

SB # 159

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

SENATE BILL NO. 159

(By Senator Manchin, et al)



PASSED March 12, 1994

In Effect from Passage

E N R O L L E D
Senate Bill No. 159

(BY SENATORS MANCHIN, ANDERSON, GRUBB AND MINARD)

[Passed March 12, 1994; in effect from passage.]

AN ACT to amend and reenact sections eight, ten, eleven, sixteen, eighteen, nineteen, and thirty-one, article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto six new sections, designated sections thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, and forty-one, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures relating thereto; the legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to

promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing the board of examiners to promulgate legislative rules relating to the board of examiners in counseling, licensing, as modified; authorizing the board of dental examiners to promulgate legislative rules relating to the West Virginia board of dental examiners, as modified; authorizing the board of embalmers and funeral directors to promulgate legislative rules relating to the West Virginia board of embalmers and funeral directors, as modified; authorizing the board of medicine to promulgate legislative rules relating to licensing, disciplinary and complaint procedures, physicians, podiatrists, as modified; authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to disciplinary action, as modified; authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to standards for professional nursing practice, as modified; authorizing the nursing home administrators licensing board to promulgate legislative rules relating to rules and regulations of the nursing home administrators licensing board, as modified; authorizing the real estate appraiser licensing and certification board to promulgate legislative rules relating to requirements for licensure and certification, as modified; authorizing the board of osteopathy to promulgate legislative rules relating to osteopathic physician assistants, as amended; authorizing the board of osteopathy to promulgate legislative rules relating to the licensing, disciplinary and complaint procedures for osteopathic physicians, as modified; authorizing the board of physical therapy to promulgate legislative rules relating to general provisions, as modified; authorizing the board of examiners for speech-language pathology and audiology to promulgate legislative rules relating to the licensure of speech-language pathology and audiology, as modified; authorizing the board of examiners for speech-language pathology and audiology to promulgate legislative rules relating to licensure of speech-language pathology and audiology

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assistants, as modified; authorizing the commercial hazardous waste management facility siting board to promulgate legislative rules relating to the commercial hazardous waste management facility siting board certification requirements, as modified; authorizing the family protection services board to promulgate legislative rules relating to operation of the family protection services board and licensure and funding of domestic violence programs, as modified and amended; authorizing the board of investments to promulgate legislative rules relating to the rules for the administration of the consolidated pension fund, as modified; and authorizing the board of investments to promulgate legislative rules relating to the administration of the consolidated fund of the state board of investments.

Be it enacted by the Legislature of West Virginia:

That sections eight, ten, eleven, sixteen, eighteen, nineteen, and thirty-one, article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended be amended and reenacted; that said article be further amended by adding thereto six new sections, designated sections thirty-six, thirty-seven, thirty-eight, thirty-nine, forty and forty-one, all to read as follows:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-8. West Virginia board of examiners in counseling.

1 (a) The legislative rules filed in the state register on the
 2 twentieth day of March, one thousand nine hundred
 3 eighty-nine, modified by the West Virginia board of
 4 examiners in counseling to meet the objections of the
 5 legislative rule-making review committee and refiled in
 6 the state register on the twelfth day of September, one
 7 thousand nine hundred eighty-nine, relating to the West
 8 Virginia board of examiners in counseling (licensing), are
 9 authorized.

10 (b) The legislative rules filed in the state register on the
 11 eighteenth day of July, one thousand nine hundred

12 ninety-one, modified by the board of examiners in
13 counseling to meet the objections of the legislative
14 rule-making review committee and refiled in the state
15 register on the sixth day of December, one thousand nine
16 hundred ninety-one, relating to the board of examiners
17 in counseling (licensing), are authorized.

18 (c) The legislative rules filed in the state register on the
19 sixteenth day of August, one thousand nine hundred
20 ninety-three, modified by the board of examiners in
21 counseling to meet the objections of the legislative
22 rule-making review committee and refiled in the state
23 register on the twenty-fifth day of January, one thousand
24 nine hundred ninety-four, relating to the board of
25 examiners in counseling (licensing), are authorized.

§64-9-10. West Virginia board of dental examiners.

1 (a) The legislative rules filed in the state register on the
2 eighth day of August, one thousand nine hundred
3 eighty-nine, modified by the West Virginia board of
4 dental examiners to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the twenty-third day of October, one
7 thousand nine hundred eighty-nine, relating to the West
8 Virginia board of dental examiners (rules and regula-
9 tions of the West Virginia board of dental examiners),
10 are authorized.

11 (b) The legislative rules filed in the state register on the
12 twenty-seventh day of July, one thousand nine hundred
13 ninety, modified by the West Virginia board of dental
14 examiners to meet the objections of the legislative
15 rule-making review committee and refiled in the state
16 register on the twenty-seventh day of August, one
17 thousand nine hundred ninety, relating to the West
18 Virginia board of dental examiners (rules and regula-
19 tions of the West Virginia board of dental examiners),
20 are authorized.

21 (c) The legislative rules filed in the state register on the
22 twenty-third day of August, one thousand nine hundred

23 ninety-three, modified by the board of dental examiners
24 to meet the objections of the legislative rule-making
25 review committee and refiled in the state register on the
26 twelfth day of October, one thousand nine hundred
27 ninety-three, relating to the board of dental examiners
28 (rules and regulations of the West Virginia board of
29 dental examiners), are authorized.

§64-9-11. Board of embalmers and funeral directors.

1 (a) The legislative rules filed in the state register on the
2 twenty-seventh day of July, one thousand nine hundred
3 eighty-four, modified by the board of embalmers and
4 funeral directors to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the ninth day of January, one thousand nine
7 hundred eighty-five, relating to the board of embalmers
8 and funeral directors (apprenticeship), are authorized.

9 (b) The legislative rules filed in the state register on the
10 sixteenth day of October, one thousand nine hundred
11 eighty-five, modified by the board of embalmers and
12 funeral directors to meet the objections of the legislative
13 rule-making review committee and refiled in the state
14 register on the eighteenth day of July, one thousand nine
15 hundred eighty-six, relating to the board of embalmers
16 and funeral directors (governing the board of embalmers
17 and funeral directors), are authorized.

18 (c) The legislative rules filed in the state register on the
19 sixth day of May, one thousand nine hundred ninety-
20 three, modified by the board of embalmers and funeral
21 directors to meet the objections of the legislative
22 rule-making review committee and refiled in the state
23 register on the fifteenth day of November, one thousand
24 nine hundred ninety-three, relating to the board of
25 embalmers and funeral directors (rules of the West
26 Virginia Board of embalmers and funeral directors), are
27 authorized.

§64-9-16. Board of medicine.

1 (a) The legislative rules filed in the state register on the

2 twelfth day of May, one thousand nine hundred
3 eighty-three, relating to the board of medicine (licensing,
4 disciplinary and complaint procedures; podiatry;
5 physicians assistants), are authorized with the modifica-
6 tions set forth below:

7 “§24.12.

8 (b) It shall be the responsibility of the supervising
9 physician to obtain consent in writing from the patient
10 before Type A physician assistants employed in a
11 satellite clinic may render general medical or surgical
12 services, except in emergencies.

13 §24.16.

14 (a) No physician assistant shall render nonemergency
15 outpatient medical services until the patient has been
16 informed that the individual providing care is a physi-
17 cian assistant.”

18 (b) The legislative rules filed in the state register on the
19 twenty-sixth day of November, one thousand nine
20 hundred eighty-five, modified by the board of medicine
21 to meet the objections of the legislative rule-making
22 review committee and refiled in the state register on the
23 seventeenth day of January, one thousand nine hundred
24 eighty-six, relating to the board of medicine (licensing,
25 disciplinary and complaint procedures; podiatry;
26 physicians assistants), are authorized.

27 (c) The legislative rules filed in the state register on the
28 eighth day of March, one thousand nine hundred
29 eighty-five, modified by the West Virginia board of
30 medicine to meet the objections of the legislative
31 rule-making review committee and refiled in the state
32 register on the eighteenth day of December, one
33 thousand nine hundred eighty-five, relating to the West
34 Virginia board of medicine (rules governing the approval
35 of medical schools not accredited by the liaison
36 committee on medical education), are authorized.

37 (d) The legislative rules filed in the state register on the

38 third day of June, one thousand nine hundred eighty-
39 seven, relating to the board of medicine (fees for services
40 rendered by the board of medicine), are authorized.

41 (e) The legislative rules filed in the state register on the
42 sixteenth day of September, one thousand nine hundred
43 eighty-eight, modified by the board of medicine to meet
44 the objections of the legislative rule-making review
45 committee and refiled in the state register on the
46 twenty-fourth day of February, one thousand nine
47 hundred eighty-nine, relating to the board of medicine
48 (dispensing of legend drugs by physicians and podia-
49 trists), are authorized with the following amendments:

50 Section 2.6 to read as follows: "Dispense means to
51 deliver a legend drug to an ultimate user or research
52 subject by or pursuant to the lawful order of a physician
53 or podiatrist, including the prescribing, packaging,
54 labeling, administering or compounding necessary to
55 prepare the drug for that delivery."

56 And,

57 Section 3.3 to read as follows: "Physicians or podia-
58 trists who are not registered with the Board as dispens-
59 ing physicians may not dispense legend drugs. However,
60 the following activities by a physician or podiatrist shall
61 be exempt from the requirements of sections 3 through
62 8 applicable to dispensing physicians:

63 a. Legend drugs administered to the patient, which are
64 not controlled substances when an appropriate record is
65 made in the patient's chart;

66 b. Professional samples distributed free of charge by a
67 physician or podiatrist or certified physician assistant
68 under his or her supervision to the patient when an
69 appropriate record is made in the patient's chart; or

70 c. Legend drugs which are not controlled substances
71 provided by free clinics or under West Virginia state
72 authorized programs, including the Medicaid, family
73 planning, maternal and child health, and early and

74 periodic screening and diagnosis and treatment
75 programs: *Provided*, That all labeling provisions of
76 section 8 shall be applicable except the requirements of
77 section 8.3 (a).”

78 (f) The legislative rules filed in the state register on the
79 tenth day of August, one thousand nine hundred ninety,
80 modified by the board of medicine to meet the objections
81 of the legislative rule-making review committee and
82 refiled in the state register on the first day of October,
83 one thousand nine hundred ninety, relating to the board
84 of medicine (fees for services rendered by the board of
85 medicine), are authorized.

86 (g) The legislative rules filed in the state register on the
87 tenth day of August, one thousand nine hundred ninety,
88 modified by the board of medicine to meet the objections
89 of the legislative rule-making review committee and
90 refiled in the state register on the eleventh day of
91 January, one thousand nine hundred ninety-one, relating
92 to the board of medicine (licensing and disciplinary and
93 complaint procedures: physicians; podiatrists), are
94 authorized.

95 (h) The legislative rules filed in the state register on the
96 tenth day of August, one thousand nine hundred ninety,
97 modified by the board of medicine to meet the objections
98 of the legislative rule-making review committee and
99 refiled in the state register on the eleventh day of
100 January, one thousand nine hundred ninety-one, relating
101 to the board of medicine (certification, disciplinary and
102 complaint procedures: physician assistants), are autho-
103 rized.

104 (i) The legislative rules filed in the state register on the
105 tenth day of July, one thousand nine hundred ninety-one,
106 modified by the board of medicine to meet the objections
107 of the legislative rule-making review committee and
108 refiled in the state register on the third day of Septem-
109 ber, one thousand nine hundred ninety-one, relating to
110 the board of medicine (continuing education for
111 physicians and podiatrists), are authorized.

112 (j) The legislative rules filed in the state register on the
113 twenty-fifth day of March, one thousand nine hundred
114 ninety-two, modified by the board of medicine to meet
115 the objections of the legislative rule-making review
116 committee and refiled in the state register on the
117 nineteenth day of May, one thousand nine hundred
118 ninety-two, relating to the board of medicine (licensing,
119 disciplinary and complaint procedures: physicians, po-
120 diatrists), are authorized.

121 (k) The legislative rules filed in the state register on the
122 seventeenth day of September, one thousand nine
123 hundred ninety-two, modified by the board of medicine
124 to meet the objections of the legislative rule-making
125 review committee and refiled in the state register on the
126 sixteenth day of November, one thousand nine hundred
127 ninety-two, relating to the board of medicine (certifica-
128 tion, disciplinary and complaint procedures, continuing
129 education, physician assistants), are authorized, with the
130 following amendment:

131 On page six, section 11-1B-2, subsection 2.8 (c), after
132 the words "in writing" and the comma, by striking out
133 the words "prior to" and inserting in lieu thereof the
134 words "within ten days of".

135 (l) The legislative rules filed in the state register on the
136 sixteenth day of August, one thousand nine hundred
137 ninety-three, modified by the board of medicine to meet
138 the objections of the legislative rule-making review
139 committee and refiled in the state register on the
140 twentieth day of October, one thousand nine hundred
141 ninety-three, relating to the board of medicine (licensing,
142 disciplinary and complaint procedures, physicians;
143 podiatrists), are authorized.

§64-9-18. Board of examiners for registered professional nurses.

1 (a) The legislative rules filed in the state register on the
2 thirteenth day of September, one thousand nine hundred
3 eighty-three, relating to the board of examiners for

4 registered professional nurses (qualifications of gradu-
5 ates of foreign nursing schools for admission to the
6 professional nurse licensing examination), are autho-
7 rized.

8 (b) The legislative rules filed in the state register on the
9 third day of August, one thousand nine hundred ninety,
10 modified by the board of examiners for registered
11 professional nurses to meet the objections of the legis-
12 lative rule-making review committee and refiled in the
13 state register on the twenty-eighth day of September,
14 one thousand nine hundred ninety, relating to the board
15 of examiners for registered professional nurses (an-
16 nouncement of advanced nursing practice), are autho-
17 rized.

18 (c) The legislative rules filed in the state register on the
19 tenth day of September, one thousand nine hundred
20 ninety-two, modified by the board of examiners for
21 registered professional nurses to meet the objections of
22 the legislative rule-making review committee and refiled
23 in the state register on the nineteenth day of January,
24 one thousand nine hundred ninety-three, relating to the
25 board of examiners for registered professional nurses
26 (limited prescriptive authority for nurses in advanced
27 practice), are authorized.

28 (d) The legislative rules filed in the state register on the
29 sixteenth day of August, one thousand nine hundred
30 ninety-three, modified by the board of examiners for
31 registered professional nurses to meet the objections of
32 the legislative rule-making review committee and refiled
33 in the state register on the eleventh day of January, one
34 thousand nine hundred ninety-four, relating to the board
35 of examiners for registered professional nurses (disci-
36 plinary action), are authorized.

37 (e) The legislative rules filed in the state register on the
38 sixteenth day of August, one thousand nine hundred
39 ninety-three, modified by the board of examiners for
40 registered professional nurses to meet the objections of
41 the legislative rule-making review committee and refiled

42 in the state register on the eleventh day of January, one
43 thousand nine hundred ninety-four, relating to the board
44 of examiners for registered professional nurses (stan-
45 dards for professional nursing practice), are authorized.

§64-9-19. Nursing home administrators licensing board.

1 (a) The legislative rules filed in the state register on the
2 eighteenth day of October, one thousand nine hundred
3 eighty-five, modified by the nursing home administrators
4 licensing board to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the twenty-eighth day of January, one
7 thousand nine hundred eighty-six, relating to the
8 nursing home administrators licensing board (governing
9 nursing home administrators), are authorized.

10 (b) The legislative rules filed in the state register on the
11 sixteenth day of August, one thousand nine hundred
12 ninety-three, modified by the nursing home administra-
13 tors licensing board to meet the objections of the
14 legislative rule-making review committee and refiled in
15 the state register on the twenty-third day of November,
16 one thousand nine hundred ninety-three, relating to the
17 nursing home administrators licensing board (rules and
18 regulations of the nursing home administrators licensing
19 board), are authorized.

§64-9-31. Real estate appraiser licensing and certification board.

1 (a) The legislative rules filed in the state register on the
2 eighteenth day of July, one thousand nine hundred
3 ninety-one, modified by the real estate appraiser
4 licensing and certification board to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the eighteenth day of
7 November, one thousand nine hundred ninety-one,
8 relating to the real estate appraiser licensing and
9 certification board (rules and regulations of the real
10 estate appraiser licensing and certification board), are
11 authorized.

12 (b) The legislative rules filed in the state register on the
13 eighteenth day of July, one thousand nine hundred
14 ninety-one, modified by the real estate appraiser
15 licensing and certification board to meet the objections
16 of the legislative rule-making review committee and
17 refiled in the state register on the eighteenth day of
18 November, one thousand nine hundred ninety-one,
19 relating to the real estate appraiser licensing and
20 certification board (requirements of licensure and
21 certification), are authorized.

22 (c) The legislative rules filed in the state register on the
23 eighteenth day of July, one thousand nine hundred
24 ninety-one, modified by the real estate appraiser
25 licensing and certification board to meet the objections
26 of the legislative rule-making review committee and
27 refiled in the state register on the eighteenth day of
28 November, one thousand nine hundred ninety-one,
29 relating to the real estate appraiser licensing and
30 certification board (renewal of licensure or certification),
31 are authorized.

32 (d) The legislative rules filed in the state register on the
33 seventh day of July, one thousand nine hundred
34 ninety-two, modified by the real estate appraiser
35 licensing and certification board to meet the objections
36 of the legislative rule-making review committee and
37 refiled in the state register on the fourteenth day of
38 August, one thousand nine hundred ninety-two, relating
39 to the real estate appraiser licensing and certification
40 board (requirements of licensure and certification), are
41 authorized.

42 (e) The legislative rules filed in the state register on the
43 twenty-eighth day of May, one thousand nine hundred
44 ninety-three, modified by the real estate appraiser
45 licensing and certification board to meet the objections
46 of the legislative rule-making review committee and
47 refiled in the state register on the seventh day of July,
48 one thousand nine hundred ninety-three, relating to the
49 real estate appraiser licensing and certification board

50 (requirements for licensure and certification), are
51 authorized.

§64-9-36. Board of osteopathy.

1 (a) The legislative rules filed in the state register on the
2 sixth day of August, one thousand nine hundred
3 ninety-three, relating to the board of osteopathy
4 (osteopathic physician assistants), are authorized with
5 amendment set forth below:

6 On page one by striking out the entire rule and
7 inserting in lieu thereof the following:

8 **§11-1B-1. General.**

9 1.1. Scope. — W. Va. Code §30-14A-1 requires the
10 Board of Osteopathy to adopt rules governing the extent
11 to which osteopathic physician assistants may function
12 in this State.

13 1.2. Authority. — W. Va. Code §30-14A-1.

14 1.3. Filing Date. —

15 1.4. Effective Date. —

16 **§11-1B-2. Rules For Osteopathic Physician Assistants.**

17 2.1. For purposes of this section, the following
18 definitions are in effect:

19 2.1.1. Licensure — The approval of individuals by the
20 Board to serve as osteopathic physician assistants. It also
21 means the approval of programs by the Board for the
22 training and education of osteopathic physician
23 assistants.

24 2.1.2. Crimes involving moral turpitude. — Those
25 crimes which have dishonesty as a fundamental and
26 necessary element; including, but not limited to, crimes
27 involving theft, embezzlement, false swearing perjury,
28 fraud or misrepresentation.

29 2.1.3. NCCPA. — The National Commission on the
30 Certification of Physician Assistants.

31 2.1.4. Protocol. — Written treatment instructions
32 prepared by a supervising osteopathic physician for use
33 by a osteopathic physician assistant. Such instructions
34 should be flexible, in accordance with the setting where
35 the osteopathic physician assistant is employed.

36 2.1.5. Satellite operation. — An office or clinic separate
37 and apart from the office of the supervising osteopathic
38 physician, established by the osteopathic physician and
39 manned in part by a osteopathic physician assistant.

40 2.1.6. Supervision. — The opportunity or ability of the
41 osteopathic physician to provide or exercise control and
42 direction over the services of osteopathic physician
43 assistants. Constant physical presence of the supervising
44 osteopathic physician of a osteopathic physician assis-
45 tant certified by the NCCPA is not required so long as
46 the supervising osteopathic physician and the osteo-
47 pathic physician assistant are or can easily be in contact
48 with each other by radio, telephone or telecommunica-
49 tion. Supervision requires the availability of the super-
50 vising osteopathic physician. An appropriate degree of
51 supervision includes:

52 a. Personal supervision by the osteopathic physician of
53 a minimum of twenty-five percent of the weekly hours
54 worded by each osteopathic physician assistant;

55 b. The active and continuing overview of the osteo-
56 pathic physician assistant's activities to determine that
57 the supervising osteopathic physician's directions are
58 being implemented;

59 c. The availability of the supervising osteopathic
60 physician to the osteopathic physician assistant for all
61 necessary consultations;

62 d. Personal and regular (at least monthly) review by
63 the supervising osteopathic physician of selected patient
64 records upon which entries are made by the osteopathic
65 physician assistant. Patient records shall be selected for
66 review on the basis of written criteria established by the
67 supervising osteopathic physician and the osteopathic

68 physician assistant and shall be of sufficient number to
69 assure adequate review of the osteopathic physician
70 assistant's scope of practice, and;

71 e. Periodic (at least monthly) education and review
72 sessions discussing specific conditions, protocols, pro-
73 cedures and specific patients, held by the supervising
74 osteopathic physician for the osteopathic physician
75 assistant under his or her supervision.

76 In the case of a osteopathic physician assistant who has
77 not been certified by the NCCPA, the presence of the
78 supervising osteopathic physician or alternate supervis-
79 ing osteopathic physician is required on the premises
80 where the noncertified osteopathic physician assistant
81 performs delegated medical tasks.

82 2.2. Employment of osteopathic physician assistants by
83 licensed osteopathic physician; services that may be
84 performed by osteopathic physician assistants.

85 2.2.1. A osteopathic physician fully licensed under W.
86 Va. Code §30-14-1 et. seq. may submit a job description
87 to the Board to employ a osteopathic physician assistant.

88 2.2.2. The delegation of certain acts to a osteopathic
89 physician assistant shall be stated on the job description
90 in a manner consistent with sound medical practice and
91 with the protection of the health and safety of the
92 patient in mind. The services shall be limited to those
93 which are educational, diagnostic, therapeutic or
94 preventive in nature and may, according to the standards
95 set by his or her supervising osteopathic physician, allow
96 the osteopathic physician assistant to formulate a
97 provisional diagnosis and treatment plan which may be
98 set by standard protocols of his or her supervising
99 osteopathic physician and are under his or her direction.

100 2.3. Submission of application; job description. — An
101 application completed by the applicant and a job
102 description written and signed by the supervising
103 osteopathic physician listing in numerical order the
104 duties which will be performed by the assistant must be

105 in the office of the Board of Osteopathy, thirty (30) days
106 prior to a Board meeting. The filing of an application
107 and job description does not entitle a osteopathic
108 physician assistant to licensure. The only legal authority
109 for such approval must be given by the Board.

110 2.4. Biennial report of osteopathic physician assistant's
111 performance; biennial report of the Board. — Osteo-
112 pathic physician assistants and their supervising
113 osteopathic physicians must submit biennial signed
114 reports either individually or combined, on the profes-
115 sional conduct, capabilities and performance of the
116 osteopathic physician assistant. The report must
117 accompany each application for licensure and must be
118 submitted to the office of the Board by April 1. In
119 addition thereto, the Board shall compile and publish a
120 biennial report that includes a list of currently licensed
121 osteopathic physician assistants, their employers and
122 location in the state and a list of approved programs in
123 West Virginia, the number of graduates per year of the
124 approved programs and the number of osteopathic
125 physician assistants from other states' approved
126 programs practicing in West Virginia.

127 2.5. Supervision and control of osteopathic physician
128 assistant. — The osteopathic physician assistant,
129 whether employed by a health care facility or the
130 supervising osteopathic physician, shall perform only
131 under the supervision and control of the supervising
132 osteopathic physician. Supervision and control of a
133 osteopathic physician assistant certified by the NCCPA
134 requires the availability of a osteopathic physician for
135 consultation and direction of the actions of the assistant,
136 but does not necessarily require the personal presence of
137 the supervising osteopathic physician at the place or
138 places where services are rendered, if the osteopathic
139 physician assistant certified by the NCCPA is perform-
140 ing (specified) duties at the direction of the supervising
141 osteopathic physician. In the case of a osteopathic
142 physician assistant who has not been certified by the
143 NCCPA, the presence of the supervising osteopathic

144 physician or alternate supervising osteopathic physician
145 on the premises where the noncertified assistant
146 performs delegated medical tasks is required. The
147 osteopathic physician assistant may function in any
148 setting within which the supervising osteopathic
149 physician routinely practices, but in no instance shall a
150 separate place of work for the osteopathic physician
151 assistant be established. The supervising osteopathic
152 physician shall be a osteopathic physician permanently
153 licensed in this State.

154 2.6. Limitations on employment and scope of duties of
155 osteopathic physician assistants.

156 2.6.1. A supervising osteopathic physician shall not
157 employ at any one time more than two (2) osteopathic
158 physician assistants.

159 2.6.2. A osteopathic physician assistant shall not sign
160 prescriptions except in the case of certain osteopathic
161 physician assistants authorized to do so by the Board in
162 accordance with the provisions of 2.13 of this rule.

163 2.6.3. A osteopathic physician assistant shall not
164 perform any services which his or her supervising
165 osteopathic physician is not qualified to perform.

166 2.6.4. A osteopathic physician assistant may sign
167 orders to be countersigned later by his or her supervising
168 osteopathic physician: *Provided*, That they are not in
169 conflict with hospital regulations.

170 2.6.5. A osteopathic physician assistant shall not
171 perform any services which are not included in his or her
172 job description and approved by the Board.

173 2.6.6. No osteopathic physician assistant shall be
174 supervised by and work for more than three supervising
175 osteopathic physicians at one time.

176 2.7. Identification of osteopathic physician assistant. —
177 When functioning as a osteopathic physician assistant,
178 the osteopathic physician assistant shall wear a name tag
179 which identifies the osteopathic physician assistant as a

180 osteopathic physician assistant.

181 2.8. Supervising osteopathic physician; responsibilities.

182 2.8.1. The supervising osteopathic physician is
183 responsible for observing, directing and evaluating the
184 work, records and practices performed by the osteo-
185 pathic physician assistant.

186 2.8.2. The supervising osteopathic physician shall
187 notify the Board in writing of any termination of the
188 employment of his or her osteopathic physician assistant
189 within ten (10) days of the termination.

190 2.8.3. The legal responsibility for any osteopathic
191 physician assistant remains that of his or her supervising
192 osteopathic physician at all times, except in temporary
193 situations not to exceed twenty one days, in cases when
194 a licensed and fully qualified osteopathic physician
195 assistant is substituting for another licensed osteopathic
196 physician assistant, the acts and omissions of the
197 substituting osteopathic physician assistant are the legal
198 responsibility of the absent osteopathic physician
199 assistant's designated supervising osteopathic physician.
200 The temporary change in supervisory responsibility shall
201 be provided to the Board in writing, within ten (10) days
202 of the effective date of the substitution, signed by the
203 affected supervising osteopathic physicians and
204 osteopathic physician assistants, and clearly specifying
205 the dates of substitution.

206 2.9. The license of a osteopathic physician assistant
207 shall be restricted, suspended or revoked by the Board in
208 accordance with all the alternatives set out at W. Va.
209 Code §30-14A-1 when, after due notice and a hearing in
210 accordance with the manner and form prescribed by the
211 contested case hearing procedure, W. Va. Code §29A-5-1
212 et seq. and regulations of the Board set out at 24 CSR 1
213 if it is found:

214 2.9.1. That the assistant has held himself or herself out
215 or permitted another person to represent him or her as a
216 licensed osteopathic physician;

217 2.9.2. That the assistant has in fact performed other
218 than at the direction and under the supervision of a
219 supervising osteopathic physician licensed by the Board;

220 2.9.3. That the assistant has been delegated and
221 performed a task or tasks beyond his or her competence
222 and not in accordance with his or her job description as
223 approved by the Board;

224 2.9.4. That the assistant is a habitual user of intoxi-
225 cants or drugs to such an extent that he or she is unable
226 to safely perform as an assistant to the osteopathic
227 physician;

228 2.9.5. That the assistant has been convicted in any
229 court, state or federal, of any felony or other criminal
230 offense involving moral turpitude;

231 2.9.6. That the assistant has been adjudicated a mental
232 incompetent or his or her mental condition renders him
233 or her unable to safely perform as an assistant to a
234 osteopathic physician;

235 2.9.7. That the assistant has failed to comply with any
236 of the provisions of this rule or W. Va. Code §30-14-1 et
237 seq.; and

238 2.9.8. That the assistant is guilty of unprofessional
239 conduct which includes, but is not limited to, the
240 following:

241 a. Misrepresentation or concealment of any material
242 fact in obtaining any certificate or license or a reinstatement
243 thereof;

244 b. The commission of an offense against any provision
245 of state law related to the practice of osteopathic
246 physician assistants, or any rule or regulation promul-
247 gated thereunder;

248 c. The commission of any act involving moral turpi-
249 tude, dishonesty or corruption, when the act directly or
250 indirectly affects the health, welfare or safety of citizens
251 of this State. If the act constitutes a crime, conviction

252 thereof in a criminal proceeding is not a condition
253 precedent to disciplinary action;

254 d. Conviction of a felony, as defined under the laws of
255 this State or under the laws of any other state, territory
256 or country;

257 e. Misconduct in his or her practice as a osteopathic
258 physician assistant or performing tasks fraudulently,
259 beyond his or her authorized scope, with incompetence
260 or with negligence on a particular occasion or negligence
261 on repeated occasions;

262 f. Performing tasks as a osteopathic physician assistant
263 while the ability to do so is impaired by alcohol, drugs,
264 physical disability or mental instability;

265 g. Impersonation of a licensed osteopathic physician or
266 another certified or licensed osteopathic physician
267 assistant;

268 h. Offering, undertaking or agreeing to cure or treat
269 disease by a secret method, procedure, treatment or
270 medicine; treating or prescribing for any human
271 condition by a method, means or procedure which the
272 osteopathic physician assistant refuses to divulge upon
273 demand of the Board; or using such methods or treat-
274 ment processes not accepted by a reasonable segment of
275 the medical profession;

276 i. Prescribing a prescription drug, including any
277 controlled substance under state or federal law, other
278 than in good faith and a therapeutic manner in accor-
279 dance with accepted medical standards;

280 j. Prescribing a controlled substance under state or
281 federal law, to or for himself or herself, or to or for any
282 member of his or her immediate family; and

283 k. Prescribing a prescription drug, including any
284 controlled substance under state or federal law, which is
285 not included in the approved job description for that
286 osteopathic physician assistant or which is not included
287 in the approved state formulary for osteopathic

288 physician assistants.

289 2.10. Denial of licensure of osteopathic physician
290 assistant. Whenever the Board determines that an
291 applicant has failed to satisfy the Board that he or she
292 should be licensed, the Board shall immediately notify
293 the applicant of its decision and indicate in what respect
294 the applicant has failed to satisfy the Board. The
295 applicant shall be given a formal hearing before the
296 Board upon request of the applicant filed with or mailed
297 by registered or certified mail to the Secretary of the
298 Board, which request must be filed within thirty (30)
299 days after receipt of the Board's decision, stating the
300 reasons for the request. The Board shall within twenty
301 (20) days of receipt of the request, notify the applicant of
302 the time and place of a public hearing, which shall be
303 held within a reasonable time. The burden of satisfying
304 the Board of his or her qualifications for licensure is
305 upon the applicant. Following the hearing, the Board
306 shall determine on the basis of this rule whether the
307 applicant is qualified to be licensed, and this decision of
308 the Board is final as to that application.

309 2.11. Disciplinary procedures. — The disciplinary
310 process and procedures set forth in the contested case
311 hearing procedure, W. Va. Code §29A-5-1 et seq. and in
312 regulations of the Board set out at 24 CSR 1 also apply to
313 disciplinary actions instituted against osteopathic
314 physician assistants with the same provisions regarding
315 the appeal of decisions made to circuit courts.

316 2.12. Osteopathic physician assistant utilization.

317 2.12.1. The osteopathic physician assistant shall, under
318 appropriate direction and supervision by a osteopathic
319 physician, augment the osteopathic physician's data
320 gathering abilities in order to assist the supervising
321 osteopathic physician in reaching decisions and
322 instituting care plans for the osteopathic physician's
323 patients. A osteopathic physician assistant shall have, as
324 a minimum, the knowledge and competency to perform
325 the following functions and may under appropriate

- 326 supervision perform them; this list is not intended to be
327 specific or all-inclusive:
- 328 a. Screen patients to determine the need for medical
329 attention;
- 330 b. Review patient records to determine health status;
- 331 c. Take a patient history;
- 332 d. Perform a physical examination;
- 333 e. Perform development screening examinations on
334 children;
- 335 f. Record pertinent patient data;
- 336 g. Make decisions regarding data gathering and
337 appropriate management and treatment of patients being
338 seen for the initial evaluation of a problem or the
339 follow-up evaluation of a previously diagnosed and
340 stabilized condition;
- 341 h. Prepare patient summaries;
- 342 i. Initiate requests for commonly performed initial
343 laboratory studies;
- 344 j. Collect specimens for and carry out commonly
345 performed blood, urine and stool analyses and cultures;
- 346 k. Identify normal and abnormal findings in history
347 physical examination and commonly performed
348 laboratory studies;
- 349 l. Initiate appropriate evaluation and emergency
350 management for emergency situations; for example,
351 cardiac arrest, respiratory distress, injuries, burns and
352 hemorrhage;
- 353 m. Perform clinical procedures such as:
- 354 A. Venipuncture;
- 355 B. Electrocardiogram;
- 356 C. Care and suturing of minor lacerations;

- 357 D. Casting and splinting;
358 E. Control of external hemorrhage;
359 F. Application of dressings and bandages;
360 G. Removal of superficial foreign bodies;
361 H. Cardiopulmonary resuscitation;
362 I. Audiometry screening;
363 J. Visual screening; and
364 K. Aseptic and isolation techniques; and
365 n. Provide counseling and instruction regarding
366 common patient problems.
- 367 2.12.2. The tasks a osteopathic physician assistant may
368 perform are those which require technical skill,
369 execution of standing orders, routine patient care tasks
370 and such diagnostic and therapeutic procedures as the
371 supervising osteopathic physician may wish to delegate
372 to the osteopathic physician assistant after the supervis-
373 ing osteopathic physician has satisfied himself or herself
374 as to the ability and competence of the osteopathic
375 physician assistant. The supervising osteopathic physi-
376 cian may, with due regard for the safety of the patient
377 and in keeping with sound medical practice, delegate to
378 the osteopathic physician assistant such medical pro-
379 cedures and other tasks as are usually performed within
380 the normal scope of the supervising osteopathic physi-
381 cian's practice, subject to the limitations set forth in this
382 section and W. Va. Code §30-14-1 et seq., and the
383 training and expertise of the osteopathic physician
384 assistant.
- 385 2.12.3. A supervising osteopathic physician shall not
386 permit a osteopathic physician assistant to indepen-
387 dently practice medicine. Supervision must be main-
388 tained at all times.
- 389 2.12.4. A osteopathic physician assistant shall not:
390 a. Maintain or manage an office separate and apart

391 from the supervising osteopathic physician's primary
392 office for treating patients, unless the Board has granted
393 the supervising osteopathic physician specific permission
394 to establish a satellite operation;

395 b. Independently bill patients for services provided;

396 c. Independently delegate a task assigned to him or her
397 by his or her supervising osteopathic physician to
398 another individual;

399 d. Perform acupuncture in any form; or

400 e. Pronounce a patient dead, except in a setting where
401 state or federal government regulations permit a
402 registered nurse or a osteopathic physician assistant to
403 do so.

404 2.12.5. The supervising osteopathic physician shall
405 monitor and supervise the activities of the osteopathic
406 physician assistant and require documentation, includ-
407 ing organized medical records with symptoms, pertinent
408 physical findings, impressions and treatment plans
409 indicated. The supervising osteopathic physician may
410 also provide written protocols for the use of the
411 osteopathic physician assistant in the performance of
412 delegated tasks. The established protocols shall be
413 available for public inspection upon request and may be
414 reviewed by the Board as required.

415 2.12.6. If the supervising osteopathic physician absents
416 himself or herself in such a manner or to such an extent
417 that he or she is unavailable to aid the osteopathic
418 physician assistant when required, the supervising
419 osteopathic physician shall not delegate patient care to
420 his or her osteopathic physician assistant unless he or
421 she has made appropriate arrangements for an alternate
422 supervising osteopathic physician. The legal responsibil-
423 ity for the acts and omissions of the osteopathic
424 physician assistant remains with the supervising
425 osteopathic physician at all times.

426 2.12.7. It is the responsibility of the supervising

427 osteopathic physician to ensure that supervision is
428 maintained in his or her absence.

429 2.12.8. No osteopathic physician assistant may be
430 utilized in an office or clinic separate and apart from the
431 supervising osteopathic physician's primary place for
432 meeting patients unless the supervising osteopathic
433 physician has obtained specific approval from the Board.
434 A supervising osteopathic physician may supervise only
435 two (2) satellite operations. The criteria for granting
436 approval is that the supervising osteopathic physician
437 demonstrate the following to the satisfaction of the
438 Board:

439 a. That the osteopathic physician assistant will be
440 utilized in a designated manpower shortage area or an
441 area of medical need as defined by the Board;

442 b. That there is adequate provision for direct commu-
443 nication between the osteopathic physician assistant and
444 the supervising osteopathic physician and that the
445 distance between the main office and the satellite
446 operation is not so great as to prohibit or impede
447 appropriate emergency services;

448 c. That provision is made for the supervising osteo-
449 pathic physician to see each regular patient periodically;
450 for example, every third visit; and

451 d. That the supervising osteopathic physician visit the
452 remote office at least once every fourteen days and
453 demonstrate that he or she spends enough time on site to
454 provide supervision and personal and regular review of
455 the selected records upon which entries are made by the
456 osteopathic physician assistant. Patient records shall be
457 selected on the basis of written criteria established by
458 the supervising osteopathic physician and the osteo-
459 pathic physician assistant and shall be of sufficient
460 number to assure adequate review of the osteopathic
461 physician assistant's scope of practice.

462 2.12.9. Appropriate records of supervisory contact
463 must be maintained and made available for Board review

464 if required. Failure to maintain the standards required
465 for such an operation may result in the loss of the
466 privilege to maintain a satellite operation.

467 2.12.10. Designated representatives of the Board will
468 be authorized to make on-site visits to the offices of
469 supervising osteopathic physicians and medical care
470 facilities utilizing osteopathic physician assistants to
471 review the following:

472 a. The supervision of osteopathic physician assistants;

473 b. The maintenance of and compliance with, any
474 protocols;

475 c. Utilization in conformity with the provisions of this
476 section;

477 d. Identification of osteopathic physician assistants;
478 and

479 e. Compliance with licensure and registration
480 requirements.

481 2.12.11. The Board reserves the right to review
482 osteopathic physician assistant utilization without prior
483 notice to either the osteopathic physician assistant or the
484 supervising osteopathic physician. It is a violation of this
485 rule for a supervising osteopathic physician or a
486 osteopathic physician assistant to refuse to undergo a
487 review by the Board.

488 2.12.12. The provisions of this section shall not be
489 construed to require medical care facilities to accept
490 osteopathic physician assistants or to use them within
491 their premises. It is appropriate for the osteopathic
492 physician assistant to provide services to the hospital-
493 ized patients of his or her supervising osteopathic
494 physician under the supervision of the osteopathic
495 physician, if the medical care facility permits it.

496 2.12.13. Osteopathic physician assistants employed
497 directly by medical care facilities shall perform services
498 only under the supervision of a clearly identified

499 supervising osteopathic physician, and the osteopathic
500 physician shall supervise no more than two (2) osteo-
501 pathic physician assistants, except that a supervising
502 osteopathic physician may supervise up to four (4)
503 hospital employed osteopathic physician assistants.

504 2.12.14. So long as the facility permits, a osteopathic
505 physician assistant may:

506 a. Assess and record the patient's progress within the
507 parameters of an established protocol or regimen and
508 report the patient's progress to the supervising osteo-
509 pathic physician; and

510 b. Make entries in medical records and patient charts
511 so long as an appropriate mechanism is established for
512 authentication by the supervising osteopathic physician
513 through countersignature.

514 2.12.15. A osteopathic physician assistant may provide
515 medical care or services in an emergency department so
516 long as he or she has training in emergency medicine,
517 functions under specific protocols which govern his or
518 her performance and is under the supervision of a
519 osteopathic physician with whom he or she has ready
520 contact and who is willing to assume full responsibility
521 for the osteopathic physician assistant's performance.

522 2.12.16. No osteopathic physician assistant shall render
523 nonemergency outpatient medical services until the
524 patient has been informed that the individual providing
525 care is a osteopathic physician assistant.

526 2.12.17. It is the supervising osteopathic physician's
527 responsibility to be alert to patient complaints concern-
528 ing the type or quality of services provided by the
529 osteopathic physician assistant.

530 2.12.18. In the supervising osteopathic physician's
531 office and any satellite operation, a notice plainly visible
532 to all patients shall be posted in a prominent place
533 explaining the meaning of the term "Osteopathic
534 physician Assistant". The osteopathic physician

535 assistant's license must be prominently displayed in the
536 office and any satellite operation in which he or she may
537 function. Duplicate licenses may be obtained from the
538 Board if required.

539 2.12.19. The osteopathic physician assistant is required
540 to notify the Board of changes in his or her employment
541 within thirty (30) days. The osteopathic physician
542 assistant must provide the Board with his or her new
543 address and telephone number of residence, address and
544 telephone number of employment and name of supervis-
545 ing osteopathic physician.

546 2.12.20. The supervising osteopathic physician is
547 required to notify the Board of any changes in his or her
548 supervision of a osteopathic physician assistant within
549 ten (10) days.

550 2.13. Limited prescriptive privileges for osteopathic
551 physician assistants.

552 2.13.1. A osteopathic physician assistant may be
553 authorized by the Board to issue written or oral
554 prescriptions for certain medicinal drugs at the direction
555 of his or her supervising osteopathic physician if all of
556 the following conditions are met:

557 a. The osteopathic physician assistant has performed
558 patient care services for a minimum of two (2) years
559 immediately preceding the submission to the Board of
560 the job description requesting limited prescriptive
561 privileges;

562 b. The osteopathic physician assistant has successfully
563 completed an accredited course of instruction in clinical
564 pharmacology approved by the Board of not less than
565 four (4) semester hours;

566 c. The osteopathic physician assistant obtains Board
567 approval of his or her job description which includes the
568 categories of drugs the osteopathic physician assistant
569 proposes to prescribe at the direction of his or her
570 supervising osteopathic physician.

571 d. The osteopathic physician assistant continues to
572 maintain national certification as an osteopathic physi-
573 cian assistant, and in meeting such national certification
574 requirements, completes a minimum of ten (10) hours of
575 continuing education in rational drug therapy in each
576 certification period.

577 2.13.2. Evidence of completion of all conditions for the
578 granting of limited prescriptive privileges shall be
579 included with the osteopathic physician assistant's
580 biennial renewal application and report to the Board.

581 2.13.3. The Board shall approve a formulary classifying
582 pharmacologic categories of all drugs which may be
583 prescribed by a osteopathic physician assistant autho-
584 rized by the Board to prescribe drugs. The formulary
585 shall exclude Schedules I and II of the Uniform
586 Controlled Substances Act, anticoagulants, antineo-
587 plastics, radiopharmaceuticals, general anesthetics and
588 radiographic contrast materials. The formulary may be
589 revised annually, and shall include the following
590 designated sections:

591 a. Section a. — A choice of drugs commonly used in
592 primary care outpatient settings to be prescribable by
593 osteopathic physician assistants who have completed an
594 additional accredited course of study in clinical
595 pharmacology approved by the Board of not less than
596 four (4) semester hours; and

597 b. Section b. — Additional drugs used less commonly
598 in primary care outpatient settings to be prescribable by
599 osteopathic physician assistants who have satisfied the
600 requirements set forth under Section 2.13.3.a of this rule.
601 In addition, Section b. drugs may be prescribed by
602 osteopathic physician assistants only under the following
603 limited situations:

604 A. On a direct order from the supervising osteopathic
605 physician to the osteopathic physician assistant during
606 consultation at the time of the patient's examination by
607 the osteopathic physician assistant, and specifically

608 noted in the patient's chart; or

609 B. On a refill prescription for a previously diagnosed
610 and stable patient whose prescription was initiated by
611 the supervising osteopathic physician.

612 2.13.4. A prescription drug not included in the
613 approved formulary shall not be contained in the job
614 description of any osteopathic physician assistant.

615 2.13.5. Prescriptions issued by a osteopathic physician
616 assistant shall be issued consistent with the supervising
617 osteopathic physician's directions or treatment protocol
618 provided to his or her osteopathic physician assistant.
619 The maximum dosage shall be indicated in the protocol
620 and in no case may the dosage exceed the manufacturer's
621 recommended average therapeutic dose for that drug.

622 2.13.6. Each prescription and subsequent refills given
623 by the osteopathic physician assistant shall be entered
624 on the patient's chart.

625 2.13.7. The prescription form utilized by a osteopathic
626 physician assistant approved for limited prescriptive
627 privileges shall be imprinted with the name of the
628 supervising osteopathic physician, the name of the
629 approved osteopathic physician assistant, the address of
630 the health care facility, the telephone number of the
631 health care facility, the categories of drugs or drugs
632 within a category which the assistant may prescribe and
633 the statement, "Osteopathic physician Assistant Pre-
634 scription-it is a violation of state law to dispense drugs
635 not imprinted on this prescription." The osteopathic
636 physician assistant shall write the name of the patient,
637 the patient's address and the date on each prescription
638 form. The osteopathic physician assistant shall sign his
639 or her name to each prescription followed by the letters
640 "PA-C." The supervising osteopathic physician must
641 provide the Board with a copy of the prescription form
642 utilized by his or her osteopathic physician assistant
643 prior to its use. A copy of this prescription form shall be
644 provided by the osteopathic physician assistant to area

645 pharmacies where the osteopathic physician assistant
646 may issue a prescription by word of mouth, telephone or
647 other means of communication in his or her name at the
648 direction of the supervising osteopathic physician.

649 2.13.8. Osteopathic physician assistants authorized to
650 issue prescriptions for Schedules III through V con-
651 trolled substances shall write on the prescription form
652 the Federal Drug Enforcement Administration number
653 issued to that osteopathic physician assistant. Prescrip-
654 tions written for Schedule III drugs shall be limited to a
655 seventy-two (72) hour supply and may not authorize a
656 refill. The maximum amount of Schedule IV or Schedule
657 V drugs shall be no more than ninety (90) dosage units or
658 a thirty (30) day supply, whichever is less.

659 2.13.9. Other prescription drugs shall not be prescribed
660 or refillable for a period exceeding six (6) months.

661 2.13.10. The Board of Osteopathy shall provide the
662 Board of Pharmacy with a list of osteopathic physician
663 assistants with limited prescriptive privileges and shall
664 update the list within ten (10) days after additions or
665 deletions are made.

666 2.13.11. Nothing in this rule shall be construed to
667 permit any osteopathic physician assistant to independ-
668 ently prescribe or dispense drugs.

669 2.14. Continuing Education.

670 2.14.1. Each osteopathic physician assistant, as a
671 condition of biennial renewal of osteopathic physician
672 assistant license, shall provide written documentation of
673 participation in and successful completion during the
674 preceding two (2) year period of a minimum of twenty
675 (20) hours of continuing education in courses approved
676 by the Board for the purposes of continuing education of
677 osteopathic physician assistants

678 2.14.2. All written documentation must be submitted to
679 and received by the Board, with the completed biennial
680 renewal form, prior to the first day of April of the year

681 of renewal of the osteopathic physician assistant license.

682 2.14.3. Failure to timely submit written documentation
683 as set forth in subsection 2.14.3 of this rule shall result in
684 the automatic suspension of the license of a osteopathic
685 physician assistant until such time as the written
686 documentation is submitted to and approved by the
687 Board.

688 **§11-2B-3. Severability.**

689 If any provision of these rules or the application
690 thereof to any person or circumstance is held invalid, the
691 invalidity shall not affect the provisions or application of
692 this rules which can be given effect without the invalid
693 provisions or application and to this end the provisions
694 of this rule are declared to be severable.

695 (b) The legislative rules filed in the state register on the
696 sixth day of August, one thousand nine hundred
697 ninety-three, modified by the board of osteopathy to
698 meet the objections of the legislative rule-making review
699 committee and refiled in the state register on the
700 twenty-fifth day of January, one thousand nine hundred
701 ninety-four, relating to the board of osteopathy (licens-
702 ing, disciplinary and complaint procedures for osteo-
703 pathic physicians), are authorized.

§64-9-37. Board of physical therapy.

1 The legislative rules filed in the state register on the
2 nineteenth day of July, one thousand nine hundred
3 ninety-three, modified by the board of physical therapy
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 twenty-seventh day of October, one thousand nine
7 hundred ninety-three, relating to the board of physical
8 therapy (general provisions), are authorized.

**§64-9-38. Board of examiners for speech-language pathology
and audiology.**

1 (a) The legislative rules filed in the state register on the

2 fourteenth day of July, one thousand nine hundred
3 ninety-three, modified by the board of examiners for
4 speech-language pathology and audiology to meet the
5 objections of the legislative rule-making review
6 committee and refiled in the state register on the first
7 day of September, one thousand nine hundred ninety-
8 three, relating to the board of examiners for speech-
9 language pathology and audiology (licensure of speech-
10 language pathology and audiology), are authorized.

11 (b) The legislative rules filed in the state register on the
12 fourteenth day of July, one thousand nine hundred
13 ninety-three, modified by the board of examiners for
14 speech-language pathology and audiology to meet the
15 objections of the legislative rule-making review
16 committee and refiled in the state register on the first
17 day of September, one thousand nine hundred ninety-
18 three, relating to the board of examiners for speech-
19 language pathology and audiology (licensure of speech-
20 language pathology and audiology assistants), are
21 authorized.

**§64-9-39. Commercial hazardous waste management facility
siting board.**

1 The legislative rules filed in the state register on the
2 sixteenth day of August, one thousand nine hundred
3 ninety-three, modified by the commercial hazardous
4 waste management facility siting board to meet the
5 objections of the legislative rule-making review
6 committee and refiled in the state register on the
7 twenty-first day of January, one thousand nine hundred
8 ninety-four, relating to the commercial hazardous waste
9 management facility siting board (commercial hazardous
10 waste management facility siting board certification
11 requirements), are authorized.

§64-9-40. Family protection services board.

1 The legislative rules filed in the state register on the
2 thirteenth day of August, one thousand nine hundred
3 ninety-three, modified by the family protection services

4 board to meet the objections of the legislative rule-mak-
5 ing review committee and refiled in the state register on
6 the eighth day of October, one thousand nine hundred
7 ninety-three, relating to the family protection services
8 board (operation of the family protection services board
9 and licensure and funding of domestic violence
10 programs), are authorized with the amendment set forth
11 below:

12 On page twelve, section 5.5.3, after the word “sus-
13 pended” by striking out the word “or” and inserting in
14 lieu thereof the following words “but the board shall
15 provide funds to a shelter/program”.

§64-9-41. Board of investments.

1 (a) The legislative rules filed in the state register on the
2 sixteenth day of August, one thousand nine hundred
3 ninety-three, modified by the board of investments to
4 meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the
6 eighteenth day of January, one thousand nine hundred
7 ninety-four, relating to the board of investments
8 (administration of the consolidated pension fund), are
9 authorized.

10 (b) The legislative rules filed in the state register on the
11 sixteenth day of August, one thousand nine hundred
12 ninety-three, relating to the board of investments
13 (administration of the consolidated fund by the West
14 Virginia state board of investments), are authorized.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *[Handwritten Signature]* is approved this the *30th*
March day of, 1994.

[Handwritten Signature]
.....
Governor

PRESENTED TO --

GOVERNOR

Date

3/25/94

Time

9:46 am