse reactions and drug interactions.

11.4 Retrobulbar and Periocular injections are prohibited.

11.5 A certificate holder may not inject any of the following drug categories:

11.5.1 Chemotherapy drugs;

11.5.2 Immunosuppressive drugs;

11.5.3 Intravenous steroids;

11.5.4 Intravenous dyes;

11.5.5 Controlled substances from Schedules II thru V;

11.5.6 Antivirals or Antifungal Agents;

11.5.7 Propofol (Diprivan);

11.5.8 Anesthesia drugs;

11.5.9 Edrophonium (Tensilon);

11.5.10 Neurotoxins;

11.5.11 Insulin or Diabetic drugs;

11.5.12 Cardiovascular drugs;

11.5.13 Dermatologic fillers;

11.5.14 Hyperosmotics;

11.5.15. Seizure drugs;

11.5.16 Hormones;

11.5.17 Antipsychotics;

11.5.18 Multiple Sclerosis drugs;

11.5.19 Blood thinners;

11.5.20 Flu shots;

11.5.21 Hepatitis Vaccines;

11.5.22 Pneumonia Vaccines;

11.5.23 Allergy drugs and testing.".

The motion was adopted.

Senator Snyder moved that the proposed rule be approved as modified and amended. The motion was adopted.

Senator Snyder moved to adjourn the meeting. The motion was adopted.

DECEMBER INTERIM ATTENDANCE
Legislative Interim Meetings
December 13, 14 and 15, 2010

Tuesday, December 14, 2010

5:00 pm - 7:00 pm

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex officio nonvoting member		Thompson, ex officio nonvoting member	
Senate		House	
Minard, Chair		Brown, Chair	✓
Snyder, Vice Chair	✓	Poling, D., Vice Chair	✓
Prezioso	✓	Fleischauer	✓
Unger		Talbott	✓
Boley		Overington	✓
Facemyer		Sobonya	✓

I certify that the attendance as noted above is correct.

Staff Person

Debra Graham

Please return to Brenda in Room 132-E or Fax to 347-4819 ASAP, due to payroll deadline.

TENTATIVE AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Tuesday, December 14, 2010

5:00 p.m. to 7:00 p.m.

Senate Finance Committee Room

1. **Approval of Minutes** - Meetings of November 15 & 16, 2010

2. **Review of Legislative Rules:**

   a. **WV Board of Physical Therapy**
   General Provisions
   16CSR1

   b. **WV Board of Physical Therapy**
   Fees for Physical Therapists and Physical Therapy Assistants
   16CSR4

   c. **Division of Highways**
   Transportation of Hazardous Wastes Upon the Roads and Highways
   157CSR7

   d. **Board of Optometry**
   Expanded Prescriptive Authority
   14CSR2

   e. **Board of Optometry**
   Injectable Pharmaceutical Agents Certificate
   14CSR11

3. **Other Business**

TENTATIVE AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Tuesday, December 14, 2010

5:00 p.m. to 7:00 p.m.

Senate Finance Committee Room

1. **Approval of Minutes** - Meetings of November 15 & 16, 2010

2. **Review of Legislative Rules:**

   a. **WV Board of Physical Therapy**
   General Provisions
   16CSR1

      - Approve as Modified

   b. **WV Board of Physical Therapy**
   Fees for Physical Therapists and Physical Therapy Assistants
   16CSR4

      - Approve

   c. **Division of Highways**
   Transportation of Hazardous Wastes Upon the Roads and Highways
   157CSR7

      - Approve

   d. **Board of Optometry**
   Expanded Prescriptive Authority
   14CSR2

      - Approve

   e. **Board of Optometry**
   Injectable Pharmaceutical Agents Certificate
   14CSR11

      - Approve as Modified

3. **Other Business**

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Senate		**House**	
Minard, Chair	____	Brown, Chair	✓
Snyder, Vice Chair	____	Poling, Vice Chair	✓
Prezioso	____	Fleischauer	✓
Unger	____	Talbott	✓
Boley	____	Overington	____
Facemyer	____	Sobonya	✓

Track 23

Delegate Brown called meeting to Order
Snyder moved minutes - Approved

- [redacted]
Highways 157CSR7
Rita explained
Snyder moved rule [redacted]
Approved

- Physical Therapy 16CSR1
Charlie explained
Snyder moved as modified
Approved

- Physical Therapy 116CSR4
Charlie explained
Snyder moved rule
Approved

- Optometry 14CSR2
Charlie explained & responded to ?'s
Dr. Steve Powell addressed the Committee & responded to ?'s
Dr. Greg Moore, O.D. and President of Board responded to ?'s and addressed the Committee
Fleischauer moved to [redacted] amend by adding highlighted 10.3 in blue - Adopted
binder - Section 7 page 4 of rule
Fleischauer moved additional language be added - see Charlie *if no one can be reached - can be noted?
Snyder moved as amended & modified
Approved

- Optometry 14CSR11
Charlie explained & responded to ?'s
Dr. Powell addressed the Committee & responded to ?'s
Dr. Moore addressed the Committee & responded to ?'s
Fleischauer moved to amend by adding highlighted in blue binder - Adopted
Snyder moved as amended & modified
Approved

REGISTRATION OF PUBLIC
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE **Date:** Dec. 13, 2010

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	RULE NUMBER	Please mark with an (X) if you desire to make a statement.
Steve Powell	Mo- town	WV Acad of Eye Physicians + Surgeons	OPT 2 + 11	✓

*Please return to Felisha Sutherland - Room MB-49

DECEMBER INTERIM ATTENDANCE
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Minard, Chair	____	Brown, Chair	____
Snyder, Vice Chair	____	Poling, Vice Chair	____
Prezioso	____	Fleischauer	____
Unger	____	Talbott	____
Boley	____	Overington	____
Facemyer	____	Sobonya	____

Minutes approved

Highways
Rita discussed

Snyder Approve as mod

Physical Ther 16CSR1
Charlie explained

Snyder

Physical Ther 16CSR4
Charlie explained

14

Optometry 14 ESR 2

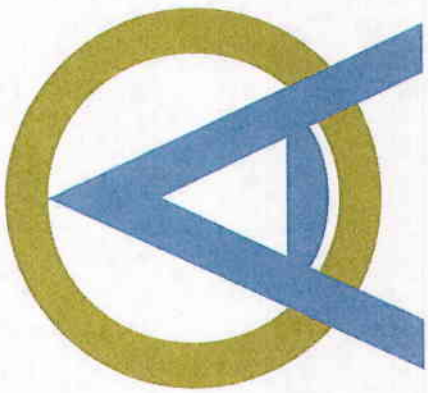
Charlie explained; distributed mod. version; ans'd quests.
name change
Dr Steve Powell - group appears rule; distributed
info; responded to questions
Dr. Moore, Bd of Optometry addressed the C & responded to questions
Fleischauer Tab 7 p 3 & 4 highlighted - amend adopted
Bd
Charlie - wants proviso if phys cannot be contacted.
F Moves Bd's mod.
Snyder Move as mod & amended

Optometry 14 ESR 11

Charlie explained & responded to questions
Dr. Powell explained objections outlined in his handout. Wants to amend if rule not withdrawn
Responded questions
Dr. Moore addressed the C.
F Adoption of proposed highlighted amend.
Adopted
Snyder Approve as modified & amended

Handout - December 14, 2010

West Virginia
Academy Of
Eye Physicians
& Surgeons



Legislative Rule-Making Review Committee

December 14, 2010

West Virginia
Academy Of
Eye Physicians
& Surgeons

Information on Optometry Injections Expansion in West Virginia

Table of Contents

2110 Kanawha Boulevard, East / Suite 220
Charleston, WV 25311
304-343-5842 / 304-344-4139 Fax
www.wveyemd.org

1

Know Who is Taking Care of your Eyes

Ophthalmologist

An ophthalmologist – Eye MD – is a medical or osteopathic doctor who specializes in the eye and vision care. Ophthalmologists are specially trained to provide the full spectrum of eye care, from prescribing glasses and contact lenses to complex and delicate eye surgery. Many ophthalmologists are also involved in scientific research into the causes and cures for eye diseases and vision problems.

Optometrist

An optometrist receives a Doctor of Optometry (OD) degree and is licensed to practice optometry, not medicine. The pratice of optometry traditionally involves examining the eye for the purpose of prescribing and dispensing corrective lenses, screening vision to detect certain eye abnormalities, and prescribing medications for certain eye diseases.

Optician

These technicians are trained to design, verify and fit eyeglass lenses and frames, contact lenses, and other devices to correct eyesight. They use prescriptions supplied by ophthalmologists or optometrists, but do not test vision or write prescriptions for visual corrections. Opticians are not permitted to diagnose or treat eye disease.

Know the Educational Differences between Ophthalmologists and Optometrists

Ophthalmologist

After four years of doctorate training, a Doctorate of Medicine or Doctorate of Osteopathy is awarded to these doctors. These doctors are not allowed to practice medicine and surgery until they have completed a required physician-in-training supervised residency.

For the next four to six years (4-6 years), theses doctors are physicians-in-training under the direct supervision of physicians experienced in the practice of Medicine and Surgery of the Eye. Every prescription written and every injection given are supervised by the attending physician. Every procedure and surgery performed is supervised by attending physicians. Thousands of prescriptions written, hundreds of injections given and hundreds of surgeries performed – all supervised by a physician who has the knowledge to deal with complications if they arise. In fact services rendered by a physician-in-training (resident) can not be billed unless the attending physician is present. Only when the physician-in-training has successfully completed the additional required 12,000 supervised hours of training, will they be allowed to practice medicine and surgery of the eye as a physician.

Optometrist

After four years of doctorate training, a Doctorate of Optometry is awarded to these doctors. These doctors are allowed to practice optometry according to State law. These doctors do not have to complete a residency. A small percent of these doctors elect to do a one (1) year of post graduate training.

Graduating doctors of optometry have never written and signed a prescription during optometry school (just as medical students were not permitted to sign prescriptions), but can start writing prescriptions according to the State that licenses them. There is no supervision required when an optometrist finishes optometry school and they can immediately bill for any and all services allowed by law. Seventeen of twenty (17/20) schools of optometry are in states that prohibit injections (except epinephrine for allergic reaction) by optometrists.

Comparison of Educational Requirements for Optometrists and for Physicians practicing Ophthalmology As Related to Medical and Surgical Training

Educational Parameter Requirements	Optometry Student	Medical Doctors or Osteopathic Doctors training (1) in Ophthalmology	West Virginia University Residents (Actual)
National **minimum** of surgeries with trainee also participating in pre-operative and post-operative care	0	364	818
National **minimum** of surgical procedures with trainee as primary surgeon	0	171	465
Experience with all forms of injections in patients – Intramuscular, intravenous, periocular, retrobulbar, intraocular – with a broad experience in types of drugs, and adverse reactions	0 to unknown	Hundreds	Hundreds
Number of prescriptions for medications **signed** during training(2)	0	Thousands	Thousands
Number of years **required** in clinical training once the OD degree or MD degree is obtained	0	4	4
Years of clinical patient exposure	1 ½ (3)	6(4)	6(4)
National **requirement** for trainee to have continuous access to a **skills development facility** such as wet lab or surgical simulator	NONE	YES	YES
National **requirement for taking call** to learn management of adverse surgical outcomes	NONE	YES	YES
Requirement that training must include **continuity of care** to the patient and for training to be a graduated experience	NONE	YES	YES

(1) A physician in training to become an ophthalmologist has already gone to four (4) years of medical school and is versed in the medical and surgical sciences. Supervision of residents in training are required to be supervised by faculty members who are physicians specializing in ophthalmology or who have been through an additional 1-2 years of fellowship training following residency.
(2) Optometry students, like medical students, are not permitted to sign prescriptions
(3) This is an estimate of the various curricula in different optometry schools
(4) Medical school has 2 full years of clinical patient care before entering the 4 year residency in ophthalmology

Ophthalmology training data and educational criteria were provided by the WVU Dept of Ophthalmology, WVU School of Medicine

Prepared by the West Virginia Academy of Eye Physicians and Surgeons, December, 2010

2

Injections Defined:

1. **Epi-pen** – (Intramuscular) used to give epinephrine to a person that has been exposed to bee stings or seafood who has had a severe reaction in the past that results in rash, swelling of the tongue, and respiratory problems. Many people carry an epi-pen to self administer. It is given intramuscularly into the large outer thigh muscle by the individual themselves or by health care workers such as nurses, paramedics, or physicians.

2. **Intramuscular** – The route of administration of certain medications or vaccines such as received for the flu shot. This is usually given in the arm or the buttocks, but can be used on the face.
    a. This is the route of administration used in cosmetic procedure such as of botulinum (botox).
    b. Flu shots are given by this method
    c. Injections into the eyelids and face are given prior to performing functional or cosmetic surgery. These injections are given by the surgeon performing the surgery in a very specific way depending on the surgery to be performed.

3. **Intravenous** – The route of administration of many drugs in the emergency room or to inpatients in the hospital given through the vein in an arm or through a central line in the chest.
    a. Fluorescein angiogram
        i. In ophthalmology, this is the route of administration of a dye called fluorescein that circulates through the blood vessels and into the eye. Pictures of the blood vessels in the eye are then taken to aid in the treatment of advanced retinal disease
        ii. In ophthalmology, the vast majority of fluorescein angiograms are performed by retinal specialists, not the general ophthalmologist. This is because of the cost of providing the service and the extra training that retinal specialists have in fellowship training to use this as a diagnostic tool. Quality of this test is very important and the retinal specialist may be looking for specific details that modifies the way the test is done.
    b. Route of drug administration
        i. Ophthalmologists work with nurse anesthetists and anesthesiologists to administer intravenous sedation during eye surgery in the operating room
        ii. Some testing for certain neurological diseases are rarely performed in an office setting. This testing has significant risks and are typically done in an environment for respiratory and cardiac support.

4. **Retrobulbar** – placing a long needle through the skin and along side the ball of the eye, between muscles (not visible), and then into the "cone" of the orbit beside the optic nerve (nerve from the eye to the brain that carries the information of sight.
    a. This procedure is high risk and can result in blindness, even in the best of hands. It is used prior to performing complex eye surgery in the operating room.
        i. The eye ball can rupture if the needle passes through
        ii. The nerve can be damaged if the needle inadvertently enters it
        iii. A serious hemorrhage can occur requiring immediate surgical intervention to save the eye/vision
    b. This procedure can result in severe respiratory depression requiring immediate critical care support or death can occur.

5. **Periocular** – similar to retrobulbar, used prior to major eye surgery, but not quite as effective. This is a long needle that passes through the skin and along side the ball of the eye, between muscles (not visible),but not into the muscle cone. The same risks of retrobulbar injection are present with this type of injection.

6. **Subcutaneous** – under the skin injections, that may also include intramuscular injection.
    a. Injected just above the muscle
    b. Medications such as insulin for diabetes, growth hormone, tb testing and other.

7. **Intravitreous (Intravitreal)** – this is the injection of a medication **directly into the eyeball** into the vitreous cavity.
    a. This is the highest risk injection of all those discussed. There is a significant risk of infection and blindness.
    b. It is used to treat an aggressive form of macular degeneration and is now being used to treat other blinding diseases.

Prepared by the West Virginia Academy of Eye Physicians and Surgeons,
December 2010

3

Surrounding States and Scope of Practice laws regarding Injections by Optometrists

Type of Injection	WV	OH	MD	PA	VA	KY
Epipens	Yes	Yes	Yes	No	Yes	No
Intramuscular (other)	?	No	No	No	No	No
Intravenous	?	No	No	No	No	No
Retrobulbar	?	No	No	No	No	No
Periocular	?	No	No	No	No	No
Subcutaneous	?	No	No	No	No	No
Intravitreous	No	No	No	No	No	No

Summary: The only injections allowed by surrounding states, is the epipen in the states of Ohio, Maryland and Virginia for the treatment of anaphylactic shock (bee stings, seafood, etc.)

17/20 schools of optometry are in states that do not permit injections other than epipens

Every effort has been made to accurately extract this information from the State statutes, the data is felt to be complete and accurate. Anyone disputing this information should provide evidence to the contrary and then the information can be modified.

Prepared by the West Virginia Academy of Eye Physicians and Surgeons
December 2010

4

State laws regarding injections in states with Schools of Optometry

States with optometry schools where state laws prohibit injections (other than epipens) by optometrists

(17/20 schools)*

- **AL: University of Alabama at Birmingham**
- **AZ: Midwestern University-Arizona College of Optometry**
- **CA: University of California, Berkeley**
- **CA: Southern California College of Optometry**
- **CA: Western University of Health Sciences**
- **FL: Nova Southeastern University**
- **IL: Illinois College of Optometry**
- **IN: Indiana University**
- **MA: New England College of Optometry**
- **MI: Michigan College of Optometry at Ferris State University**
- **MO: University of Missouri St. Louis**
- **NY: State University of New York**
- **OH: Ohio State University**
- **PA: Pennsylvania College of Optometry (Salus)**
- **PR: Interamerican University of Puerto Rico, School of Optometry (territory of the US)**
- **TX: University of Houston**
- **TX: University of the Incarnate Word**

States with optometry schools where state laws allow some forms of injections

(3/20 schools)

- **OK: Northeastern State University**
- **OR: Pacific University**
- **TN: Southern College of Optometry**

*Epipens are allowed in some states (including WV) for the treatment of an acute allergic or anaphylactic reaction such as can occurs from bee stings

Presented by the WVAEPS (West Virginia Academy of Eye Physicians and Surgeons) – every effort has been made to assure accuracy in the review of state laws and interpretation of language December, 2010

5

NATIONAL BOARD OF EXAMINERS IN OPTOMETRY

CANDIDATE GUIDE

Intravenous (IV) and Intramuscular (IM) Injections Pilot Station

April/May 2010

Bloomington, Boston, Ft. Lauderdale, New York, Philadelphia, Portland, St. Louis, and San Juan

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This Pilot Station will be conducted for volunteer Candidates on Sunday, the final day of testing for the Clinical Skills Examination, at the sites listed above. Copies of the Evaluation Forms used by the Examiners are provided for review.

Candidates are expected to carefully and thoroughly review the Candidate Orientation information contained in this document prior to arrival at the test center. Most of this information will not be repeated during the on-site Candidate Orientation.

Revised January 14, 2010

Candidate Orientation Information: General

The Injections Pilot Station begins with an on-site orientation that all Candidates are required to attend. The on-site Candidate Orientation complements the information contained in this document. If you have latex allergies, please inform staff at check-in.

The Pilot Chief Examiner conducts the on-site Candidate Orientation. The Chief Examiner also serves as the Candidate advocate to assist with any problems that may arise. *There will not be any on-site training or familiarization with the simulated arm. As with CSE, Candidates will be expected to properly perform the skills based on the information in this guide and the evaluation forms.*

Candidates are expected to wear professional attire. Use "business casual" as a reference, which the National Board interprets as excluding jeans, T-shirts, garments that could be viewed to be immodest (e.g. tank tops), tennis shoes, and/or flip flops. Candidates may wear lab jackets, but identifying nametags or embroidered names should be removed or covered with opaque adhesive tape. Candidates should also cover any identifying information on their equipment with opaque adhesive tape if possible. However, Candidates are not required to bring any equipment with them to the Pilot Station other than a pen and pencil.

Cell phones must remain turned off during the Pilot Station and left with personal belongings in the Candidate orientation room. Cell phones may not be used by Candidates during the examination as timekeeping devices. Depending upon the site, the Candidate orientation room may or may not be secure. Candidates should take this into consideration when they decide what personal belongings they bring to the site.

No notes or other written materials may be taken into the examination room, including materials that have been downloaded from the National Board website. All notes and written materials must also be left in the Candidate orientation room. Candidates may not refer to notes or written materials during the examination.

It is likely that observer(s) may be present in the examination room. Observers are not there to watch a specific Candidate or Examiner; instead, they are there to watch the Pilot and the examination process. Observers are instructed not to converse or interact with Candidates or Examiners in the examination rooms. Observers are not part of the evaluation process.

The Pilot Station is comprised of 3 distinct procedures: preparation of both medications (simulated fluorescein sodium and simulated epinephrine), performing an intravenous injection for fluorescein angiography, and performing an intramuscular injection of epinephrine.

Given the nature and criticality of the injections to be performed at this Pilot Station, Candidates should assume that:

- an appropriate written Informed Consent has been discussed with and signed by the Patient prior to performing the injections.
- the Patient's identity has been verified using 2 methods such as name, date of birth, last 4 digits of the SSN, and/or address prior to performing the injections.
- the nature of the injection procedure and the injection site have been verified by asking the Patient to verbalize his/her understanding of these issues.
- the Patient is male and has been found to have a normal BP measurement during the pre-procedure work-up.

Following the on-site Candidate Orientation, Candidates will be assigned to a specific room and examination cycle time for the injections station. Each Candidate badge, received during the on-site Pilot Station registration, shows the individual room and time assignment.

Five minutes are allotted for the Candidate to be in the exam room prior to the start of the station. Candidates may familiarize themselves with equipment in the exam room during any remaining rotation time after arriving

Examiners may appear to be unfriendly. Candidates should not regard this as a personal dislike or an indication of performance quality. Examiners are instructed to conduct the examination in a personally neutral manner to promote uniform, equal treatment of Candidates. The Examiners' detachment produces a more objective, impartial evaluation. Examiners are allowed to say very little other than what has been scripted.

Examiners are responsible for ensuring safety. If an Examiner believes that the techniques or procedures used by a Candidate jeopardize safety, the Examiner has the responsibility to intervene or stop the injection procedure being assessed. If the Examiner intervenes, the Candidate will receive no credit for that item. If the Examiner stops the procedure, the Candidate will receive no credit for that item and any related subsequent items but, unlike CSE, will be allowed to proceed with the next logical item not affected by the procedure that was stopped (e.g., Candidate was stopped on item 33, the Candidate would receive no credit for items 33, 34, 35, 37, 38, 39 but would be allowed to perform items 36, 40-66). *In CSE, if a Candidate is stopped the Candidate will receive no credit for that item or the remaining items on that skill.*

Any open wound on a Candidate's finger or hand must be covered during the examination. This applies to pre-existing wounds and those that may develop during the examination. In the instance of the latter, a band-aid and gloves will be provided to protect the Candidate.

Candidates who wish to repeat one or more items within a procedure may do so at their discretion, **if** they have not begun the next procedure. However, Candidates who have begun the next procedure and wish to return to a prior procedure to repeat one or more items, or perform one or more omitted items, are expected to redo the **entire** procedure *(this is unlike CSE where Candidates who have left a skill must redo the entire skill).* These Candidates must announce this intent to the Examiner and return to the first item in the procedure (except for any general station procedures such as greeting the Patient). In repeating the procedure, **all** of the prior marks recorded by the Examiner are erased, and the Candidate proceeds and is evaluated as if performing the entire procedure for the first time.

Candidates are responsible for facilitating Examiner observations. Occasionally, the Examiner may ask a Candidate to repeat one or more items if the Examiner is not able to observe it.

Some items require the Candidate to give instructions to the Patient, who will be portrayed by the Examiner. Thus, some items are interactive between the Candidate and the Examiner.

Some items require the Candidate to state clinical findings to the Examiner. Candidates are reminded that specific performance items in each station, as indicated on the evaluation forms, require that the obtained findings be **stated** to the Examiner verbally in the same manner as they should be entered into a patient record. Speaking clearly and audibly is important for these performance items, since these items also test communication skills.

Candidates should indicate to the Examiner when they have completed the Pilot Station by stating "I am finished."

Any procedural questions that Candidates have should be addressed directly to the Chief Examiner or Examiner. **No other communication should occur between Candidates and Examiners or among Candidates during the Pilot Station, including rotation time before the station. "Communication" includes conversation, text messaging, and passing notes, as examples. In addition, no communication is to occur among Candidates before leaving the test center.**

While no Candidate Debriefing will be conducted following the Pilot Station, Candidates are expected to complete a brief written Exit Survey on-site.

Candidates must *not* leave the test center until dismissed nor re-enter the test center after dismissal. Candidates must return their badges, and Candidates must *not* remove any testing materials from the test center.

CANDIDATE INSTRUCTIONS FOR THE PILOT STATION
INTRAVENOUS AND INTRAMUSCULAR INJECTIONS

Use any remaining rotation time before the station begins to inspect the equipment. If you have questions about the equipment, ask the Examiner after the "whistle" sounds to begin the station. You may ask the Examiner "where" questions about the equipment and/or room lighting control throughout the station. Additionally, the Candidate may choose to ask the Examiner to reposition the arm based on comfort and handedness, so as not to knock over the IV bags and tangle the tubing. Proceed with the items as if the simulated arm belongs to an actual patient.

Preparation of Both Medications—Procedure 1. Some items are interactive between the Candidate and the Examiner, who portrays the Patient.

Prepare a 5mL syringe and needle appropriately for intravenous injection of 25% fluorescein sodium while maintaining aseptic technique, including wiping the stopper of the medication vial with an alcohol pad. Properly withdraw slightly more than 3.0 mL of medication into the syringe. After withdrawing the medication, ejecting air from the syringe, and recapping the needle using the one-handed "scoop" technique, hold the syringe vertically (capped needle up) and show the syringe to the Examiner so that the volume of medication withdrawn can be verified.

Prepare a 1mL syringe and needle appropriately for intramuscular injection of 1:1000 epinephrine while maintaining aseptic technique, including wiping the stopper of the medication vial with an alcohol pad. Properly withdraw slightly more than 0.4 mL of medication into the syringe. After withdrawing the medication, ejecting air from the syringe, and recapping the needle using the one-handed "scoop" technique, hold the syringe vertically (capped needle up) and show the syringe to the Examiner so that the volume of medication withdrawn can be verified.

Performing an Intravenous Injection for Fluorescein Angiography-Procedure 2. It is not necessary for the Examiner to open and close the fist in response to your instruction to do so. Using the winged infusion set, perform an intravenous injection of fluorescein sodium into an appropriate venous site of the simulated arm (hand, antecubital, or other site in the lower arm). After completing the injection, discard the needle and the winged infusion set with the attached syringe into the sharps container. Other items that came in contact with the artificial blood (e.g., cotton balls, protective gloves) may be discarded into a wastebasket as non-biohazards. State verbally to the Examiner the injection elements that should be documented in a patient record (drug, dose, delivery method, location).

Performing an Intramuscular Injection of Epinephrine-Procedure 3. Some items are interactive between the Candidate and the Examiner, who portrays the Patient.

Perform an intramuscular injection of 1:1000 epinephrine into the deltoid muscle pad on the simulated arm. When aspirating to ensure that the needle is not in a blood vessel, it is possible that bubbles may appear due to the nature of the simulated arm. After completing the injection, discard the syringe and the attached needle (without capping) into the sharps container. Other items that came in contact with the artificial blood (e.g., cotton balls, protective gloves) may be discarded into a wastebasket as non-biohazards. State verbally to the Examiner the injection elements that should be documented in a patient record (drug, dose, delivery method, location).

Station Evaluation Forms (click here)

ID NUMBER | SPECIAL CODES A B C D E F G H I J

Candidate ID# | Examiner ID #

GENERAL PURPOSE DATA SHEET II
form no. 70921

USE NO. 2 PENCIL ONLY

NATIONAL BOARD OF EXAMINERS IN OPTOMETRY

Intravenous and Intramuscular Injections

Pilot Station: Page 1

	YES (A)	NO (B)	Comment (C)	D	E
Did the candidate:					
1. greet the patient?*#					
2. wash his/her hands properly and dry them completely?*					
3. obtain the patient history regarding allergies to medication, injectable dyes, tape, and latex?*#					
4. explain the purpose of the procedure to the patient?#					
5. prepare aseptic field with paper drape?					
With respect to **preparation for intravenous injection for fluorescein angiography**, did the candidate:					
6. confirm and verbally state appropriate medication and expiration date?					
7. properly asepticize the stopper of the medication vial using an alcohol swab?					
8. properly attach the needle to the 5 mL syringe for medication withdrawal?					
9. properly aspirate air into the syringe greater in volume than the 3.0 mL of desired medication?					
10. insert the needle with the vial remaining on the table, then invert the vial and properly inject the aspirated air?					
11. properly withdraw slightly more than 3.0 mL of medication into the syringe?					
12. properly eject any air and/or excess medication from the syringe and needle to result in 3.0 mL of medication?					
13. recap the needle with the sheath using the one-handed "scoop" technique, then demonstrate volume to examiner?					
With respect to **preparation for intramuscular injection of epinephrine**, did the candidate:					
14. confirm and verbally state appropriate medication and expiration date?					
15. properly asepticize the stopper of the medication vial using an alcohol swab?					
16. properly attach the needle to the 1 mL syringe for medication withdrawal?					
17. properly aspirate air into the syringe greater in volume than the 0.4 mL of desired medication?					
18. insert the needle with the vial remaining on the table, then invert the vial and properly inject the aspirated air?					
19. properly withdraw slightly more than 0.4 mL of medication into the syringe?					
20. properly eject any air and/or excess medication from the syringe and needle to result in 0.4 mL of medication?					
21. recap the needle with the sheath using the one-handed "scoop" technique, then demonstrate volume to examiner?					
Did the candidate:					
22. maintain needle safety throughout the preparation procedure?					
23. maintain aseptic techniques throughout the preparation procedure?					

* Items are general items for this pilot station.

\# Items are interactive between the candidate and the examiner serving as the patient.

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ID NUMBER

Candidate ID#

SPECIAL CODES

A B C D E F G H I J

Examiner ID #

NATIONAL BOARD OF EXAMINERS IN OPTOMETRY

Intravenous and Intramuscular Injections

Pilot Station: Page 2

GENERAL PURPOSE DATA SHEET II
form no. 83739

With respect to performing an intravenous injection for fluorescein angiography, did the candidate:

	YES (A)	NO (B)	Comment (C)	D	E
24. provide proper instructions to the patient (e.g., s/t comfortably, relaxed, review of adverse reactions)?#	A	B	C	D	E
25. palpate the vein at the selected site?	A	B	C	D	E
26. remove the needle and sheath from the medication syringe?	A	B	C	D	E
27. properly attach the winged infusion set to the syringe?	A	B	C	D	E
28. don protective gloves?	A	B	C	D	E
29. apply the tourniquet properly?	A	B	C	D	E
30. instruct the patient to open and close fist?	A	B	C	D	E
31. clean the injection site with an alcohol swab?	A	B	C	D	E
32. properly hold the skin taut with non-dominant hand?	A	B	C	D	E
33. enter the skin with the needle properly positioned (bevel upward, needle angled 30-45° from the skin surface)?	A	B	C	D	E
34. move the needle nearly parallel to the skin while entering into vein?	A	B	C	D	E
35. slowly pull back on syringe plunger until blood fills the full length of the proximal tubing?	A	B	C	D	E
36. remove the tourniquet?	A	B	C	D	E
37. maintain control of the infusion set tubing needle while keeping the syringe plunger angled upward?	A	B	C	D	E
38. inject a small amount of blood/medication and accurately describe to the examiner how to check for extravasation?	A	B	C	D	E
39. properly inject the remainder of the 3.0 mL of medication at a smooth, steady rate?	A	B	C	D	E
40. properly remove the needle of the butterfly infusion set while applying pressure with a cotton ball?	A	B	C	D	E
41. properly apply paper tape to the cotton ball over the injection site?	A	B	C	D	E
42. discard the needle and winged infusion set with attached syringe (without capping) in a sharps container?	A	B	C	D	E
43. accurately state *all* elements of proper patient record documentation (drug, dose, delivery method, location) of the injection?	A	B	C	D	E
44. maintain needle safety throughout the intravenous injection procedure?	A	B	C	D	E
45. maintain aseptic techniques throughout the intravenous injection procedure?	A	B	C	D	E

Rev 01/14/10

ID NUMBER	SPECIAL CODES
Candidate ID #	Examiner ID # / time used

GENERAL PURPOSE DATA SHEET II
form no. 70921

USE NO. 2 PENCIL ONLY

NATIONAL BOARD OF EXAMINERS IN OPTOMETRY

Intravenous and Intramuscular Injections

Pilot Station: Page 3

With respect to performing an intramuscular injection of epinephrine, did the candidate:

	YES (A)	NO (B)	Comment (C)	D	E
46. provide proper instructions to the patient (e.g., sit comfortably, relaxed)?#	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
47. palpate an appropriate injection site, checking for the absence of tenderness or nodules?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
48. clean the injection site with an alcohol swab?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
49. spread/bunch the skin/muscle with the non-dominant hand?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
50. insert the needle properly (quickly, at 90°)?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
51. support the syringe properly (using non-dominant hand to hold lower part of syringe with needle in place)?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
52. aspirate to check that the end of the needle is not in a blood vessel?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
53. inject 0.4 mL of medication smoothly and at a moderate pace?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
54. withdraw the needle properly (quickly, at the same angle inserted)?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
55. massage the injection site?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
56. properly apply paper tape to the cotton ball over the injection site?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
57. discard the needle and syringe unit (without capping) in a sharps container?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
58. properly remove and dispose of protective gloves?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
59. wash his/her hands properly?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
60. accurately state *all* elements of proper patient record documentation (drug, dose, delivery method, location) of the injection?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
61. maintain needle safety throughout the intramuscular injection procedure?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ
62. maintain aseptic techniques throughout the intramuscular injection procedure?	Ⓐ	Ⓑ	Ⓒ	Ⓓ	Ⓔ

[a] Items are interactive between the candidate, and the examiner serving as the patient.

Special Codes: Code the bubbles for Columns I and J: time used (in minutes) by candidate at entire pilot station

Rev 01/14/2010

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NORTHEASTERN STATE UNIVERSITY
OKLAHOMA COLLEGE OF OPTOMETRY
Presents
MINOR SURGICAL PROCEDURES FOR THE OPTOMETRIC PHYSICIAN (16 HOURS)
in Conjunction with
WEST VIRGINIA OPTOMETRIC ASSOCIATION

Charleston, West Virginia

SATURDAY, NOVEMBER 15, 2008

7:30- 8:00 A.M.	**CHECK-IN/REGISTRATION**
8:00 – 8:50 AM	**AN INTRODUCTION TO SURGICAL INSTRUMENTS, ASEPSIS,AND OSHA** Michelle Welch, OD (1 Hour)
9:00 – 9:50 AM	**Nip & Tuck: The Surgical Anatomy of the Eyelids** Richard Castillo, OD, DO (1 Hour)
10:00 – 10:50 AM	**Local Anesthesia: Tricks of the Trade** Richard Castillo, OD, DO (1 Hour)
11:00 – 11:50 AM	**CHALAZION MANAGEMENT** (Video Based lecture) Michelle Welch, OD (1 Hour)
NOON - LUNCH	
1:00 – 1:50 PM	**Skin Microscopy for Melanoma Screening** Richard Castillo, OD, DO (1 Hour)
2:00 - 2:50 PM	**INTRODUCTION TO RADIOFREQUENCY SURGERY** Michael Sullivan-Mee, OD (1 Hour)
3:00 – 3:50 PM	**POST-OPERATIVE WOUND CARE** Michelle Welch, O.D. (1 Hour)
4:00 – 4:50 PM	**Emergency Surgical Procedures: When every second counts!** Richard Castillo, OD, DO (1 Hour)
5:00 – 5:50 PM	**CODING AND BILLING FOR THE ANTERIOR SEGMENT** Michelle Welch, OD (1 Hour)

6:00-6:50 PM **INTRODUCTION TO SUTURING**
Michael Sullivan-Mee, OD (1 hour)

8:00 – **West Virginia Reception**

SUNDAY, NOVEMBER 16, 2008

7:30 - 8:00 AM **Continental Breakfast**

8:00 –8:50 AM **BOTOX INJECTION TECHNIQUES AND CONSIDERATIONS**
Michael Sullivan-Mee, OD (1 Hour)

9:00 – 1 PM **"HANDS-ON" TO MINOR SURGICAL PROCEDURES (4 Hours)**

Each participant will rotate through each section every 70 minutes (10 min break between sessions):

I. **UTILIZATION OF RADIOFREQUENCY SURGICAL HANDPIECE**
Michael Sullivan-Mee, OD

II. **INJECTIONS/VENIPUNCTURE**
Michelle Welch, OD

III. **SUTURE TECHNIQUES**
Richard Castillo, OD, DO

1:00 to 1:50 PM **PANEL DISCUSSION (1 HR)**
Welch, Castillo, Sullivan-Mee

16 Hours Total

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Patient Protection Amendments
Discussion Points - Solutions

Use of New Oral Drugs or New Indications
Title 14; Series 2

1. **14-2-7.2; 14-2-7.2h; 14-2-7.2j**
   The use of the word "narcotic" has recently been inserted by the Board of Optometry in three locations following the listing of Schedule I and II drugs. These changes were not in the draft rules offered by the Board for public comment. This new rule provision may conflict with the statute in WC CODE 30-8-14 which does not allow for any Schedule I or Schedule II drugs. The main problem is that by inserting the word "narcotic" it means other types of Schedule II drugs could be used by optometrists. Drugs that are considered "Schedule II" drugs that would be allowed if this language stands includes:

   Stimulants (Uppers)
   Speed (Amphetamines and MetAmphetamines)
   Cocaine

   Depressants (Downers)
   Barbiturates -- Phenobarbital

   Synthetic Marijuana
   Nabilone

2. **Solution:** Removal of the word "narcotic" in all three places -- Section **14-2-7.2; 14-2-7.2h; and 14-2-7.2j** -- will prevent the use of these addictive drugs that have virtually no use in the treatment of eye diseases.

3. **14-2-9.2**
   There are no educational requirements for optometrists regarding hands-on supervised training in the use of new drugs that can have adverse affects on the other organ systems or drug interactions.

   Solution: Require the Board to identify education that includes supervised hands-on training with an allopathic or osteopathic physician versed in the treatment of systemic disease

4. **14-2-10.2**
   Establishing the same "standards of care" as other providers is included, but not the same educational standards when it comes to clinical, hands-on training for optometrists.

   Solution: The Board should establish an educational mechanism to ensure that an optometrist using a new oral medication has clinical (hands-on) experience in using these new medications.

5. **14-2-10.3 (added)**
   There needs to be coordination of care with the patient's allopathic or osteopathic physician prior to permitting an optometrist to start a new medication that can have adverse systemic (other organ) affects and drug interactions.

   Solution: Add this language:
   14-2-10.3 A new oral drug used or a drug used for a new indication may not be started on a patient until discussed and documented with the patient's osteopathic or allopathic physician in order to identify and minimize potential adverse reactions and drug interactions.

Proposed Patient Protection Amendments (see yellow highlights)

TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 2
~~EXPANDED PRESCRIPTIVE AUTHORITY~~ ORAL PHARMACEUTICAL CERTIFICATE

§14-2-1. General.

1.1. Scope. -- This legislative rule establishes the requirements, procedures and standards for the certification and re-certification of ~~individual optometrists~~ licensees ~~with expanded prescriptive~~ to obtain an oral pharmaceutical certificate. ~~prescriptive drug formulary authority, by the West Virginia Board of Examiners in Optometry, regarding prescriptive authority and expanded oral pharmaceutical prescriptive authority, as defined in W. Va. Code §§30-8-2a. and 30-8-2b §§30-8-6, 30-8-9 and 30-8-14.~~

1.2. Authority. -- W. Va. Code ~~§§30-8-2a and 30-8-2b §§30-8-1, et.seq.~~ §30-8-6, §30-8-9, and §30-8-14 .

1.3. Filing Date. -- .

1.4. Effective Date. -- .

§14-2-2. ~~Certification~~ Requirements For Oral Pharmaceutical Certificate.

2.1. ~~In order t~~To be permitted to prescribe oral drugs under the provisions of W. Va. Code ~~§§30-8-2a and 30-8-2b~~ §§30-8-9 and 30-8-14, a ~~registered optometrist~~ licensee shall apply to the Board for certification. ~~In order t~~To qualify for certification, ~~an optometrist~~ a licensee:

~~2.1.a. Shall have previously attained topical therapeutic certification;~~

2.1.~~b~~a. Shall satisfactorily complete~~, and pass an examination in,~~ a course in clinical pharmacology as applied to optometry. This course shall have particular emphasis on the administration of oral pharmaceutical agents for the ~~purpose of examination of the human eye, and analysis of ocular functions~~ diagnosis and treatment of visual defects or abnormal conditions of the human eye and its ~~adnexa~~ appendages. In addition, the course shall include instruction on the clinical use of Schedule III, IV, and V agents. This course shall consist of a minimum of thirty (30) hours in clinical systemic pharmacology. The course shall be taught by:

2.1.~~b~~a.1.~~(1)~~ a school or college of optometry or a medical school, accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education~~;~~;

2.1.~~b~~a.2.~~(2)~~ a federally sponsored health education center; or

2.1.~~b~~a.3.~~(3)~~ other non-profit continuing education agencies in cooperation with appropriate optometry or medical school faculty. All courses of instruction shall be approved by the Board; and

2.1.~~e~~b. Shall pass an examination relating to the treatment and management of ocular disease, which is prepared, administered, and graded by ~~the West Virginia Board of Optometry or its designee through~~ the National Board of Examiners in Optometry or other nationally recognized optometric organization as approved by the ~~b~~Board.

§14-2-3. Certificate Application.

3.1. The licensee shall complete the prescribed oral pharmaceutical certificate application form.

3.2. The licensee shall ~~ensure that~~ submit a certificate of successful completion by the licensee for the course listed in ~~2.1.b.~~ section 2 of this rule. ~~will be submitted by the course provider directly to the Board.~~ The Board or its designee shall verify successful completion of the course directly with the provider.

3.3. The licensee shall ~~ensure that~~ submit the passing score report for the examination listed in 2.1.~~eb.~~ of this rule. ~~will be submitted by the examiner directly to the Board.~~ The Board or its designee shall verify passage of the examination directly with the provider.

3.4. The licensee shall submit a copy of a liability insurance certificate in an amount of not less than One Million Dollars ($1,000,000) per occurrence and Three Million ($3,000,000) aggregate coverage.

3.5. The licensee shall submit the fee listed in the Board's rule, Schedule of Fees, ~~14CSR5~~ W. Va. Code of Rules, §14-5.

§14-2-4. Certification.

4.1. Upon the licensee's successful completion of the requirements and application listed in sections 2 and 3 and approval by the Board or its designee a certificate may be issued.

4.2. Upon issuance of the certificate, the licensee's license number shall be changed. The license number will be followed by a dash and "OD" for oral prescriptive authority.

§14-2-~~3~~5. Re-certification.

~~3~~5.1. ~~Each~~ The ~~optometrist~~ ~~licensee~~ certificate holder applying for re-certification shall have available for the Board, satisfactory evidence that he or she has acquired the continuing education hours required under the ~~Board of Optometry Rule~~, ~~Rules of the West Virginia Board of Optometry, 14CSR10~~ W. Va. Code of Rules, §14-10 and this rule, to renew his or her ~~biennial~~ annual ~~registration~~ license. Of those required hours, an optometrist certified under the provisions of this rule shall furnish to the Board satisfactory evidence that at least six (6) hours of the required hours were acquired in educational optometric programs in ocular pathology or therapeutic pharmacological agents.

~~3~~5.2. The ~~licensee~~ certificate holder shall submit a copy of a liability insurance certificate in an amount of not less than One Million Dollars ($1,000,000) per occurrence and Three Million ($3,000,000) aggregate coverage.

~~3~~5.3. The ~~licensee~~ certificate holder shall submit the fee listed in the W. Va. State Code of Rules, §14-5, Schedule of Fees.

~~3~~5.4. It is the responsibility of each ~~individual optometrist~~ licensee to furnish proof of current liability insurance coverage to the Board upon application for certification and re-certification.

§14-2-4~~6~~. Insurance.

4~~6~~.1. All ~~optometrists~~ licensees certified under this rule shall carry liability insurance coverage in an amount of not less than One Million Dollars ($1,000,000) per occurrence and Three Million Dollars ($3,000,000) aggregate coverage. No ~~optometrist~~ licensee shall practice under the provisions of this rule unless and until he or she has submitted to the board evidence of the liability insurance coverage in an amount not less than One Million Dollars ($1,000,000) per occurrence and Three Million Dollars ($3,000,000) aggregate coverage.

~~4.5.2. It is the responsibility of each individual optometrist licensee to furnish proof of current liability insurance coverage to the Board upon application for certification and re-certification.~~

~~**§14-2-5. Procedures for Certification.**~~

~~5.1. The educational and training~~

~~requirements for certification by the Board shall be from taught by a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education.~~

~~§14-2-6. Fees.~~

~~6.1. The administrative fee for the certification of an individual optometrist for an expanded scope of practice prescriptive authority is $200.~~

§14-2-7. Drug Formulary.

7.1. ~~Optometrists~~ Licensees certified under the provisions of this rule may prescribe the drugs set forth in W. Va. Code ~~§30-8-2a~~ §§30-8-9, 30-8-14 and this section.

7.2. W. Va. Code ~~§30-8-2b~~ §30-8-6, authorizes the Board to develop a formulary of categories of oral drugs to be considered rational to the diagnosis and treatment of visual defects or abnormal conditions of the human eye and its appendages from Schedules III, IV and V, excluding Schedule I and Schedule II ~~narcotics~~, of the Uniform Controlled Substances Act. The categories include:

~~6~~7.2.a. Oral Antibiotics;

~~6~~7.2.b. Oral Nonsteroidal Anti-inflamatory Drugs;

~~6~~7.2.c. Oral Carbonic Anhydrase Inhibitors;

7.2.~~a~~ d. Antihistamines;

7.2.~~b~~ e. Oral Corticosteroids, may be prescribed for a duration of no more than six days;

7.2.~~c~~f. Analgesics, provided that no oral narcotic analgesic may be prescribed for a duration of more than three days; and

7.2.~~d~~g. Nutritional Supplements.

~~6~~7.2.~~e~~ h.New drugs or new drug indications from Schedules III, IV and V, excluding Schedule I and Schedule II ~~narcotics~~, of the Uniform Controlled Substances Act~~, regardless of their listed categories,~~ which, regardless of their listed classification, have been shown to be effective in the ~~treatment and management of the~~ examination, diagnosis or treatment of diseases and conditions of the human eye ~~or~~ and its appendages may be approved by the Board according to the provisions of W. Va. Code §§30-8-9 and 30-8-14.

~~6~~7.2.i. A list of approved new drugs and new drug indications proven to be effective in the ~~treatment of the eye and its appendages~~ examination, diagnosis or treatment of diseases and conditions of the human eye and its appendages will be maintained by the Board for public inspection.

~~6~~7.2.j. The approval of Schedule I and Schedule II ~~narcotics~~ is prohibited.

§14-2-~~7~~8. New Drug Approval.

~~7~~8.1. The addition of new drugs or drug indications by the Board as cited in subsection ~~6~~7.2 of this rule may be based on any of the following criteria:

~~7~~8.1.a. A new or existing drug has been approved by the Food and Drug Administration for the treatment of the eye or its appendages.

~~7~~8.1.b. A new drug or new drug indication has gained accepted use in the eye care field. Such acceptance may be indicated by its inclusion in the curriculum of an optometry school accredited by the Accreditation Council on Optometric Education or its successor approved by the U.S. Department of Education or approved post-graduate continuing education, through peer-reviewed, evidence-based research and professional journal articles, or by inclusion in established standards of practice and care published by professional organizations.

§14-2-~~8~~9. Education and Training on the Use of New Drugs and New Drug Indications.

~~8~~9.1. Additional education and

training may be required by the Board as it deems appropriate when it adds new drugs or new drug indications.

~~8~~9.2. This training may be provided through ~~an accredited optometry school~~ an optometry school accredited by the Accreditation Council on Optometric Education or its successor recognized by the U.S. Department of Education or approved post-graduate training, and include hands-on supervised clinical training.

~~8~~9.3. A list of Board required training for new drugs or new drug indications will be maintained by the Board for public inspection.

§14-2-810. Restrictions.

~~8~~10.1. ~~An optometrist~~ A ~~licensee~~ certificate holder may not establish a pharmacy in an optometric office or sell oral ~~or topical~~ pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff and present when the prescriptions are filled.

~~8~~10.1.a. ~~However, n~~Nothing ~~in this section or in any other provision of law prohibits an optometrist a licensee who is properly certified under the provisions of this rule from administering or supplying oral or topical pharmaceutical agents to a patient in his or her office without charge for the pharmaceutical agents, to initiate appropriate treatment. An~~ The ~~optometrist~~ certificate holder may also pass on to the patient a charge for any medications provided to initiate treatment which reflects only the actual amount paid by the optometrist for the agents. In no event shall an optometrist increase the cost of the pharmaceutical agent beyond the wholesale cost of that medication.

~~8~~10.2. ~~Any~~ The ~~optometrist~~ ~~licensee~~ certificate holder practicing under the authority of this rule shall be held to the same standards of education and care as that of other health care practitioners providing similar services.

~~8~~9.3. ~~No optometrist licensee shall practice under the provisions of this rule unless and until he or she submits to the board evidence of satisfactory completion of all of the education and examination requirements of sub-divisions 2.1.a., 2.1.b. and 2.1.c. of this rule and has been certified by the board as educationally qualified.~~

10.3 A new oral drug used for a new indication may not be started on a patient until discussed and documented with the patient's osteopathic or allopathic physician in order to identify and minimize potential adverse reactions and drug interactions.

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Patient Protection Amendments
Discussion Points - Solutions

Use of Injections
Title 14; Series 11

1. §14-11-2.2

New wording has just been inserted by the Board of Optometry relating to an "adverse reaction" by a patient to an injection by an optometrist. These changes were not in the draft rules offered by the Board for public comment. The Board's change is to strike the words: "~~rather than the underlying medical condition.~~." What this does is change the definition of "Adverse Reaction" so that if there is a complication from an injection due to a patient's medical status, the optometrist is not responsible. Underlying medical conditions are critical to assessing risk and complications before any injection is administered.

Solution: This language must be left in because if a patient suffers an "adverse reaction" to an injection then the optometrist should be held responsible. Underlying medical conditions often complicate reactions to injections.

2. §14-11-5

There is inadequate education and training regarding the use of injections by optometrists. There is no requirement in this rule for optometrists to actually have to do the specific injections during their training. Most optometry schools are in states that by law do not permit injections by optometrists except for epinephrine. Supervised clinical (hands-on) training should be mandatory for optometrists, just as with other professions, for any taught injections. Documentation of such training and volume standards of education are necessary to ensure patient safety.

Solution: Add a new section that at least minimally defines appropriate volumes of injections done under supervision. This can be done in while in school or under the supervision of an optometrist who holds an injection certificate or an allopathic or osteopathic physician. Some hands-on educational standards must be in place.

Add a new section §14-11-11.2

"The licensee must present proof of hands-on supervised clinical training of a minimum of twenty-five patients for each type of injection and each medication where the licensee actually gave injections to patients under supervision. A log book with dates, medications, route of injection, name of supervising doctor and patient identification by number for review by the Board."

3. **§14-11-~~10~~11. Restrictions**
The language should reflect the restricted language of the Oral Drug Rule **§14-2-10.1** in order to also prohibit an optometrist from selling an injectable drug out of his or her office.

Solution: Use the similar language in this rule as was used by the Board of Optometry in the oral drug rule - to not allow the sale of drugs in an optometrist office - by striking out the language in 11.1 and adding in lieu thereof the following:

"11.1 A certificate holder may not establish a pharmacy in an optometric office or sell injectable pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff or present when the prescription is filled. Nothing in this rule shall prohibit the optometrist from charging a usual and customary fee for performing the injection."

4. **§14-11-~~10~~11. Restrictions**
There needs to be a restriction on the use of injections in children. This would be similar to the limitations found in the pharmacy act 2010 Reg.Sess., Ch. 32. **§30-5-30.**

Solution: Add a new section §14-11-11.2
"A certificate holder may not inject any medication into a child under the age of 18."

5. **§14-11-~~10~~11. Restrictions**
The interactions of drugs and the affects of injections on other organ systems can be significant and threatening to the health of the patient. There needs to be coordination of care with the primary care physician to minimize these reactions.

Solution: Add a new section §14-11-11.3
"An injection may not be given to a patient without consultation with the patient's osteopathic or allopathic physician in order to identify and minimize potential adverse reactions and drug interactions."

6. **§14-11-~~10~~11. Restrictions**
Certain types of injections are not taught or tested for in the profession of optometry. These injections can result in loss of bodily function and blindness if not performed correctly by an individual who has had the training. Specifically these are injections around and behind the eye.

Solution: Add a new section §14-11-11.4 - to prohibit the use of these injections.
"Retrobulbar and Periocular injections are prohibited."

7. **§14-11-~~10~~11. Restrictions**

Many types of drugs are rarely used or carry high risks to patient safety when administered by injections. There needs to be a reason for the use of each drug injection. Many of the injections of drugs used to treat eye disease carry high risks of medical complications and should only be used by those trained to deal with the medical complications.

Since the Board of Optometry has refused a create an injection drug formulary which lists only those injectable drugs which would be allowed, a reverse formulary is proposed listing those that would not be allowed.

Solution: Add a new section §14-11-11.5 with these restricted drug injections

"A certificate holder may not inject any of the following drug categories

11.5.1 Chemotherapy drugs
11.5.2 Immunosuppressive drugs
11.5.3 Intravenous steroids
11.5.4 Intravenous dyes
11.5.5 Controlled substances from Schedules II thru V
11.5.6 Antivirals or Antifungal Agents
11.5.7 Propofol (Diprivan)
11.5.8 Anesthesia drugs
11.5.9 Edrophonium (Tensilon)
11.5.10 Neurotoxins
11.5.11 Insulin or Diabetic drugs
11.5.12 Cardiovascular drugs
11.5.13 Dermatologic fillers
11.5.14 Hyperosmotics
11.5.15. Seizure drugs
11.5.16 Hormones
11.5.17 Antipsychotics
11.5.18 Multiple Sclerosis drugs
11.5.19 Blood thinners
11.5.20 Flu shots
11.5.21 Hepatitis Vaccines
11.5.22 Pneumonia Vaccines
11.5.23 Allergy drugs and testing"

Proposed Patient Protection Amendments (see yellow highlights)

TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 11
INJECTABLE PHARMACEUTICAL AGENTS CERTIFICATE

§14-1-1. General.

1.1. Scope. -- This rule establishes the requirements, procedures and standards for the certification of a licensee ~~with the authority~~ to administer injectable pharmaceutical agents which are considered rational to the diagnosis and treatment of the human eye and its appendages. The provisions of this rule excludes the administration of epinephrine to treat emergency cases of anaphylaxis or anaphylactic shock which is permitted through W. Va. Code §30-8-15(a).

1.2. Authority. -- W. Va. Code ~~§30-8-1 et. seq.~~ §30-8-6 and 30-8-15

1.3. Filing Date. -- .

1.4. Effective Date. -- .

14-11-2. Definitions.

2.1. "Certificate Holder" means a licensee who has met the requirements of this rule and has been issued an Injectable Pharmaceutical Agents Certificate by the Board.

2.2. "Adverse Reaction" For the purposes of this rule, an adverse reaction shall be defined as any reaction that causes injury to a patient as the result of the medical intervention by injection ~~rather than the underlying medical condition.~~

§14-11-~~2~~3. ~~Requirements.~~ Certification Generally.

~~2~~3.1. ~~The~~ A licensee shall complete an application and meet all requirements as listed in this rule in order to be certified to administer injectable pharmaceutical agents.

~~2~~3.~~1~~2. ~~The~~ A licensee shall ~~have obtained therapeutic and~~ obtain oral prescriptive ~~licensure~~ certification prior to application for certification to administer pharmaceutical injections.

~~2.2. The licensee shall comply with all application requirements listed in this rule.~~

~~2.3. The licensee shall meet all educational and reporting requirements listed in this rule.~~

~~2.4 The licensee shall maintain current certification in basic life support from the American Red Cross or the American Heart Association or their successor organizations.~~

~~2~~3.53. Any applicant for licensure by examination, by ~~endorsement,~~ reciprocity, or by reinstatement after March 1, 2011 shall only be granted licensure if the applicant ~~has meet~~ meets the requirements for injection certification.

~~2.6. The licensee shall meet all continuing education requirements listed in this rule.~~

§14-11-4. ~~Application~~ Certification Requirements.

To be certified the licensee shall:

4.1. ~~The licensee shall~~ eComplete the required application form;

4.2. Submit proof of oral pharmaceutical certification;

4.~~2~~3. ~~The licensee shall~~ sSubmit proof of attendance and satisfactory completion of the required course in injection administration. The Board shall verify successful completion of the cited course directly with the provider;

4.~~3~~4. ~~The licensee shall~~ sSubmit proof of current certification from the American Red Cross or the American Heart Association or their successor organizations in basic life support; ~~Maintenance of this certification as current shall be a requirement for all certificate holders. Such certification must be kept current throughout the current and subsequent licensing renewal periods. and proof of such shall be submitted as a part of the license renewal process.~~

4.4~~5~~. ~~The licensee shall~~ sSubmit the ~~injectable pharmaceutical agents certificate fee~~ Pharmaceuticals By Injection Certificate Fee as listed in the Board's rule, ~~14CSR.5~~ W. Va. Code of Rules, §14-5.

§14-11-~~3~~5. Education and Training.

~~3.1. All licensees who wish to administer agents by injection must satisfactorily complete a certification process which follows the educational criteria listed in this section.~~

~~3~~5. 1. The Board shall accept ~~any~~ a course for certification that is provided by or through a school or college of optometry accredited by the Accreditation Council on Optometric Education or its successor organization ~~certifying that the optometrist is competent in providing the administration of pharmaceuticals by injection~~. provided, the course includes the criteria listed in subsections 5.2.1 through 5.2.3.

~~3~~5.~~3~~2. The Board, at its discretion, may approve courses provided through organizations other than accredited schools or colleges of optometry certifying that the optometrist is competent in providing the administration of pharmaceuticals by injection if, and only if, the course meets the following minimum criteria:

~~3~~5.~~3~~2.1. Each course shall include indications, contra-indications, medications, techniques, risks, benefits and sharps management;

~~3~~5.~~3~~2.2.Each course shall contain appropriate follow up and management of any adverse reactions caused by an injection;

~~3~~5.~~3~~2.3.Each course shall teach the procedures of injection on human subjects in a closely supervised environment with a proficiency assessment examination.

~~3~~5.43. A list of approved courses for injection administration instruction will be maintained by the Board for public inspection.

~~3~~5.~~5~~4. ~~The~~ A licensee shall obtain current certification from the American Red Cross or the American Heart Association or their successor organizations in basic life support. ~~Maintenance of this certification as current shall be a requirement for all certificate holders.~~

~~3~~5.5. ~~Any~~ The license granted to an applicant who graduated from an accredited school or college of optometry and who passed ~~Part III~~ the Injection Portion of the National Board Examination in 2011 or thereafter shall be deemed to have met the education and training criteria listed in ~~this section~~ listed in section 4 5.

5.6 The licensee must present proof of hands-on supervised clinical training of a minimum of twenty-five patients for each type of injection and each medication where the licensee actually gave injections to patients under supervision. A log book with dates, medications, route of injection, name of supervising doctor and patient identification by number for review by the Board.

~~**§14-11-4. Application.**~~

~~4.1. The licensee shall complete the required application.~~

~~4.2. The licensee shall submit proof of attendance and satisfactory completion of the required course in injection administration. The Board shall verify successful completion of the cited course directly with the provider.~~

~~4.3. The licensee shall submit current certification from the American Red Cross or the American Heart Association or their successor organizations in basic life support. Maintenance of this certification as current shall be a requirement for all certificate holders. Such certification must be kept current throughout the current and subsequent licensing renewal periods and proof of such shall be submitted as a part of the license renewal process.~~

~~4.4. The licensee shall submit the injectable pharmaceutical agents certificate fee as listed in the Board's rule, 14CSR.5.~~

§14-11-~~5~~6. Certification.

~~5.1. A certificate to administer pharmaceuticals by injection may be issued by the Board upon the licensee's completion of all of the requirements of the provisions of §§14-11-2 through 14-11-4.~~

6.1. Upon the licensee's successful completion of the requirements and application listed in sections 3 through 5 and approval by the Board or its designee an injectable pharmaceutical agents certificate may be issued.

~~5~~6.2. Upon issuance of the certificate, the licensee's license number shall be changed. The license number will be followed by a dash and the initials "T" for injectable pharmaceuticals~~,~~ ~~."OD" for oral prescriptive authority.~~ ~~and "D" for therapeutic prescriptive privileges.~~

14-11-~~6~~7. Treatment Guidelines.

~~6~~7.1. A ~~licensee~~ certificate holder ~~who has an Injectable Pharmaceutical Agents Certificate~~ may administer injections which are considered rational to the diagnosis and treatment of the human eye or its appendages.

~~6~~7.2. The Board will maintain a list of approved sites and agents for the administration of pharmaceuticals by injection for public inspection. The list will contain treatment guidelines for each agent approved by the Board for injection.

~~6~~7.3. The ~~licensee~~ certificate holder shall follow all applicable Occupational Safety and Health Administration (OSHA) and Centers for Disease Control (CDC) guidelines pertaining to administration of injections.

~~6~~7.4. The ~~licensee~~ certificate holder shall adhere to generally accepted standards of care and follow established clinical guidelines for administering injections. The ~~licensee~~ certificate holder shall monitor the patient ~~response~~ for an adverse reaction and provide appropriate follow up care for patients treated by injections.

~~6~~7.5. Unless requested through an emergency rule of the West Virginia Legislature or the Federal Government through the Department of Homeland Security or its successor organizations, a ~~licensee~~ certificate holder shall only administer agents through injection that are for the treatment and management of abnormalities of the eye or its appendages.

~~6~~7.6. In no event may a ~~licensee~~ certificate holder ~~be granted an Injectable Pharmaceutical Agents Certificate~~ administer a pharmaceutical agent by injection directly in the globe of the eye.

~~§14-11-7. Continuing Education.~~

~~7.1. The licensee holding an Injectable Pharmaceutical Agents Certificate must maintain current certification in basic life support as listed in subsection 4.3.~~

~~7.2. The licensee who holds an Injectable Pharmaceutical Agents Certificate must obtain a minimum of two (2) hours of continuing education instruction in administering pharmaceutical agents by injection per two year continuing education cycle as listed in 14CSR10 2.3(d).~~

§14-11-8. Reporting.

8.1. ~~Each licensee~~ A certificate holder ~~who possesses a certificate to administer pharmaceutical agents by injection~~ shall comply with the following reporting requirements.

8.2. ~~Any~~ report~~ing~~ that ~~may contain~~ contains patient Protected Health Information (PHI) shall be done in accordance with the Health Insurance Portability and Accountability Act (HIPAA) patient privacy requirements.

8.3. The certificate holder shall notify the primary care physician or other health care provider as identified by the person receiving the pharmaceutical agent(s) by injection. Such notification shall include the diagnosis, treatment and expected results of the injection.

8.~~3~~4. The ~~licensee~~ certificate holder shall document in the patient's record that the patient's primary care provider was notified of ~~any~~ injection given to the patient for record documentation. This notification ~~may~~ shall be made by fax, documented phone call or standard U.S. mail. ~~or t~~The ~~licensee may provide a written statement to the patient regarding the injection(s) administered with instruction to the patient to give the listed injection information to his or her current primary care provider.~~

8.~~3~~4.1. If the patient does not have a primary care provider or refuses to provide written permission to report the injection(s) to his or her primary care provider the certificate holder may provide a written statement to the patient regarding the injection(s) administered with instruction to the patient to give the listed injection information to his or her current primary care provider or any primary care provider they would choose to see in the future.

8.~~3~~4.~~1~~2.The above reporting procedure serves to inform the patient's primary care physician as to the rationale and outcome of a licensee's treatment, report any adverse ~~outcomes~~ reaction, and assist in collaborative care of common patients. In no event shall such reporting be construed as permission or approval of an order for treatment by injection.

8.~~4~~5. A log book of all injections given shall be maintained including:

8.~~4~~5.1. The patient's initials, age, gender and race;

8.~~4~~5.2. A statement indicating the purpose of the injection;

8.~~4~~5.3. The name of the medication administered and the type and location of the injection;

8.~~4~~5.4. The treatment guidelines followed which must be compliant with the guidelines approved by the Board which are on file at the Board Office.

8.~~4~~5.5. The name and certification or licensure level of any persons working in conjunction with the licensee to administer pharmaceutical agents through injections;

8.~~4~~5.6. How the primary care provider was notified that the patient had been given an injection.

8.~~5~~6. A copy of the injection log book shall be submitted to the Board upon request. This log book may be requested at any time by the Board with or without cause.

8.~~6~~7. The Board may ~~request~~ require ~~the~~ a ~~licensee~~ certificate holder to supply the complete medical record for any of the patients listed in the log book for review. The Board may also request an audit of the ~~licensee's~~ certificate holder's full records to ensure compliance with injection certificate requirements.

8.~~7~~8. If a patient has an adverse ~~event~~ reaction related to the administration of any agent through injection, the ~~licensee~~ certificate holder ~~must~~ shall provide the Board with an incident report listing the details of the adverse ~~event~~ reaction and the measures used to correct that ~~event~~ reaction. This report must be received by the Board within 5 business days of the resolution of the adverse ~~event~~ reaction.

§14-11-9. Recertification.

A certificate holder shall meet the following requirements for recertification:

9.1. The certificate holder shall submit proof of current certification in basic life support from the American Red Cross or American Heart Association or their successors.

9.2. The certificate holder shall submit proof of a minimum of two (2) hours of continuing education instruction in administering pharmaceutical agents by injection per two year continuing education cycle as listed in ~~14CSR10 2.3(d).~~ W. Va. Code of Rules, §14-10, Continuing Education.

9.3. The certificate holder shall submit the ~~Pharmaceuticals by Injection Certificate~~ fee as listed in the W. Va. Code of Rules, §14-5.

§14-11-9<u>10</u>. Delegation.

9<u>10</u>.1. Nothing in this rule or W. Va. Code shall permit a licensee who has not been certified to administer injections of pharmaceutical agents by the Board to delegate to any individual the administration of pharmaceutical agents through injection.

§14-11-~~10~~<u>11</u>. Restrictions.

~~10~~<u>11</u>.1. ~~Nothing within this rule or the W.Va. Code prohibits the administration of pharmaceuticals by injection to a patient by a certified licensee certificate holder for a reasonable charge provided, there is no mark up on the cost of the pharmaceutical agents provided in the injection. Nothing in this rule shall prohibit the optometrist a certificate holder from charging a usual and customary fee for performing the injection.~~

§14-11-~~10~~<u>11</u>. Restrictions

11.1 A certificate holder may not establish a pharmacy in an optometric office or sell injectable pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff or present when the prescription is filled. Nothing in this rule shall prohibit the optometrist from charging a usual and customary fee for performing the injection.

11.2 A certificate holder may not inject any medication into a child under the age of 18

11.3 An injection may not be given to a patient without consultation with the patient's osteopathic or allopathic physician in order to identify and minimize potential adverse reactions and drug interactions.

11.4 Retrobulbar and Periocular injections are prohibited

11.5 A certificate holder may not inject any of the following drug categories

11.5.1 Chemotherapy drugs
11.5.2 Immunosuppressive drugs
11.5.3 Intravenous steroids
11.5.4 Intravenous dyes
11.5.5 Controlled substances from Schedules II thru V
11.5.6 Antivirals or Antifungal Agents
11.5.7 Propofol (Diprivan)
11.5.8 Anesthesia drugs
11.5.9 Edrophonium (Tensilon)
11.5.10 Neurotoxins
11.5.11 Insulin or Diabetic drugs
11.5.12 Cardiovascular drugs
11.5.13 Dermatologic fillers
11.5.14 Hyperosmotics
11.5.15. Seizure drugs
11.5.16 Hormones
11.5.17 Antipsychotics
11.5.18 Multiple Sclerosis drugs
11.5.19 Blood thinners
11.5.20 Flu shots
11.5.21 Hepatitis Vaccines
11.5.22 Pneumonia Vaccines
11.5.23 Allergy drugs and testing

9

Types of Injections that should be Prohibited Due to the High Risk of Complications to the Patient

1. **Retrobulbar** –Placing a long needle through the skin and along side the ball of the eye, between muscles (not visible), and then into the "cone" of the orbit beside the optic nerve (nerve from the eye to the brain that carries the information of sight).
    a. This procedure is high risk and can result in blindness, even in the best of hands. It is used prior to performing complex eye surgery in the operating room.
        i. The eye ball can rupture if the needle passes through
        ii. The nerve can be damaged if the needle inadvertently enters it
        iii. A serious hemorrhage can occur requiring immediate surgical intervention to save the eye/vision
    b. This procedure can result in severe respiratory depression requiring immediate critical care support or death can occur.

2. **Periocular** – similar to retrobulbar, used in the office and prior to complex eye surgery, but not quite as effective. This is a needle that passes through the skin and along side the ball of the eye, between muscles (not visible), but not into the muscle cone. The same risks of retrobulbar injection are present with this type of injection.

Retrobulbar and Periocular Blocks

INTRODUCTION

Many ophthalmologic procedures can be performed with retrobulbar blockade. This block can provide adequate anesthesia, akinesia and control of intraocular pressure as well as postoperative analgesia. **Most anesthesiologists do not perform these blocks, preferring to let the ophthalmologist place the block prior to beginning of surgery.** In these cases, the anesthesiologist often provides sedation to make the block more tolerable/comfortable for the patient.

ANATOMY:

The ciliary ganglion, a parasympathetic ganglion, lies approximately 1 cm from the posterior boundary of the orbit between the lateral surface of the optic nerve and the ophthalmic artery. Parasympathetic fibers originating in the oculomotor nerve and postganglionic fibers supply the ciliary body and pupillary sphincter muscles.

The nasociliary nerve, a branch of the ophthalmic nerve, supplies sensory innervation of the cornea, iris, and ciliary body by way of the short ciliary nerves (these short viliary nerves are 6-10 small filaments that run with the ciliary arteries).

Retrobulbar block is aimed at blocking the ciliary ganglion, ciliary nerves, and cranial nerves II, II and VI. Cranial nerve IV is not affected since it lies outside the muscle cone. When the block is performed, the local anesthetic is delivered within the muscle cone itself.

TECHNIQUE OF RETROBULBAR BLOCK:

In the adult, the distance to the ciliary ganglion from the skin is about 3.5cm. Most commonly, a 25 gauge, 35mm needle is used to reduce the risk of passage beyond the ciliary ganglion. Advancement too far can result in puncture of the vessels in the apex of the orbit.

Steps in the blockade are as follows:

1. Palpate the inferolateral margin of the orbit and make a skin wheal.

2. Ask the patient to look straight ahead. (Note: it used to be common to ask the patients to look upward and inward and some ophthalmologists may still do this. However, this seems to put the needle path close to the optic nerve, ophthalmic artery and ophthalmic vein. Looking forward seems to be better.)

3. The injection is at the junction of the lateral and middle thirds of the inferior orbital rim.

4. Advance slowly. The needle should only penetrate retrobulbar fat and intermuscular septum. If you feel resistance, the needle may be in muscle, optic nerve or wall of the eye and it should be withdrawn and redirected.

5. Advance to 35 mm (depth of the needle).

6. Inject approximately 1cc of local anesthetic at this depth and then another 1cc of local anesthetic while withdrawing the needle.

CHOICE OF LOCAL ANESTHETIC:
The most commonly used local anesthetic agents are a 1:1 mixture of 2% lidocaine with 0.5 or 0.75% bupivicaine. Some like to use epinephrine or hyaluronidase.

OOCULOCARDIAC REFLEX
Bradycardia, junctional rhythm, or asystole can occur secondary to traction on the eye and ocular muscles. This is called the oculocardiac reflex (OCR). Better knowledge and aggressive treatment has decreased serious morbidity from this reflex from 1 in 3,500 to less than 1 in 100,000.

Atropine of glycopyrrolate can be used to treat this reflex (some recommend that it be given prophylactically). OCR can occur in an empty orbit from extraocular muscle stimulation.

The afferent pathway is ciliary ganglion to ophthalmic division of trigeminal nerve to gasserian ganglion to main trigeminal sensory nucleus fourth ventricle. The efferent pathway is the vagus nerve.

Hypoxia, hypercarbia and light anesthesia potentiate this reflex and should be avoided. Retrobulbar block does not guarantee attenuation of this reflex, so use caution when massaging the eye after placing the block. (The eye is commonly massaged with light pressure after the local anesthetic is injected to promote onset and completeness of the block.

COMPLICATIONS OF RETROBULBAR and PERIOCULAR BLOCK:

Retrobulbar Hemmorhage: This is the most common complication seen and is due to inadvertant puncture of vessels within the

retrobulbar space. It is evidenced by the simultaneous appearance of an excellent motor block of the globe, closing of the upper lid, proptosis and a palpable increase in intraocular pressure. Subconjunctival blood and eyelid ecchymosis may be seen as the hemmorhage extends anteriorly. Retrobulbar hemmorhage can lead to other complications such as central retinal artery occlusion and stimulation of the oculocardiac reflex. That said, many are minimal or even subclinical. On a rare occasion, surgery may be continued. However, it is usually considered the best course of action to postpone surgery for 2-4 days after hemmorhage because of the risk of repeat hemmorhage.

Oculocardiac Reflex: As discussed above. Note that this can occur several hours later in the event of an expanding hemmorhage. Thus, the patient should be closely monitored for several hours following a hemmorhage. If the OCR develops, surgical stimulation should stop and intravenous atropine is the treatment of choice (0.007 mg/kg).

Central Retinal Artery Occlusion: This can result from retrobulbar hemmorhage and may result in total loss of vision if not treated. If retrobulbar hemmorhage occurs, the patient's intraocular pressure and central retinal artery pulsations should be monitored. If external pressure on the globe is high enough to result in compression of the retinal arteries, then the surgeon will perform a deep lateral canthotomy or an anterior chamber paracentesis to decompress the orbit. This complication can also occur if the dura is penetrated and the local anesthetic is injected into the subarachnoid space.

Puncture of the Posterior Globe: Use of a blunted needle is common in an attempt to reduce this complication. However, this puncture can still occur and is more likely in patients with severely myopic eye ("long eye") or requiring repeated anesthetic injections. The patient experiences immediate ocular pain and restlessness following perforation. Intraocular hemmorhage and retinal detachment may occur.

Penetration of the Optic Nerve: Direct injury to the nerve, injection into the nerve sheath with compression ischemia and intramural sheath hemmorhage can result in optic atrophy and loss of vision even without retrobulbar hemmorhage. (See previous discussion concerning asking the patient to look forward during blockade)

Inadvertant Brain Stem Anesthesia: Accidental injection into the CSF can occur during the block due to perforation of the meningeal

sheaths that surround the optic nerve. The patient may experience disorientation, amaurosis fugax, aphasia, hemiplegia, unconsciousness, convulsions, and respiratory or cardiac arrest. The incidence of this is estimated in studies to be 0.13%. Direct injection intravascularly via the optic nerve sheath or local anesthesia carried by the ophthalmic and internal carotid artery by retrograde flow to the thalamus and midbrain can also present the same way. This situation requires prompt recognition and treatment (including airway control, respiratory support, possible cardiac intervention, etc.)

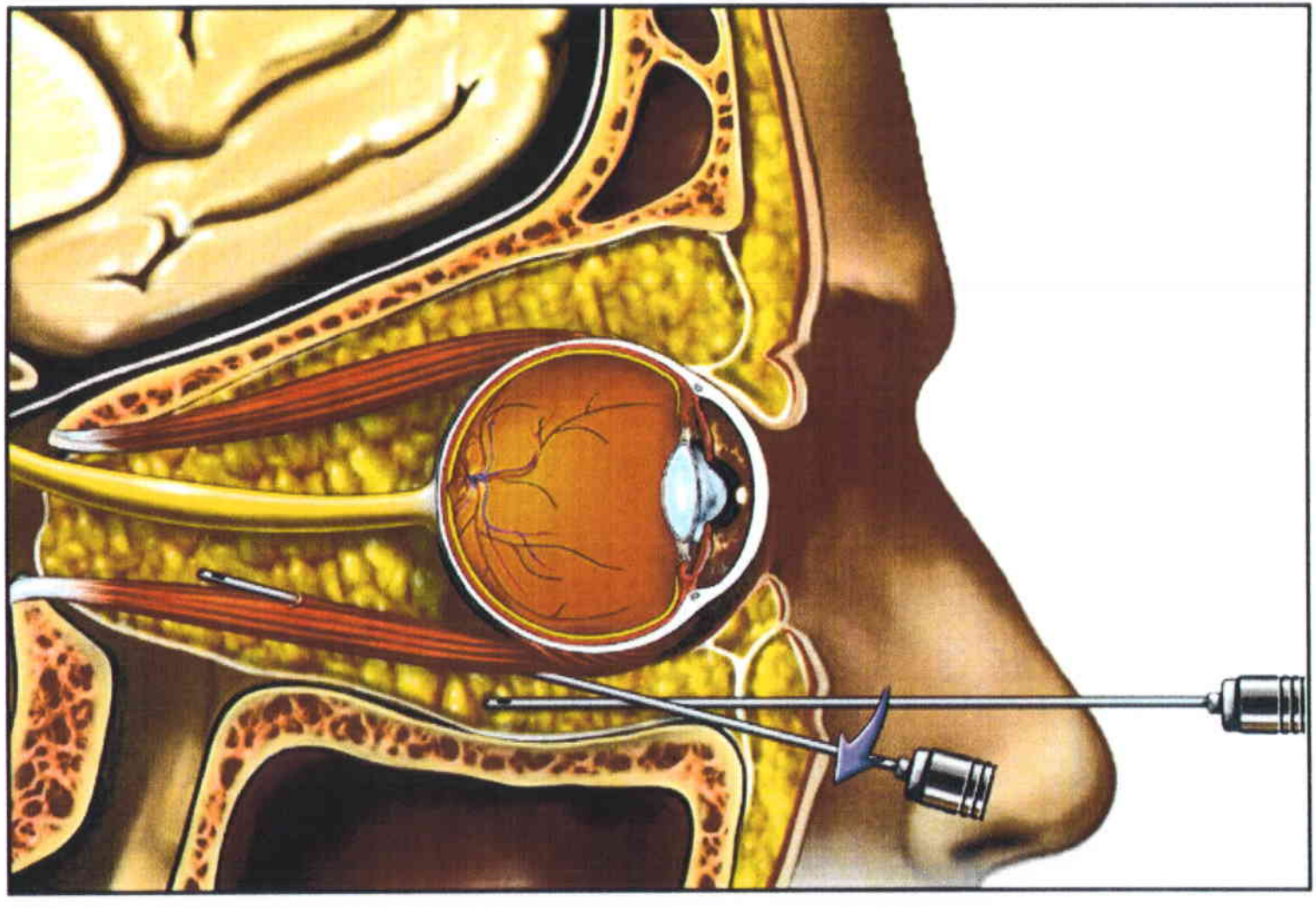
Epinephrine Toxicity: In patients with hypertension, angina, or arryhthmias, the amount of epinephrine injected with the local anesthetic should be reduced. Injections of a total of 0.05 mg (10cc of 1:200,000) of epinephrine does not contribute significantly to problems in these patients. In fact, the release of endogenous catecholamines in reponse to suboptimal analgesia may greatly exceed the small amount of exogenous epinephrine administered.

Other Complications: Allergic reactions may occur to the ester-type local anesthetics. Blocks usually last 2 to 3 hours. If the block wears off before surgery is complete, supplementation of the retrobulbar block may be risky when the eyeball is open. The volume of injected fluid, edema, or hemmorhage may distort original anatomy and make surgery difficult.

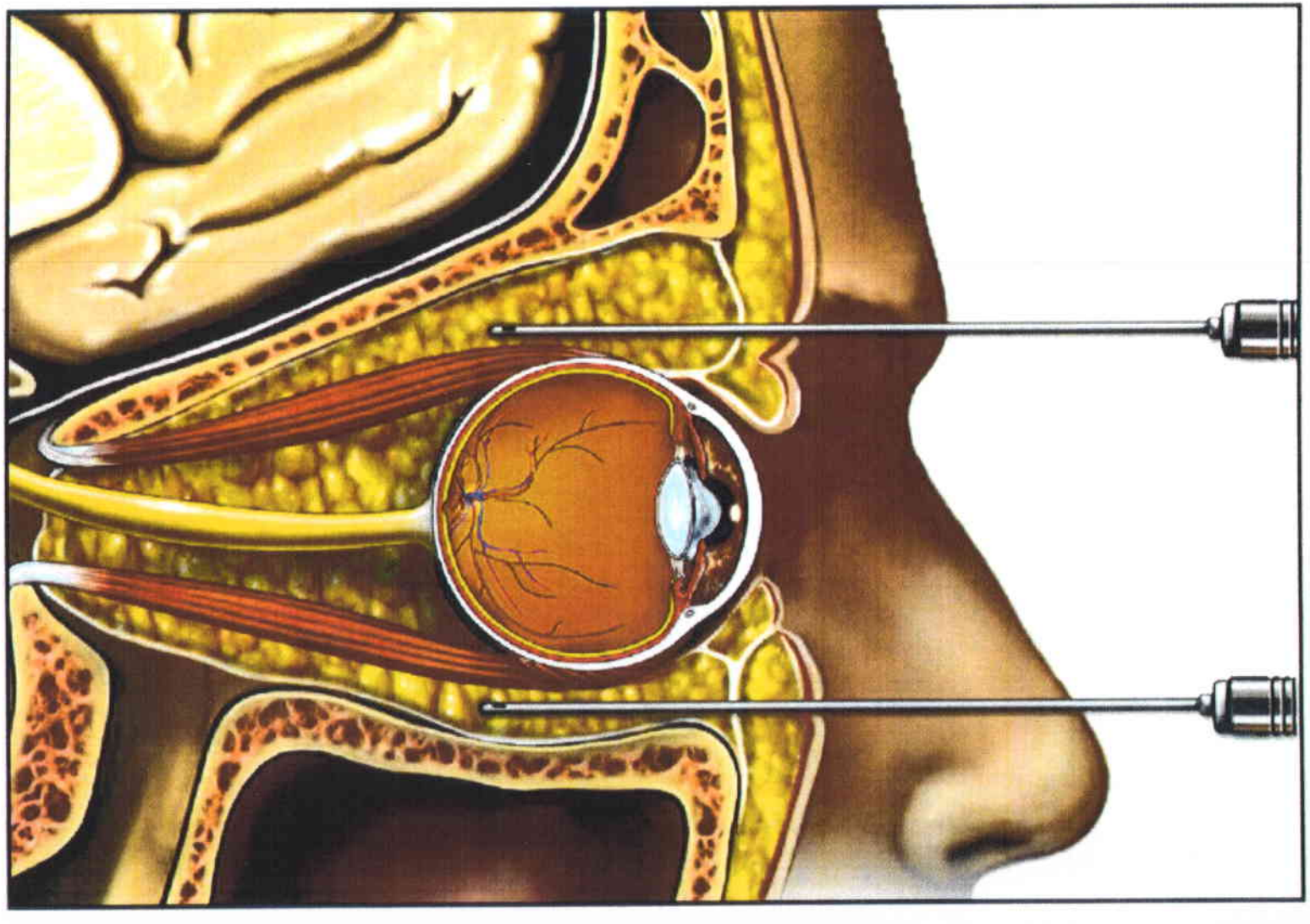
CONTRAINDICATIONS TO RETROBULBAR BLOCK:

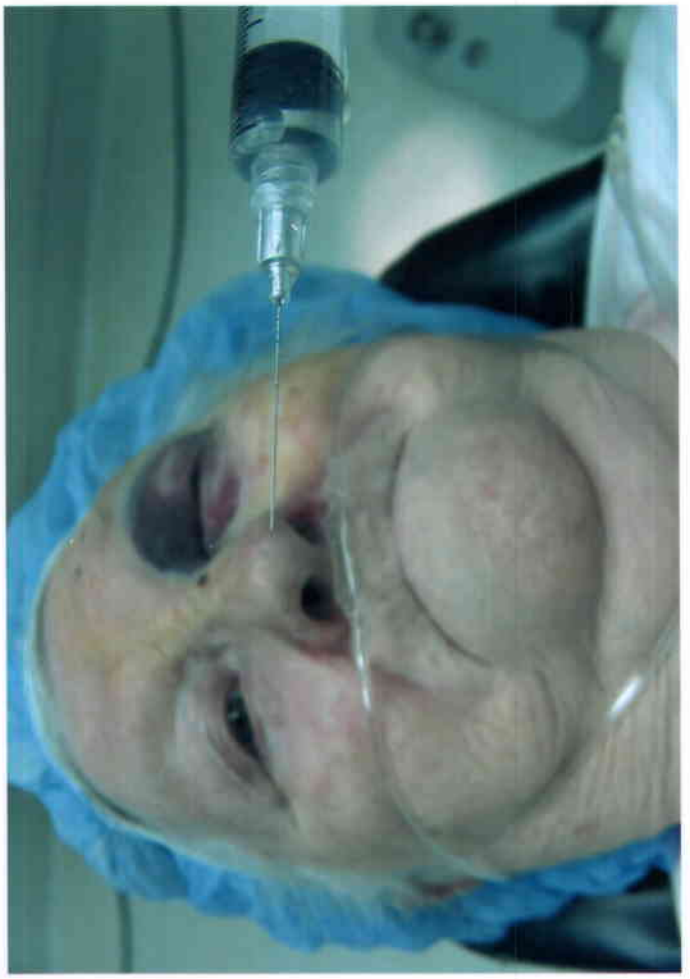
- Age less than 15 years old
- Procedures lasting significantly more than 90 minutes
- Uncontrolled cough, tremor or convulsive disorder
- Disorientation or mental impairment
- Excessive anxiety or claustrophobia
- Language barrier or deafness
- Bleeding or coagulation disorders (some surgeon will proceed despite mild coagulopathy)
- Perforated globe
- Inability to lie flat

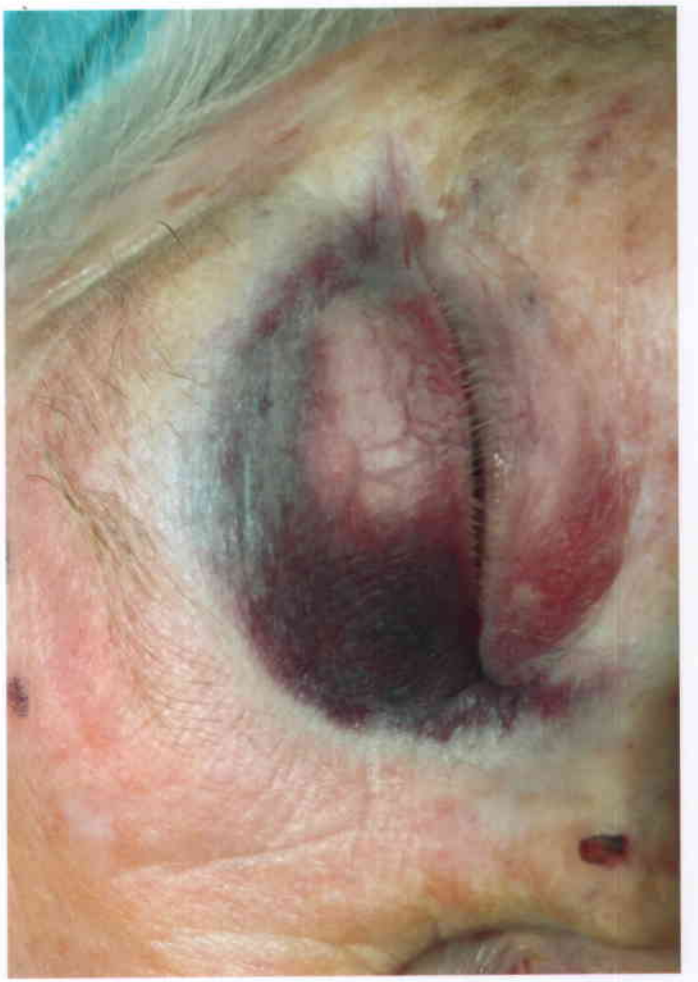
Retrobulbar Injection

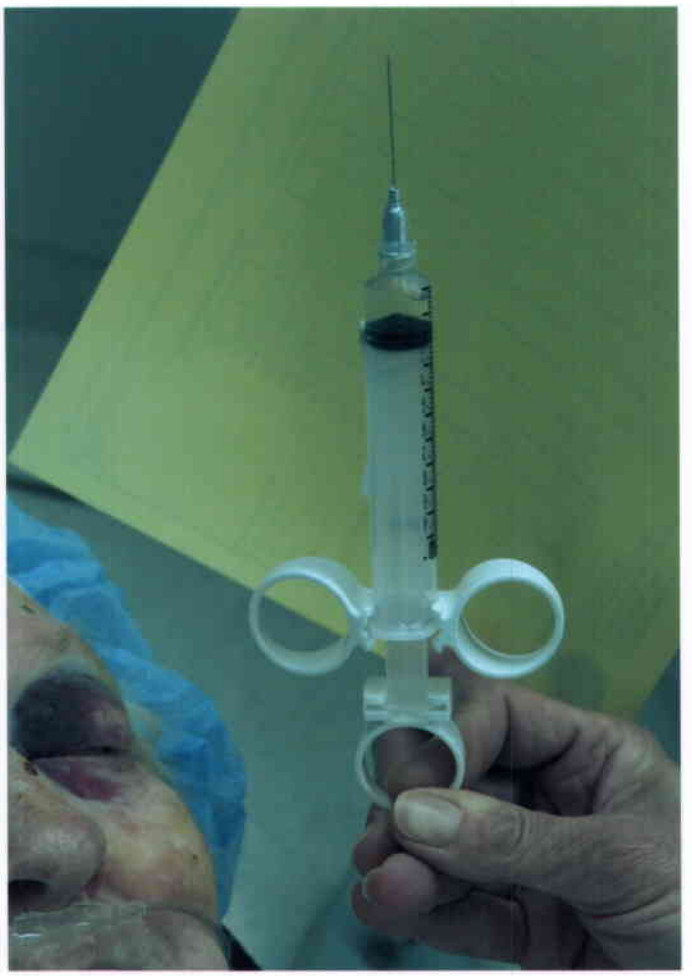


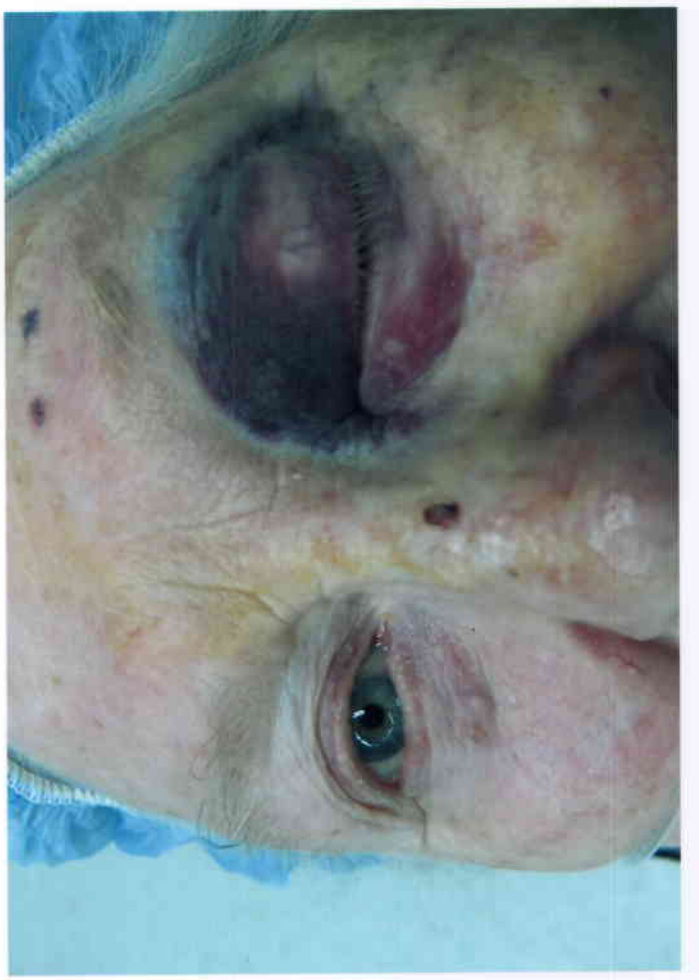
Peribulbar Injection











10

Categories of Drugs by Injection that should be prohibited and why

Category of drug	What the drugs are used for	What are potential complications/notes
Chemotherapy drugs	• Primarily to fight all types of cancer • Assist in Autoimmune diseases that affect the kidney and lung (Wegener's)	• Liver failure • heart failure, • kidney failure • bowel failure • tissue death (necrosis) • death
Immunosuppressive drugs	• Prevent the rejection of transplanted organs and tissues (e.g., bone marrow, heart, kidney, liver) • Treat autoimmune diseases or diseases that are most likely of autoimmune origin (e.g., rheumatoid arthritis, multiple sclerosis, myasthenia gravis, systemic lupus erythematosus, focal segmental kidney failure, Bowel disease, pemphigus (skin sloughing • Treat some other non-autoimmune inflammatory diseases (e.g., long term allergic asthma control).	• less able to resist infections • spread of malignant cells • hypertension (high blood pressure) • dyslipidemia (high fat in the blood) • hyperglycemia • peptic ulcers • liver injury • kidney injury • Interaction with other medicines can cause a number of adverse affects
Intravenous steroids	• Treat Multiple sclerosis • Treat Immune diseases • Rarely given for eye disease and	• Rapid heart beat • Reduced immunity (increased infection risk • Flushing of the face and skin

	when it is it is done in the hospital due to the high risk of complications	• Retaining fluid • Mood swings • Electrolyte imbalance • Diabetes • Stomach ulcers and bleeding • Severe acne • Osteoporosis • Loss of blood flow to the hip • Insomnia • Nausea • Convulsions • Increased risk of blood clots • Passed thru breast milk • Miscarriage • Interfering with other medications causing a multitude of reactions
Intravenous dyes	• Imaging studies such as radiological testing and evaluation of the vascular system in the eye • Fluorescein angiograms (FA – this is the primary dye imaging test in ophthalmology) • Fluorescein angiograms are rarely used by general ophthalmologists • This test has virtually been replaced by non-invasive and less expensive imaging called OCT ($40 vs $110)	• Pain • Syncope (passing out) • Cardiac arrest, heart attack • Hives • Laryngeal edema (swelling of the larynx in the throat) • Bronchospasm (problems breathing) • Extravasation (spilling into the skin that can cause severe pain, sloughing off of the skin and localized necrosis (skin death) • Scarring • Atrophy of muscles • Toxic neuritis (inflammation of nerves

		Notes: • According to WV Retinal specialists – only about 5% of the imaging is done to diagnose rare conditions • Over 95% of the time, the FA is done to direct treatment of existing retinal disease by the retinal specialist • General ophthalmologists almost always refer to a retinal specialist if there is a need for an angiogram • Retinal specialists demand high quality imaging to determine treatment options and immediate interpretation and treatment – virtually every FA that is done on the outside must be repeated • Interpretation of the test results must be done by a physician who has had extensive training in treating patients with retinal diseases, not based on classroom lectures, but based on supervised clinical training.
Controlled substances from Schedules II – V	• Drugs that have addictive potential (lower the number, the more addictive) • Drugs that alter mental status • Drugs that are used for anesthesia • Drugs that if given by injection have an enhanced action due to immediate onset • **These classes of drugs are severely restricted in the**	• Respiratory arrest • Cardiac arrest • Brain death • Seizures • Liver failure • Kidney failure • Electrolyte imbalance (alteration of the chemicals in the blood) • Death

	optometry oral formulary (Narcotics limited to 3 days by mouth)	
Antivirals and Antifungals	• Drugs to treat severe whole body viral infections or potentially blinding eye disease • Drugs to treat severe whole body fungal infections or potentially blinding eye disease	
Propofol (Diprivan)	• Used to quickly alter the state of consciousness • Anesthesia, Monitored Anesthesia Care	• Respiratory depression (Apnea) • Decreased cardiac output • Low blood pressure • High blood pressure • Neurological jerking • Seizures • Death Note: • This is known as the Michael Jackson drug
Anesthesia drugs	• Family of drugs to provide anesthesia by injection of local tissues, by conscious sedation, by general anesthesia	• Rash; hives; itching; • difficulty breathing • tightness in the chest • swelling of the throat, mouth, face, lips, or tongue • choking • confusion • dizziness or lightheadedness • fast breathing • fast, slow, or irregular heartbeat • fever

		• mood or mental changes • ringing in the ears or hearing changes • heart failure • liver failure • kidney failure • death Note: None of the procedures allowed in the current law require any type of anesthesia and therefore there is no need for any type of anesthetics. To grant injections of these agents with significant risk does not make since if there is nothing in the law that would require them.
Edrophonium (Tensilon)	• Used as a test to diagnose the condition Myasthenia Gravis	• swelling of your face, lips, tongue, or throat • chest pain, weak pulse, increased sweating, and dizziness; • feeling like you might pass out; • weak or shallow breathing; • urinating more than usual; • seizures (convulsions); or • trouble swallowing. • watery eyes, vision problems • changes in your voice; • mild nausea, vomiting, diarrhea, stomach pain; • weakness; or • muscle twitching.
Neurotoxins	• Drugs that damage nerve cells • In medicine, certain toxins can be	• Droopy eyelids • Nausea

	used to assist with neurological disorders or alter nerve function	• Muscle weakness
		• Aggravate heart disease
		• Difficulty swallowing
		• Facial pain
		• Indigestion or heartburn
		• Tooth problems -- up to 1 percent
		• High blood pressure (hypertension)
		• Difficulty swallowing
		• Vertical misalignment of the eye (vertical deviation)
		• Upper respiratory infection (such as the common cold)
		• Neck pain
		• Headache
		• Dizziness
		• Dry Mouth
		• Serious problems if the patient has the following medical diseases
		  o Amyotrophic lateral sclerosis (ALS)
		  o Myasthenia gravis
		  o Lambert-Eaton syndrome
		
		Note: -- The use of Neurotoxins to the nerves of the face falls outside of the scope of practice as allowed in current law. The areas injected in the face would be outside of the area called "ocular appendages"

		which are structures that help with the direct function of the eye. The forehead, nose, temporal region of the face and the mid face are not part of the "ocular appendages".
Insulin or Diabetic Drugs	• To treat diabetes and the complications of diabetes	• Diabetic Coma • Insulin reaction with severe low blood sugar • Infection at injection site • Severe allergic reactions (rash; hives; itching) • difficulty breathing • tightness in the chest • swelling of the mouth, face, lips, or tongue • wheezing • muscle pain • changes in vision • chills • confusion • dizziness • drowsiness • fainting • fast or irregular heartbeat • headache • loss of consciousness • mood changes • seizures; slurred speech • swelling • tremor • weakness.
Cardiovascular drugs	• This is a large family of drugs that are used to treat heart and	• Marked drug interactions • Slow heart rate

	blood vessel diseases	• Fast heart rate • Volume depletion (severe dehydration) • Kidney failure • Liver failure • Hemorrhaging • Bowel complications • Severe leg cramps • Fluid in the lungs
Dermatologic Fillers	• Fillers are used by Dermatologists and Plastic Surgeons to alter the appearance on the face o Permanent Derm fillers (Polyacrylamide, polyalkylamide)? o Non-permanent Derm fillers (Restylane, Radiesse)	• allergic reactions • granulomas (scarring) • necrosis • infection • redness, swelling, and bruising • more significant bruising may develop in patients who drink alcohol, take blood thinners (including coumadin and nonsteroidal anti-inflammatory drugs), or certain herbal medications associated with prolonged bleeding; examples include vitamin E, feverfew, ginger, garlic, ginseng, and gingko, which are often underreported by patients in the screening process.
Hyperosmotics	• Drugs given by intravenous injection to quickly cause fluid loss from the body to lower pressure in the eye	• Cardiac arrest • Kidney failure • Death • Blood clots • Pulmonary edema • Coma

Seizure Drugs	• Drugs used to prevent and treat seizures caused by brain abnormalities	• High blood pressure • Heart Block • Respiratory Depression requiring intubation • Requires intensive care management
Hormones	• Used to treat whole body hormonal abnormalities • Growth Hormones • Female hormones • Male hormones • Thyroid disease • Breast Cancer	• Long term injections of hormones can cause serious dysfunction of the male and female organs • Effects on the adrenal glands and regulation of body chemicals can occur with serious side effects • Human Growth Hormone should only be used by a physician trained in childhood endocrine problems
Antipsychotics	• Used on an acute basis for a psychotic break	• Neurological complications occur
Multiple Sclerosis Drugs	• A group of four drugs referred to as CRAB drugs	• Flu-like symptoms • Depression • Liver damage • Destruction of fat cells • Local reaction at site of injections
Blood thinners	• Drugs to cause the thinning of blood such as Heparin and Levonox • Used to prevent clotting on an acute basis	• Can result in bleeding and the complications of blood loss • Can cause serious side effects due to drug interactions and systemic diseases such as stomach ulers
Flu Shots	• Self-explanatory	• Complications can occur if a patient has a respiratory or immune system problem • Fever • Rash

		• Hives • Severe allergic reaction with respiratory compromise
Hepatitis Vaccines	• Vaccines for those at risk such as health care workers	• Swelling of face, mouth tongue • Severe allergic reaction with breathing problems • Fever, chills • Neuropathy • Severe neurological disease of the brain
Pneumonia Vaccines	• Used to prevent certain types of lung infections in those at risk	• Swelling, redness, fever • Racing of the heart • Swelling of the tongue • Severe fatigue • Contraindicated in some elderly
Allergy drugs and testing	• Used by ENT and Allergy doctors to identify specific allergies to formulate a treatment protocol • Requires extensive training in residency and often a fellowship	• Many medications interfere with allergy testing • Itching, swelling • Shortness of breath • Severe allergic reaction

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W.Va. Code Chapter 30 Article 8

AN ACT to repeal § 30-8- 2a, § 30-8- 2b, § 30-8- 3a, § 30-8- 3b and § 30-8- 5a of the Code of West Virginia, 1931, as amended; to amend and reenact § 30-8- 1, § 30-8- 2, § 30-8- 3, § 30-8- 4, § 30-8- 5, § 30- 8- 6, § 30-8- 7, § 30-8- 8, § 30-8- 9, § 30-8- 10 and § 30-8- 11 of said code; and to amend said code by adding thereto eleven new sections, designated § 30-8- 12, § 30-8- 13, § 30-8- 14, § 30-8- 15, § 30-8- 16, § 30-8- 17, § 30-8- 18, § 30-8- 19, § 30-8- 20, § 30-8- 21 and § 30-8- 22 , all relating to the Board of Optometry; prohibiting the practice of optometry without a license or permit; providing other applicable sections; providing definitions; providing the board composition; setting forth the powers and duties of the board; clarifying the rule-making authority; clarifying the scope of practice; establishing expanded authority for injections; continuing a special revenue account; licensing requirements; exemptions; providing for licensure for persons licensed in another state; clarifying prescriptive authority; clarifying injection authority; establishing special volunteer license; optometric business requirements; establishing renewal requirements; providing permit requirements; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; providing criminal penalties; and providing that a single act is evidence of practice.

Be it enacted by the Legislature of West Virginia:
That sections §30-8-2a, § 30-8-2b, § 30-8-3a, § 30-8-3b, and §30- 8-5a of the Code of West Virginia, 1931, as amended, be repealed; that § 30-8- 1, § 30-8- 2, § 30-8- 3, § 30-8- 4, § 30-8- 5, § 30-8- 6, § 30-8- 7, § 30-8- 8, § 30-8- 9, § 30-8- 10 and § 30-8- 11 of said code be amended and reenacted; and that said code be amended by adding thereto eleven new sections, designated § 30-8- 12, § 30-8- 13, § 30-8- 14, § 30-8- 15, § 30-8- 16, § 30-8- 17, § 30-8- 18, § 30-8- 19, § 30-8- 20, § 30-8- 21 and § 30- 8- 22, all to read as follows:

ARTICLE 8. OPTOMETRISTS.

§30-8-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice optometry in this state without a license or permit issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that they are an optometrist unless the person has been duly licensed or permitted under the provisions of this article.
(b) A business entity may not render any service or engage in any activity which, if rendered or engaged in by an individual, would constitute the practice of optometry, except through a licensee or permittee.
(c) A licensee may not practice optometry as an employee of any commercial or mercantile establishment.
(d) A licensee may not practice optometry on premises not separate from premises whereon eyeglasses, lenses, eyeglass frames or any other merchandise or products are sold by any other person. For the purposes of this section, any room or suite of rooms in which optometry is practiced shall be considered separate premises if it has a separate and direct entrance from a street or public hallway or corridor within a building, which corridor is partitioned off by partitions from floor to ceiling.
(e) A person who is not licensed under this article as an optometrist may not characterize himself or herself as an "optometrist" or "doctor of optometry" nor may a person use the designation "OD".

§30-8-2. Applicable law.

The practice of optometry and the Board of Optometry are subject to the provisions of article one of this chapter, the provisions of this article and the board's rules.

§30-8-3. Definitions.

As used in this article:
(a) "Appendages" means the eyelids, the eyebrows, the conjunctiva and the lacrimal apparatus.
(b) "Applicant" means any person making application for a license, certificate or temporary permit under the provisions of this article.
(c) "Board" means the West Virginia Board of Optometry.
(d) "Business entity" means any firm, partnership, association, company, corporation, limited partnership, limited liability company or other entity owned by licensees that practices optometry.
(e) "Certificate" means a prescription certificate issued under section fifteen of this article.
(f) "Certificate holder" means a person authorized to prescribe certain drugs under section fifteen of this article.
(g) "Examination, diagnosis and treatment" means a method compatible with accredited optometric education and professional competence pursuant to this article.
(h) "License" means a license to practice optometry.

(i) "Licensee" means an optometrist licensed under the provisions of this article.
(j) "Ophthalmologist" means a physician specializing in ophthalmology licenced in West Virginia to practice medicine and surgery under article thereof this chapter or osteopathy under article fourteen of this chapter.
(k) "Permittee" means a person holding a temporary permit.
(l) "Practice of optometry" means the examining, diagnosing and treating of any visual defect or abnormal condition of the human eye or its appendages within the scope established in this article or associated rules.
(m) "Temporary permit" or "permit" means a permit issued to a person who has graduated from an approved school, has taken the examination prescribed by the board, and is awaiting the results of the examination.

§30-8-4. Board of Optometry.

(a) The West Virginia Board of Optometry is continued. The members of the board in office on July 1, 2010, shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.
(b) The board shall consist of the following members appointed by the Governor, by and with the advice and consent of the Senate:
(1) Five licensed optometrists; and
(2) Two citizen members, who are not licensed under the provisions of this article and who do not perform any services related to the practice of the profession regulated under the provisions of this article.
(c) Each licensed member of the board, at the time of his or her appointment, must have held a professional license in this state for a period of not less than three years immediately preceding the appointment.
(d) Each member of the board must be a resident of this state during the appointment term.
(e) The term shall be three years. A member may not serve more than two consecutive full terms. A member may continue to serve until a successor has been appointed and has qualified.
(f) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant and the appointment shall be made within sixty days of the vacancy.
(g) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.
(h) A member of the board immediately and automatically forfeits membership to the board if his or her license to practice is suspended or revoked, is convicted of a felony under the laws of any jurisdiction, or becomes a nonresident of this state.
(i) The board shall elect annually a president and a secretary-treasurer from its members who serve at the will of the board.
(j) Each member of the board is entitled to compensation and expense reimbursement in accordance with article one of this chapter.
(k) A majority of the members of the board constitutes a quorum.
(l) The board shall hold at least two meetings a year. Other meetings may be held at the call of the president or upon the written request of two members at the time and place as designated in the call or request.

(m) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

§30-8-5. Powers and duties of the board.

(a) The board has all the powers and duties set forth in this article, by rule, in article one of this chapter and elsewhere in law.
(b) The board shall:
(1) Hold meetings, conduct hearings and administer examinations;
(2) Establish requirements for licenses, certificates and permits;
(3) Establish procedures for submitting, approving and rejecting applications for licenses, certificates and permits;
(4) Determine the qualifications of any applicant for licenses, certificates and permits;
(5) Prepare, conduct, administer and grade examinations for licenses;
(6) Determine the passing grade for the examinations;
(7) Maintain records of the examinations by the board or a third party administer, including the number of persons taking the examinations and the pass and fail rate;
(8) Hire, discharge, establish the job requirements and fix the compensation of the executive secretary;
(9) Maintain an office and hire, discharge, establish the job requirements and fix the compensation of employees, investigators and contracted employees necessary to enforce the provisions of this article;
(10) Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;
(11) Conduct disciplinary hearings of persons regulated by the board;
(12) Determine disciplinary action and issue orders;
(13) Institute appropriate legal action for the enforcement of the provisions of this article;
(14) Maintain an accurate registry of names and addresses of all licensees regulated by the board;
(15) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;
(16) Establish the continuing education requirements for licensees;
(17) Issue, renew, combine, deny, suspend, revoke or reinstate licenses, certificates and permits;
(18) Establish a fee schedule;
(19) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and
(20) Take all other actions necessary and proper to effectuate the purposes of this article.
(c) The board may:
(1) Contract with third parties to administer the examinations required under the provisions of this article;
(2) Sue and be sued in its official name as an agency of this state; and
(3) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

§30-8-6. Rulemaking.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty- nine-a of this code, to implement the provisions of this article, including:
(1) Standards and requirements for licenses, certificates and permits;
(2) Procedures for examinations and reexaminations;
(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;
(4) Educational and experience requirements;
(5) The passing grade on the examinations;
(6) Standards for approval of courses and curriculum;
(7) Procedures for the issuance and renewal of licenses, certificates and permits;
(8) A fee schedule;
(9) A prescription drug formulary classifying those categories of oral drugs rational to the diagnosis and treatment of visual defects or abnormal conditions of the human eye and its appendages, which may be prescribed by licensees from Schedules III, IV and V of the Uniform Controlled Substances Act. The drug formulary may also include oral antibiotics, oral nonsteroidal anti-inflammatory drugs and oral carbonic anhydrase inhibitors;
(10) Requirements for prescribing and dispensing contact lenses that contain and deliver pharmaceutical agents that have been approved by the Food and Drug Administration as a drug;
(11) Continuing education requirements for licensees;
(12) The procedures for denying, suspending, revoking, reinstating or limiting the practice of licensees, certificate holders and permittees;
(13) Requirements for inactive or revoked licenses, certificates or permits;
(14) Requirements for an expanded scope of practice for those procedures that are taught at 50% of all accredited optometry schools; and
(15) Any other rules necessary to effectuate the provisions of this article.
(b) All of the board's rules in effect on July 1, 2010, shall remain in effect until they are amended or repealed, and references to provisions of former enactments of this article are interpreted to mean provisions of this article.
(c) The board shall promulgate procedural and interpretive rules in accordance with section eight, article three, chapter twenty-nine-a of this code.

§30-8-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the "West Virginia Board of Optometry Fund", which is continued. The fund is used by the board for the administration of this article. Except as may be provided in article one of this chapter, the board retains the amount in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.
(b) Any amount received as fines, imposed pursuant to this article, shall be deposited into the General Revenue Fund of the State Treasury.

§30-8-8. License to practice optometry.

(a) To be eligible for a license to engage in the practice of optometry, the applicant must:
(1) Be at least twenty-one years of age;
(2) Be of good moral character;
(3) Graduate from a school approved by the Accreditation Council on Optometric Education or successor organization;
(4) Pass an examination prescribed by the board;
(5) Complete an interview with the board;
(6) Not be addicted to the use of alcohol, drugs or other controlled substances;
(7) Not have been convicted of a felony in any jurisdiction within ten years preceding the date of application for license, which conviction has not been reversed; and
(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of optometry, which conviction has not been reversed.
(b) A registration to practice issued by the board prior to July 1, 2010, shall for all purposes be considered a license issued under this article: *Provided,* That a person holding a registration issued prior to July 1, 2010, must renew pursuant to the provisions of this article.

§30-8-9. Scope of Practice.

(a) An licensee may:
(1) Examine, diagnosis and treat diseases and conditions of the human eye and its appendage within the scope established in this article or associated rules ;
(2) Administer or prescribe any drug for topical application to the anterior segment of the human eye for use in the examination, diagnosis or treatment of diseases and conditions of the human eye and its appendages: *Provided,* That the licensee has first obtained a certificate;
(3)(A) Administer or prescribe any drug from the drug formulary, as established by the board pursuant to section six of this article, for use in the examination, diagnosis or treatment of diseases and conditions of the human eye and its appendages: *Provided,* That the licensee has first obtained a certificate;
(B) New drugs and new drug indications may be added to the drug formulary by approval of the board;
(4) Administer epinephrine by injection to treat emergency cases of anaphylaxis or anaphylactic shock;
(5) Prescribe and dispense contact lenses that contain and deliver pharmaceutical agents and that have been approved by the Food and Drug Administration as a drug;
(6) Prescribe, fit, apply, replace, duplicate or alter lenses, prisms, contact lenses, orthoptics, vision training, vision rehabilitation;
(7) Perform the following procedures:
(A) Remove a foreign body from the ocular surface and adnexa utilizing a non-intrusive method;
(B) Remove a foreign body, external eye, conjunctival, superficial, using topical anesthesia;
(C) Remove embedded foreign bodies or concretions from conjunctiva, using topical anesthesia, not involving sclera;
(D) Remove corneal foreign body not through to the second layer of the cornea using topical anesthesia;

(E) Epilation of lashes by forceps;
(F) Closure of punctum by plug; and
(G) Dilation of the lacrimal puncta with or without irrigation;
(8) Furnish or provide any prosthetic device to correct or relieve any defects or abnormal conditions of the human eye and its appendages;
(9) Order laboratory tests rational to the examination, diagnosis, and treatment of a disease or condition of the human eye and its appendages;
(10) Use a diagnostic laser; and
(11) A licensee is also permitted to perform those procedures authorized by the board prior to January 1, 2010.
(b) A licensee may not:
(1) Perform surgery except as provided in this article or by legislative rule;
(2) Use a therapeutic laser;
(3) Use Schedule II controlled substances;
(4) Treat systemic disease; or
(5) Present to the public that he or she is a specialist in surgery of the eye.

§30-8-10. Exceptions from licensure.

The following persons are exempt from licensure under this article:
(1) Persons licensed to practice medicine and surgery under article three of this chapter or osteopathy under article fourteen of this chapter; and
(2) Persons and business entities who sell or manufacture ocular devices in a permanently established place of business, who neither practice nor attempt to practice optometry.

§30-8-11. Issuance of license; renewal of license; renewal fee.

(a) A licensee shall annually or biennially on or before July 1, renew his or her license by completing a form prescribed by the board, paying the renewal fee and submitting any other information required by the board.
(b) The board shall charge a fee for renewal of a license, and a late fee for any renewal not paid by the due date.
(c) The board shall require as a condition of renewal of a license that each licensee complete continuing education.
(d) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

§30-8-12. Temporary permits.

(a) Upon proper application and the payment of a fee, the board may issue, without examination, a temporary permit to engage in the practice of optometry in this state.
(b) If the permittee receives a passing score on the examination, a temporary permit expires thirty days after the permittee receives the results of the examination.

(c)If the permittee receives a failing score on the examination, the temporary permit expires immediately.
(d) An applicant under this subsection may only be issued one temporary permit. Upon the expiration of a temporary permit, a person may not practice as an optometrist until he or she is fully licensed under the provisions of this article. In no event may a permittee practice on a temporary permit beyond a period of ninety consecutive days.
(e) A temporary permittee under this section shall work under the supervision of a licensee, with the scope of such supervision to be defined by the board by legislative rule.

§30-8-13. License from another jurisdiction; license to practice in this state.

(a) The board may issue a license to practice to an applicant of good moral character who holds a valid license or other authorization to practice optometry from another jurisdiction, if the applicant demonstrates that he or she:
(1) Holds a license or other authorization to practice optometry in another state which requirements are substantially equivalent to those required in this state;
(2) Does not have charges pending against his or her license or other authorization to practice, and has never had a license or other authorization to practice revoked;
(3) Has not previously failed an examination for professional licensure in this state;
(4) Has paid the applicable fee;
(5) Has passed the examination prescribed by the board; and
(6) Has fulfilled any other requirement specified by the board.
(b) In its discretion, the board may interview and examine an applicant for licensing under this section. The board may enter into agreements for reciprocal licensing with other jurisdictions having substantially similar requirements for licensure.

§30-8-14. Prescriptive authority.

(a) A licensee may prescribe: (1) topical pharmaceutical agents, (2) oral pharmaceutical agents that are included in the drug formulary established by the board pursuant to section six of this article or new drugs or new drug indications added by a decision of the board, and (3) contact lenses that contain and deliver pharmaceutical agents that have been approved by the Food and Drug Administration as a drug.
(b) An applicant must:
(1) Submit a completed application;
(2) Pay the appropriate fee;
(3) Show proof of current liability insurance coverage;
(4) Complete the board required training;
(5) Pass an examination; and
(6) Complete any other criteria the board may establish by rule.

§30-8-15. Administration of injectable pharmaceutical agents

(a) A licensee may not administer pharmaceutical agents by injection, other than epinephrine to treat emergency cases of anaphylaxis or anaphylactic shock, unless the provisions of this section, along with any legislative rule promulgated pursuant to this section, have been met.
(b) Additional pharmaceutical agents by injection may be included in the rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code. These rules shall provide, at a minimum, for the following:
(1) Establishment of a course, or provide a list of approved courses, in administration of pharmaceutical agents by injection;
(2) Definitive treatment guidelines which shall include, but not be limited to, appropriate observation for an adverse reaction of an individual following the administration of a pharmaceutical agent by injection;
(3) A requirement that a licensee shall have completed a board approved injectable administration course and completed an American Red Cross or American Heart Association basic life-support training, and maintain certification in the same;
(4) Continuing education requirements for this area of practice;
(5) Reporting requirements for licensees administering pharmaceutical agents by injection to report to the primary care physician or other licensed health care provider as identified by the person receiving the pharmaceutical agent by injection;
(6) Reporting requirements for licensees administering pharmaceutical agents by injection to report to the appropriate entities;
(7) That a licensee may not delegate the authority to administer pharmaceutical agents by injection to any other person; and
(8) Any other provisions necessary to implement the provisions of this section.

(c) In no event may a licensee be granted authority under this section to administer a pharmaceutical agent by injection directly into the globe of the eye.

§30-8-16. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for optometrists who are retired or are retiring from the active practice of optometry and wish to donate their expertise for the care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge.
(b) The special volunteer license shall be issued by the board to optometrists licensed or otherwise eligible for licensure under this article without the payment of an application fee, license fee or renewal fee, and shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements.
(c) The board shall develop application forms for the special volunteer license provided in this section which shall contain the optometrist's acknowledgment that:
(1) The optometrist's practice under the special volunteer license will be exclusively devoted to providing optometrical care to needy and indigent persons in West Virginia;
(2) The optometrist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any optometrical services rendered

under the special volunteer license;
(3) The optometrist will supply any supporting documentation that the board may reasonably require; and
(4) The optometrist agrees to continue to participate in continuing education as required by the board for a special volunteer license.
(d) Any optometrist who renders any optometrical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer license authorized under this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the optometrical service at the clinic unless the act or omission was the result of the optometrist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, before the rendering of any services by the optometrist at the clinic, there must be a written agreement between the optometrist and the clinic stating that the optometrist will provide voluntary uncompensated optometrical services under the control of the clinic to patients of the clinic before the rendering of any services by the optometrist at the clinic: *Provided,* That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.
(e) Notwithstanding the provisions of subsection (d) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an optometrist rendering voluntary optometrical services at or for the clinic under a special volunteer license under this section.
(f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure in this article except the fee requirements.
(g) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any optometrist whose license is or has been subject to any disciplinary action or to any optometrist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a license.
(h) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any optometrist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an optometrist who holds a special volunteer license.

§30-8-17. Optometric business entities.

(a) Only licensees may own a business entity that practices optometry.
(b) A licensee may be employed by the business entity.
(c) A business entity shall cease to engage in the practice of optometry when it is not wholly owned by licensees: *Provided,* That the personal representative of a deceased shareholder shall

have a period, not to exceed eighteen months from the date of such shareholder's death, to dispose of such shares.

§30-8-18. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of any person cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules of the board.
(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee, certificate holder or permittee.
(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article.
(d) Upon a finding that probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license, certificate or permit or the imposition of sanctions against the licensee, certificate holder or permittee. Any hearing shall be held in accordance with the provisions of this article, and the provisions of articles five and six, chapter twenty-nine-a of this code.
(e) Any member of the board or the executive secretary of the board may issue subpoenas and subpoenas duces tecum on behalf of the board to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.
(f) Any member of the board or its executive secretary may sign a consent decree or other legal document on behalf of the board.
(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the license, certificate or permit of, impose probationary conditions upon or take disciplinary action against, any licensee, certificate holder or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:
(1) Obtaining a license, certificate or permit by fraud, misrepresentation or concealment of material facts;
(2) Being convicted of a felony or other crime involving moral turpitude;
(3) Being guilty of unprofessional conduct which placed the public at risk;
(4) Intentional violation of a lawful order;
(5) Having had an authorization to practice optometry revoked, suspended, other disciplinary action taken, by the proper authorities of another jurisdiction;
(6) Having had an application to practice optometry denied by the proper authorities of another jurisdiction;
(7) Exceeded the scope of practice of optometry;
(8) Aiding or abetting unlicensed practice;
(9) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare or safety of the public; or
(10) False and deceptive advertising; this includes, but is not limited to, the following:
(A) Advertising "free examination of eyes," or words of similar import and meaning; or
(B) Advertising frames or mountings for glasses, contact lenses, or other optical devices which

does not accurately describe the same in all its component parts.
(h) For the purposes of subsection (g) of this section disciplinary action may include:
(1) Reprimand;
(2) Probation;
(3) Administrative fine, not to exceed $1,000 per day per violation;
(4) Mandatory attendance at continuing education seminars or other training;
(5) Practicing under supervision or other restriction;
(6) Requiring the licensee or certificate holders to report to the board for periodic interviews for a specified period of time; or
(7) Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

§30-8-19. Procedures for hearing; right of appeal.

(a) Hearings shall be governed by the provisions of section eight, article one of this chapter.
(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.
(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.
(d) Any member or the executive secretary of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.
(e) If, after a hearing, the board determines the licensee, certificate holder or permittee has violated the provisions of this article or the board's legislative rules, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

§30-8-20. Judicial review.

Any licensee, certificate holder or permittee adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

§30-8-21. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a licensee, certificate holder or permittee has committed a criminal offense under this article, the board may bring its information to the attention of an appropriate law-enforcement official.
(b) A person violating section one of this article is guilty of a misdemeanor and, upon conviction

thereof, shall be fined not less than $1,000 nor more than $5,000 or confined in jail not more than six months, or both fined and confined.

§30-8-22. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

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July 16, 2010

Gregory S. Moore, O.D.
President, West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, VW 25301

Dear Dr. Moore:

On behalf of the American College of Surgeons (ACS), representing over 77,000 surgeons of which over 340 are in West Virginia, I am writing to state our concerns of proposed regulations, 14-11 and 14-2, filed with the West Virginia Secretary of State by the Board of Optometry in response to S.B. 230. The proposed regulations would significantly expand the scope of practice of optometry into the practice of medicine/surgery, raising considerable patient safety concerns.

The ACS has a strong history of addressing matters relating to patient care and safety, and we are concerned that the proposed regulations would allow optometrists to practice medicine without the oversight and education requirements imposed on medical doctors. Practicing outside of their scope of practice and without proper supervision by a medical doctor may open up West Virginia citizens to unsafe practice environments and procedures.

The ACS shares the many concerns expressed by the American Academy of Ophthalmology (AAO). As stated by AAO, the proposed regulations would expand the scope of practice for optometrists far beyond what the legislature intended in passing S.B. 230. One area of major concern shared by both organizations is found in proposed regulation 14-11 which would allow an optometrist to administer and dispense injectable pharmaceutical agents. The West Virginia legislature rejected virtually identical language giving open-ended authority to the Board of Optometry to determine which injectable pharmaceutical agents optometrists would be allowed to administer. To propose a regulation that would give the Board authority to determine certification standards to allow optometrists to administer and dispense any injectable medication violates the intent of the legislature.

In the interest of patient safety, the American College of Surgeons believes that the types of procedures proposed by the Board should only be performed by a licensed Medical Doctor or Doctor of Osteopathic Medicine. Simply knowing how to perform a procedure does not make one capable of handling the possible complications affecting other organ systems, placing patients at high risk of disability or death. As such, the ACS strongly urges the Board to protect patient safety for West Virginia citizens and reject proposed regulation 14-11 and 14-2.

Sincerely,

David B. Hoyt

David B. Hoyt, MD, FACS
Executive Director

State of West Virginia
Board of Medicine

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July 19, 2010

Gregory S. Moore, O.D., President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301

Re: Proposed 14 CSR 11

Dear Dr. Moore:

On behalf of the West Virginia Board of Medicine, I am submitting the following comments on the above proposed rule. Overall, this proposed rule appears to have been hastily thrown together, and is unsatisfactory when compared with the authorizing legislation, Senate Bill 230, now codified at West Virginia Code § 30-8-15. Just for example:

14-11-3.3, relating to Education and Training, is so vague and unhelpful that it should be rewritten.

14-11-6.2 needs extensive work. The law requires the rule to provide "definitive treatment guidelines". (West Virginia Code § 30-8-15(b)(2)). "Definitive" means "explicit", "precisely outlining". What you have proposed are not definitive treatment guidelines and plainly 14-11-6.2 does not conform to the law's requirements.

14-11-7.1.4 also does not conform to the requirements of the law, West Virginia Code § 30-8-15 (b)(5). The proposed reporting language only applies "In the event that the treatment by injection has observed implications, interactions, or impact with regard to any other diagnosis or condition a patient may have or any other treatment the patient is receiving..." and is only required to be made to the primary care physician. How would the optometrist know this about all the patient's diagnoses and conditions? It would be much safer and preventive to require automatic reporting of the injection to

the primary care physician adding "or other licensed health care provider", as the law provides.

14-11-7.1.6, again is inconsistent with the authorizing legislation. West Virginia Code § 30-8-15(b)(7) clearly states that "a licensee may not delegate the authority to administer pharmaceutical agents by injection to any other person." Your proposed section 7.1.6. says that "nothing in this rule shall permit a licensee to delegate to a non certified or non licensed clinician the privilege to administer pharmaceutical agents through injection." That is quite different from the authorizing statute, particularly when it follows the sentence at 7.1.6 that "A licensee who has become certified to provide treatment by injection may work in conjunction with any certified or licensed clinician to administer agents through injection."

Your "Summary" prior to the proposed rule states that your amendment brings 14-11 into compliance with the language of Senate Bill 230 and that it sets up treatment guidelines. Respectfully, on behalf of the Board of Medicine, this simply isn't so. In the interests of patient care and in the interests of promulgating a rule which people can understand and which explains what the law requires be explained, I suggest that the Board of Optometry thoroughly dissect this proposed rule in conjunction with the enabling legislation and submit a proposed rule which is in fact in compliance with the enabling legislation and which is more clear and detailed than this one.

Thank you for your consideration.

Sincerely,

Robert C. Knittle

lab

July 22, 2010

Gregory S. Moore, O.D.
President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, West Virginia 25301

Dear Dr. Moore,

On behalf of the more than 12,000 U.S. members of the American Academy of Dermatology Association (AADA), and its 37 members in West Virginia, **I am writing to share concerns on proposed regulations (Title Number 14-2 and 14-11) pursuant to Senate Bill 230 (2010).** As medical doctors, we strongly believe these regulations endanger patient safety and jeopardize quality care, as we believe they disregard adequate and appropriate medical training, particularly with regard to injections.

Although we understand it is the role of the Board of Optometry to interpret SB 230, the proposed regulations radically expand optometric scope of practice well beyond the very clear legislative intent of the final legislation.

Our utmost concern, in all states, is to ensure that medical and surgical procedures are performed by licensed physicians or by appropriate providers under the direct, onsite supervision of a licensed physician. The practice of dermatology includes, but is not limited to, performing any act or procedure that can alter or cause biologic change or damage to the skin and subcutaneous tissue. The AADA maintains a steadfast position that these procedures should be performed only by an appropriately trained physician or non-physician personnel under the direct, on-site supervision of an appropriately trained physician.

The Proposed Regulations Endanger Patient Safety

> §14-1-1.1. Scope. – This rule establishes the requirements, procedures and standards for the certification of a licensee with the authority to administer and dispense injectable pharmaceutical agents.
>
> §14-11-6.2. The licensee shall adhere to generally accepted standards of care and follow established clinical guidelines for administering injections.
>
> §14-11-6.3. ...a licensee shall only administer agents through injection that are for the treatment and management of abnormalities of the eye and its adnexa.

American Academy of Dermatology Association
Excellence in Dermatology℠

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[illegible]

Proposed regulation 14-11, in total, would expand the scope of practice for optometrists by issuing open-ended authority to the Board to determine the certification standards for when an optometrist may administer and dispense injectable pharmaceutical agents.

As you are fully aware, the legislature extensively debated and specifically rejected virtually identical language that would have given open-ended authority to the Board of Optometry to determine which injectable pharmaceutical agents optometrists would be allowed to administer. Furthermore, the House-Senate Conference Committee removed the similar language contained in 14-11 and amended SB 230 to specifically limit injections to the administration of epinephrine by injection to treat emergency cases of anaphylaxis or anaphylactic shock. **The proposed regulations blatantly disregard the legislature's decision regarding the administration of injectable products.**

Moreover, the proposed regulations do not adequately define the adnexa or appendages of the eye in which an optometrist may administer injections, nor do the regulations address the types of pharmaceutical agents which would be approved for use by licensed optometrists. These omissions provide open-ended authority to optometrists to make decisions on their own behalf of what is included in the adnexa of the eye or qualifies as an appendage. For example, these provisions would allow optometrists to administer botulinum toxin to the forehead or a collagen filler device to the nasolabial folds of the face, if independently deemed an "appendage" of the eye.

> §14-11-3.1. An applicant for a certificate to administer injectable pharmaceutical agents shall complete and successfully pass an approved course in the administration of pharmaceuticals by injection.

The short-term training course proposed in regulations 14-11-3.1 is in no way equivalent to a physician's training and understanding of a medical procedure and its implications for each patient. Ultimately, patient safety and quality of care could be seriously compromised.

Complications from procedures such as injections may include unexpected bleeding, scars, allergic reactions, and infection, among other concerns. Physicians performing these procedures have years of formal training in residencies to quickly recognize and address complications. Complications can occur in the best of hands, but they occur too often when injected by professionals who are inadequately trained. For example, when an individual decides to undergo facial augmentation with injectables, the purpose is generally to improve appearance; therefore, any sequelae that actually worsens the patient's appearance is a significant complication.

To pass these provisions now as regulations would be to deliberately undermine the legislative intent and debate on SB 230. These regulations are not in the best interest of West Virginians and could result in adverse events.

We respectfully urge you to reconsider the provisions of these regulations to be aligned with the legislative intent of SB 230. The AADA appreciates the opportunity to comment on this important issue. For further information, please contact Kathryn Chandra, Assistant Director of State Policy for the AADA, at (kchandra@aad.org) or (202) 712-2615.

Sincerely,

William D. James MD

William D. James, MD, FAAD
President, American Academy of Dermatology Association
WDJ/kgc

AMA
AMERICAN
MEDICAL
ASSOCIATION

Michael D. Maves, MD, MBA, Executive Vice President, CEO

July 23, 2010

Gregory S. Moore, OD
President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301

Dear Dr. Moore:

On behalf of the medical student and physician members of the American Medical Association (AMA), I am writing to highlight our concerns regarding Proposed Regulations 14-2 and 14-11. The AMA appreciates the opportunity to provide comment regarding these regulations, which – as currently proposed – raise significant patient safety issues that we believe must be addressed to ensure high quality eye and medical care for West Virginia's patients.

Specific comments are below that outline our top-level concerns, but the AMA believes a more appropriate course of action is for the West Virginia Board of Optometry (WVBO) to retract the proposed regulations until such time that the WVBO and the physician community in West Virginia can mutually agree how to best ensure the safety of West Virginia's patients.

West Virginia law clearly limits optometric prescriptive authority to the human eye and prohibits optometric authority to treat systemic disease

- Pursuant to the definition of the "practice of optometry,"[1] the West Virginia legislature clearly intended to limit optometric scope of practice to the human eye. Furthermore, the West Virginia legislature also clearly intended to limit optometric administration and prescription to a limited range of pharmaceuticals for treatment focused solely on the eye.[2]

- Proposed Regulations §14-2-2, §14-2-6 and §14-2-7, however, have the potential to greatly expand optometric scope of practice to pharmaceuticals that have whole-body systemic effects – clearly beyond the intent of the West Virginia Legislature and in violation of West Virginia law.

- West Virginia Code §30-8-9 clearly states that "a licensee may not treat systemic disease."[3] However, Proposed Regulation §14-2-6 creates a vast formulary for pharmaceuticals that have unquestionable systemic effects, including oral antibiotics, oral nonsteroidal anti-inflammatory drugs, antihistamines, analgesics and more. Incredibly, the only guidance that the WVBO provides to guide optometrists is that the prescription be "rational." Without physician supervision, patient safety is put at risk.

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[1] W.V. Code §30-8-3(l) "Practice of optometry" means the examining, diagnosing and treating of any visual defect or abnormal condition of the human eye or its appendages within the scope established in this article or associated rules.
[2] *See generally,* W.V. Code §30-8-9 and §30-8-14.
[3] W.V. Code §30-8-9(b)(3)

- Without much greater specificity and thorough revision, Proposed Regulations §14-2-2 and §14-2-6 would place patients in dangerous situations beyond an optometrist's education and training. The AMA does not dispute that optometrists provide valuable eye-care services. However, the West Virginia legislature specifically prohibits the WVBO from authorizing prescriptive authority for drugs that have systemic effects. As such, the AMA strongly urges the WVBO to go back to the drawing board and work with the medical community to satisfy and follow the will of the West Virginia legislature.

West Virginia law clearly limits optometric authority for injections only in emergency situations

- The AMA considers the injection of diagnostic or therapeutic substances into body cavities, internal organs, joints, sensory organs, and the central nervous system to be surgery. Patient safety can only be assured when surgical procedures are done by a physician. The West Virginia legislature takes the same approach in having clearly prohibited optometrists from performing surgery.[4]

- In direct contravention of West Virginia law, however, Proposed Regulation §14-2-7.1.b purports to allow the injection of pharmaceuticals. What makes the proposed regulation even more concerning is that it does not specify where the injections are to occur: in the human eye? In the central nervous system? In an artery? Therefore, not only does Proposed Regulation §14-2-7.1.b violate West Virginia's prohibition against performing surgery, it also violates West Virginia law (as described above) that prohibits optometrists from using treatments that have systemic effects.

Proposed educational requirements raise troubling patient safety concerns

- Proposed Regulation §14-2 suggests that by virtue of taking "***a*** course in clinical pharmacology as applied to optometry," that consists of a mere "***30 hours in clinical systemic pharmacology***," (emphasis added) optometrists will somehow gain the requisite education and training to safely prescribe any Schedule III-V pharmaceutical by any route, whether topical, oral or by injection. There are numerous patient safety concerns that this proposed regulation raises.

- As explained above, pharmaceutical agents, such as those proposed by the WVBO, undeniably have broad systemic effects. To suggest that they are limited only as applied to optometry demonstrates the false presumption and emphasizes the great patient safety concerns raised by physicians in West Virginia. The reason that ophthalmologists and other physicians safely prescribe pharmaceuticals is because they have the specific education, training and understanding of how pharmaceuticals affect the entire person.

- Proposed Regulation §14-11-3 not only violates West Virginia's law prohibiting optometrists from performing surgery, but its educational requirements are severely vague and deficient. Specifically, upon whom will the optometric students practice injections, and who will supervise for potential adverse reactions? The proposed regulation makes no mention of any minimum standards other than stating that the WVBO "shall accept ***any*** course for injection certification" (emphasis added) from an optometric-accrediting institution.

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[4] *See* W.V. Code §30-8-9(b)(1).

The proposed treatment guidelines and other patient protections are severely lacking

- Proposed Regulation §14-11-6 appears to try and put forward patient protections, but the vague requirement for a prescribing optometrist to follow "generally accepted standards of care" does not specify what standards those may be. Are they standards for medical care that go beyond the legal scope of practice for optometrists? Or are they optometric prescribing standards of care that are not defined in statute or regulation? This troubling lack of specificity must be addressed before the WVBO moves forward with this proposed rule.

- The only protection apparently afforded by proposed regulation is an after-the-fact reporting requirement of Proposed Regulation §14-11-7. Optometrists only are required to report "observed" adverse reactions. Many adverse reactions, however, may not manifest until after the patient leaves the office.

- Furthermore, without a thorough understanding of system effects and whole-body diagnosis, an optometrist would be woefully unprepared to assist a patient who has an adverse reaction either in the office or after the injection. While the AMA supports the reporting requirement of adverse reactions and "unexpected side effect(s)," the AMA believes a safer approach would be to do everything possible to avoid those potentially dangerous situations altogether. The AMA believes Proposed Regulation §14-11-7 puts the patient directly in harm's way.

The AMA appreciates the opportunity to provide these comments, and we strongly urge the WVBO to retract the proposed regulations until such time that the numerous patient safety issues are specifically addressed to the mutual satisfaction of West Virginia's physician and optometric communities. The AMA did not support Senate Bill 230 because we believe that it exposes patients to unnecessary risk, and we are even more concerned by the proposed regulations, which put patients in even greater danger.

Thank you for your consideration.

Sincerely,

Michael D. Maves, MD, MBA

cc: Evan Jenkins
David Parke, MD

AMERICAN ACADEMY OF OPHTHALMOLOGY
The Eye M.D. Association

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July 23, 2010

Gregory S. Moore, O.D.
President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, West Virginia 25301

Dear Dr. Moore:

On behalf of the American Academy of Ophthalmology, we are writing to state our concern on the series of proposed regulations filed with the West Virginia Secretary of State by the Board of Optometry in response to Senate Bill 230 passed by the West Virginia State Legislature and signed by Governor Manchin this spring. As medical doctors and doctors of osteopathy who care deeply for the welfare of our patients, we want to ensure the highest quality eye care for West Virginia residents.

As we understand it, the Board's role is to interpret Senate Bill 230 by issuing regulations to clarify the scope of practice of optometrists in West Virginia in preparation for the new law going into effect. However, we have grave concerns with the Board's proposed regulations. These proposed regulations would significantly expand the optometric scope of practice well beyond the very clear legislative intent of Senate Bill 230. In particular, proposed Regulations 14-11 and 14-2 are significant departures from Senate Bill 230.

Proposed Regulation 14-11

Proposed Regulation 14-11 would expand the optometric scope of practice far beyond what the legislature intended in Senate Bill 230 by issuing open-ended, blank check authority to the Board to determine certification standards for when an optometrist may administer and dispense injectable pharmaceutical agents. The legislature extensively debated and specifically rejected virtually identical language giving open-ended authority to the Board of Optometry to determine which injectable pharmaceutical agents optometrist would be allowed to administer. As you are fully aware, the House-Senate Conference Committee removed the similar language and amended SB 230 to specifically limit injections to the administration of epinephrine by injection to treat emergency cases of anaphylaxis or anaphylactic shock. To now propose a regulation that would give the Board authority to determine certification standards to allow optometrists to administer and dispense any injectable medication defiantly and glaringly violates the intent of the West Virginia Legislature. In fact, these injection provisions were drafted with such blatant disregard of the intent of the state legislature that although this language would allow optometrists to "work in conjunction with any certified or licensed clinician to administer agents through injection," SB 230 specifically prohibits optometrists from delegating the authority to administer injections **to any other person**. Moreover, the introduction of the term "dispense" would appear to allow optometrist to also sell injectable medications, an entirely new provision that was never included in any version of Senate Bill 230. In fact, as you know, the West Virginia Legislature in SB 230 only authorized optometrists to dispense contact lenses that contain and deliver pharmaceutical agents and that have been approved by the Food and Drug Administration as a drug.

AMERICAN ACADEMY OF OPHTHALMOLOGY
The Eye M.D. Association

Proposed Regulation 14-2
The proposed language in 14-2 would allow the Board of Optometry to authorize optometrists to sell drugs for injections. This practice is not even allowed for topical and oral medications.

This legislation was debated for two years in the legislature and gained a good deal of national attention, because, as originally introduced, SB 230 would have given West Virginia optometrists one of the most expansive scopes of practice in the United States. After hours of debate, numerous hearings and several iterations of the bill, the West Virginia legislature passed a much scaled-down version of what had been originally introduced in the bill.

These proposed regulations appear to be an attempt to use the regulatory process to pass a substantial number of provisions that had been introduced in the original version of Senate Bill 230 but were later removed or amended at the legislature's direction for passage of the bill. To pass these provisions now as regulations would be to deliberately undermine what the legislature saw fit to make law after careful consideration over what is best for West Virginia residents. Even more alarming is the detrimental effect these regulations could have on the safe, quality care West Virginia patients deserve.

Thus, in the interest of patient safety, we respectfully request that the Board of Optometry retract proposed regulations 14-2 and 14-11 and any other language that does not ensure the delivery of the highest quality eye care in West Virginia. We further encourage you to work with the dedicated community of medical doctors and doctors of osteopathy in West Virginia to develop regulations that do not expand optometric scope beyond the provisions enacted by the West Virginia legislature in Senate Bill 230.

Thank you for your consideration.

Sincerely,

Randolph L. Johnston, MD
President

Cynthia A. Bradford, MD
Senior Secretary for Advocacy

Cc: West Virginia Academy of Ophthalmology
West Virginia State Medical Association

AMERICAN ACADEMY OF
OTOLARYNGOLOGY–
HEAD AND NECK SURGERY

July 23, 2010

Gregory S. Moore, OD, President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301

Re: Amended Series Number 14-2, Expanded Prescriptive Authority, and Proposed Series Number 14-11, Injectable Pharmaceutical Agents Certificate

Dear Dr. Moore:

The American Academy of Otolaryngology-Head and Neck Surgery (AAO-HNS) appreciates the opportunity to comment on amended Series Number 14-2 and proposed Series Number 14-11, both released as a result of the passage of Senate Bill 230 earlier this year. Patient safety and quality of care are of the utmost importance to the AAO-HNS; therefore, we wanted to express several concerns with the proposed rules, as written.

Specifically, with regards to Series Number 14-2, which sets forth guidelines for Expanded Prescriptive Authority, we are specifically concerned that the language appears to enable optometrists to sell injectable pharmaceuticals to patients. This dangerous provision would place patients at risk of myriad harmful and potentially life-threatening outcomes.

Series Number 14-11 is also problematic as written, as it inappropriately undermines the intention of the Legislature, which sought to provide certain optometrists the authority to administer injections of epinephrine for the purpose of treating emergency cases of anaphylaxis or anaphylactic shock. In addition, the Legislature intended injections to be administered only by certificate holders. However, this rule would enable the Board of Optometry to permit certificate holders to administer other injectables, which are not even clarified in the proposed rule. In addition, this rule would permit optometrists, who are not themselves adequately trained to respond to the potential adverse outcomes of the administration of injectables, to delegate and supervise the administration of any injectable by any certified or licensed clinician. Not only does this proposed rule disregard the language of the enrolled Senate Bill 230, but it would place patients at risk of undergoing procedures for which those administering or supervising the injections are not adequately trained to respond should a complication or adverse reaction occur.

In the interest of patient safety and ensuring quality of care, the AAO-HNS strongly urges the Board of Optometry to revise amended Series Number 14-2 and proposed Series Number 14-11 to address these concerns. With questions, you may contact Jenna Kappel, Director of Health Policy, at 1-703-535-3724 or jkappel@entnet.org. Thank you for your consideration.

Sincerely,

David R. Nielsen MD

David R. Nielsen, MD
Executive Vice President and CEO

WEST VIRGINIA ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR WEST VIRGINIA

July 23, 2010

Gregory S. Moore, O.D., President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301

Dear Dr. Moore:

The West Virginia Academy of Family Physicians is the largest state medical specialty society in West Virginia. On behalf of our 850 practicing family physician members, we hereby express serious concerns over the rules by the Board of Optometry as filed with the Secretary of State. We do not believe these proposals are appropriate to maintain patient protections for prescription medications and injections to patients of our state.

Our particular concerns are addressed to proposed Rules 14-2 and 14-11:

Proposed Rule: 14-2

The title of this section is "ORAL PHARMACEUTICAL CERTIFICATE" and the scope section 14-2-1.1 pertains to "oral pharmaceutical prescriptive authority; however, section 14.2.7.b allows optometrists to provide the "direct sale to the patient of pharmaceuticals by injection" if approved by the FDA. This is clearly inappropriate to this section for oral drugs and also is of concern as optometrists are not allowed to sell other drugs to patients, and licensed physicians and surgeons are required to obtain a special license to sell any prescription drug to a patient.

While section 14-2-6.2 authorizes the Board of Optometry to develop by rule a formulary of categories of oral drugs, there is no approved drug formulary provided for new drugs or new drug category indications as contained in section 14-2-6.2e. This is a severe lack of patient protection to have an unrestricted use of all new drugs or drug categories without a drug formulary specifically contained in this rule.

Optometrists are not clinically trained in the systemic use of prescription medications and it is important for the medical care of patients to carefully evaluate how any prescribed medication affects not only in and around the eye, but more importantly, the rest of the body. It is also important for any prescriber to have the knowledge of all other medications used by the patient to measure adverse systemic medical affects and contraindications, which optometrists

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are not clinically trained to do. It seems only appropriate that the provisions of the proposed rule must require consultation or approval with the patient's family physician before these prescription medications are allowed.
For these reasons, this rule should be modified to prohibit the direct sale by optometrists of any drug by injections to patients, create and include a total drug formulary for legislative approval, and require consultation or approval by a primary care physician (PCP) for any medications prescribed by an optometrist.

Proposed Rule: 14-11
While the provisions of SB 230 allows the Board of Optometry to propose a rule relating to permissive use of injections under certain circumstances by optometrists, the rule fails to provide any specifics and is violative of the statutory authorization.

The legislature was very cautious about allowing optometrists to administer injections, and for good cause. The proposed rule fails to provide the need for optometrists to give injections, the circumstances of the injection, the types of injections allowed, the medications to be injected, the allowable age of the patient receiving injections, or the body location of the injections.

The proposed rule purports to say that reporting procedures in the rule "serves to inform the patient's PCP as to the rationale and outcome of treatment by an optometrist," but the rule actually fails to do this in all cases when an injection would be given, and we strongly disagree that it does not provide that communication to the PCP or safety protection for the patient.

Of critical concern to family physicians is the lack of required consultation or approval of injections for an optometrist by the primary care physician, which endangers patient care. In fact, most injections, if any, should not be legislatively approved by rule for administration by an optometrist, particularly to pediatric patients, and in other cases on-site availability of a primary care physician should be required to handle emergency treatment for adverse patient reactions.

For these reasons, this rule should be withdrawn.

It is the position of the West Virginia Academy of Family Physicians that 14-2 and 14-11 of the proposed rules by the Board of Optometry, actually lowers the standard of medical care and pharmaceutical treatment for West Virginians, while failing to provide any demonstrated need, any cost savings, or any lack of accessibility and availability of quality eye care.

Sincerely,
Sidney B. Jackson, MD
Sidney B. Jackson, MD
WVAFP President

American Society of
Anesthesiologists

1501 M Street, N.W. • Suite 300 • Washington, D.C. 20005 • (202) 289-2222 • Fax: (202) 371-0384 • mail@ASAwash.org

July 23, 2010

Gregory S. Moore, O.D.
President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, WV 25301

Dear Dr. Moore:

The American Society of Anesthesiologists (ASA), an association representing more than 44,000 anesthesiologists, appreciates the opportunity to express our concern regarding proposed regulations that are intended to implement Senate Bill 230. As leaders in patient safety, we want to ensure the highest quality care for West Virginia residents. We believe the proposals would jeopardize patient safety as currently written.

Proposed regulation 14-11 would expand optometric scope of practice by providing broad discretion to the Board to determine certification standards for when an optometrist may administer and dispense injectable pharmaceutical agents. In fact, the legislature extensively debated and specifically rejected similar language. Additionally, proposed regulation 14-12, which would authorize optometrists to sell drugs for injections, had been debated by the legislature for two years and ultimately rejected. Therefore, both proposals not only jeopardize patient safety, but are also attempts to circumvent the legislature by expanding the scope of practice of an optometrist. ASA believes that the state legislature has unambiguously represented the interests of the citizens of West Virginia and that the Board's proposed action undermines the proper authority of the legislature to direct the regulatory agencies.

We urge the West Virginia Board of Optometry to rewrite the rules in a manner that will not only conform to the intent of S.B 230, but will also protect the patients of West Virginia.

Sincerely,

Alexander A. Hannenberg, M.D.
President
American Society of Anesthesiologists

cc: David W. Parke II, MD

AMERICAN SOCIETY OF PLASTIC SURGEONS
PLASTIC SURGERY EDUCATIONAL FOUNDATION

Executive Office
444 East Algonquin Road • Arlington Heights, IL 60005-4664
847-228-9900 • Fax 847-228-9131 • www.plasticsurgery.org

July 23, 2010

Gregory S. Moore, O.D.
President
West Virginia Board of Optometry
179 Summers Street, Suite 231
Charleston, W.V. 25301

Dear Dr. Moore,

On behalf of the American Society of Plastic Surgeons (ASPS), I am writing to express serious concerns with the West Virginia Board of Optometry's (the Board's) current proposed regulations (14-2 and 14-11). We believe these proposals, which were drafted in response to the recent passage of Senate Bill 230, raise considerable patient safety concerns for the citizens of West Virginia . ASPS appreciates the opportunity to provide comment regarding this issue.

ASPS shares the concerns of the American Academy of Ophthalmology, the American College of Surgeons, and the American Medical Association—specifically, with the Board's effort to codify language allowing an optometrist to administer and dispense injectable pharmaceutical agents. In its consideration of SB 230, the West Virginia legislature earlier this year explicitly rejected nearly identical language after extensive study and hearing lengthy debate on all sides. While very useful when used and managed appropriately in the therapeutic setting, complex pharmaceuticals can have potentially dangerous complications. Only physicians have the clinical and educational background to best protect patients in the rare instance when an allergic reaction or some other life-threatening complication arises when these drugs are administered orally or via injection. The proposed regulation (14-11) patently ignores the intent of the bill in giving authority to the Board to decide and control which injectable pharmaceutical agents optometrists are allowed to administer.

Proposed regulations 14-2 and 14-11 would allow optometrists to perform procedures that fall well within the practice of medicine and outside the bounds of West Virginia law which governs optometric scope of practice. We believe this is a direct affront to patient safety.

Thank you again for the opportunity to register comment and for your consideration.

Sincerely,

Michael F. McGuire, MD
President
American Society of Plastic Surgeons

To: The Honorable Co Chairs of the Legislative Rule- Making Review Committee: Joseph M. Minard and Bonnie Brown
From: West Virginia Board of Medicine Executive Director, Robert C. Knittle
Date: December 8, 2010
Re: Proposed Optometry Rules 14 CSR 2 and 11

On behalf of the West Virginia Board of Medicine I am writing in complete support of the position of the West Virginia Academy of Eye Physicians and Surgeons regarding the above proposed rules. In the opinion of this Board the proposed rule 11 CSR 11 should have been withdrawn and the Board of Optometry should have started again to draft a proposed rule that actually complied with the provisions of S.B. 230, and we expressed that to the Board of Optometry. Since that has not been done, if your committee will not vote the proposed rule down, the Board of Medicine respectfully requests that the committee accept all the suggestions of the West Virginia Academy of Eye Physicians and Surgeons to make the proposed rule safer for the public.

The West Virginia Board of Medicine supports the position of the West Virginia Academy of Eye Physicians and Surgeons with respect to 14 CSR 2 .

Thank you for your consideration.

Robert C. Knittle
Executive Director
WV Board of Medicine
304.558.2921 ext. 227

December 10, 2010

The Honorable Joseph Minard
Rule-Making Review Committee
West Virginia State Senate
Room 206 W. Building 1
State Capitol Complex
Charleston, WV 2530

The Honorable Bonnie Brown
Rule-Making Committee
West Virginia House of Delegates
Room 207 E. Building 1
State Capitol Complex
Charleston, WV 25305

Dear Chairman Minard and Chairwoman Brown:

We are writing today to state our concern and objection toward a series of proposed regulations submitted by the West Virginia Board of Optometry to the Legislative Rule-Making Review Committee for review and consideration in compliance with the West Virginia Administrative Procedures Act. In July of 2010, medical organizations submitted correspondence to the West Virginia Board of Optometry voicing concern and objection to the adoption of proposed optometric Regulations 14CSR-2 and 14CSR-11. It is our belief that the proposed regulations pose a threat to quality of care for West Virginia citizens.

In spite of these medical concerns, the Board met on July 28th and took final action to submit to the Legislative Rule Making Committee Regulation 14CSR-2 with only minor changes and 14CSR-11 as originally proposed by the Board. As medical doctors and doctors of osteopathy who care deeply for the welfare of our patients, we want to continue to ensure the highest quality eye care for West Virginia residents. The Board action with regards to these specific regulations is not in the best interests of West Virginia patient care.

The passage of Senate Bill 230 does in fact require the West Virginia Board of Optometry to issue regulations for the implementation of rules related to the law. And, in some of the administrative rules you review, it may be a matter of ensuring all the "i's" are dotted and "t's" are crossed. But, such is not the nature of the proposed optometric Regulations 14CSR-2 and 14CSR-11 before this committee. We have grave concerns with the Board of Optometry's action to approve Regulations 14CSR-2 and 14CSR-11 and believe these proposed regulations go far beyond just implementation of SB 230. These proposed regulations significantly expand the optometric scope authority well beyond the clear legislative policy intent of Senate Bill 230 as passed by the West Virginia Senate and House. In fact many of the proposals in the rules are the same issues debated and not passed in the original bill introduced. The rules were to clarify patient protections and restrictions which are critical to ensure safety to the public. Regarding injections (14CSR-2), the Board ignored all comments from multiple medical organizations and individuals, and avoided answering specific questions regarding education and safety measures.

Proposed Regulation: 14CSR-2 - ORAL PHARMACEUTICAL CERTIFICATE
Proposed Regulation 14CSR-2 would expand the authority of optometrists in West Virginia to prescribe a wide variety of prescription drugs. From a safety perspective, such authority is not in the best interests of patient eye care in West Virginia. For example, the regulation authorizes optometrists to prescribe new oral medications or medications with new indications. Oral medications affect not only the eye, but all organ systems such as the kidney, heart, brain and liver. Oral medications can also cause severe drug reactions in patients being treated for diseases other than the eye. Thus, the prescription authority authorized in proposed regulation 14CSR-2 requires more than a superficial awareness of the human body. It requires a complete understanding of all the biologic systems and their interrelationships. Such

understanding is necessary for one to safely prescribe systemic medications that can have catastrophic effects on a patient. Nowhere in the proposed rule are there built in requirements for whole body assessment of the patient's disease processes or drug interactions.

An understanding of the human body systems and the complex effects of drug interactions on these systems is gained through years of supervised medical education and training studying the interrelationship of the human body systems, not just pharmacology. Supervised systemic (whole body diseases) education is not provided in the optometric education model. The complications that could arise from the prescriptive authority well exceed the education and training of optometrists to manage. For these reasons, proposed regulation 14CSR-2 is not in the best interests of West Virginia patient eye care.

Proposed Regulation: 14CSR-11 - INJECTABLE PHARMACEUTICAL AGENTS CERTIFICATE
Proposed Regulation 14CSR-11 would expand the optometric scope of practice far beyond the policy consideration that the legislature intended as it debated and finally passed Senate Bill 230. As proposed, 14CSR-11 gives open-ended, blank check authority to the Board to determine certification standards for when an optometrist may administer and dispense injectable pharmaceutical agents. It does not address where the injections will be given, to whom they are given or what drugs will be given.

With regards to SB 230 injection language, the legislature extensively debated and specifically rejected virtually identical language giving open-ended injection authority that would have given the Board of Optometry the authority to determine which injectable pharmaceutical agents optometrist would be allowed to administer. As you know, the House-Senate Conference Committee removed the similar language and amended SB 230 to specifically limit injections to the administration of epinephrine by injection to treat emergency cases of anaphylaxis or anaphylactic shock.

To now propose a regulation that would give the Board authority to determine certification standards to allow optometrists to administer and dispense any injectable medication clearly violates the policy intent and disrespects the careful thought and time the West Virginia Legislature expended in developing language that would protect the safety of patients. For example, this language would allow optometrists to "work in conjunction with any certified or licensed clinician to administer agents through injection," (14-11-8.4.5) and would apparently allow certified licensees to delegate the administration of pharmaceutical agents through injection (14-11-9) even though SB 230 specifically prohibits optometrists from delegating the authority to administer injections to any other person (30-8-15-7).

The proposed amendment to 14-11-10 would also create a loophole to allow optometrists to sell drugs for injection. Despite language that there would be no mark up on the cost of the injectable pharmaceutical agent, in practice, this would mean that the "reasonable charge" for administration would be increased to a level that automatically builds in a hidden profit margin for the drug.

This legislation was debated for two years in the legislature and gained a good deal of national attention, because, as originally introduced, SB 230 would have given West Virginia optometrists one of the most expansive scopes of practice in the United States. After hours of debate, numerous hearings and several iterations of the bill, the West Virginia legislature passed a much scaled-down version of what had been originally introduced in the bill.

These proposed Board of Optometry regulations appear to be an attempt to use the regulatory process to pass a substantial number of provisions that had been introduced in the original version of Senate Bill 230, but in the interests of patient safety and quality care were later removed or amended at the legislature's direction for passage of the bill. To allow Regulation 14CSR-2 and 14CSR-11 as proposed by the Board of Optometry to become effective would undermine the health care policy the legislature saw fit to make law after careful consideration of what is best for West Virginia residents.

For these reasons, to ensure patient safety, we urge you to have the rules withdrawn or amend the proposed rules: 14CSR-2 - Oral Pharmaceutical Certificate and 14CSR-11- Injectable Pharmaceutical Agents Certificate. Please instruct the Board of Optometry to work with the medical community to develop regulations that uphold the legislature SB 230 policy intent and not override what the West Virginia House and Senate spent years deliberating and finally enacting. This action is in the best interest of West Virginia patient care. Such a legislative directive will ensure that West Virginia citizens continue to receive the highest quality of patient care.

Thank you for your consideration.

Sincerely,

Michael D. Maves, MD, MBA
Executive Vice President and CEO
American Medical Association

David B. Hoyt, MD, FACS
Executive Director
American College of Surgeons

Roland Goertz, MD
President
American Academy of Family Physicians

David W. Parke II, MD
Executive Vice President and CEO
American Academy of Ophthalmology

William D. James, MD, FAAD
President
American Academy of Dermatology Association

David Nielsen, MD
Executive Vice President and CEO
American Academy of Otolaryngology-Head and Neck Surgery.

Mark A. Warner, MD
President
American Society of Anesthesiologists

John J. Callaghan, MD
President
American Association of Orthopaedic Surgeons

Phillip C. Haeck, MD
President
American Society of Plastic Surgeons

THE REGISTER-HERALD.COM

December 6, 2010

Optometrists not pushing for laser surgery (http://www.register-herald.com/local/x713543506/Optometrists-not-pushing-for-laser-surgery)

By Mannix Porterfield
Register-Herald Reporter (http://www.register-herald.com)

BECKLEY — Laser surgery cut like a sharp knife through the state Senate last winter, provoking a sharp divide between senators split over a proposal to allow optometrists to perform such procedures now exclusively in the hands of ophthalmologists.

In the upcoming 2011 session, no such rift is likely, since optometrists aren't planning to pursue the heated issue again in a toe-to-toe battle with ophthalmologists.

"Absolutely not," says Chad Robinson, executive director of the West Virginia Optometric Association.

Laser surgery is being taught at a number of optometry schools across the nation, and the issue in West Virginia is one for a later time, he says.

"We want to get our rules in place first," Robinson said.

"We think the law we passed this year is a great opportunity for optometrists in West Virginia to practice what they've been taught and to allow more practices and procedures for their patients in West Virginia."

Besides, any renewed attempt to open the door to laser surgery predictably would touch off more fireworks.

"Any time you take a scope expansion for any profession, there's going to be a fight," Robinson said.

To date, the Legislature's Rule-Making Committee has given the green light to eight of 10 rules lawmakers approved in this year's regular session.

"Most of those deal with the administrative process — fees, continuing education," Robinson said.

Still in limbo, and up for consideration in this month's interims session, are rules governing the drug formulary that would permit optometrists to perform injections.

"When you think of injections into the globe of the eye, optometrists are not allowed to do that," Robinson said.

"They're excluded by law. Injections are taught at a majority, if not all, the accredited schools of optometry in the country now. So any new doctors coming out of school for the past six to 10 years have been taught that. But West Virginia optometrists were not allowed to practice that."

A typical case of an allowable injection is in the treatment of a sty.

"You can do a topical ointment, or take drops," Robinson said.

"That would take care of it. Now they can do a small injectible drug, an antibiotic, into that sty and it would go into effect immediately, instead of going through your blood system in a round-about way."

Existing law permits an optometrist to perform minor surgical procedures, and the rule on injections would be in line with that rule, he explained.

The drug formulary deals with topicals and orals, the pharmaceuticals outside Classes I and II, Robinson said.

By taking up the group's rules in a committee, optometrists see a vast improvement in the legislative process.

"The rules still have to go through the legislative process, but it's more of a simplified process," Robinson said.

"This gives the profession more authority. It's no different from dentists or MDs."

— E-mail: mannix@register-herald.com

The Register-Herald, Beckley, West Virginia 801 N. Kanawha St., P.O. Box 2398, Beckley, WV, 25802

Handout Dec. 14, 2010

PLASTIC SURGERY
INCORPORATED

Founder: D. Verne McConnell, MD 1973 - 1996

Marjorie L. Bush, MD Karl J. Mueller, MD E. Phillips Polack, MD C. Alan Tracy, MD

December 10, 2010

The Honorable Bonnie Brown
Co-Chair, Rule - Making Review Committee
West Virginia House of Delegates
Room 207 E, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Chairwoman Brown:

On behalf of the West Virginia State Chapter of the American College of Surgeons, I am asking you to consider amendments to the two rules proposed by the West Virginia Board of Optometry. These amendments address the safety and quality of health care services provided to the citizens of West Virginia.

Specifically for amendments to title 14, Series 2 – Oral Pharmaceutical Certificate. Amendment 8.1 would include a statement requiring specific criteria for continuing medical education.

Amendment 8.2 would include a statement to require "hands on" supervised clinical training.

Amendment 9.2 would add statements to hold optometrists to the same standards and education as other health care practitioners providing similar services.

Amendment 9.4 would support the requirement that an optometrist communicate with a patient's physician in regards to possible contraindications for placing a patient on a new medication in order to minimize potential adverse consequences.

In regards to title 14, series 11 – Injectable Pharmaceutical Agents Certificate. Amendment 10.1 would prohibit an optometrist from dispensing drugs without a license or require them to have a pharmacist on site which would close the loop hole allowing Optometrists to sell injectable drugs.

Amendment 10.2 would prohibit optometrists from injecting children. Children are not small adults when it comes to medical care and their treatment requires more specialized education.

Amendment 10.3, this amendment also adds a requirement for an optometrist to consult with a patient's physician prior to administering a new oral drug.

Amendment 10.4, this would prohibit the use of retro bulbar or peri-ocular injections which are at higher risk for complications which may necessitate treatment by an opthomologist.

Amendment 10.5, would provide a list of prohibited injectable medications examples of which would be chemotherapy drugs, intravenous steroids, intravenous anesthetics or neurotoxins. Optometrists are not allopathic or osteopathic physicians and their scope of practice should be specifically tailored to improve patient safety and quality care delivered to the citizens of West Virginia.

Sincerely,

C. Alan Tracy, MD
President, West Virginia Chapter
American College of Surgeons

Handout Dec. 14, 2010

West Virginia State Society of Anesthesiologists

369 Lakeview Drive, Morgantown, WV 26508

December 7, 2010

The Honorable Joseph M. Minard
Co-Chair
Rule-Making Review Committee
WV State Senate
Room 206 W, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Bonnie Brown
Co-Chair
Rule-Making Review Committee
WV House of Delegates
Room 207 E, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Chairman Minard and Chairwoman Brown:

On behalf of the West Virginia State Society of Anesthesiologists, representing more than 200 physicians who specialize in the medical practice of anesthesiology in the state of West Virginia and are dedicated to patient safety, we are writing to ask you to support amendments to the two rules proposed by the WV Board of Optometry

- Series 2—Oral Pharmaceutical Certificate

Amendments are needed to put patient protection measures in place through this rule that allows prescribing by optometrists for "New" medications or medications with "new indication". Now that this law has passed with this provision, only the rule can insert protections. Medicine believes that what the Board proposes is grossly inadequate to protect the public and there are proposed amendments to relieve our concerns. We believe it must be mandatory for an optometrist, about to start a systemic medication, to contact the primary care physician or treating physician to respond about possible contra-indications such as adverse reactions to new drug.

If there are specific side effects that affect organ systems other than the eye, the patient must be monitored by the primary care provider or treating physician to identify side effects and drug interactions.

- Series 11---Injectable Pharmaceutical Agents Certificate.

There are not enough public safety protections in the rules as proposed and we urge the Rule-Making Committee to amend the rules to provide the necessary changes to protect the public. This rule appears to be an attempt to use the regulatory process to pass a substantial number of provisions that had been introduced into SB 230 but rejected by the legislature. SB 230 allows the use of epi-pens but the rule would allow virtually any injection approved by the Board of Optometry. The amendments attempt to restrict this blatant expansion via regulation.

We believe a proposed formulary should be submitted to review the potential harmful effects of each agent, just as was done with the oral formulary – injections carry even higher risks. We have repeatedly asked for the formulary but the rule says it will be available for review at the Board office, but it is not currently included in the rule where we believe it should be publically available to legislators and other concerned individuals.

Again, a list of what the injections they want to use has been requested and never provided. Therefore, one of the amendments lists injections prohibited such as chemotherapy drugs, intravenous steroids and anesthesia drugs. Another good example of intravenous injections of concern is Fluorescein for detection of retinal diseases. We do not believe it is necessary for use by optometrists as it is rarely done by physicians other than retinal specialists who have 4 years of residency (after medical school) followed by 1-2 years of retina training to learn to interpret testing and treat retinal diseases (5-6 more years of training than an optometrist). Injections of Fluroescein into the vein are done primarily by retinal specialists to guide treatment, not make a diagnosis (newer technology available to optometrists is generally used to make the diagnosis that then requires a referral to a physician).

Of major concern is the fact that in most states with optometry schools it is against the law for optometrists to give injections, but they could come to WV and start injecting our citizens immediately out of school with little clinical training.

There are no national standards with clinical supervision and quantities of specific injections, or total injections required during training in optometry school. Clinical rotations are highly variable and rarely offer any exposure to giving injections or the treating the complications.

We oppose optometrists injecting children and patients over 65 with systemic diseases. We believe if an optometrist is to give any injections to a patient, it must be required for the optometrist to notify the patient's osteopathic or allopathic physician and give them an opportunity to respond about possible contraindications for the patient.

Thank you in advance for your consideration of our request to amend the two rules proposed by the Board of Optometry to address the concerns identified above.

Sincerely yours,

Stu Cornett MD

Stuart Cornett, MD
President, WV State Society of Anesthesiologists

Robert Johnstone

Robert E. Johnstone, MD
Secretary/Treasurer, WV State Society of Anesthesiologists

Handout Dec. 14, 2010

December 10, 2010

The Honorable Joseph M. Minard
Co-Chair
Legislative Rule-Making Review Committee
WV State Senate
Room 206 W, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Bonnie Brown
Co-Chair
Legislative Rule-Making Review Committee
WV House of Delegates
Room 207 E, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Chairman Minard and Chairwoman Brown:

On Behalf of the West Virginia State Medical Association (WVSMA) I am writing to share comment regarding the West Virginia Board of Optometry's (Board) **Rule 14 CSR 2 Expanded Prescriptive Authority and Rule 14 CSR 11 Injectable Pharmaceutical Agents Certificate.**

In our review of these rules we identified numerous questions and concerns which we relayed to the West Virginia Board of Optometry in two separate letters dated July 23, 2010. We do not feel the Board has adequately addressed the issues raised by the WVSMA and at this time are requesting the Legislative Rule-Making Review Committee consider a number of amendments critical to the implementation of the two rules. They are the following:

14 CSR 2; Expanded Prescriptive Authority
Amendments are needed to put patient protection measures in place through this rule that allow prescribing by optometrists for "new" medications or medications with "new indication". Now that this law has passed with this provision, only the rule can insert protections. The WVSMA believes that what the Board proposes is grossly inadequate to protect the public and there are proposed amendments to relieve our concerns. We believe it must be mandatory for an optometrist to contact their patient's primary care physician or treating physician to respond about possible contra-indications such as adverse reactions to new drugs.

If there are specific side effects that affect organ systems other than the eye, the patient must be monitored by their primary care provider or treating physician to identify side effects and drug interactions.

Based upon these concerns the WVSMA, along with other physician organizations, is requesting the following amendments to the rule:

8.1 Add language to require specific criteria for continuing education.
8.2 Include language to require "hands on supervised clinical training."

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9.2 Add language to hold optometrists to the same standards and education as other health care practitioners in providing similar services.
9.4 Add language for an optometrist to allow an opportunity for the patient's osteopathic or allopathic physician to respond about possible contra-indications before starting a new oral drug in order to minimize potential adverse reactions and drug interactions.

14 CSR 11; Injectable Pharmaceutical Agents Certificate
There are not adequate public safety protections in the rules as proposed and we urge the Legislative Rule-Making Review Committee to amend the rule to provide the necessary changes to protect the public. This rule appears to be an attempt to use the regulatory process to pass a substantial number of provisions that had been introduced into SB 230 but rejected by the Legislature. SB 230 allows the use of epi-pens but the rule would allow virtually any injection approved by the Board of Optometry.

We believe a proposed formulary should be submitted to review the potential harmful effects of each agent, just as was done with the oral formulary – injections carry even higher risks. A list of what the injections are intended to be authorized has been requested and never provided. Therefore, one of the amendments lists injections prohibited such as chemotherapy drugs, intravenous steroids and anesthesia drugs. Another good example of intravenous injections of concern is Fluorescein for detection of retinal diseases. We do not believe this drug is necessary for use by optometrists as it is rarely used by physicians other than retinal specialists who have 4 years of residency (after medical school) followed by 1-2 years of retina training to learn to interpret testing and treat retinal diseases (5-6 more years of training than an optometrist). Injections of Fluroescein into the vein are done primarily by retinal specialists to guide treatment, not make a diagnosis (newer technology available to optometrists is generally used to make the diagnosis that then requires a referral to a physician).

Of major concern is the fact that in most states with optometry schools it is against the law for optometrists to give injections, but they could come to WV and perform injections immediately out of school with little clinical training.

There are no national standards with clinical supervision and quantities of specific injections, or total injections required during training in optometry school. Clinical rotations are highly variable and rarely offer any exposure to giving injections or treating complications.

We oppose optometrists injecting children and patients over 65 with systemic diseases. We believe if an optometrist is to give any injections to a patient, it must be required for the optometrist to notify the patient's osteopathic or allopathic physician and give them an opportunity to respond about possible contraindications for the patient.

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Based upon these concerns the WVSMA, along with other physician organizations, is requesting the following amendments to the rule:

10.1 Prohibit an optometry office from dispensing drugs without a license. If they do dispense, require a pharmacist to be on site. Additionally, correct the loophole that allows optometrists to sell drugs for injection.

10.2 Prohibit optometrists from injecting children under age eighteen (18).

10.3 Add a requirement for an optometrist to solicit the patient's osteopathic or allopathic physician's opinion regarding possible contra-indications prior to prescribing a new oral drug in order to minimize potential adverse reactions and drug interactions.

10.4 Prohibit the use of retrobulbar or periocular injections due to the high risk of complications to the eye.

10.5 Add a list of prohibited injections by optometrists, i.e. chemotherapy drugs, intravenous steroids, anesthesia drugs, cardiovascular drugs, seizure drugs, neurotoxins which is similar to how the Nurse Practitioner rule is formulated.

Thank you in advance for your consideration of our request to amend the two rules proposed by the Board of Optometry to address the concerns identified above.

Respectfully,

John H. Schmidt, III, MD
President

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The Honorable Joseph M. Minard
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WV State Senate
Room 206 W, Building 1
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The Honorable Bonnie Brown
Co-Chair
Rule-Making Review Committee
WV House of Delegates
Room 207 E, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Chairman Minard and Chairwoman Brown:

On behalf of the West Virginia Association of Physician Assistants (WVAPA), representing the interests of all physician assistants in and affiliated with the state of West Virginia.

I am writing to ask you to support passage of amendments to the two rules proposed by the WV Board of Optometry or to have the rules completely withdrawn.

- Series 2—Oral Pharmaceutical Certificate

Amendments are needed to put patient protection measures in place through this rule that allows prescribing by optometrists for "New" medications or medications with "new indication". Now that this law has passed with this provision, only the rule can insert protections. Medicine believes that what the Board proposes is grossly inadequate to protect the public and there are proposed amendments to relieve our concerns. We believe it must be mandatory for an optometrist, about to start a systemic medication, to contact the primary care physician or treating physician to respond about possible contra-indications such as adverse reactions to new drug.

If there are specific side effects that affect organ systems other than the eye, the patient must be monitored by the primary care provider or treating physician to identify side effects and drug interactions.

- Series 11—Injectable Pharmaceutical Agents Certificate.

There are not enough public safety protections in the rules as proposed and we urge the Rule-Making Committee to amend the rules to provide the necessary changes to protect the public. This rule appears to be an attempt to use the regulatory process to pass a substantial number of provisions that had been introduced into SB 230 but rejected by the legislature. SB 230 allows the use of epi-pens but the rule would allow virtually any injection approved by the Board of Optometry. The amendments attempt to restrict this blatant expansion via regulation.

We believe a proposed formulary should be submitted to review the potential harmful effects of each agent, just as was done with the oral formulary – injections carry even higher risks. We have repeatedly asked for the formulary but the rule says it will be available for review at the Board office, but it is not currently included in the rule where we believe it should be publically available to legislators and other concerned individuals.

Again, a list of what the injections they want to use has been requested and never provided. Therefore, one of the amendments lists injections prohibited such as chemotherapy drugs, intravenous steroids and anesthesia drugs. Another good example of intravenous injections of concern is Fluorescein for detection of retinal diseases. We do not believe it is necessary for use by optometrists as it is rarely done by physicians other than retinal specialists who have 4 years of residency (after medical school) followed by 1-2 years of retina training to learn to interpret testing and treat retinal diseases (5-6 more years of training than an optometrist). Injections of Fluroescein into the vein are done primarily by retinal specialists to guide treatment, not make a diagnosis (newer technology available to optometrists is generally used to make the diagnosis that then requires a referral to a physician).

Of major concern is the fact that in most states with optometry schools it is against the law for optometrists to give injections, but they could come to WV and start injecting our citizens immediately out of school with little clinical training.

There are no national standards with clinical supervision and quantities of specific injections, or total injections required during training in optometry school. Clinical rotations are highly variable and rarely offer any exposure to giving injections or the treating the complications.

We oppose optometrists injecting children and patients over 65 with systemic diseases. We believe if an optometrist is to give any injections to a patient, it must be required for the optometrist to notify the patient's osteopathic or allopathic physician and give them an opportunity to respond about possible contraindications for the patient.

Thank you in advance for your consideration of our request to amend the two rules proposed by the Board of Optometry to address the concerns identified above.

Sincerely yours,

Christa Hodges PA-C, President
Nicholas Vance PA-C, Vice President/Legislative Chair
West Virginia Association of Physician Assistants

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TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 11
INJECTABLE PHARMACEUTICAL AGENTS CERTIFICATE

§14-1-1. General.

1.1. Scope. -- This rule establishes the requirements, procedures and standards for the certification of a licensee ~~with the authority~~ to administer injectable pharmaceutical agents which are considered rational to the diagnosis and treatment of the human eye and its appendages. The provisions of this rule excludes the administration of epinephrine to treat emergency cases of anaphylaxis or anaphylactic shock which is permitted through W. Va. Code §30-8-15(a).

1.2. Authority. -- W. Va. Code ~~§30-8-1 et. seq.~~ §30-8-6 and 30-8-15

1.3. Filing Date. -- .

1.4. Effective Date. -- .

14-11-2. Definitions.

2.1. "Certificate Holder" means a licensee who has met the requirements of this rule and has been issued an Injectable Pharmaceutical Agents Certificate by the Board.

2.2. "Adverse Reaction" For the purposes of this rule, an adverse reaction shall be defined as any reaction that causes injury to a patient as the result of the medical intervention by injection rather than the underlying medical condition.

§14-11-~~2~~3. ~~Requirements.~~ Certification Generally.

~~2~~3.1. ~~The~~ A licensee shall complete an application and meet all requirements as listed in this rule in order to be certified to administer injectable pharmaceutical agents.

~~2~~3.~~1~~2. ~~The~~ A licensee shall ~~have obtained therapeutic and~~ obtain oral prescriptive ~~licensure~~ certification prior to application for certification to administer pharmaceutical injections.

~~2.2. The licensee shall comply with all application requirements listed in this rule.~~

~~2.3. The licensee shall meet all educational and reporting requirements listed in this rule.~~

~~2.4 The licensee shall maintain current certification in basic life support from the American Red Cross or the American Heart Association or their successor organizations.~~

~~2~~3.~~5~~3. ~~Any~~ applicant for licensure by examination, by ~~endorsement,~~ reciprocity, or by reinstatement after March 1, 2011 shall only be granted licensure if the applicant ~~has meet~~ meets the requirements for injection certification.

~~2.6. The licensee shall meet all continuing education requirements listed in this rule.~~

§14-11-4. ~~Application~~ Certification Requirements.

To be certified the licensee shall:

4.1. ~~The licensee shall~~ cComplete the required application form;

4.2. Submit proof of oral pharmaceutical certification;

4.~~2~~3. ~~The licensee shall~~ sSubmit proof of attendance and satisfactory completion of the required course in injection administration. The Board shall verify successful completion of the cited course directly with the provider;

4.34. ~~The licensee shall~~ sSubmit proof of current certification from the American Red Cross or the American Heart Association or their successor organizations in basic life support; ~~Maintenance of this certification as current shall be a requirement for all certificate holders. Such certification must be kept current throughout the current and subsequent licensing renewal periods, and proof of such shall be submitted as a part of the license renewal process.~~

4.45. ~~The licensee shall~~ sSubmit the ~~injectable pharmaceutical agents certificate fee~~ Pharmaceuticals By Injection Certificate Fee~~-~~ as listed in the Board's rule, ~~14CSR.5~~ W. Va. Code of Rules, §14-5.

§14-11-35. Education and Training.

~~3.1. All licensees who wish to administer agents by injection must satisfactorily complete a certification process which follows the educational criteria listed in this section.~~

35. 1. The Board shall accept ~~any~~ a course for certification that is provided by or through a school or college of optometry accredited by the Accreditation Council on Optometric Education or its successor organization ~~certifying that the optometrist is competent in providing the administration of pharmaceuticals by injection~~. provided, the course includes the criteria listed in subsections 5.2.1 through 5.2.3.

35.32. The Board, at its discretion, may approve courses provided through organizations other than accredited schools or colleges of optometry certifying that the optometrist is competent in providing the administration of pharmaceuticals by injection if, and only if, the course meets the following minimum criteria:

35.32.1. Each course shall include indications, contra-indications, medications, techniques, risks, benefits and sharps management;

35.32.2.Each course shall contain appropriate follow up and management of any adverse reactions caused by an injection;

35.32.3.Each course shall teach the procedures of injection on human subjects in a closely supervised environment with a proficiency assessment examination.

35.43. A list of approved courses for injection administration instruction will be maintained by the Board for public inspection.

35.54. ~~The~~ A licensee shall obtain current certification from the American Red Cross or the American Heart Association or their successor organizations in basic life support. ~~Maintenance of this certification as current shall be a requirement for all certificate holders~~.

35.5. ~~Any~~ The license granted to an applicant who graduated from an accredited school or college of optometry and who passed ~~Part III~~ the Injection Portion of the National Board Examination in 2011 or thereafter shall be deemed to have met the education and training criteria listed in ~~this section~~ listed in section 4 5.

~~**§14-11-4. Application.**~~

~~4.1. The licensee shall complete the required application.~~

~~4.2. The licensee shall submit proof of attendance and satisfactory completion of the required course in injection administration. The Board shall verify successful completion of the cited course directly with the provider.~~

~~4.3. The licensee shall submit current certification from the American Red Cross or the American Heart Association or their successor organizations in basic life support. Maintenance of this certification as current shall be a requirement for all certificate holders. Such certification must be kept current throughout the current and subsequent licensing renewal periods and proof of such shall be submitted as a part of the license renewal process.~~

~~4.4. The licensee shall submit the injectable pharmaceutical agents certificate fee as listed in the Board's rule, 14CSR.5.~~

§14-11-56. Certification.

~~5.1. A certificate to administer pharmaceuticals by injection may be issued by the Board upon the licensee's completion of all of the requirements of the provisions of §§14-11-2 through 14-11-4.~~

6.1. Upon the licensee's successful completion of the requirements and application listed in sections 3 through 5 and approval by the Board or its designee an injectable pharmaceutical agents certificate may be issued.

~~5~~6.2. Upon issuance of the certificate, the licensee's license number shall be changed. The license number will be followed by a dash and the initials "I" for injectable pharmaceuticals~~;~~ ~~."OD" for oral prescriptive authority. and "D" for therapeutic prescriptive privileges.~~

14-11-67. Treatment Guidelines.

67.1. A ~~licensee~~ certificate holder ~~who has an Injectable Pharmaceutical Agents Certificate~~ may administer injections which are considered rational to the diagnosis and treatment of the human eye or its appendages.

~~6~~7.2. The Board will maintain a list of approved sites and agents for the administration of pharmaceuticals by injection for public inspection. The list will contain treatment guidelines for each agent approved by the Board for injection.

~~6~~7.3. The ~~licensee~~ certificate holder shall follow all applicable Occupational Safety and Health Administration (OSHA) and Centers for Disease Control (CDC) guidelines pertaining to administration of injections.

~~6~~7.4. The ~~licensee~~ certificate holder shall adhere to generally accepted standards of care and follow established clinical guidelines for administering injections. The ~~licensee~~ certificate holder shall monitor the patient ~~response~~ for an adverse reaction and provide appropriate follow up care for patients treated by injections.

~~6~~7.5. Unless requested through an emergency rule of the West Virginia Legislature or the Federal Government through the Department of Homeland Security or its successor organizations, a ~~licensee~~ certificate holder shall only administer agents through injection that are for the treatment and management of abnormalities of the eye or its appendages.

~~6~~7.6. In no event may a ~~licensee~~ certificate holder ~~be granted an Injectable Pharmaceutical Agents Certificate~~ administer a pharmaceutical agent by injection directly in the globe of the eye.

~~**§14-11-7. Continuing Education.**~~

~~7.1. The licensee holding an Injectable Pharmaceutical Agents Certificate must maintain current certification in basic life support as listed in subsection 4.3.~~

~~7.2. The licensee who holds an Injectable Pharmaceutical Agents Certificate must obtain a minimum of two (2) hours of continuing education instruction in administering pharmaceutical agents by injection per two year continuing education cycle as listed in 14CSR10 2.3(d).~~

§14-11-8. Reporting.

8.1 ~~Each licensee~~ A certificate holder ~~who possesses a certificate to administer pharmaceutical agents by injection~~ shall comply with the following reporting requirements.

8.2. A~~ny~~ report~~ing~~ that ~~may contain~~ contains patient Protected Health Information (PHI) shall be done in accordance with the Health Insurance Portability and Accountability Act (HIPAA) patient privacy requirements.

8.3. The certificate holder shall notify the primary care physician or other health care provider as identified by the person receiving the pharmaceutical agent(s) by injection. Such notification shall include the diagnosis, treatment and expected results of the injection.

8.34. The ~~licensee~~ certificate holder shall document in the patient's record that the patient's primary care provider was notified of ~~any~~ injection given to the patient for record documentation. This notification ~~may~~ shall be made by fax, documented phone call or standard U.S. mail. ~~or t~~The ~~licensee may provide a written statement to the patient regarding the injection(s) administered with instruction to the patient to give the listed injection information to his or her current primary care provider.~~

8.34.1. If the patient does not have a primary care provider or refuses to provide written permission to report the injection(s) to his or her primary care provider the certificate holder may provide a written statement to the patient regarding the injection(s) administered with instruction to the patient to give the listed injection information to his or her current primary care provider or any primary care provider they would choose to see in the future.

8.34.~~1~~2.The above reporting procedure serves to inform the patient's primary care physician as to the rationale and outcome of a licensee's treatment, report any adverse ~~outcomes~~ reaction, and assist in collaborative care of common patients. In no event shall such reporting be construed as permission or approval of an order for treatment by injection.

8.45. A log book of all injections given shall be maintained including:

8.45.1. The patient's initials, age, gender and race;

8.45.2. A statement indicating the purpose of the injection;

8.45.3. The name of the medication administered and the type and location of the injection;

8.45.4. The treatment guidelines followed which must be compliant with the guidelines approved by the Board which are on file at the Board Office.

8.45.5. The name and certification or licensure level of any persons working in conjunction with the licensee to administer pharmaceutical agents through injections;

8.45.6. How the primary care provider was notified that the patient had been given an injection.

8.56. A copy of the injection log book shall be submitted to the Board upon request. This log book may be requested at any time by the Board with or without cause.

8.67. The Board may ~~request~~ require ~~the~~ a ~~licensee~~ certificate holder to supply the complete medical record for any of the patients listed in the log book for review. The Board may also request an audit of the ~~licensee's~~ certificate holder's full records to ensure compliance with injection certificate requirements.

8.78. If a patient has an adverse ~~event~~ reaction related to the administration of any agent through injection, the ~~licensee~~ certificate holder ~~must~~ shall provide the Board with an incident report listing the details of the adverse ~~event~~ reaction and the measures used to correct that ~~event~~ reaction. This report must be received by the Board within 5 business days of the resolution of the adverse ~~event~~ reaction.

§14-11-9. Recertification.

A certificate holder shall meet the following requirements for recertification:

9.1. The certificate holder shall submit proof of current certification in basic life support from the American Red Cross or American Heart Association or their successors.

9.2. The certificate holder shall submit proof of a minimum of two (2) hours of continuing education instruction in administering pharmaceutical agents by injection per two year continuing education cycle as listed in ~~14CSR10-2.3(d).~~ W. Va. Code of Rules, §14-10, Continuing Education.

9.3. The certificate holder shall submit the ~~Pharmaceuticals by Injection Certificate~~ fee as listed in the W. Va. Code of Rules, §14-5.

§14-11-~~9~~10. Delegation.

~~9~~10.1. Nothing in this rule or W. Va. Code shall permit a licensee who has not been certified to administer injections of pharmaceutical agents by the Board to delegate to any individual the administration of pharmaceutical agents through injection.

§14-11-~~10~~11. Restrictions.

~~10~~11.1. Nothing within this rule or the W.Va. Code prohibits the administration of pharmaceuticals by injection to a patient by a ~~certified licensee~~ certificate holder for a reasonable charge provided, there is no mark up on the cost of the pharmaceutical agents provided in the injection. Nothing in this rule shall prohibit ~~the optometrist~~ a certificate holder from charging a usual and customary fee for performing the injection.

Handout Dec. 14, 2010

TITLE 14
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OPTOMETRY

SERIES 2
~~EXPANDED PRESCRIPTIVE AUTHORITY~~ ORAL PHARMACEUTICAL CERTIFICATE

§14-2-1. General.

1.1. Scope. -- This legislative rule establishes the requirements, procedures and standards for the certification and re-certification of ~~individual optometrists~~ licensees ~~with expanded prescriptive~~ to obtain an oral pharmaceutical certificate. ~~prescriptive drug formulary authority, by the West Virginia Board of Examiners in Optometry, regarding prescriptive authority and expanded oral pharmaceutical prescriptive authority, as defined in W. Va. Code §§30-8-2a. and 30-8-2b §§30-8-6, 30-8-9 and 30-8-14.~~

1.2. Authority. -- W. Va. Code ~~§§30-8-2a and 30-8-2b~~ ~~§§30-8-1, et.seq~~. §30-8-6, §30-8-9, and §30-8-14 .

1.3. Filing Date. -- .

1.4. Effective Date. -- .

§14-2-2. ~~Certification~~ Requirements For Oral Pharmaceutical Certificate.

2.1. ~~In order t~~To be permitted to prescribe oral drugs under the provisions of W. Va. Code ~~§§30-8-2a and 30-8-2b~~ §§30-8-9 and 30-8-14, a ~~registered optometrist~~ licensee shall apply to the Board for certification. ~~In order t~~To qualify for certification, ~~an optometrist~~ a licensee:

~~2.1.a. Shall have previously attained topical therapeutic certification;~~

2.1.~~b~~a. Shall satisfactorily complete~~, and pass an examination in,~~ a course in clinical pharmacology as applied to optometry. This course shall have particular emphasis on the administration of oral pharmaceutical agents for the ~~purpose of examination of the human eye, and analysis of ocular functions~~ diagnosis and treatment of visual defects or abnormal conditions of the human eye and its ~~adnexa~~ appendages. In addition, the course shall include instruction on the clinical use of Schedule III, IV, and V agents. This course shall consist of a minimum of thirty (30) hours in clinical systemic pharmacology. The course shall be taught by:

2.1.~~b~~a.1.~~(1)~~ a school or college of optometry or a medical school, accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education~~;~~;

2.1.~~b~~a.2.~~(2)~~ a federally sponsored health education center; or

2.1.~~b~~a.3.~~(3)~~ other non-profit continuing education agencies in cooperation with appropriate optometry or medical school faculty. All courses of instruction shall be approved by the Board; and

2.1.~~e~~b. Shall pass an examination relating to the treatment and management of ocular disease, which is prepared, administered, and graded by ~~the West Virginia Board of Optometry or its designee through~~ the National Board of Examiners in Optometry or other nationally recognized optometric organization as approved by the ~~b~~Board.

§14-2-3. Certificate Application.

3.1. The licensee shall complete the prescribed oral pharmaceutical certificate application form.

3.2. The licensee shall ~~ensure that~~ submit a certificate of successful completion by the licensee for the course listed in ~~2.1.b.~~ section 2 of this rule. ~~will be submitted by the course provider directly to the Board.~~ The Board or its

designee shall verify successful completion of the course directly with the provider.

3.3. The licensee shall ~~ensure that~~ submit the passing score report for the examination listed in 2.1.~~eb~~. of this rule. ~~will be submitted by the examiner directly to the Board.~~ The Board or its designee shall verify passage of the examination directly with the provider.

3.4. The licensee shall submit a copy of a liability insurance certificate in an amount of not less than One Million Dollars ($1,000,000) per occurrence and Three Million ($3,000,000) aggregate coverage.

3.5. The licensee shall submit the fee listed in the Board's rule, Schedule of Fees, ~~14CSR5~~ W. Va. Code of Rules, §14-5.

§14-2-4. Certification.

4.1. Upon the licensee's successful completion of the requirements and application listed in sections 2 and 3 and approval by the Board or its designee a certificate may be issued.

4.2. Upon issuance of the certificate, the licensee's license number shall be changed. The license number will be followed by a dash and "OD" for oral prescriptive authority.

§14-2-~~3~~5. Re-certification.

~~3~~5.1. ~~Each~~ The ~~optometrist~~ ~~licensee~~ certificate holder applying for re-certification shall have available for the Board, satisfactory evidence that he or she has acquired the continuing education hours required under the ~~Board of Optometry Rule~~, ~~Rules of the West Virginia Board of Optometry, 14CSR10~~ W. Va. Code of Rules, §14-10 and this rule, to renew his or her ~~biennial~~ annual ~~registration~~ license. Of those required hours, an optometrist certified under the provisions of this rule shall furnish to the Board satisfactory evidence that at least six (6) hours of the required hours were acquired in educational optometric programs in ocular pathology or therapeutic pharmacological agents.

~~3~~5.2. The ~~licensee~~ certificate holder shall submit a copy of a liability insurance certificate in an amount of not less than One Million Dollars ($1,000,000) per occurrence and Three Million ($3,000,000) aggregate coverage.

~~3~~5.3. The ~~licensee~~ certificate holder shall submit the fee listed in the W. Va. State Code of Rules, §14-5, Schedule of Fees.

~~3~~5.4. It is the responsibility of each ~~individual optometrist~~ licensee to furnish proof of current liability insurance coverage to the Board upon application for certification and re-certification.

§14-2-~~4~~6. Insurance.

~~4~~6.1. All ~~optometrists~~ licensees certified under this rule shall carry liability insurance coverage in an amount of not less than One Million Dollars ($1,000,000) per occurrence and Three Million Dollars ($3,000,000) aggregate coverage. No ~~optometrist~~ licensee shall practice under the provisions of this rule unless and until he or she has submitted to the board evidence of the liability insurance coverage in an amount not less than One Million Dollars ($1,000,000) per occurrence and Three Million Dollars ($3,000,000) aggregate coverage.

~~4.5.2. It is the responsibility of each individual optometrist licensee to furnish proof of current liability insurance coverage to the Board upon application for certification and re-certification.~~

~~**§14-2-5. Procedures for Certification.**~~

~~5.1. The educational and training requirements for certification by the Board shall be from taught by a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education.~~

~~**§14-2-6. Fees.**~~

~~6.1. The administrative fee for the certification of an individual optometrist for an~~

~~expanded scope of practice prescriptive authority is $200.~~

§14-2-7. Drug Formulary.

7.1. ~~Optometrists~~ Licensees certified under the provisions of this rule may prescribe the drugs set forth in W. Va. Code ~~§30-8-2a~~ §§30-8-9, 30-8-14 and this section.

7.2. W. Va. Code ~~§30-8-2b~~ §30-8-6, authorizes the Board to develop a formulary of categories of oral drugs to be considered rational to the diagnosis and treatment of visual defects or abnormal conditions of the human eye and its appendages from Schedules III, IV and V, excluding Schedule I and Schedule II narcotics, of the Uniform Controlled Substances Act. The categories include:

~~6~~7.2.a. Oral Antibiotics;

~~6~~7.2.b. Oral Nonsteroidal Anti-inflamatory Drugs;

~~6~~7.2.c. Oral Carbonic Anhydrase Inhibitors;

7.2.~~a~~ d. Antihistamines;

7.2.~~b~~ e. Oral Corticosteroids, may be prescribed for a duration of no more than six days;

7.2.~~c~~f. Analgesics, provided that no oral narcotic analgesic may be prescribed for a duration of more than three days; and

7.2.~~d~~g. Nutritional Supplements.

~~6~~7.2.e h.New drugs or new drug indications from Schedules III, IV and V, excluding Schedule I and Schedule II narcotics, of the Uniform Controlled Substances Act, ~~regardless of their listed categories,~~ which, regardless of their listed classification, have been shown to be effective in the ~~treatment and management of the~~ examination, diagnosis or treatment of diseases and conditions of the human eye ~~or~~ and its appendages may be approved by the Board according to the provisions of W. Va. Code §§30-8-9 and 30-8-14.

~~6~~7.2.i. A list of approved new drugs and new drug indications proven to be effective in the ~~treatment of the eye and its appendages~~ examination, diagnosis or treatment of diseases and conditions of the human eye and its appendages will be maintained by the Board for public inspection.

~~6~~7.2.j. The approval of Schedule I and Schedule II narcotics is prohibited.

§14-2-~~7~~8. New Drug Approval.

~~7~~8.1. The addition of new drugs or drug indications by the Board as cited in subsection ~~6~~7.2 of this rule may be based on any of the following criteria:

~~7~~8.1.a. A new or existing drug has been approved by the Food and Drug Administration for the treatment of the eye or its appendages.

~~7~~8.1.b. A new drug or new drug indication has gained accepted use in the eye care field. Such acceptance may be indicated by its inclusion in the curriculum of an optometry school accredited by the Accreditation Council on Optometric Education or its successor approved by the U.S. Department of Education or approved post-graduate continuing education, through peer-reviewed, evidence-based research and professional journal articles, or by inclusion in established standards of practice and care published by professional organizations.

§14-2-~~8~~9. Education and Training on the Use of New Drugs and New Drug Indications.

~~8~~9.1. Additional education and training may be required by the Board as it deems appropriate when it adds new drugs or new drug indications.

~~8~~9.2. This training may be provided through ~~an accredited optometry school~~ an optometry school accredited by the Accreditation Council on Optometric Education or its successor recognized by the U.S. Department of Education or approved post-graduate training.

~~8~~9.3. A list of Board required training for new drugs or new drug indications will be maintained by the Board for public inspection.

§14-2-810. Restrictions.

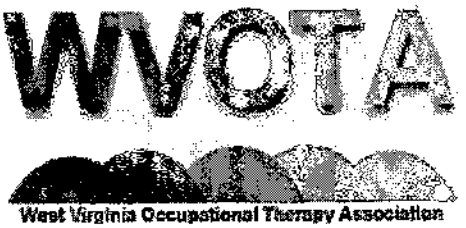
~~8~~10.1. ~~An optometrist~~ A ~~licensee~~ certificate holder may not establish a pharmacy in an optometric office or sell oral ~~or topical~~ pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff and present when the prescriptions are filled.

~~8~~10.1.a. ~~However, n~~Nothing ~~in this section or in any other provision of law prohibits an optometrist a licensee who is properly certified under the provisions of this rule from administering or supplying oral or topical pharmaceutical agents to a patient in his or her office without charge for the pharmaceutical agents, to initiate appropriate treatment. An~~ The ~~optometrist~~ certificate holder may also pass on to the patient a charge for any medications provided to initiate treatment which reflects only the actual amount paid by the optometrist for the agents. In no event shall an optometrist increase the cost of the pharmaceutical agent beyond the wholesale cost of that medication.

~~8~~10.2. ~~Any~~ The ~~optometrist licensee~~ certificate holder practicing under the authority of this rule shall be held to the same standards of care as that of other health care practitioners providing similar services.

~~8~~9.3. ~~No optometrist licensee shall practice under the provisions of this rule unless and until he or she submits to the board evidence of satisfactory completion of all of the education and examination requirements of sub-divisions 2.1.a., 2.1.b. and 2.1.c. of this rule and has been certified by the board as educationally qualified.~~

Handout Dec. 14, 2010



December 13, 2010

West Virginia Legislative Rules Committee
c/o Ms. Felisha Sutherland
MB 49
1900 Kanawha Boulevard
Charleston, WV 25305

Dear Ms. Sutherland and Committee Members,

West Virginia Occupational Therapy Association now supports the WV Physical Therapy rules as written. After joint meeting between both parties on October 24, 2010, the WV Board of Physical Therapy explained that the restriction for the PT aide is directed within the body of the Physical Therapy Licensure Bill in section 16-1-7: as follows:

Scope of Practice for Physical Therapists

7.6 A Licensee shall adhere to the minimal standard of acceptable prevailing practice. Failure to adhere to the minimal standards of practice, whether or not actual injury to a patient occurred, includes, but is not limited to:

7.6 c. Delegating physical therapy functions or responsibilities to an individual lacking
in the ability of knowledge to perform the functions or responsibility in question;

Therefore, these statements should address the concern that WVOTA regarding the rules definition for the PT aide as follows:

§16-1-2.4 "Physical Therapy Aide" means a person trained under the direction of a physical therapist that performs ***designated and routine*** *tasks related to physical therapy services under the direct supervision of a physical therapist.*

Placing emphasis upon 7.6 c and the PT aide definition assures the consumer that only those trained in the services of Physical Therapy will be providing the care to the consumer.

Sincerely,

Deborah Shamblin, OTR/L, CHT
WVOTA President
(304) 541-3853

Handout Dec. 14, 2010

EXPENDITURE SCHEDULE ACCOUNT SUMMARY

Fiscal Year 2009

Page No. 1
Date Amended
Amend No.

Spending Unit: WV Board of Physical Therapy
Address: 1362 Davisson Run Road
Clarksburg, WV 26301

WVFIMS Account No.
General Revenue/Special Revenue
Fund 8603 FY 2009 Org 0922

Federal Funds
Fund FY Org

To: Director of the Budget
State Budget Office

I herewith submit for your approval the plan of expenditure from the items of Appropriation as detailed below.

Quarterly Allotments Requested
(TO NEAREST DOLLAR)

Appropriation Title	Activity	1st Quarter Request	2nd Quarter Request	3rd Quarter Request	4th Quarter Request	Total Appropriated
Personal Services	001					
Annual Increment	004					
Employee Benefits	010					
Unclassified - Total	099					
Unclassified	099					
BRIM Premium	913					
Other Appropriated Items:						
Total Appropriated General/Special						
% of Total Appropriation		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Total Federal Funds or Federal Block Grants		Total Disbursements From ES-2				
Total Summary of Other Special Revenue Accounts		Total Disbursements From ES-2				213,496
Total All Funds						213,496

AGENCY

Department/
Bureau of: WV Bd of Physical Therapy
Division of: Misc Bds & Commissions

J. Heather D. Cuyle 5-10-08
Division Administrator Date

Approved Cabinet Secretary/Commissioner (Governing Body) Date

State Budget Office Use Only

Approved By: [signature]
Director of the Budget/
State Budget Office

Date Approved: JUN 10 2009

Form ES-1

SUMMARY OF RECEIPTS AND DISBURSEMENTS
Fiscal Year 2009

Form ES-2

- [ ] Appropriated Federal Funds Accounts (Listed in Budget Act)
- [ ] Appropriated Special Revenue Accounts (Listed in Budget Act)
- [ ] Appropriated Lottery Funds (Listed in Budget Act)
- [ ] Federal Block Grants (Listed in Budget Act)
- [ ] Other Federal Funds
- [x] Other Special Revenue Accounts

Spending Unit: WV Board of Physical Therapy

Department/Bureau of: 1642 Davisson Run Road, Clarksburg, WV 26301

Page No. 2

Amendment Date

Amendment No.

Account Name	WVFIMS No. (Fund-Org-Act-Src)	Estimated Balance 06/30/2008	ESTIMATED RECEIPTS 1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	ESTIMATED DISBURSEMENTS 1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	Estimated Balance 06/30/2009
Board of Physical Therapy	8603-2009 0922-099-999-640	25,000	48,750	48,750	48,750	48,750	195,000	53,124	53,124	53,124	53,124	212,496	7,504.00
TOTAL		25,000	48,750	48,750	48,750	48,750	220,000	53,124	53,124	53,124	53,124	212,496	7,504

ESTIMATE OF REVENUE BY REVENUE SOURCE
Fiscal Year 2009

- [ ] Appropriated Federal Funds Accounts (Listed in Budget Act)
- [ ] Appropriated Special Revenue Accounts (Listed in Budget Act)
- [ ] Appropriated Lottery Funds (Listed in Budget Act)
- [ ] Federal Block Grants (Listed in Budget Act)
- [ ] Other Federal Funds
- [x] Other Special Revenue Accounts

Page No. 3

Amendment Date

Amendment No.

Spending Unit: WV Board of Physical Therapy
Department/
Bureau of:

WVFIMS Account No.
Fund 8603
FY 2009
Org 0922

Name of Account: WV Board of Physical Therapy

Revenue Name	Revenue Source No.	Amount
License Fees + Renewals	696	195,000

Total Revenue 195,000

Form ES-2A

ESTIMATE OF DISBURSEMENTS
Fiscal Year 2009

Page No. 4
Amendment Date
Amendment No.

- [ ] Appropriated Federal Funds Accounts (Listed in Budget Act)
- [ ] Appropriated Special Revenue Accounts (Listed in Budget Act)
- [ ] Appropriated Lottery Funds (Listed in Budget Act)
- [ ] Federal Block Grants (Listed in Budget Act)
- [ ] Other Federal Funds
- [x] Other Special Revenue Accounts

Spending Unit: Department/Bureau of: WV Board of Physical Therapy

WVFIMS Account No.
Fund 8603
FY 2009
Org 0922

Name of Account: WV Board of Physical Therapy

Is this Account Established by Statute? Yes/No Yes Statutory Reference 30-20-5

Purpose of this Account: To Regulate & License the practice of physical therapy in WV.

Activity	Item of Expenditure	
099	PERSONAL SERVICES*	
	Number of Budgeted FTE Positions	3
	Personal Services	113,494
099	Annual Increment	1,980
	TOTAL PERSONAL SERVICES	115,474
099	EMPLOYEE BENEFITS	
	10 - Personnel Division & Public Employees' Insurance	750
	11 - Social Security Matching	7,600
	12 - Public Employees' Insurance	14,750
	13 - Other Health Insurance	
	14 - Workers' Compensation (Rate: .12)	100
	15 - Unemployment Compensation	
	16 - Pension & Retirement	9000
	TOTAL EMPLOYEE BENEFITS	32,400
099	CURRENT EXPENSES	
	20 - Office Expenses	1500
	21 - Printing & Binding	800
	22 - Rental Expense	18,000
	23 - Utilities	2,200
	24 - Telecommunications	2,500
	25 - Contractual & Professional	10,000
	26 - Travel	2,750
	27 - Computer Services	7000
	28 - Higher Education Interagency Contract Agreements/Fees	
	29 - Vehicle Rental	
	30 - Rentals (Machine & Miscellaneous)	
	31 - Association Dues & Professional Memberships	2060
	32 - Fire, Auto, Bond & Other Insurance	2919
	33 - Food Products	
	34 - Clothing, Household & Recreational Supplies	
	35 - Advertising & Promotional	
	36 - Vehicle Operating Expense	
	37 - Research, Educational & Medical Supplies	
	38 - Routine Maintenance Contracts/Warranties	
	39 - Manufacturing Supplies	
	40 - Merchandise for Resale	
	41 - Cellular Charges	
	42 - Hospitality	900
	43 - Educational Training (Stipends)	
	45 - Farm Expense	
	46 - Subsistence	
	48 - Discharge & Parole Allowance	
	49 - Inmate Per Diem Expense	
	51 - Miscellaneous	250
	52 - Training & Development	500
	53 - Postal & Freight	500
	54 - Computer Supplies & Equipment	500
	56 - Attorney Legal Service Payments	
	57 - Attorney Reimbursable Expenses	
	58 - Miscellaneous Equipment Purchases	
	59 - Student Activities	
	TOTAL CURRENT EXPENSES	57,379

* If amounts for Personal Services are to be paid from this account, include total here and submit detail on Personal Services expenditure schedule worksheet.

Form ES-2B

Estimate of Disbursements
(Continued)
Fiscal Year 2009

Page No. 6
Amended Date
Amend. No.

Spending Unit WV Board of Physical Therapy

Department/Bureau of

WVFIMS Account No.
Fund 8603
FY 2009
Org 0921

Activity		
099	REPAIRS AND ALTERATIONS	
	061 - Office & Communication Equipment Repairs	500
	062 - Research, Educational & Medical Equipment Repairs	
	063 - Building & Household Equipment Repairs	
	064 - Routine Maintenance of Buildings	
	065 - Vehicle Repairs	
	066 - Routine Maintenance of Grounds	
	067 - Farm & Construction Equipment Repairs	
	068 - Other Repairs and Alterations	
	TOTAL REPAIRS AND ALTERATIONS	500
099	ASSETS	
	070 - Office & Communication Equipment	
	071 - Medical Equipment	
	072 - Research & Educational Equipment	
	073 - Household Equipment & Furnishings	1000
	074 - Building Equipment	
	075 - Vehicles	
	076 - Livestock, Farm & Construction Equipment	
	077 - Books & Periodicals	
	078 - Other Capital Equipment	
	092 - Building Construction	
	120 - Contractor Payments for Capital Asset Projects	
	121 - Purchase of Materials & Supplies	
	122 - Consultant Payments for Capital Asset Projects	
	143 - Building Improvements	
	144 - Reclamation of State Owned Property	
	148 - Land Improvements	
	149 - Land Purchases	
	150 - Building Purchases	
	157 - Leasehold Improvements	
	170 - Computer Equipment	
	171 - Computer Software	500
	TOTAL ASSETS	1500
099	OTHER DISBURSEMENTS	
	110 PEIA Ins. Reserve	900
	160 RHBT ARC	4343
	TOTAL OTHER DISBURSEMENTS	5243
	TOTAL EXPENDITURES/APPROPRIATIONS	212,496 ✓

Form ES-2C

ASSOCIATION DUES & PROFESSIONAL MEMBERSHIPS
(IN PRIORITY ORDER)

Page No. 6
Amended Date ______
Amend No. ______

Spending Unit: WV Board of Physical Therapy

Department/Bureau of: Misc. Boards & Commissions

Name of Group or Association IN PRIORITY ORDER	FY 2008 Actual Dues	Budgeted FY 2009 Estimated Dues*	Budgeted FY 2009 WVFIMS No. (Fund-Org-Activity)
Federation of State Bd. of Physical Therapy	1654.00	1780.00	8603-2009-0922
WV Licensing Board Association	280.00	280.00	
TOTAL	1934.00	2060.00	

*Payment of Association Dues is approved as currently reported on Expenditure Schedule Form ES-4, including any increase over the estimated amount not exceeding ten percent.

Frankie A. Cayton
Approved Cabinet Secretary/Commissioner (Governing Body)

Date Approved ______

Form ES-4

DEPARTMENT: 070 MISCELLANEOUS BOARDS AND COMMISSIONS
ORGANIZATION: 0922 PHYSICAL THERAPY BOARD OF
8603 2009 0922 099 BOARD OF PHYSICAL THERAPY
FUND FY ORG ACT

FY 2009 POSITION NUMBER	UNIT	SOCIAL SECURITY	NAME	TITLE	EEO	PERSONNEL DIV CE	CL	GR	ST	FTE	BPP	MONTHLY SALARY	BASE SALARY	ANNUAL INCREMENT	TOTAL SALARY
1	001-000	232-86-1298	CAYTON, FRANKIE S	BOARD ADMIN	A	E	0	0		1.00	24	$3,794.41	$45,532.96	$1,140.00	$46,672.96
2	001-000	232-66-8115	MACE, CONDA K	ADMIN ASST	F	E	0	0		1.00	24	$2,483.23	$29,798.81	$600.00	$30,398.81
3	001-000	236-88-0196	MAXWELL, VICKI L	OFFICE ASSISTANT	F	E	0	0		1.00	24	$2,063.50	$24,762.00	$240.00	$25,002.00
66666	666-000	000-00-0000	OVERTIME/TEMPORARY	OVERTIME/TEMPORARY		E	8	0		0.00	00	$766.66	$9,200.00	$0.00	$9,200.00
88888	888-000	000-00-0000	ANNUAL INCREMENT RESERVE	INCREMENT		E	0	0		0.00	00	$0.00	$0.00	$0.00	$0.00
99999	999-000	000-00-0000	RESERVE FOR SALARY ADJUST	RESERVE		E	0	0		0.00	00	$350.01	$4,200.23	$0.00	$4,200.23

*** TOTAL FOR ACCOUNT

NO. OF LINES			6	
LESS OTHER POSITIONS			3	$13,600.23
EQUALS TOTAL POSITIONS			3	
FULL TIME	3	FTE	3.00	
PART TIME	0	FTE	0.00	
LESS VACANCIES	0	FTE	0.00	$0.00
LESS DELETES	0	FTE	0.00	
EQUALS FILLED FTE POSITIONS			3.00	$100,093.77
TOTAL FTE POSITIONS			3.00	
TOTAL PERSONAL SERVICES FOR THIS ACCOUNT				$113,494.00
TOTAL ANNUAL INCREMENT FOR THIS ACCOUNT				$1,980.00

Handout Dec. 14, 2010

EXPENDITURE SCHEDULE ACCOUNT SUMMARY

Fiscal Year 2010

Page No. 1
Date Amended
Amend No.

Spending Unit: WV Board of Physical Therapy
Address: 642 Davisson Run Road
Clarksburg, WV 26301

WVFIMS Account No.
General Revenue/Special Revenue
Fund 8603 FY 2010 Org 0922

Federal Funds
Fund FY Org

To: Director of the Budget
State Budget Office

I herewith submit for your approval the plan of expenditure from the items of Appropriation as detailed below.

Quarterly Allotments Requested
(TO NEAREST DOLLAR)

Appropriation Title	Activity	1st Quarter Request	2nd Quarter Request	3rd Quarter Request	4th Quarter Request	Total Appropriated
Personal Services	001					
Annual Increment	004					
Employee Benefits	010					
Unclassified - Total	096					
Unclassified	098					
BRIM Premium	813					
Other Appropriated Items:						
Total Appropriated General/Special						
% of Total Appropriation		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Total Federal Funds or Federal Block Grants		Total Disbursements From ES-2				
Total Summary of Other Special Revenue Accounts		Total Disbursements From ES-2				193,621
Total All Funds						193,621

AGENCY

RECEIVED
2009 MAY 28 PM 2:3
STATE AUDITOR'S OFFICE

Department/
Bureau of: WV Board of Physical Therapy
Division of:

Frances A Coyle 5-27-2009
Division Administrator Date

Approved Cabinet Secretary/Commissioner (Governing Body) Date

State Budget Office Use Only

Approved By: mk mckay
Director of the Budget/
State Budget Office

Date Approved: JUN - 8 2009

Form ES-1

ASSOCIATION DUES & PROFESSIONAL MEMBERSHIPS
(IN PRIORITY ORDER)

Amended Date
Amend No.

Spending Unit: WV Board of Physical Therapy
Department/Bureau of

Name of Group or Association IN PRIORITY ORDER	FY 2009 Actual Dues	Budgeted FY 2010 Estimated Dues*	Budgeted FY 2010 WVFIMS No. (Fund-Org-Activity)
Federation of State Boards of Physical Therapy	1558.25	1800.00	8603-0922-099
WV Association of Licensing Boards	—	280.00	"
TOTAL	1558.25	2080.00	

*Payment of Association Dues is approved as currently reported on Expenditure Schedule Form ES-4, including any increase over the estimated amount not exceeding ten percent.

Franklin S. Cruz / 527-2009
Approved Cabinet Secretary/Commissioner (Governing Body)

Date Approved

SUMMARY OF RECEIPTS AND DISBURSEMENTS
Fiscal Year 2010

Form ES-2

- [ ] Appropriated Federal Funds Accounts (Listed in Budget Act)
- [ ] Appropriated Special Revenue Accounts (Listed in Budget Act)
- [ ] Appropriated Lottery Funds (Listed in Budget Act)
- [ ] Federal Block Grants (Listed in Budget Act)
- [ ] Other Federal Funds
- [X] Other Special Revenue Accounts

Spending Unit: WV Board of Physical Therapy

Department/Bureau of:

Amendment Date:

Amendment No.:

			ESTIMATED RECEIPTS					ESTIMATED DISBURSEMENTS					
Account Name	WVFIMS No. (Fund-Org-Act-Src)	Estimated Balance 06/30/2009	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	Estimated Balance 06/30/2010
Board of Physical Therapy	8603-0922-099 999-640	42,000	49,000	49,000	49,000	49,000	196,000	48,405	48,405	48,406	48,405	193,621	44,379
TOTAL		42,000	49,000	49,000	49,000	49,000	196,000	48,405	48,405	48,406	48,405	193,621	44,379

ESTIMATE OF REVENUE BY REVENUE SOURCE
Fiscal Year 2010

	Appropriated Federal Funds Accounts (Listed in Budget Act)
	Appropriated Special Revenue Accounts (Listed in Budget Act)
	Appropriated Lottery Funds (Listed in Budget Act)
	Federal Block Grants (Listed in Budget Act)
	Other Federal Funds
X	Other Special Revenue Accounts

Page No. 3
Amendment Date
Amendment No.

Spending Unit: WV Board of Physical Therapy
Department/
Bureau of:

WVFIMS Account No.
Fund 8603
FY 2010
Org 0922

Name of Account: Board of Physical Therapy

Revenue Name	Revenue Source No.	Amount
License Fees, License Renewal Fees & Related Services	696	196,000

Total Revenue 196,000 ✓

Form ES-2A

ESTIMATE OF DISBURSEMENTS
Fiscal Year 2010

	Appropriated Federal Funds Accounts (Listed in Budget Act)
	Appropriated Special Revenue Accounts (Listed in Budget Act)
	Appropriated Lottery Funds (Listed in Budget Act)
	Federal Block Grants (Listed in Budget Act)
	Other Federal Funds
X	Other Special Revenue Accounts

Page No. 4
Amendment Date
Amendment No.

WVFIMS Account No.:
Fund 8603
FY 2010
Org 0922

Spending Unit: WV Board of Physical Therapy
Department/
Bureau of:

Name of Account: Board of Physical Therapy Fund

Is this Account Established by Statute? Yes/No Yes Statutory Reference 30-20-5

Purpose of this Account: To review and/or license PTs and PTAs and to Regulate the practice of Physical Therapy in the State of WV

Activity	Item of Expenditure	
099	PERSONAL SERVICES*	
	Number of Budgeted FTE Positions	2
	Personal Services	103,653
099	Annual Increment	1,500
	TOTAL PERSONAL SERVICES	105,153
099	EMPLOYEE BENEFITS	
	10 - Personnel Division & Public Employees' Insurance	500
	11 - Social Security Matching	8,045
	12 - Public Employees' Insurance	8406
	13 - Other Health Insurance	
	14 - Workers' Compensation (Rate: .89)	739
	15 - Unemployment Compensation	
	16 - Pension & Retirement	11,570
	TOTAL EMPLOYEE BENEFITS	29,260
099	CURRENT EXPENSES	
	20 - Office Expenses	1000
	21 - Printing & Binding	1000
	22 - Rental Expense	13,936
	23 - Utilities	1300
	24 - Telecommunications	3300
	25 - Contractual & Professional	11,000
	26 - Travel	2,500
	27 - Computer Services	7,500
	28 - Higher Education Interagency Contract Agreements/Fees	
	29 - Vehicle Rental	
	30 - Rentals (Machine & Miscellaneous)	2,762
	31 - Association Dues & Professional Memberships	2,080
	32 - Fire, Auto, Bond & Other Insurance	2921
	33 - Food Products	200
	34 - Clothing, Household & Recreational Supplies	
	35 - Advertising & Promotional	
	36 - Vehicle Operating Expense	
	37 - Research, Educational & Medical Supplies	
	38 - Routine Maintenance Contracts/Warranties	
	39 - Manufacturing Supplies	
	40 - Merchandise for Resale	
	41 - Cellular Charges	
	42 - Hospitality	600
	43 - Educational Training (Stipends)	
	44 - Energy Expense-Motor Vehicles/Aircraft	
	45 - Farm Expense	
	46 - Subsistence	
	47 - Energy Expense-Utilities	
	48 - Discharge & Parole Allowance	
	49 - Inmate Per Diem Expense	
	51 - Miscellaneous	250
	52 - Training & Development	300
	53 - Postal & Freight	1000
	54 - Computer Supplies & Equipment	
	56 - Attorney Legal Service Payments	
	57 - Attorney Reimbursable Expenses	
	58 - Miscellaneous Equipment Purchases	
	59 - Student Activities	
	TOTAL CURRENT EXPENSES	51,649

* If amounts for Personal Services are to be paid from this account, include total here and submit detail on Personal Services expenditure schedule worksheet.

Form ES-2B

Estimate of Disbursements
(Continued)
Fiscal Year 2010

Page No. 5
Amended Date
Amend. No.

Spending Unit WV Board of Physical Therapy

Department/Bureau of

WVFIMS Account No.
Fund 8603
FY 2010
Org 0922

Activity		
099	REPAIRS AND ALTERATIONS	
	061 - Office & Communication Equipment Repairs	500
	062 - Research, Educational & Medical Equipment Repairs	
	063 - Building & Household Equipment Repairs	
	064 - Routine Maintenance of Buildings	
	065 - Vehicle Repairs	
	066 - Routine Maintenance of Grounds	
	067 - Farm & Construction Equipment Repairs	
	068 - Other Repairs and Alterations	
	TOTAL REPAIRS AND ALTERATIONS	500
099	ASSETS	
	070 - Office & Communication Equipment	
	071 - Medical Equipment	
	072 - Research & Educational Equipment	
	073 - Household Equipment & Furnishings	500
	074 - Building Equipment	
	075 - Vehicles	
	076 - Livestock, Farm & Construction Equipment	
	077 - Books & Periodicals	
	078 - Other Capital Equipment	
	092 - Building Construction	
	120 - Contractor Payments for Capital Asset Projects	
	121 - Purchase of Materials & Supplies	
	122 - Consultant Payments for Capital Asset Projects	
	143 - Building Improvements	
	144 - Reclamation of State Owned Property	
	148 - Land Improvements	
	149 - Land Purchases	
	150 - Building Purchases	
	157 - Leasehold Improvements	
	170 - Computer Equipment	500
	171 - Computer Software	500
	TOTAL ASSETS	1500
	OTHER DISBURSEMENTS	
	160 - OPEB Annual (139.69 per policy holder per mo.)	3353
	163 - WV OPEB Remaining Contribution ARC (761.30 X 2)	1523
	110 - 1% PEIA Transfer	683
	TOTAL OTHER DISBURSEMENTS	5559
TOTAL EXPENDITURES/APPROPRIATIONS		193,621 ✓

Form ES-2C

DEPARTMENT: 070 MISCELLANEOUS BOARDS AND COMMISSIONS
ORGANIZATION: 0922 PHYSICAL THERAPY BOARD OF
8603 2010 0922 099 BOARD OF PHYSICAL THERAPY
FUND FY ORG ACT

FY 2010 POSITION NUMBER	UNIT	SOCIAL SECURITY	NAME	TITLE	EEO	PERSONNEL DIV CE	CL	GR	ST	FTE	#PP	MONTHLY SALARY	BASE SALARY	ANNUAL INCREMENT	TOTAL SALARY
1	001-000	232-86-1298	CAYTON, FRANKIE S	BOARD ADMIN	A	E	0	0		1.00	24	$3,683.41	$44,200.96	$1,200.00	$45,400.96
2	001-000	000-00-0000	VACANT	ADMIN ASST	F	E	0	0		1.00	24	$2,410.23	$28,922.81	$0.00	$28,922.81
5	001-000	236-88-9196	MAXWELL, VICKI L	OFFICE ASSISTANT	F	E	0	0		1.00	24	$2,002.50	$24,030.00	$300.00	$24,330.00
66666	666-000	000-00-0000	OVERTIME/TEMPORARY	OVERTIME/TEMPORARY		E	0	0		0.00	00	$500.00	$6,000.00	$0.00	$6,000.00
88888	888-000	000-00-0000	ANNUAL INCREMENT RESERVE	INCREMENT		E	0	0		0.00	00	$0.00	$0.00	$0.00	$0.00
99999	999-000	000-00-0000	RESERVE FOR SALARY ADJUST	RESERVE		E	0	0		0.00	00	$41.60	$499.23	$0.00	$499.23

240.00

*** TOTAL FOR ACCOUNT

NO. OF LINES		6	
LESS OTHER POSITIONS		3	$6,499.23
EQUALS TOTAL POSITIONS		3	
FULL TIME	3 FTE	3.00	
PART TIME	0 FTE	0.00	
LESS VACANCIES	1 FTE	1.00	$28,922.81
LESS DELETES	0 FTE	0.00	
EQUALS FILLED FTE POSITIONS		2.00	$68,230.96
TOTAL FTE POSITIONS		3.00	

TOTAL PERSONAL SERVICES FOR THIS ACCOUNT $103,653.00
TOTAL ANNUAL INCREMENT FOR THIS ACCOUNT $1,500.00

24,330.00
-60.00
24270.00

Handout Dec. 14, 2010

EXPENDITURE SCHEDULE ACCOUNT SUMMARY

Fiscal Year 2011

Page No. 1
Date Amended
Amend No.

Spending Unit: WV Board of Physical Therapy
Address: 101 Dee Drive Charleston, WV 25311

WVFIMS Account No.
General Revenue/Special Revenue
Fund 8603 FY 2011 Org 0922

Federal Funds
Fund FY Org

To: Director of the Budget
State Budget Office

I herewith submit for your approval the plan of expenditure from the items of Appropriation as detailed below.

Quarterly Allotments Requested
(TO NEAREST DOLLAR)

Appropriation Title	Activity	1st Quarter Request	2nd Quarter Request	3rd Quarter Request	4th Quarter Request	Total Appropriated
Personal Services	001					
Annual Increment	004					
Employee Benefits	010					
Unclassified - Total	096					
Unclassified	099					
BRIM Premium	913					
Other Appropriated Items:						
Total Appropriated General/Special						
% of Total Appropriation						
Total Federal Funds or Federal Block Grants		Total Disbursements From ES-2				
Total Summary of Other Special Revenue Accounts		Total Disbursements From ES-2				$197,788
Total All Funds						$197,788

AGENCY

RECEIVED
2010 APR 19 P 12:28
WV BUDGET OFFICE

Department/
Bureau of: WV Board of Physical Therapy
Division of:

Patricia Haberer — Division Administrator — 4/15/10 Date

Approved Cabinet Secretary/Commissioner (Governing Body) Date

State Budget Office Use Only

Approved By: Director of the Budget/ State Budget Office

Date Approved: MAY 28 2010

Form ES-1

SUMMARY OF RECEIPTS AND DISBURSEMENTS
Fiscal Year 2011

Form ES-2

- [ ] Appropriated Federal Funds Accounts (Listed in Budget Act)
- [ ] Appropriated Special Revenue Accounts (Listed in Budget Act)
- [ ] Appropriated Lottery Funds (Listed in Budget Act)
- [ ] Federal Block Grants (Listed in Budget Act)
- [ ] Other Federal Funds
- [x] Other Special Revenue Accounts

Page No. 2

Spending Unit WV Board of Physical Therapy

Amendment Date

Department/Bureau of

Amendment No.

			ESTIMATED RECEIPTS					ESTIMATED DISBURSEMENTS					
Account Name	WVFIMS No. (Fund-Org-Act-Src)	Estimated Balance 06/30/2010	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	Estimated Balance 06/30/2011
Board of Physical Therapy	8603-0922-099-999-640	117,000	28,000	117,000	48,000	34,000	227,000	$49,447	$49,448	$49,447	$49,446	197,788	146,212
	TOTAL	$117,000	$28,000	$117,000	$48,000	$34,000	$227,000	$49,447	$49,448	$49,447	$49,446	$197,788	$146,212

ESTIMATE OF REVENUE BY REVENUE SOURCE
Fiscal Year 2011

- [ ] Appropriated Federal Funds Accounts (Listed in Budget Act)
- [ ] Appropriated Special Revenue Accounts (Listed in Budget Act)
- [ ] Appropriated Lottery Funds (Listed in Budget Act)
- [ ] Federal Block Grants (Listed in Budget Act)
- [ ] Other Federal Funds
- [ ] Other Special Revenue Accounts

Page No. 3

Amendment Date

Amendment No.

ending Unit: WV Board of Physical Therapy
partment/
reau of:

WVFIMS Account No.
Fund 8603
FY 2011
Org 0922

me of Account: Board of Physical Therapy

Revenue Name	Revenue Source No.	Amount
ense Fees, License Renewal Fees & Related Services	696	$227,000

Total Revenue $227,000

Form ES-2A

ESTIMATE OF DISBURSEMENTS
Fiscal Year 2011

	Appropriated Federal Funds Accounts (Listed in Budget Act)
	Appropriated Special Revenue Accounts (Listed in Budget Act)
	Appropriated Lottery Funds (Listed in Budget Act)
	Federal Block Grants (Listed in Budget Act)
	Other Federal Funds
X	Other Special Revenue Accounts

Page No. 4
Amendment Date
Amendment No.

WVFIMS Account No.

Spending Unit: WV Board of Physical Therapy
Department/
Bureau of:

Fund 8693
FY 2011
Org 0922

Name of Account: WV Board of Physical Therapy FUND

Is this Account Established by Statute? Yes/No Yes Statutory Reference 30-20-5

Purpose of this Account: To review and/or license PT/PTA's and to Regulate the practice of Physical Therapy in the State of WV.

Activity	Item of Expenditure		
099	PERSONAL SERVICES*		
	Number of Budgeted FTE Positions		2.00
	Personal Services		83906
099	Annual Increment		360
	TOTAL PERSONAL SERVICES		84,266
099	EMPLOYEE BENEFITS		
	10 - Personnel Division & Public Employees' Insurance		650
	11 - Social Security Matching		6,062
	12 - Public Employees' Insurance		16,184
	13 - Other Health Insurance		
	14 - Workers' Compensation		383
	15 - Unemployment Compensation		2,600
	16 - Pension & Retirement		8,038
	160 - WV OPEB Contribution ($181 per month per insured policeholder)		3,864
	163 - WV OPEB Remaining Contribution		1,600
	TOTAL EMPLOYEE BENEFITS		$38,379
099	CURRENT EXPENSES		
	20 - Office Expenses		2,000
	21 - Printing & Binding		1,465
	22 - Rental Expense		10036
	23 - Utilities		
	24 - Telecommunications		2600
	25 - Contractual & Professional		10,000
	26 - Travel		2,600
	27 - Computer Services		6,000
	28 - Higher Education Interagency Contract Agreements/Fees		
	29 - Vehicle Rental		
	30 - Rentals (Machine & Miscellaneous)		2,854
	31 - Association Dues & Professional Memberships		1,845
	32 - Fire, Auto, Bond & Other Insurance		2,351
	33 - Food Products		600
	34 - Clothing, Household & Recreational Supplies		
	35 - Advertising & Promotional		
	36 - Vehicle Operating Expense		
	37 - Research, Educational & Medical Supplies		
	38 - Routine Maintenance Contracts/Warranties		
	39 - Manufacturing Supplies		
	40 - Merchandise for Resale		
	41 - Cellular Charges		
	42 - Hospitality		600
	43 - Educational Training (Stipends)		
	44 - Energy Expense-Motor Vehicles/Aircraft		
	45 - Farm Expense		
	46 - Subsistence		
	47 - Energy Expense-Utilities		
	48 - Discharge & Parole Allowance		
	49 - Inmate Per Diem Expense		
	51 - Miscellaneous		300
	52 - Training & Development		1,000
	53 - Postal & Freight		2,500
	54 - Computer Supplies & Equipment		
	56 - Attorney Legal Service Payments		
	57 - Attorney Reimbursable Expenses		
	58 - Miscellaneous Equipment Purchases		1,500
	59 - Student Activities		
	TOTAL CURRENT EXPENSES		$47,841

* If amounts for Personal Services are to be paid from this account, include total here and submit detail on Personal Services expenditure schedule worksheet.

Form ES-2B

Estimate of Disbursements
(Continued)
Fiscal Year 2011

Amended Date
Amend. No.

Spending Unit WV Board of Physical Therapy

Department/Bureau of

WVFIMS Account No.
Fund 0
FY 0
Org 0

Activity		
099	REPAIRS AND ALTERATIONS	
	061 - Office & Communication Equipment Repairs	500
	062 - Research, Educational & Medical Equipment Repairs	
	063 - Building & Household Equipment Repairs	
	064 - Routine Maintenance of Buildings	
	065 - Vehicle Repairs	
	066 - Routine Maintenance of Grounds	
	067 - Farm & Construction Equipment Repairs	
	068 - Other Repairs and Alterations	
	TOTAL REPAIRS AND ALTERATIONS	$500
099	ASSETS	
	070 - Office & Communication Equipment	
	071 - Medical Equipment	
	072 - Research & Educational Equipment	
	073 - Household Equipment & Furnishings	
	074 - Building Equipment	
	075 - Vehicles	
	076 - Livestock, Farm & Construction Equipment	
	077 - Books & Periodicals	
	078 - Other Capital Equipment	
	092 - Building Construction	
	120 - Contractor Payments for Capital Asset Projects	
	121 - Purchase of Materials & Supplies	
	122 - Consultant Payments for Capital Asset Projects	
	143 - Building Improvements	
	144 - Reclamation of State Owned Property	
	148 - Land Improvements	
	149 - Land Purchases	
	160 - Building Purchases	
	167 - Leasehold Improvements	
	170 - Computer Equipment	12,000
	171 - Computer Software	15,000
	172 - Intangibles	
	173 - Internally Generated Software	
	TOTAL ASSETS	$27,000
	OTHER DISBURSEMENTS	
	TOTAL OTHER DISBURSEMENTS	$0
TOTAL EXPENDITURES/APPROPRIATIONS		$197,788

ASSOCIATION DUES & PROFESSIONAL MEMBERSHIPS
(IN PRIORITY ORDER)

Page No. 8
Amended Date
Amend No.

Spending Unit WV Board of Physical Therapy

Department/Bureau of Board of Physical Therapy

Name of Group or Association	FY 2010 Actual Dues	Budgeted FY 2011 Estimated Dues*	WVFIMS No. (Fund-Org-Activity)
IN PRIORITY ORDER			
Federation of State Boards of Physcial Therapy	$1,586	$1,600	8603-0922-099
WV Assocation of Licening Boards	210	245	8603-0922-099
TOTAL	1,796	1,845	

*Payment of Association Dues is approved as currently reported on Expenditure Schedule Form ES-4, including any increase over the estimated amount not exceeding ten percent.

Approved Cabinet Secretary/Commissioner (Governing Body)

Date Approved 4/15/10

Form ES-4

PK 6/28/10

ORGANIZATION: 0922 PHYSICAL THERAPY BOARD OF
8603 2011 0922 099 BOARD OF PHYSICAL THERAPY

FY 2011 POSITION NUMBER	UNIT	SOCIAL SECURITY	NAME	TITLE	REG	PERSONNEL DIV CE	CL	GR	ST	FTE	APP	MONTHLY SALARY	BASE SALARY	ANNUAL INCREMENT	TOTAL SALARY
1	001-000	234-21-4196	HOLSTEIN, PATRICIA A	EXECUTIVE ASST	B	E	9415	014	000	1.00	24	$3,333.33	$40,000.00	$360.00	$40,360.00
2	001-000	236-31-7227	STEELE, SUMMAR R.	OFFICE ASSISTANT	P	E				1.00	24	$1,993.50	$23,922.00	$0.00	$23,922.00
66666	666-000	000-00-0000	OVERTIME/TEMPORARY	OVERTIME/TEMPORARY		E				0.00	00	$666.66	$8,000.00	$0.00	$8,000.00
88888	888-000	000-00-0000	ANNUAL INCREMENT RESERVE	INCREMENT		E				0.00	00	$0.00	$0.00	$0.00	$0.00
99999	999-000	000-00-0000	RESERVE FOR SALARY ADJUST	RESERVE		E				0.00	00	$998.83	$11,986.00	$0.00	$11,986.00

*** TOTAL FOR ACCOUNT

NO. OF LINES			5	
LESS OTHER POSITIONS			3	
EQUALS TOTAL POSITIONS			2	$19,986.00
FULL TIME	2	FTE	2.00	
PART TIME	0	FTE	0.00	
LESS VACANCIES	0	FTE	0.00	
LESS DELETES	0	FTE	0.00	$0.00
EQUALS FILLED FTE POSITIONS			2.00	$63,922.00
TOTAL FTE POSITIONS			2.00	

TOTAL PERSONAL SERVICES FOR THIS ACCOUNT $83,908.00
TOTAL ANNUAL INCREMENT FOR THIS ACCOUNT $360.00