§16-5-1. General.

1.1. Scope. -- This legislative rule describes and defines requirements on registration for Athletic Trainers.


1.3. Filing Date. -- June 16, 2011

1.4. Effective Date. -- June 16, 2011

§16-5-2. Definitions.

The following words and phrases as used in these rules shall have the following meanings, unless the context otherwise requires:

2.1. “Applicant” means any person making application for an original or renewal registration to act as an athletic trainer.

2.2. “Board” means the West Virginia Board of Physical Therapy established under article twenty of chapter 30.

2.3. “Registrant” means a person registered as an athletic trainer.

2.4. “Registration” means a document issued by the board to practice athletic training.

§16-5-3. Application for Registration.

3.1. The applicant must complete the application form provided by the Board and supply the following:

3.1.a. Personal information;

3.1.b. Proof of current certification by a National Certifying Board approved by the WV Board of Physical Therapy;

3.1.c. Verification of Licensure, Certification, or Registration from other states;

3.1.d. Written responses to questions regarding criminal offenses;

3.1.e. Written responses to questions regarding child support obligations;

3.1.f. Name and address of all employers;

3.1.g. Photo Identification;

3.1.h. Application Fee.
§16-5-4. Renewal for Registration.

4.1. The registrant must renewal biennially.

4.2. Any change in personal contact and employer information must be submitted in writing to the Board as changes occur.
TITLE 16
LEGISLATIVE RULE
WV BOARD OF PHYSICAL THERAPY
SERIES 6
FEES FOR ATHLETIC TRAINERS

§16-6-1. General.

1.1. Scope. -- This legislative rule describes and defines requirements on registration for Athletic Trainers.


1.3. Filing Date. -- June 16, 2011

1.4. Effective Date. -- June 16, 2011

§16-6-2. Fees.

2.1. The West Virginia Board of Physical Therapy is an autonomous State Licensing Board Agency and receives no monies from the State’s general revenue fund; nor does it receive any Federal money. All money necessary to efficiently staff and equip a public office must be generated by services performed by the Board in behalf of its licensees or other interested parties.

2.2. Applicants shall pay to the Board the fees established and authorized by WV Code §30-20A-1, et. seq.

2.2. a. Athletic Trainers Registration Application............................................................$25.00

2.2. b. Athletic Trainers Registration Fee..............................................................................$100.00

2.2. c. Biennial Registration Fee.........................................................................................$75.00

2.2. d. Registration Verification.........................................................................................$25.00

2.2. e. Duplicate Wall Certificate.......................................................................................$15.00

2.2. f. Name Change Requiring New Card/Certificate
     (Outside of Renewal Season) ....................................................................................$5.00

2.2. g. Mailing List/Directory
     2.2. g.1. Label-ready List Rate @ 10 cents/name and address
     2.2. g.2. Hard-copy Directory Rate @ 15 cents/name and address
     2.2. g.3. Labels Rate @ 30 cents/name and address

2.2. h. All fees not paid by the due date shall be assessed a penalty to be determined by the Board not to exceed 25% of the original fee required.
§16.7-1. General.

1.1. Scope. -- This procedural rule describes and defines requirements on registration for Athletic Trainers.


1.3. Filing Date. -- August 12, 2010

1.4. Effective Date. -- September 11, 2010

§16-7-2. Definitions.

The following words and phrases as used in these rules shall have the following meanings, unless the context otherwise requires:

2.1  “Applicant” means any person making application for an original or renewal registration to act as an athletic trainer under the provisions of this article.

2.2  “Board” means the West Virginia Board of Physical Therapy established under article twenty of this chapter.

2.3  “Registrant” means a person registered as an athletic trainer under the provisions of this article.

2.4  “Registration” means a registration issued by the board to practice athletic training.

§16-7-3. Conferences; Informal Disposition of Cases.

3.1. At any time prior to the hearing or thereafter, the Board, or its designee may hold conferences for the following purposes:

3.1.1. To dispose of procedural requests, prehearing motions or similar matters;

3.1.2. To simplify or settle issues by consent of the parties; or,

3.1.3. To provide for the informal disposition of cases by stipulation or agreement.

3.2. The Board may require such conferences to be held on its own motion or by the request of a party.

3.3. The Board may also initiate or consider stipulation or agreement proposals with regard to the informal disposition of cases and may enter into stipulations and/or agreements without conference.
§16-7-4. Depositions.

4.1. Evidentiary depositions may be taken and read or otherwise included into evidence as in civil actions in the circuit courts of this State.

§16-7-5. Hearing Procedure.

5.1. Any applicant denied a registration or any Registrant who has had their registration suspended by the Board who believes that such action was in violation of W. Va. Code §30-20A-1, et. seq. will be entitled to a hearing on the action denying or suspending lacking such registration.

5.2. Any person who desires a hearing for the reason described in subsection 5.1. of this section must present a written demand for a hearing to the Board.

5.3. The Board may require the person demanding the hearing to give security for the costs of the hearing and if the demanding party does not substantially prevail, such costs may be assessed against them and may be collected in a civil action or by other proper remedy.

5.4. When the Chair of the Board or his/her authorized designee is presented with a demand for a hearing, he or she will schedule a hearing within sixty (60) days of receipt of the written demand. The hearing may be postponed to a later date by mutual agreement.

5.5. Charges may be instituted against any Registrant by the Board when probable cause exists for believing that the Registrant may have engaged in conduct, practices, or acts for which his or her registration should be suspended, revoked or otherwise disciplined for one or more of the grounds as set forth in W.Va. Code §30-20A-5. et seq. or §30-20A-7. Charges may be based upon information received by way of a written complaint filed with the Board; and/or any information gathered by the Board in the process of investigating a complaint. Charges may also be based upon information received solely through investigative activities undertaken by the Board.

5.6. Allegations instituted against a Registrant must be set forth in a Complaint and Notice of Hearing by the Board as the Agency of the State regulating the practice of Physical Therapy. The Complaint and Notice of Hearing must designate the Board as the “Complainant” and will designate the Registrant involved in the proceeding as the “Respondent”; The Complaint and Hearing Notice must state the substance of each offense with sufficient details in order to reasonably apprize the Respondent of the nature, date and place of the conduct or condition complained of therein. It must also state the date, time and place for the hearing.

5.7. Upon receipt of a demand for a hearing described in subsections 5.1. and 5.2. of this section, the Chair or his or her designee will provide the demanding party, with a Complaint and Notice of Hearing issued in the name of the Board as the Agency of the State regulating the practice of Physical Therapy. Such Complaint and Notice of Hearing shall designate the demanding party as the “Complainant” and will designate the Board as the “Respondent”; will set out the substance of each and every reason that the Board has denied the demanding party a registration with sufficient particularity to reasonably apprize the demanding party of the nature, date and place of the conduct or condition at issue therein. It must also state the date, time and place for the hearing.

5.8. A Complaint and Notice of Hearing must be served upon the demanding or charged party at least thirty (30) days prior to the date of the hearing.
5.9. Hearings shall be conducted as follows:

5.9.1. Any party to a hearing has the right to be represented by an attorney-at-law, duly qualified to practice law in the State of West Virginia.

5.9.2. The Board will be represented by the West Virginia Attorney General’s Office.

5.9.3. Irrelevant, immaterial, or unduly repetitious evidence will be excluded from the hearing. Furthermore, the rules of evidence as applied in civil cases in the circuit courts of this State shall be followed. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

5.9.4. The rules of privilege recognized by the law of this State shall be followed.

5.9.5. Objections to evidentiary offers will be noted in the record. Any party to the hearing may vouch the record as to any excluded testimony or other evidence.

5.9.6. Any party to a hearing may appear with witnesses to testify on his or her behalf; may be heard in person, by counsel or both; may present such other evidence in support of his or her position as deemed appropriate by the Board and, when appropriate, may cross-examine witnesses called by the Board in support of the charges or in defense of its decision to deny registration.

5.9.7. The hearing will be held at such time and place designated by the Board, but no hearing will be conducted unless at least thirty (30) days written notice of the hearing has been served upon the charged or demanding party and/or his or her attorney in person; or if he or she cannot be found, by delivering such notice to his or her usual place of abode and giving information of its purport, to his wife or her husband, or to any other person found there who is a member of his or her family and above the age of sixteen (16) years; or if neither his wife or her husband nor any such person can be found there, and he or she cannot be found, by leaving such notice posted at the front door of such place of abode; or if he or she does not reside in this State, such notice may be served by publication thereof once a week for three successive weeks in a newspaper published in this State; or such notice may be served by registered or certified mail.

5.9.8. Members of the Board and its officers, agents and employees are competent to testify at the hearing as to material and relevant matters; provided, that no member of the Board who testifies at such hearing shall thereafter participate in the deliberations or decisions of the Board with respect to the case in which he testified.

5.9.9. The hearing will be conducted by a quorum of the Board.

5.9.10. A record of the hearing, including the complaint(s), and if applicable, the notice of hearing, all pleadings, motions, rulings, stipulations, exhibits, documentary evidence, evidentiary depositions and the stenographic report of the hearing, will be made and a transcript thereof maintained in the Board’s files. Upon request, a copy of the transcript will be furnished to any party at his or her expense.

5.9.11. Any documentary evidence resulting from an investigation or sworn statements may be received in the form of copies or excerpts of by incorporation by reference.
5.9.12. The Board after charges have been brought against a Registrant has the burden of proof in substantiating the charges and must present its evidence and/or testimony in support of the charges first.

5.9.13. Where a hearing is held upon demand under the provisions of subsections 5.1., 5.2., 5.3., and 5.7. of this action, the demanding party has the burden of proof and will, therefore, be required to present his or her evidence first.

5.9.14. Following the conclusion of the Board’s presentation of evidence, the Respondent or charged party has the right to submit his or her evidence in defense.

5.9.15. Following the conclusion of the demanding party’s presentation of evidence in accordance with subsection 5.9.13. of this section, the Board has the right to offer its evidence in rebuttal.

5.9.16. The Board may call witnesses to testify in support of its decision to deny registration or in support of the charges instituted against a Registrant; may present such other evidence to support its position; and, may cross-examine witnesses called by the demanding party or charged party in support of his or her position.

5.9.17. All parties have the right to offer opening and closing arguments, not to exceed ten (10) minutes for each presentation, unless otherwise lengthened by the Board.

5.9.18. Hearings held by the Board as a result of charges instituted against a Registrant may be continued or adjourned to a later date or different place by the Board or its designee by appropriate notice to all parties.

5.9.19. Motions for a continuance of a hearing may be granted upon a showing of good cause. Motions for continuance must be in writing and received in the office of the Board no later than seven (7) days before the hearing date. In determining whether good cause exists, consideration will be given to the ability of the party requesting the continuance to proceed effectively without a continuance. A motion or a continuance filed less than seven (7) days from the hearing date may be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance filed prior the date of the hearing will be ruled on by the Chair or Executive Secretary/Administrator of the Board. All other motions for continuance will be ruled on by the Board member(s) or the member presiding over the hearing.

5.9.20. All motions related to a case set for hearing before the Board, except motions for continuance and those made during the hearing, must be in writing and received in the office of the Board at least ten (10) days before the hearing. Prehearing motions will be heard at a prehearing conference or at the hearing prior to the commencement of testimony. The Board member(s) presiding at the hearing will hear the motions and responses from the non-moving party and rule on the motions.

§16-7-6. Transcription of Testimony and Evidence.

6.1. All testimony, evidence, arguments and rulings on the admissibility of testimony and evidence will be reported by stenographic notes and characters or by mechanical means.

6.2. All reported materials will be transcribed. The Board has the responsibility to make arrangements for the transcription of the reported testimony and evidence.
6.3. Upon the motion of the Board or any party assigning error or omission in any part of any transcript, the Board Chair or presiding member will settle all differences arising as to whether the transcript truly discloses what occurred at the hearing and will require that the transcript be corrected and/or revised as appropriate so as to make it conform to the truth.

§16-7-7. Submission of Proposed Findings of fact and Conclusions of Law.

7.1. Any party may submit proposed findings of fact and conclusions of law at a time and manner designated by the Board.

§16-7-8. Orders.

8.1. Any final order entered by the Board following a hearing conducted pursuant to this rule will be made pursuant to the provisions of W. Va. Code §29A-5-3. All final orders must be entered within sixty (60) days following the submission of all documents and materials necessary for the proper disposition of the case, including transcripts, and must contain findings of fact and conclusions of law.

8.2. The findings of fact and conclusions of law must be approved by a majority of the Board by vote at a regular meeting, before a final order is entered. A copy of the final order approved by a majority of the Board must be served upon the demanding or charged party and/or his or her attorney of record, if any, within ten (10) days after entry by the Board by personal service or by registered or certified mail.

§16-7-9. Appeal.

9.1. An appeal from any final order entered in accordance with this rule will comply with the 29A-6-1. et seq.
§16-8-1. General.

1.1. Scope. -- This rule specifies a procedure for the investigation and resolution of complaints against Registered Athletic Trainers.


1.3. Filing Date. -- August 12, 2010

1.4. Effective Date. -- September 11, 2010

§16-8-2. Application.

2.1 This rule applies to all registered Athletic Trainers.

§16-8-3. Definitions.

The following words and phrases as used in these rules shall have the following meanings, unless the context otherwise requires:

3.1 “Applicant” means any person making application for an original or renewal registration to act as an athletic trainer under the provisions of this article.

3.2 “Board” means the West Virginia Board of Physical Therapy established under article twenty of this chapter.

3.3 “Registrant” means a person registered as an athletic trainer under the provisions of this article.

3.4 “Registration” means a registration issued by the board to practice athletic training.

§16-8-4. Causes for Denial, Probation, Limitation, Discipline, Suspension or Revocation of Registration of Athletic Trainers.

The Board may deny an application for registration, place a Registrant on probation, limit or restrict a Registrant, suspend a Registrant or revoke any registration issued by the Board, upon satisfactory proof that a Registrant has been convicted of a felony or is, in his or her professional capacity, engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of W. Va. Code §§30-20A-1 et seq.
§16-8-5. Disposition of Complaints.

5.1. Any person, firm, corporation, member of the Board, or public officer may make a complaint to the Board which charges a Registrant or Applicant with a violation of W. Va. Code §§30-20A-1 et seq. The Board may provide a form for that purpose, but a complaint may be filed in any written form. In addition to describing the alleged violation which prompted the complaint, the complaint must contain the following:

5.1.1. The name and address of the Registrant or Applicant against whom the complaint is lodged;

5.1.2. The date of care;

5.1.3. The name of any person who may have treated the patient after the alleged incident; and,

5.1.4. The name of any health care institution in which the patient was an inpatient or outpatient after or during the alleged incident.

5.2. A complaint against a Registrant shall allege that such person has been convicted of a felony or is, in his or her professional capacity, engaging in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of W. Va. Code §§ 30-20A-1 et seq.

5.3. Complainants are immune from liability for the allegations contained in their complaints filed with the Board unless the complaint is filed in bad faith or for a malicious purpose.

5.4. The Board shall maintain a complaint log which records the receipt of each complaint, its nature and its disposition.

5.5. The Board shall maintain a separate file on each complaint received, and each file will have a number assigned to it.

5.6. Upon receipt of a complaint, the Board will issue one of the following acknowledgments to the complainant:

5.6.1. That the matter will be reviewed by the Board;

5.6.2. That the complaint is outside the jurisdiction of the Board;

5.6.3. That additional information is required in order to adequately review the individual complaint.

5.7. The Board will send a copy of the complaint, including any supporting documentation, by certified mail to the Registrant in question for his or her written comment. He or she must submit a written response to the Board within thirty (30) days of the receipt of such correspondence, or waive the right to do so.
5.8. Requests for comment on complaints sent to Registrant shall be considered properly served when sent to their last known address. It is the responsibility of the Registrant or Applicant to keep the Board informed of his or her current address.

5.9. Upon receipt of Registrant comments in response to a complaint, the Board will promptly send a copy of the response, including any supporting documentation, to the complainant.

5.10. After receipt and review of a complaint, unless the complaint is determined to fall within the provisions of sub-division 5.6.2 of this rule, the Board will conduct or authorize to be conducted any reasonable inquiry or investigation it considers necessary to determine the truth and the validity of the allegations in the complaint. The review of complaints and any investigation may, at the discretion of the Board, be assigned to a committee of the Board.

5.11. At any point in its investigation of a complaint the Board may, at its discretion, assign the matter to an Ethics Investigator for review and investigation.

5.12. Upon receipt of a complaint the Ethics Investigator will, within sixty (60) days, review and investigate the complaint and provide the Board with a report. The report must include a statement of the allegations, a statement of facts, and an analysis of the complaint including a description of the care provided, the records reviewed and a statement of the Ethics Investigator’s findings and recommendations. The Ethics Investigator will, upon request, be afforded an opportunity to have an investigation interview with the Registrant in question or other involved parties; a report of which will be placed in the investigation file.

5.13 To facilitate the disposition of a complaint, the Board or the committee may request any person to attend an informal conference, or to appear at a regular meeting of the Board, at any time prior to the Board entering any order with respect to the complaint. The Board or the committee will give notice of the conference. The notice will include a statement of issues to be informally discussed. Statements made at a conference may not be introduced at any subsequent hearing on the merits without the consent of all parties to the hearing. Failure to attend a conference will not prejudice any party to the case.

5.14. The Board, its Chairperson, the investigating committee or Executive Secretary/Administrator may issue subpoenas and subpoenas duces tecum to complete the Board’s investigation and to determine the truth or validity of complaints. The Ethics Investigator may request the Board, its Chairperson or Executive Secretary/Administrator to issue a subpoena or subpoena duces tecum. Any subpoena request must be accompanied by a brief statement explaining the need for the subpoena.

5.15. At any point in the course of an investigation or inquiry into a complaint, the Board may determine that there is not and will not be sufficient evidence to warrant further proceedings, or that the complaint fails to allege misconduct for which a Registrant may be sanctioned by the Board. In the event the review and investigation of a complaint is assigned to a committee or an Ethics Investigator, the committee or Ethics Investigator shall make their respective findings and recommendations to the Board prior to the Board dismissing the complaint.

§16-8-6. Contested Case Hearings.

6.1. The Board may refuse to renew a registration or suspend a registration if it determines there is probable cause to believe that a Registrant conduct, practices or acts constitute an immediate danger to the public.
§16-8-7. Appeals.

7.1. Any applicant who has had his or her application for a registration denied, a registration suspended, or a registration revoked by order of the Board may appeal the order within thirty (30) days of that action in accordance with the contested case hearing procedures set forth in W. Va. Code §29A-6-1 et seq. Provided, that the appeal shall not include cases in which the Board denies a license or certificate after an examination to test the knowledge or the ability of the applicant where the controversy concerns whether the examination was fair or whether the applicant passed the examination.