

Senate Bill No. 418

(By Senator Stollings)

[Introduced January 23, 2014; referred to the Committee on
Government Organization; and then to the Committee on the
Judiciary.]

A BILL to amend and reenact §30-3-15 of the Code of West Virginia,
1931, as amended, relating to licensing of medical
corporations by the Board of Medicine; setting forth licensing
requirements; requiring an application; setting forth
shareholder requirements; allowing fees to be set by the
board; setting forth procedures for medical corporations
formed outside of the state; setting out notice and procedural
requirements for the Secretary of State; allowing for
employees of a medical corporation; providing for a
certificate of authorization; setting forth conditions under
which the medical corporation cease operations; and providing
for criminal penalties for a violation of the section.

Be it enacted by the Legislature of West Virginia:

1 That §30-3-15 of the Code of West Virginia, 1931, as amended,
2 be amended and reenacted to read as follows:

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

4 **§30-3-15. Medical corporations; podiatry corporations; application**
5 **for registration; fees; notice to Secretary of State**
6 **of issuance of certificate; action by Secretary of**
7 **State; rights and limitations generally; biennial**
8 **registration; when practice to cease; admissibility and**
9 **effect of certificate signed by secretary of board;**
10 **criminal penalty; severability.**

11 (a) No corporation may practice medicine and surgery or any of
12 its branches, or hold itself out as being capable of practicing
13 medicine and surgery, or practice podiatry or hold itself out as
14 being capable of practicing podiatry in this state without a
15 certificate of authorization from the board designating the
16 corporation as an authorized medical or podiatry corporation.

17 (b) One or more physicians duly licensed to practice medicine
18 and surgery in this state under this article, or one or more
19 physicians duly licensed under this article and one or more
20 physicians duly licensed under article fourteen of this chapter, or
21 one or more podiatrists duly licensed to practice podiatry in this
22 state may receive authorization from the board as a designated

1 medical or podiatry corporation by:

2 (1) Filing a written application with the board on a form
3 prescribed by the board;

4 (2) Furnishing proof satisfactory to the board that each
5 shareholder of the proposed medical corporation is a duly licensed
6 physician or podiatrist pursuant to this article or article
7 fourteen of this chapter; and

8 (3) Submitting a reasonable application fee to be set by
9 legislative rule of the board. No portion of the fee shall be
10 refundable.

11 (c) A corporation formed outside of this state for the purpose
12 of engaging in the practice of medicine and surgery or the practice
13 of podiatry may receive authorization from the board as a
14 designated foreign medical or podiatry corporation by:

15 (1) Filing a written application with the board on a form
16 prescribed by the board;

17 (2) Furnishing satisfactory proof to the board that the
18 corporation has received authorization from the appropriate
19 authorities as a medical corporation or professional corporation in
20 its state of incorporation and is currently in good standing with
21 that authority;

22 (3) Furnishing satisfactory proof to the board that at least
23 one shareholder of the proposed medical corporation is a duly

1 licensed physician or podiatrist pursuant to this article and is
2 designated as the corporate representative for all communications
3 with the board regarding the designation and continuing
4 authorization of the corporation as a foreign medical corporation;

5 (4) Furnishing satisfactory proof to the board that all of the
6 corporation's shareholders are licensed physicians or podiatrists
7 in one or more states and submitting a complete list of
8 shareholders including each shareholder's name, state or states of
9 licensure and license number(s); and

10 (5) Submitting a reasonable application fee to be set by the
11 legislative rule of the board. No portion of the fee is refundable.

12 (d) Upon receipt of a completed application, the appropriate
13 fee, and upon the board's determination that each shareholder is
14 duly and appropriately licensed, the board shall notify the
15 Secretary of State that a certificate of authorization has been
16 issued to the person or persons making the application. When the
17 Secretary of State receives a notification from the board, he or
18 she shall attach that authorization to the corporation application
19 and, upon compliance by the corporation with the pertinent
20 provisions of chapter thirty-one of this code, shall notify the
21 incorporators that the corporation, through duly licensed
22 physicians or through duly licensed podiatrists, may engage in the
23 practice of medicine and surgery or the practice of podiatry in

1 West Virginia.

2 (e) An authorized medical corporation may practice medicine
3 and surgery only through individual physicians duly licensed to
4 practice medicine and surgery in this state and a podiatry
5 corporation may practice podiatry only through individual
6 podiatrists duly licensed to practice podiatry in this state.
7 Physicians or podiatrists may be employees rather than shareholders
8 of a corporation, and nothing herein contained requires a license
9 for or other legal authorization of, any individual employed by a
10 corporation to perform services for which no license or other legal
11 authorization is otherwise required.

12 (f) A corporation holding a certificate of authorization shall
13 register biennially, on or before the expiration date appearing
14 upon its certificate of authorization, on a form prescribed by the
15 board, and shall pay a reasonable biennial registration fee, the
16 amount of the reasonable fee to be set by legislative rule of the
17 board.

18 (g) A certificate of authorization designating a corporation
19 as a medical or podiatry corporation or as a foreign medical or
20 podiatry corporation shall automatically expire two years after
21 issuance unless the corporation complies with the biennial
22 registration requirement prior to that date.

23 (h) A corporation whose certificate of authorization has

1 expired may reapply for designation as a medical or podiatry
2 corporation or as a foreign medical or podiatry corporation by
3 submitting a new application and application fee in conformity with
4 subsection (b) or (c) of this section.

5 (i) A medical or podiatry corporation formed in this state and
6 holding a certificate of authorization shall cease to engage in the
7 practice of medicine, surgery or podiatry upon being notified by
8 the board that any of its shareholders is no longer a duly licensed
9 physician or podiatrist, or when any shares of that corporation
10 have been sold or disposed of to a person who is not a duly
11 licensed physician or podiatrist. The personal representative of a
12 deceased shareholder shall have a period, not to exceed twelve
13 months from the date of that shareholder's death, to dispose of the
14 shares: *Provided*, That nothing contained herein affects the
15 existence of that corporation or its right to continue to operate
16 for all lawful purposes other than the practice of medicine and
17 surgery or the practice of podiatry.

18 (j) A foreign medical or podiatry corporation holding a
19 certificate of authorization shall immediately cease to engage in
20 the practice of medicine, surgery or podiatry in this state if:

21 (1) The corporate shareholders no longer include at least one
22 shareholder who is licensed to practice as a physician or
23 podiatrist in this state;

1 (2) The corporation is notified that any of its shareholders
2 is no longer a duly licensed physician or podiatrist; or

3 (3) Any shares of the corporation have been sold or disposed
4 of to a person who is not a duly licensed physician or podiatrist.
5 The personal representative of a deceased shareholder shall have a
6 period, not to exceed twelve months from the date of the
7 shareholder's death, to dispose of those shares. In order to
8 maintain its authorization to practice medicine, surgery or
9 podiatry during the twelve month disposal period, the corporation
10 must, at all times, have at least one shareholder who is licensed
11 as a physician or podiatrist in this state.

12 Nothing contained herein affects the existence of that
13 corporation or its right to continue to operate for all lawful
14 purposes other than the practice of medicine, surgery or podiatry.

15 (k) Within thirty days of the expiration, revocation,
16 deauthorization or suspension of a certificate of authorization by
17 the board, it shall submit, in writing, notice of the same to the
18 Secretary of State.

19 (l) No corporation may practice medicine and surgery or any of
20 its branches or hold itself out as being capable of practicing
21 medicine and surgery, or practice podiatry or hold itself out as
22 being capable of practicing podiatry, after its certificate has
23 expired, has been revoked or was otherwise deauthorized, or if

1 suspended, during the term of the suspension.

2 (m) Nothing contained in this article is meant or intended to
3 change in any way the rights, duties, privileges, responsibilities
4 and liabilities incident to the physician-patient or
5 podiatrist-patient relationship nor is it meant or intended to
6 change in any way the personal character of the physician-patient
7 or podiatrist-patient relationship.

8 (n) A certificate signed by the secretary of the board to
9 which is affixed the official seal of the board to the effect that
10 it appears from the records of the board that a certificate to
11 practice medicine and surgery or any of its branches, or to
12 practice podiatry, in the state has not been issued to a
13 corporation specified therein or that the certificate has been
14 expired, revoked or suspended is admissible in evidence in all
15 courts of this state and is prima facie evidence of the facts
16 stated therein.

17 (o) Any officer, shareholder or employee of a corporation who
18 participates in a violation of this section is guilty of a
19 misdemeanor and, upon conviction thereof, shall be fined not more
20 than \$1,000.

NOTE: The purpose of this bill is to clarify the mechanism by which a domestic medical corporation or podiatry corporation may obtain a certificate of authorization to practice medicine through

the corporation in West Virginia through licensed physicians and podiatrists. The bill also authorizes the issuance of certificates of authorization under specific circumstances to physician-owned corporations formed in other states who wish to practice medicine in West Virginia through the corporation. The bill also clarifies that the fee assessed on biennial registration is a biennial fee, and not an annual fee. The bill creates a misdemeanor penalty.

This section has been completely rewritten; therefore, strike-throughs and underscoring have been omitted.