



STATE OF WEST VIRGINIA
BOARD OF OSTEOPATHIC MEDICINE
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Office of the Governor
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Drew Ross, Director
Legislative Rulemaking Review
1900 Kanawha Boulevard, East
Room MB-27, Building 1
Charleston, WV 25305

RE: Regulatory Review Report
Per Executive Order No. 3-18

Dear Governor:

This is the 2018 Regulatory Review Report from the West Virginia Board of Osteopathic Medicine. The Board has five legislative rules and two procedural rules. All are described with the information requested below:

Title/Series: **24-01: Licensing Procedures for Osteopathic Physicians**

Description With Date of Promulgation/Modifications:

This rule identifies the qualifications required for licensure/renewal, information required for application/renewal and causes for disciplinary actions such as suspension, denial, limitations, probation or revocation of license. The first recording of this legislative rule on the WV Secretary of State's website is sometime in 1976. The effective date is uncertain. Modifications to the rule have been approved on the following dates:

04/05/1994
07/01/2001
04/27/2010
06/08/2012
05/15/2013
05/25/2017

Determination of Change, Modifications or Repeal:

As statutory requirements change regarding license requirements, this rule requires revision. The rule is currently being revised to address changes made during the 2018 legislative session. This rule defines the process and requirements for license and renewal of Osteopathic Physicians desiring to practice in West Virginia as outlined in §30-14. This rule establishes the process by which physicians are vetted as qualified and competent Osteopathic Physicians.

Reasoning:

This rule establishes the process by which physicians are vetted as qualified and competent Osteopathic Physicians to treat the citizens of West Virginia. It also outlines the causes for denial, probation, limitation, discipline, suspension or revocation of an Osteopathic Physician's license.

Title/Series: 24-02: Licensing Procedures for Osteopathic Physician Assistants

Description With Date of Promulgation/Modifications:

This rule identifies the qualifications required for licensure/renewal, information required for application/renewal and causes for disciplinary actions such as suspension, denial, limitations, probation or revocation of license. The first recording of this legislative rule on the WV Secretary of State's website is July 1, 2006. Modifications to the rule have been approved on the following dates:

05/01/2007
06/17/2011
05/15/2013
05/01/2015
07/01/2017
05/04/2018

Determination of Change, Modifications or Repeal:

As statutory requirements change regarding license requirements, this rule requires revision. This rule defines the process and requirements for license and renewal of Osteopathic Physician Assistants desiring to practice in West Virginia as outlined in §30-3E. This rule establishes the process by which physician assistants are vetted as qualified and competent, who their collaborative physician will be and that he/she is vetted as a competent Osteopathic Physician and is eligible to join into a collaborative agreement with a physician assistant.

Reasoning:

This rule establishes the process by which physician assistants are vetted as qualified and competent to treat the citizens of West Virginia under a collaborating agreement with an Osteopathic Physician. It also outlines the causes for denial, probation, limitation, discipline, suspension or revocation of an Osteopathic Physician Assistant's license.

Title/Series: 24-03: Contested Case Hearing Procedure (Procedural)

Description With Date of Promulgation/Modifications:

This rule establishes procedures for the adjudication of contested case hearings before the West Virginia Board of Osteopathic Medicine. The first recording of this legislative rule on the WV Secretary of State's website is September 15, 1993. Modifications to the rule have been approved on the following dates:

03/01/2001

Determination of Change, Modifications or Repeal:

This rule was recently reviewed by the Board's legal counsel and, even though no changes have been made to the rule since 2001, it remains current with W.Va. Code 30-14-1 et seq; 30-1-1 et seq; and 29A-5-1 et seq.

Reasoning:

This rule establishes the administrative hearing process for any person denied a license or who has had their license suspended, restricted or revoked by order of the Board and who believes such order was in violation of W.Va. Code 30-1-1 et seq. and/or 30-14-1 et seq. shall be entitled to a hearing on the action.

Title/Series: 24-04: Formation and Approval of Professional Limited Liability Companies

Description With Date of Promulgation/Modifications:

This legislative rule addresses procedures for the formation and approval of professional limited liability companies for osteopathic physicians. The first recording of this legislative rule on the WV Secretary of State's website is April 29, 1999. Modifications to the rule have been approved on the following dates:

04/27/2010

Determination of Change, Modifications or Repeal:

This rule outlines the procedures for Osteopathic Physicians to use when filing for a Professional Limited Liability Corporation license in West Virginia. These procedures are based on W. Va. Code 31B for the purpose of rendering an osteopathic professional medical service.

Reasoning:

Unless there are changes made to the original statute, there is no reason for any changes, modifications or repeal of this rule.

Title/Series: 24-05: Fees for Services Rendered by the Board of Osteopathic Medicine

Description With Date of Promulgation/Modifications:

This legislative rule establishes the fees charged by the Board of Osteopathic Medicine for services rendered. The first recording of this legislative rule on the WV Secretary of State's website is April 29, 1999. Modifications to the rule have been approved on the following dates:

04/27/2010

06/17/2011

05/01/2015

Determination of Change, Modifications or Repeal:

This rule establishes the fees charged by the Board of Osteopathic Medicine. While the licensing fees have not been changed since 2010, there have been legislative changes in the licensing process for Physician Assistants that have caused a restructuring of those fees. There is a need for revision to the Record Search Fee which no longer has legislative approval for charging. It has not been charged since W.Va. Code 29B-1-3(e) was passed.

Reasoning:

Modification is required due to the passing of W.Va., Code 29B-1-3(e) disallowing search fees for F.O.I.A. requests.

Title/Series: 24-06: Disciplinary and Complaint Procedures (Procedural)

Description With Date of Promulgation/Modifications:

This rule specifies a procedure for the investigation and resolution of complaints against Osteopathic Physicians, Physician Assistants and Osteopathic Residents. The first recording of this legislative rule on the WV Secretary of State's website is March 1, 2001. No modifications to the rule have been submitted for approval since 2001. This rule was first implemented on May 15, 2013.

Determination of Change, Modifications or Repeal:

This rule was recently reviewed by the Board's legal counsel and, even though no changes have been made to the rule since 2001, it remains current with W.Va. Code 30-14-1 et seq and 30-1-1 et seq.

Reasoning:

This rule establishes the procedure for the investigation and resolution of a complaint against Osteopathic licensees. Unless there are changes made to the original statute, there is no reason for any changes, modifications or repeal of this rule.

Title/Series: 24-07: Practitioner Requirements for Controlled Substance
Licensure and Accessing the West Virginia Controlled
Substance Monitoring Program Database

Description With Date of Promulgation/Modifications:

This rule specifies that before a licensee can prescribe or dispense any pain-relieving controlled substance they must have a DEA, a Controlled Substance License and be registered with and utilize the West Virginia Controlled Substance Monitoring Program Database.

Determination of Change, Modifications or Repeal:

The first recording of this legislative rule on the WV Secretary of State's website is May 15, 2013. No revisions have been made to date.

Reasoning:

This rule was promulgated to effectuate the provisions of W.Va. Code 60A-9-5a. This rule should be amended to add criminal penalties established in W.Va. Code 60A-9-7.

This concludes the Regulatory Review of the West Virginia Board of Osteopathic Medicine Legislative Rules as required by The Governor's Executive Order No. 3-18.

Diana Shepard, CMBE
Executive Director