

SB 535

FILED

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**WEST VIRGINIA LEGISLATURE** WEST VIRGINIA  
**EIGHTIETH LEGISLATURE** SECRETARY OF STATE  
**REGULAR SESSION, 2012**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 535**

(SENATORS STOLLINGS, FOSTER AND MILLER, ORIGINAL SPONSORS)

[PASSED MARCH 10, 2012; IN EFFECT NINETY DAYS FROM PASSAGE.]

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AN ACT to amend and reenact §30-3-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-15a of said code; and to amend and reenact §30-14A-1 of said code, all relating to expanding prescriptive authority of advanced practice registered nurses, physician assistants and assistants to osteopathic physicians and surgeons to allow the prescribing of medications for chronic diseases for an annual supply; clarifying that controlled substances are not included and chronic pain management is excluded from chronic diseases; eliminating the exclusion for prescribing anticoagulants for the specific prescribers; and correcting terminology.

*Be it enacted by the Legislature of West Virginia:*

That §30-3-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §30-7-15a of said code be amended and reenacted; and that §30-14A-1 of said code be amended and reenacted, all to read as follows:

**ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

**§30-3-16. Physician assistants; definitions; Board of Medicine rules; annual report; licensure; temporary license; relicensure; job description required; revocation or suspension of licensure; responsibilities of supervising physician; legal responsibility for physician assistants; reporting by health care facilities; identification; limitations on employment and duties; fees; continuing education; unlawful representation of physician assistant as a physician; criminal penalties.**

1 (a) As used in this section:

2 (1) "Approved program" means an educational program  
3 for physician assistants approved and accredited by the  
4 Committee on Accreditation of Allied Health Education  
5 Programs or its successor;

6 (2) "Health care facility" means any licensed hospital,  
7 nursing home, extended care facility, state health or mental  
8 institution, clinic or physician's office;

9 (3) "Physician assistant" means an assistant to a physi-  
10 cian who is a graduate of an approved program of instruction  
11 in primary health care or surgery, has attained a baccalaure-  
12 ate or master's degree, has passed the national certification  
13 examination and is qualified to perform direct patient care  
14 services under the supervision of a physician;

15 (4) "Physician assistant-midwife" means a physician  
16 assistant who meets all qualifications set forth under  
17 subdivision (3) of this subsection and fulfills the require-  
18 ments set forth in subsection (d) of this section, is subject to  
19 all provisions of this section and assists in the management  
20 and care of a woman and her infant during the prenatal,  
21 delivery and postnatal periods; and

22 (5) "Supervising physician" means a doctor or doctors of  
23 medicine or podiatry permanently and fully licensed in this  
24 state without restriction or limitation who assume legal and  
25 supervisory responsibility for the work or training of any  
26 physician assistant under his or her supervision.

27 (b) The board shall promulgate rules pursuant to the  
28 provisions of article three, chapter twenty-nine-a of this  
29 code governing the extent to which physician assistants may  
30 function in this state. The rules shall provide that the  
31 physician assistant is limited to the performance of those  
32 services for which he or she is trained and that he or she  
33 performs only under the supervision and control of a physi-  
34 cian permanently licensed in this state but that supervision  
35 and control does not require the personal presence of the  
36 supervising physician at the place or places where services  
37 are rendered if the physician assistant's normal place of  
38 employment is on the premises of the supervising physician.  
39 The supervising physician may send the physician assistant  
40 off the premises to perform duties under his or her direction  
41 but a separate place of work for the physician assistant may  
42 not be established. In promulgating the rules, the board shall  
43 allow the physician assistant to perform those procedures  
44 and examinations and, in the case of certain authorized  
45 physician assistants, to prescribe at the direction of his or  
46 her supervising physician, in accordance with subsection (r)  
47 of this section, those categories of drugs submitted to it in  
48 the job description required by this section. Certain autho-  
49 rized physician assistants may pronounce death in accor-  
50 dance with the rules proposed by the board which receive  
51 legislative approval. The board shall compile and publish an  
52 annual report that includes a list of currently licensed  
53 physician assistants and their supervising physician(s) and  
54 location in the state.

55 (c) The board shall license as a physician assistant any  
56 person who files an application together with a proposed job  
57 description and furnishes satisfactory evidence to it that he  
58 or she has met the following standards:

59 (1) Is a graduate of an approved program of instruction  
60 in primary health care or surgery;

61 (2) Has passed the certifying examination for a primary  
62 care physician assistant administered by the National  
63 Commission on Certification of Physician Assistants and has

64 maintained certification by that commission so as to be  
65 currently certified;

66 (3) Is of good moral character; and

67 (4) Has attained a baccalaureate or master's degree.

68 (d) The board shall license as a physician assis-  
69 tant-midwife any person who meets the standards set forth  
70 under subsection (c) of this section and, in addition thereto,  
71 the following standards:

72 (1) Is a graduate of a school of midwifery accredited by  
73 the American College of Nurse-midwives;

74 (2) Has passed an examination approved by the board;  
75 and

76 (3) Practices midwifery under the supervision of a  
77 board-certified obstetrician, gynecologist or a  
78 board-certified family practice physician who routinely  
79 practices obstetrics.

80 (e) The board may license as a physician assistant any  
81 person who files an application together with a proposed job  
82 description and furnishes satisfactory evidence that he or she  
83 is of good moral character and meets either of the following  
84 standards:

85 (1) He or she is a graduate of an approved program of  
86 instruction in primary health care or surgery prior to July 1,  
87 1994, and has passed the certifying examination for a  
88 physician assistant administered by the National Commis-  
89 sion on Certification of Physician Assistants and has main-  
90 tained certification by that commission so as to be currently  
91 certified; or

92 (2) He or she had been certified by the board as a  
93 physician assistant then classified as Type B prior to July 1,  
94 1983.

95 (f) Licensure of an assistant to a physician practicing the  
96 specialty of ophthalmology is permitted under this section:

97 *Provided*, That a physician assistant may not dispense a  
98 prescription for a refraction.

99 (g) When a graduate of an approved program who has  
100 successfully passed the National Commission on Certifica-  
101 tion of Physician Assistants' certifying examination submits  
102 an application to the board for a physician assistant license,  
103 accompanied by a job description as referenced by this  
104 section, and a \$50 temporary license fee, and the application  
105 is complete, the board shall issue to that applicant a tempo-  
106 rary license allowing that applicant to function as a physi-  
107 cian assistant.

108 (h) When a graduate of an approved program submits an  
109 application to the board for a physician assistant license,  
110 accompanied by a job description as referenced by this  
111 section, and a \$50 temporary license fee, and the application  
112 is complete, the board shall issue to the applicant a tempo-  
113 rary license allowing the applicant to function as a physician  
114 assistant until the applicant successfully passes the National  
115 Commission on Certification of Physician Assistants'  
116 certifying examination so long as the applicant sits for and  
117 obtains a passing score on the examination next offered  
118 following graduation from the approved program.

119 (i) No applicant may receive a temporary license who,  
120 following graduation from an approved program, has not  
121 obtained a passing score on the examination.

122 (j) A physician assistant who has not been certified by  
123 the National Commission on Certification of Physician  
124 Assistants will be restricted to work under the direct  
125 supervision of the supervising physician.

126 (k) A physician assistant who has been issued a tempo-  
127 rary license shall, within thirty days of receipt of written  
128 notice from the National Commission on Certification of  
129 Physician Assistants of his or her performance on the  
130 certifying examination, notify the board in writing of his or  
131 her results. In the event of failure of that examination, the

132 temporary license shall terminate automatically and the  
133 board shall so notify the physician assistant in writing.

134 (l) In the event a physician assistant fails a recertification  
135 examination of the National Commission on Certification of  
136 Physician Assistants and is no longer certified, the physician  
137 assistant shall immediately notify his or her supervising  
138 physician or physicians and the board in writing. The  
139 physician assistant shall immediately cease practicing, the  
140 license shall terminate automatically and the physician  
141 assistant is not eligible for reinstatement until he or she has  
142 obtained a passing score on the examination.

143 (m) A physician applying to the board to supervise a  
144 physician assistant shall affirm that the range of medical  
145 services set forth in the physician assistant's job description  
146 are consistent with the skills and training of the supervising  
147 physician and the physician assistant. Before a physician  
148 assistant can be employed or otherwise use his or her skills,  
149 the supervising physician and the physician assistant must  
150 obtain approval of the job description from the board. The  
151 board may revoke or suspend any license of an assistant to a  
152 physician for cause, after giving the assistant an opportunity  
153 to be heard in the manner provided by article five, chapter  
154 twenty-nine-a of this code and as set forth in rules duly  
155 adopted by the board.

156 (n) The supervising physician is responsible for observ-  
157 ing, directing and evaluating the work, records and practices  
158 of each physician assistant performing under his or her  
159 supervision. He or she shall notify the board in writing of  
160 any termination of his or her supervisory relationship with  
161 a physician assistant within ten days of the termination. The  
162 legal responsibility for any physician assistant remains with  
163 the supervising physician at all times including occasions  
164 when the assistant under his or her direction and supervision  
165 aids in the care and treatment of a patient in a health care  
166 facility. In his or her absence, a supervising physician must  
167 designate an alternate supervising physician but the legal  
168 responsibility remains with the supervising physician at all  
169 times. A health care facility is not legally responsible for the

170 actions or omissions of the physician assistant unless the  
171 physician assistant is an employee of the facility.

172 (o) The acts or omissions of a physician assistant em-  
173 ployed by health care facilities providing inpatient or  
174 outpatient services are the legal responsibility of the facili-  
175 ties. Physician assistants employed by facilities in staff  
176 positions shall be supervised by a permanently licensed  
177 physician.

178 (p) A health care facility shall report in writing to the  
179 board within sixty days after the completion of the facility's  
180 formal disciplinary procedure and after the commencement  
181 and conclusion of any resulting legal action, the name of any  
182 physician assistant practicing in the facility whose privileges  
183 at the facility have been revoked, restricted, reduced or  
184 terminated for any cause including resignation, together  
185 with all pertinent information relating to the action. The  
186 health care facility shall also report any other formal  
187 disciplinary action taken against any physician assistant by  
188 the facility relating to professional ethics, medical incompe-  
189 tence, medical malpractice, moral turpitude or drug or  
190 alcohol abuse. Temporary suspension for failure to maintain  
191 records on a timely basis or failure to attend staff or section  
192 meetings need not be reported.

193 (q) When functioning as a physician assistant, the  
194 physician assistant shall wear a name tag that identifies him  
195 or her as a physician assistant. A two and one-half by three  
196 and one-half inch card of identification shall be furnished by  
197 the board upon licensure of the physician assistant.

198 (r) A physician assistant may write or sign prescriptions  
199 or transmit prescriptions by word of mouth, telephone or  
200 other means of communication at the direction of his or her  
201 supervising physician. A fee of \$50 will be charged for  
202 prescription-writing privileges. The board shall promulgate  
203 rules pursuant to the provisions of article three, chapter  
204 twenty-nine-a of this code governing the eligibility and  
205 extent to which a physician assistant may prescribe at the

206 direction of the supervising physician. The rules shall  
207 include, but not be limited to, the following:

208 (1) Provisions and restrictions for approving a state  
209 formulary classifying pharmacologic categories of drugs that  
210 may be prescribed by a physician assistant are as follows:

211 (A) Schedules I and II of the Uniform Controlled Sub-  
212 stances Act, antineoplastic, radiopharmaceuticals, general  
213 anesthetics and radiographic contrast materials shall be  
214 excluded from the formulary;

215 (B) Drugs listed under Schedule III shall be limited to a  
216 seventy-two hour supply without refill;

217 (C) In addition to the above referenced provisions and  
218 restrictions and at the direction of a supervising physician,  
219 the rules shall permit the prescribing of an annual supply of  
220 any drug, with the exception of controlled substances, which  
221 is prescribed for the treatment of a chronic condition, other  
222 than chronic pain management. For the purposes of this  
223 section, a "chronic condition" is a condition which lasts  
224 three months or more, generally cannot be prevented by  
225 vaccines, can be controlled but not cured by medication and  
226 does not generally disappear. These conditions, with the  
227 exception of chronic pain, include, but are not limited to,  
228 arthritis, asthma, cardiovascular disease, cancer, diabetes,  
229 epilepsy and seizures and obesity. The prescriber authorized  
230 in this section shall note on the prescription the chronic  
231 disease being treated.

232 (D) Categories of other drugs may be excluded as  
233 determined by the board.

234 (2) All pharmacological categories of drugs to be pre-  
235 scribed by a physician assistant shall be listed in each job  
236 description submitted to the board as required in subsection  
237 (i) of this section;

238 (3) The maximum dosage a physician assistant may  
239 prescribe;

240 (4) A requirement that to be eligible for prescription  
241 privileges, a physician assistant shall have performed patient  
242 care services for a minimum of two years immediately  
243 preceding the submission to the board of the job description  
244 containing prescription privileges and shall have successfully  
245 completed an accredited course of instruction in clinical  
246 pharmacology approved by the board; and

247 (5) A requirement that to maintain prescription privi-  
248 leges, a physician assistant shall continue to maintain  
249 National Certification as a Physician Assistant and, in  
250 meeting the national certification requirements, shall  
251 complete a minimum of ten hours of continuing education in  
252 rational drug therapy in each certification period. Nothing  
253 in this subsection permits a physician assistant to independ-  
254 ently prescribe or dispense drugs.

255 (s) A supervising physician may not supervise at any one  
256 time more than three full-time physician assistants or their  
257 equivalent, except that a physician may supervise up to four  
258 hospital-employed physician assistants. No physician shall  
259 supervise more than four physician assistants at any one  
260 time.

261 (t) A physician assistant may not sign any prescription,  
262 except in the case of an authorized physician assistant at the  
263 direction of his or her supervising physician in accordance  
264 with the provisions of subsection (r) of this section. A  
265 physician assistant may not perform any service that his or  
266 her supervising physician is not qualified to perform. A  
267 physician assistant may not perform any service that is not  
268 included in his or her job description and approved by the  
269 board as provided for in this section.

270 (u) The provisions of this section do not authorize a  
271 physician assistant to perform any specific function or duty  
272 delegated by this code to those persons licensed as chiroprac-  
273 tors, dentists, dental hygienists, optometrists or pharmacists  
274 or certified as nurse anesthetists.

275 (v) Each application for licensure submitted by a licensed  
276 supervising physician under this section is to be accompa-  
277 nied by a fee of \$200. A fee of \$100 is to be charged for the  
278 biennial renewal of the license. A fee of \$50 is to be charged  
279 for any change or addition of supervising physician or  
280 change or addition of job location. A fee of \$50 will be  
281 charged for prescriptive writing privileges.

282 (w) As a condition of renewal of physician assistant  
283 license, each physician assistant shall provide written  
284 documentation of participation in and successful completion  
285 during the preceding two-year period of continuing educa-  
286 tion, in the number of hours specified by the board by rule,  
287 designated as Category I by the American Medical Associa-  
288 tion, American Academy of Physician Assistants or the  
289 Academy of Family Physicians and continuing education, in  
290 the number of hours specified by the board by rule, desig-  
291 nated as Category II by the Association or either Academy.

292 (x) Notwithstanding any provision of this chapter to the  
293 contrary, failure to timely submit the required written  
294 documentation results in the automatic expiration of any  
295 license as a physician assistant until the written documenta-  
296 tion is submitted to and approved by the board.

297 (y) If a license is automatically expired and reinstatement  
298 is sought within one year of the automatic expiration, the  
299 former licensee shall:

300 (1) Provide certification with supporting written docu-  
301 mentation of the successful completion of the required  
302 continuing education;

303 (2) Pay a renewal fee; and

304 (3) Pay a reinstatement fee equal to fifty percent of the  
305 renewal fee.

306 (z) If a license is automatically expired and more than  
307 one year has passed since the automatic expiration, the  
308 former licensee shall:

- 309 (1) Apply for a new license;
- 310 (2) Provide certification with supporting written docu-  
311 mentation of the successful completion of the required  
312 continuing education; and
- 313 (3) Pay such fees as determined by the board.
- 314 (aa) It is unlawful for any physician assistant to repre-  
315 sent to any person that he or she is a physician, surgeon or  
316 podiatrist. A person who violates the provisions of this  
317 subsection is guilty of a felony and, upon conviction thereof,  
318 shall be imprisoned in a state correctional facility for not less  
319 than one nor more than two years, or be fined not more than  
320 \$2,000, or both fined and imprisoned.
- 321 (bb) All physician assistants holding valid certificates  
322 issued by the board prior to July 1, 1992, are licensed under  
323 this section.

**ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

**§30-7-15a. Prescriptive authority for prescription drugs; coordi-  
nation with Board of Pharmacy.**

- 1 (a) The board may, in its discretion, authorize an ad-  
2 vanced practice registered nurse to prescribe prescription  
3 drugs in a collaborative relationship with a physician  
4 licensed to practice in West Virginia and in accordance with  
5 applicable state and federal laws. An authorized advanced  
6 practice registered nurse may write or sign prescriptions or  
7 transmit prescriptions verbally or by other means of commu-  
8 nication.
- 9 (b) For purposes of this section an agreement to a  
10 collaborative relationship for prescriptive practice between  
11 a physician and an advanced practice registered nurse shall  
12 be set forth in writing. Verification of the agreement shall be  
13 filed with the board by the advanced practice registered  
14 nurse. The board shall forward a copy of the verification to  
15 the Board of Medicine and the Board of Osteopathic Medi-

16 cine. Collaborative agreements shall include, but are not  
17 limited to, the following:

18 (1) Mutually agreed upon written guidelines or protocols  
19 for prescriptive authority as it applies to the advanced  
20 practice registered nurse's clinical practice;

21 (2) Statements describing the individual and shared  
22 responsibilities of the advanced practice registered nurse and  
23 the physician pursuant to the collaborative agreement  
24 between them;

25 (3) Periodic and joint evaluation of prescriptive practice;  
26 and

27 (4) Periodic and joint review and updating of the written  
28 guidelines or protocols.

29 (c) The board shall promulgate legislative rules in  
30 accordance with the provisions of chapter twenty-nine-a of  
31 this code governing the eligibility and extent to which an  
32 advanced practice registered nurse may prescribe drugs.  
33 Such rules shall provide, at a minimum, a state formulary  
34 classifying those categories of drugs which shall not be  
35 prescribed by advanced practice registered nurse including,  
36 but not limited to, Schedules I and II of the Uniform Con-  
37 trolled Substances Act, antineoplastics, radio-pharma-  
38 ceuticals and general anesthetics. Drugs listed under Sched-  
39 ule III shall be limited to a seventy-two hour supply without  
40 refill. In addition to the above referenced provisions and  
41 restrictions and pursuant to a collaborative agreement as set  
42 forth in subsections (a) and (b) of this section, the rules shall  
43 permit the prescribing of an annual supply of any drug, with  
44 the exception of controlled substances, which is prescribed  
45 for the treatment of a chronic condition, other than chronic  
46 pain management. For the purposes of this section, a  
47 "chronic condition" is a condition which lasts three months  
48 or more, generally cannot be prevented by vaccines, can be  
49 controlled but not cured by medication and does not gener-  
50 ally disappear. These conditions, with the exception of  
51 chronic pain, include, but are not limited to, arthritis,

52 asthma, cardiovascular disease, cancer, diabetes, epilepsy  
53 and seizures and obesity. The prescriber authorized in this  
54 section shall note on the prescription the chronic disease  
55 being treated.

56 (d) The board shall consult with other appropriate boards  
57 for the development of the formulary.

58 (e) The board shall transmit to the Board of Pharmacy a  
59 list of all advanced practice registered nurse with prescrip-  
60 tive authority. The list shall include:

61 (1) The name of the authorized advanced practice  
62 registered nurse;

63 (2) The prescriber's identification number assigned by  
64 the board; and

65 (3) The effective date of prescriptive authority.

**ARTICLE 14A. ASSISTANTS TO OSTEOPATHIC PHYSICIANS AND  
SURGEONS.**

**§30-14A-1. Osteopathic physician assistant to osteopathic physi-  
cians and surgeons; definitions; board of osteopa-  
thy rules; licensure; temporary licensure; renewal  
of license; job description required; revocation or  
suspension of license; responsibilities of the super-  
vising physician; legal responsibility for osteo-  
pathic physician assistants; reporting of disciplin-  
ary procedures; identification; limitation on em-  
ployment and duties; fees; unlawful use of the title  
of "osteopathic physician assistant"; unlawful  
representation of an osteopathic physician assis-  
tant as a physician; criminal penalties.**

1 (a) As used in this section:

2 (1) "Approved program" means an educational program  
3 for osteopathic physician assistants approved and accredited  
4 by the Committee on Allied Health Education and Accredita-  
5 tion or its successor.

6           (2) “Board” means the Board of Osteopathy established  
7 under the provisions of article fourteen, chapter thirty of this  
8 code.

9           (3) “Direct supervision” means the presence of the  
10 supervising physician at the site where the osteopathic  
11 physician assistant performs medical duties.

12           (4) “Health care facility” means any licensed hospital,  
13 nursing home, extended care facility, state health or mental  
14 institution, clinic or physician’s office.

15           (5) “License” means a certificate issued to an osteopathic  
16 physician assistant who has passed the examination for a  
17 primary care or surgery physician assistant administered by  
18 the National Board of Medical Examiners on behalf of the  
19 National Commission on Certification of Physician Assis-  
20 tants. All osteopathic physician assistants holding valid  
21 certificates issued by the board prior to March 31, 2010, are  
22 licensed under the provisions of this article, but must renew  
23 the license pursuant to the provisions of this article.

24           (6) “Osteopathic physician assistant” means an assistant  
25 to an osteopathic physician who is a graduate of an approved  
26 program of instruction in primary care or surgery, has passed  
27 the National Certification Examination and is qualified to  
28 perform direct patient care services under the supervision of  
29 an osteopathic physician.

30           (7) “Supervising physician” means a doctor of osteopathy  
31 permanently licensed in this state who assumes legal and  
32 supervising responsibility for the work or training of a  
33 osteopathic physician assistant under his or her supervision.

34           (b) The board shall propose emergency and legislative  
35 rules for legislative approval pursuant to the provisions of  
36 article three, chapter twenty-nine-a of this code, governing  
37 the extent to which osteopathic physician assistants may  
38 function in this state. The rules shall provide that:

39           (1) The osteopathic physician assistant is limited to the  
40 performance of those services for which he or she is trained;

41 (2) The osteopathic physician assistant performs only  
42 under the supervision and control of an osteopathic physi-  
43 cian permanently licensed in this state but such supervision  
44 and control does not require the personal presence of the  
45 supervising physician at the place or places where services  
46 are rendered if the osteopathic physician assistant's normal  
47 place of employment is on the premises of the supervising  
48 physician. The supervising physician may send the osteo-  
49 pathic physician assistant off the premises to perform duties  
50 under his or her direction, but a separate place of work for  
51 the osteopathic physician assistant may not be established;  
52 and

53 (3) The board may allow the osteopathic physician  
54 assistant to perform those procedures and examinations and,  
55 in the case of authorized osteopathic physician assistants, to  
56 prescribe at the direction of his or her supervising physician  
57 in accordance with subsections (p) and (q) of this section  
58 those categories of drugs submitted to it in the job descrip-  
59 tion required by subsection (f) of this section.

60 (c) The board shall compile and publish an annual report  
61 that includes a list of currently licensed osteopathic physi-  
62 cian assistants and their employers and location in the state.

63 (d) The board shall license as an osteopathic physician  
64 assistant a person who files an application together with a  
65 proposed job description and furnishes satisfactory evidence  
66 that he or she has met the following standards:

67 (1) Is a graduate of an approved program of instruction  
68 in primary health care or surgery;

69 (2) Has passed the examination for a primary care or  
70 surgery physician assistant administered by the National  
71 Board of Medical Examiners on behalf of the National  
72 Commission on Certification of Physician Assistants; and

73 (3) Is of good moral character.

74 (e) When a graduate of an approved program submits an  
75 application to the board, accompanied by a job description

76 in conformity with this section, for an osteopathic physician  
77 assistant license, the board may issue to the applicant a  
78 temporary license allowing the applicant to function as an  
79 osteopathic physician assistant for the period of one year.  
80 The temporary license may be renewed for one additional  
81 year upon the request of the supervising physician. An  
82 osteopathic physician assistant who has not been certified as  
83 such by the National Board of Medical Examiners on behalf  
84 of the National Commission on Certification of Physician  
85 Assistants will be restricted to work under the direct  
86 supervision of the supervising physician.

87 (f) An osteopathic physician applying to the board to  
88 supervise an osteopathic physician assistant shall provide a  
89 job description that sets forth the range of medical services  
90 to be provided by the assistant. Before an osteopathic  
91 physician assistant can be employed or otherwise use his or  
92 her skills, the supervising physician must obtain approval of  
93 the job description from the board. The board may revoke or  
94 suspend a license of an assistant to a physician for cause,  
95 after giving the person an opportunity to be heard in the  
96 manner provided by sections eight and nine, article one of  
97 this chapter.

98 (g) The supervising physician is responsible for observ-  
99 ing, directing and evaluating the work records and practices  
100 of each osteopathic physician assistant performing under his  
101 or her supervision. He or she shall notify the board in writing  
102 of any termination of his or her supervisory relationship with  
103 an osteopathic physician assistant within ten days of his or  
104 her termination. The legal responsibility for any osteopathic  
105 physician assistant remains with the supervising physician  
106 at all times, including occasions when the assistant, under  
107 his or her direction and supervision, aids in the care and  
108 treatment of a patient in a health care facility. In his or her  
109 absence, a supervising physician must designate an alternate  
110 supervising physician but the legal responsibility remains  
111 with the supervising physician at all times. A health care  
112 facility is not legally responsible for the actions or omissions

113 of an osteopathic physician assistant unless the osteopathic  
114 physician assistant is an employee of the facility.

115 (h) The acts or omissions of an osteopathic physician  
116 assistant employed by health care facilities providing in-  
117 patient services are the legal responsibility of the facilities.  
118 Osteopathic physician assistants employed by such facilities  
119 in staff positions shall be supervised by a permanently  
120 licensed physician.

121 (i) A health care facility shall report in writing to the  
122 board within sixty days after the completion of the facility's  
123 formal disciplinary procedure, and after the commencement  
124 and the conclusion of any resulting legal action, the name of  
125 an osteopathic physician assistant practicing in the facility  
126 whose privileges at the facility have been revoked, restricted,  
127 reduced or terminated for any cause including resignation,  
128 together with all pertinent information relating to such  
129 action. The health care facility shall also report any other  
130 formal disciplinary action taken against an osteopathic  
131 physician assistant by the facility relating to professional  
132 ethics, medical incompetence, medical malpractice, moral  
133 turpitude or drug or alcohol abuse. Temporary suspension for  
134 failure to maintain records on a timely basis or failure to  
135 attend staff or section meetings need not be reported.

136 (j) When functioning as an osteopathic physician assis-  
137 tant, the osteopathic physician assistant shall wear a name  
138 tag that identifies him or her as a physician assistant.

139 (k) (1) A supervising physician shall not supervise at any  
140 time more than three osteopathic physician assistants except  
141 that a physician may supervise up to four hospital-employed  
142 osteopathic physician assistants: *Provided*, That an alterna-  
143 tive supervisor has been designated for each.

144 (2) An osteopathic physician assistant shall not perform  
145 any service that his or her supervising physician is not  
146 qualified to perform.

147       (3) An osteopathic physician assistant shall not perform  
148 any service that is not included in his or her job description  
149 and approved by the board as provided in this section.

150       (4) The provisions of this section do not authorize an  
151 osteopathic physician assistant to perform any specific  
152 function or duty delegated by this code to those persons  
153 licensed as chiropractors, dentists, registered nurses, li-  
154 censed practical nurses, dental hygienists, optometrists or  
155 pharmacists or certified as nurse anesthetists.

156       (l) An application for license or renewal of license shall  
157 be accompanied by payment of a fee established by legisla-  
158 tive rule of the Board of Osteopathy pursuant to the provi-  
159 sions of article three, chapter twenty-nine-a of this code.

160       (m) As a condition of renewal of an osteopathic physician  
161 assistant license, each osteopathic physician assistant shall  
162 provide written documentation satisfactory to the board of  
163 participation in and successful completion of continuing  
164 education in courses approved by the Board of Osteopathy  
165 for the purposes of continuing education of osteopathic  
166 physician assistants. The osteopathy board shall propose  
167 legislative rules for minimum continuing hours necessary for  
168 the renewal of a license. These rules shall provide for  
169 minimum hours equal to or more than the hours necessary  
170 for national certification. Notwithstanding any provision of  
171 this chapter to the contrary, failure to timely submit the  
172 required written documentation results in the automatic  
173 suspension of a license as an osteopathic physician assistant  
174 until the written documentation is submitted to and ap-  
175 proved by the board.

176       (n) It is unlawful for any person who is not licensed by  
177 the board as an osteopathic physician assistant to use the  
178 title of osteopathic physician assistant or to represent to any  
179 other person that he or she is an osteopathic physician  
180 assistant. A person who violates the provisions of this  
181 subsection is guilty of a misdemeanor and, upon conviction  
182 thereof, shall be fined not more than \$2,000.

183 (o) It is unlawful for an osteopathic physician assistant  
184 to represent to any person that he or she is a physician. A  
185 person who violates the provisions of this subsection is guilty  
186 of a felony, and, upon conviction thereof, shall be imprisoned  
187 in a state correctional facility for not less than one, nor more  
188 than two years, or be fined not more than \$2,000, or both  
189 fined and imprisoned.

190 (p) An osteopathic physician assistant may write or sign  
191 prescriptions or transmit prescriptions by word of mouth,  
192 telephone or other means of communication at the direction  
193 of his or her supervising physician. The board shall propose  
194 rules for legislative approval in accordance with the provi-  
195 sions of article three, chapter twenty-nine-a of this code  
196 governing the eligibility and extent to which an osteopathic  
197 physician assistant may prescribe at the direction of the  
198 supervising physician. The rules shall provide for a state  
199 formulary classifying pharmacologic categories of drugs  
200 which may be prescribed by such an osteopathic physician  
201 assistant. In classifying such pharmacologic categories, those  
202 categories of drugs which shall be excluded include, but are  
203 not limited to, Schedules I and II of the Uniform Controlled  
204 Substances Act, antineoplastics, radio-pharmaceuticals,  
205 general anesthetics and radiographic contrast materials.  
206 Drugs listed under Schedule III are limited to a seventy-two  
207 hour supply without refill. In addition to the above refer-  
208 enced provisions and restrictions *and* at the direction of a  
209 supervising physician, the rules shall permit the prescribing  
210 an annual supply of any drug other than controlled sub-  
211 stances which is prescribed for the treatment of a chronic  
212 condition other than chronic pain management. For the  
213 purposes of this section, a "chronic condition" is a condition  
214 which last three months or more, generally cannot be  
215 prevented by vaccines, can be controlled but not cured by  
216 medication and does not generally disappear. These condi-  
217 tions include, but are not limited to, arthritis, asthma,  
218 cardiovascular disease, cancer, diabetes, epilepsy and  
219 seizures and obesity. The prescriber authorized in this  
220 section shall note on the prescription the condition for which  
221 the patient is being treated. The rules shall provide that all

222 pharmacological categories of drugs to be prescribed by an  
223 osteopathic physician assistant be listed in each job descrip-  
224 tion submitted to the board as required in this section. The  
225 rules shall provide the maximum dosage an osteopathic  
226 physician assistant may prescribe.

227 (q) (1) The rules shall provide that to be eligible for such  
228 prescription privileges, an osteopathic physician assistant  
229 must:

230 (A) Submit an application to the board for prescription  
231 privileges;

232 (B) Have performed patient care services for a minimum  
233 of two years immediately preceding the application; and

234 (C) Have successfully completed an accredited course of  
235 instruction in clinical pharmacology approved by the board.

236 (2) The rules shall provide that to maintain prescription  
237 privileges, an osteopathic physician assistant shall:

238 (A) Continue to maintain national certification as an  
239 osteopathic physician assistant; and

240 (B) Complete a minimum of ten hours of continuing  
241 education in rational drug therapy in each licensing period.

242 (3) Nothing in this subsection permits an osteopathic  
243 physician assistant to independently prescribe or dispense  
244 drugs.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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

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

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

*[Signature]*  
.....  
Speaker of the House of Delegates

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2012 APR -2 PM 4:53

FILED

The within *is* approved this the *2nd*  
Day of *April*, 2012.

*[Signature]*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 29 2012

Time 4:20 pm