

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 499

BY SENATORS MARONEY, CLEMENTS, PREZIOSO,

STOLLINGS, TAKUBO, PLYMALE, CLINE, AND JEFFRIES

[Originating in the Committee on Health and Human

Resources; Reported on February 21, 2018]

1 A BILL to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating
2 to clarifying requirements for a license to practice medicine, surgery, and podiatry; and
3 rewriting and reorganizing minimum licensing requirements for a license to practice
4 medicine, surgery, and podiatry.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-10. Licenses to practice medicine and surgery or podiatry.

1 ~~(a) The board shall issue a license to practice medicine and surgery or to practice podiatry~~
2 ~~to any individual who is qualified to do so in accordance with the provisions of this article.~~

3 ~~(b) For an individual to be licensed to practice medicine and surgery in this state, he or~~
4 ~~she must meet the following requirements:~~

5 ~~(1) He or she shall submit an application to the board on a form provided by the board and~~
6 ~~remit to the board a reasonable fee, the amount of the reasonable fee to be set by the board. The~~
7 ~~application must, as a minimum, require a sworn and notarized statement that the applicant is of~~
8 ~~good moral character and that he or she is physically and mentally capable of engaging in the~~
9 ~~practice of medicine and surgery;~~

10 ~~(2) He or she must provide evidence of graduation and receipt of the degree of doctor of~~
11 ~~medicine or its equivalent from a school of medicine, which is approved by the liaison committee~~
12 ~~on medical education or by the board;~~

13 ~~(3) He or she must submit evidence to the board of having successfully completed a~~
14 ~~minimum of one year of graduate clinical training in a program approved by the Accreditation~~
15 ~~Council for Graduate Medical Education; and~~

16 ~~(4) He or she must pass an examination approved by the board, which examination can~~
17 ~~be related to a national standard. The examination shall be in the English language and be~~
18 ~~designed to ascertain an applicant's fitness to practice medicine and surgery. The board shall~~
19 ~~before the date of examination determine what will constitute a passing score: *Provided*, That the~~

20 ~~board, or a majority of it, may accept in lieu of an examination of applicants the certificate of the~~
21 ~~National Board of Medical Examiners: *Provided, however,* That an applicant is required to attain~~
22 ~~a passing score on all components or steps of the examination within a period of 10 consecutive~~
23 ~~years. The board need not reject a candidate for a nonmaterial technical or administrative error~~
24 ~~or omission in the application process that is unrelated to the candidate's professional~~
25 ~~qualifications as long as there is sufficient information available to the board to determine the~~
26 ~~eligibility of the candidate for licensure.~~

27 ~~(c) In addition to the requirements of subsection (b) of this section, any individual who has~~
28 ~~received the degree of doctor of medicine or its equivalent from a school of medicine located~~
29 ~~outside of the United States, the Commonwealth of Puerto Rico, and Canada to be licensed to~~
30 ~~practice medicine in this state must also meet the following additional requirements and~~
31 ~~limitations:~~

32 ~~(1) He or she must be able to demonstrate to the satisfaction of the board his or her ability~~
33 ~~to communicate in the English language;~~

34 ~~(2) Before taking a licensure examination, he or she must have fulfilled the requirements~~
35 ~~of the Educational Commission for Foreign Medical Graduates for certification or he or she must~~
36 ~~provide evidence of receipt of a passing score on the examination of the Educational Commission~~
37 ~~for Foreign Medical Graduates: *Provided,* That an applicant who: (i) Is currently fully licensed,~~
38 ~~excluding any temporary, conditional, or restricted license or permit, under the laws of another~~
39 ~~state, the District of Columbia, Canada, or the Commonwealth of Puerto Rico; (ii) has been~~
40 ~~engaged on a full-time professional basis in the practice of medicine within the state or jurisdiction~~
41 ~~where the applicant is fully licensed for a period of at least five years; and (iii) is not the subject of~~
42 ~~any pending disciplinary action by a medical licensing board and has not been the subject of~~
43 ~~professional discipline by a medical licensing board in any jurisdiction is not required to have a~~
44 ~~certificate from the Educational Commission for Foreign Medical Graduates; and~~

45 ~~(3) He or she must submit evidence to the board of either: (i) Having successfully~~
46 ~~completed a minimum of two years of graduate clinical training in a program approved by the~~
47 ~~Accreditation Council for Graduate Medical Education; or (ii) current certification by a member~~
48 ~~board of the American Board of Medical Specialties.~~

49 ~~(d) For an individual to be licensed to practice podiatry in this state, he or she must meet~~
50 ~~the following requirements:~~

51 ~~(1) He or she shall submit an application to the board on a form provided by the board and~~
52 ~~remit to the board a reasonable fee, the amount of the reasonable fee to be set by the board. The~~
53 ~~application must, as a minimum, require a sworn and notarized statement that the applicant is of~~
54 ~~good moral character and that he or she is physically and mentally capable of engaging in the~~
55 ~~practice of podiatric medicine;~~

56 ~~(2) He or she must provide evidence of graduation and receipt of the degree of doctor of~~
57 ~~podiatric medicine or its equivalent from a school of podiatric medicine which is approved by the~~
58 ~~Council of Podiatry Education or by the board;~~

59 ~~(3) He or she must pass an examination approved by the board, which examination can~~
60 ~~be related to a national standard. The examination shall be in the English language and be~~
61 ~~designed to ascertain an applicant's fitness to practice podiatric medicine. The board shall before~~
62 ~~the date of examination determine what will constitute a passing score: *Provided*, That an~~
63 ~~applicant is required to attain a passing score on all components or steps of the examination~~
64 ~~within a period of 10 consecutive years; and~~

65 ~~(4) He or she must submit evidence to the board of having successfully completed a~~
66 ~~minimum of one year of graduate clinical training in a program approved by the Council on~~
67 ~~Podiatric Medical Education or the Colleges of Podiatric Medicine. The board may consider a~~
68 ~~minimum of two years of graduate podiatric clinical training in the U. S. armed forces or three~~
69 ~~years' private podiatric clinical experience in lieu of this requirement.~~

70 ~~(e) Notwithstanding any of the provisions of this article, the board may issue a restricted~~
71 ~~license to an applicant in extraordinary circumstances under the following conditions:~~

72 ~~(1) Upon a finding by the board that based on the applicant's exceptional education,~~
73 ~~training, and practice credentials, the applicant's practice in the state would be beneficial to the~~
74 ~~public welfare;~~

75 ~~(2) Upon a finding by the board that the applicant's education, training, and practice~~
76 ~~credentials are substantially equivalent to the requirements of licensure established in this article;~~

77 ~~(3) Upon a finding by the board that the applicant received his or her post-graduate~~
78 ~~medical training outside of the United States and its territories;~~

79 ~~(4) That the restricted license issued under extraordinary circumstances is approved by a~~
80 ~~vote of three fourths of the members of the board;~~

81 ~~(5) That orders denying applications for a restricted license under this subsection are not~~
82 ~~appealable; and~~

83 ~~(6) That the board report to the President of the Senate and the Speaker of the House of~~
84 ~~Delegates all decisions made pursuant to this subsection and the reasons for those decisions.~~

85 ~~(f) The board shall propose rules for legislative approval in accordance with the provisions~~
86 ~~of §29A-3-1 et seq. of this code, that establish and regulate the restricted license issued to an~~
87 ~~applicant in extraordinary circumstances pursuant to the provisions of this section.~~

88 ~~(g) Personal interviews by board members of all applicants are not required. An applicant~~
89 ~~for a license may be required by the board, in its discretion, to appear for a personal interview~~
90 ~~and may be required to produce original documents for review by the board.~~

91 ~~(h) All licenses to practice medicine and surgery granted prior to July 1, 2008, and valid~~
92 ~~on that date shall continue in full effect for the term and under the conditions provided by law at~~
93 ~~the time of the granting of the license: *Provided*, That the provisions of subsection (d) of this~~
94 ~~section do not apply to any person legally entitled to practice chiropody or podiatry in this state~~
95 ~~prior to June 11, 1965: *Provided, however*, That all persons licensed to practice chiropody prior~~

96 to June 11, 1965, shall be permitted to use the term “chiropractic” and shall have the rights,
97 privileges, and responsibilities of a podiatrist set out in this article.

98 (i) ~~The board may not issue a license to a person not previously licensed in West Virginia~~
99 ~~whose license has been revoked or suspended in another state until reinstatement of his or her~~
100 ~~license in that state.~~

101 (a) A person seeking licensure as an allopathic physician shall apply to the board.

102 (b) A license may be granted to an applicant who has graduated and received the degree
103 of doctor of medicine or its equivalent from a school of medicine located within the United States,
104 the Commonwealth of Puerto Rico, or Canada and which is approved by the Liaison Committee
105 on Medical Education or by the board and who:

106 (1) Submits a complete application;

107 (2) Pays the applicable fees;

108 (3) Demonstrates to the board’s satisfaction that the applicant:

109 (A) Is of good moral character;

110 (B) Is physically and mentally capable of engaging in the practice of medicine and surgery;

111 (C) Has, within 10 consecutive years, passed all component parts of the United States
112 Medical Licensing Examination or any prior examination or examination series approved by the
113 board which relates to a national standard, is administered in the English language, and is
114 designed to ascertain an applicant’s fitness to practice medicine and surgery;

115 (D) Has successfully completed a minimum of one year of graduate clinical training in a
116 program which is approved by the Accreditation Council for Graduate Medical Education; and

117 (E) Meets any other criteria for licensure set forth in this article or in rules promulgated by
118 the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 et seq. of this code.

119 (c) A license may be granted to an applicant who has received the degree of doctor of
120 medicine or its equivalent from a school of medicine located outside of the United States, the
121 Commonwealth of Puerto Rico, and Canada who:

- 122 (1) Submits a complete application;
- 123 (2) Pays the applicable fees;
- 124 (3) Demonstrates to the board's satisfaction that the applicant:
- 125 (A) Is of good moral character;
- 126 (B) Is physically and mentally capable of engaging in the practice of medicine and surgery;
- 127 (C) Has, within 10 consecutive years, passed all component parts of the United States
128 Medical Licensing Examination or any prior examination or examination series approved by the
129 board which relates to a national standard, is administered in the English language, and is
130 designed to ascertain an applicant's fitness to practice medicine and surgery;
- 131 (D) Has successfully completed:
- 132 (i) A minimum of two years of graduate clinical training which is approved by the
133 Accreditation Council for Graduate Medical Education; or
- 134 (ii) A minimum of one year of graduate clinical training which is approved by the
135 Accreditation Council for Graduate Medical Education and the applicant holds a current
136 certification by a member board of the American Board of Medical Specialties;
- 137 (E) Holds a valid ECFMG certificate issued by the Educational Commission for Foreign
138 Medical Graduates; or
- 139 (i) Holds a full, unrestricted, and unconditional license to practice medicine and surgery
140 under the laws of another state, the District of Columbia, Canada, or the Commonwealth of Puerto
141 Rico;
- 142 (ii) Has been engaged in the practice of medicine on a full-time professional basis within
143 the state or jurisdiction where the applicant is fully licensed for a period of at least five years; and
- 144 (iii) Is not the subject of any pending disciplinary action by a medical licensing board and
145 has not been the subject of professional discipline reportable to the National Practitioner Data
146 Bank by a medical licensing board in any jurisdiction;
- 147 (F) Can communicate in the English language; and

148 (G) Meets any other criteria for licensure set forth in this article or in rules promulgated by
149 the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 et seq. of this code.

150 (d) A person seeking licensure as a podiatrist shall apply to the board. A license may be
151 granted to an applicant who:

152 (1) Submits a complete application;

153 (2) Pays the applicable fees;

154 (3) Demonstrates to the board's satisfaction that the applicant:

155 (A) Is of good moral character;

156 (B) Is physically and mentally capable of engaging in the practice of podiatric medicine
157 and surgery;

158 (C) Has graduated and received the degree of doctor of podiatric medicine or its equivalent
159 from a school of podiatric medicine which is approved by the Council of Podiatric Medical
160 Education or by the board;

161 (D) Has, within 10 consecutive years, passed all component parts of the American
162 Podiatric Medical Licensing Examination, or any prior examination or examination series
163 approved by the board which relates to a national standard, is administered in the English
164 language, and is designed to ascertain an applicant's fitness to practice podiatric medicine;

165 (E) Has successfully completed a minimum of one year of graduate clinical training in a
166 program approved by the Council on Podiatric Medical Education or the Colleges of Podiatric
167 Medicine. The board may consider a minimum of two years of graduate podiatric clinical training
168 in the United States armed forces or three years' private podiatric clinical experience in lieu of this
169 requirement; and

170 (F) Meets any other reasonable criteria for licensure set forth in this article or in legislative
171 rules promulgated by the board.

172 (e) Notwithstanding any of the provisions of this article, the board may issue a restricted
173 license to an applicant in extraordinary circumstances under the following conditions:

174 (1) Upon a finding by the board that based on the applicant's exceptional education,
175 training, and practice credentials, the applicant's practice in the state would be beneficial to the
176 public welfare;

177 (2) Upon a finding by the board that the applicant's education, training, and practice
178 credentials are substantially equivalent to the requirements of licensure established in this article;

179 (3) Upon a finding by the board that the applicant received his or her post-graduate
180 medical training outside of the United States and its territories;

181 (4) That the restricted license issued under extraordinary circumstances is approved by a
182 vote of three fourths of the members of the board; and

183 (5) That orders denying applications for a restricted license under this subsection are not
184 appealable.

185 (f) The board shall propose rules for legislative approval in accordance with the provisions
186 of §29A-3-1 et seq. of this code that establish and regulate the restricted license issued to an
187 applicant in extraordinary circumstances pursuant to the provisions of this section.

188 (g) Personal interviews by board members of all applicants are not required. An applicant
189 for a license may be required by the board, in its discretion, to appear for a personal interview
190 and may be required to produce original documents for review by the board.

191 (h) All licenses to practice medicine and surgery granted prior to July 1, 2008, and valid
192 on that date shall continue in full effect for the term and under the conditions provided by law at
193 the time of the granting of the license: *Provided*, That the provisions of §30-3-10(d) of this code
194 do not apply to any person legally entitled to practice chiropody or podiatry in this state prior to
195 June 11, 1965: *Provided, however*, That all persons licensed to practice chiropody prior to June
196 11, 1965, are permitted to use the term "chiropody-podiatry" and shall have the rights, privileges,
197 and responsibilities of a podiatrist set out in this article.

198 (i) The board may not issue a license to a person not previously licensed in West Virginia
199 whose license has been revoked or suspended in another state until reinstatement of his or her
200 license in that state.

201 (j) The board need not reject a candidate for a nonmaterial technical or administrative error
202 or omission in the application process that is unrelated to the candidate's professional
203 qualifications as long as there is sufficient information available to the board to determine the
204 eligibility and qualifications of the candidate for licensure.