

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 714

BY SENATORS TAKUBO AND DEEDS

[Originating in the Committee on Health and Human
Resources; reported February 14, 2024]

1 A BILL to amend and reenact §30-1D-1 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §30-3-1, §30-3-2, §30-3-4, §30-3-5, §30-3-6, §30-3-7, §30-3-8, §30-
3 3-9, §30-3-10, §30-3-11, §30-3-11a, §30-3-12, §30-3-13, §30-3-13a, §30-3-15, §30-3-16,
4 §30-3-17, and §30-3-18 of said code; to amend said code by adding thereto three new
5 sections, designated §30-3-10b, §30-3-21, and §30-3-22; to repeal §30-3-7a, §30-3-11b,
6 and §30-3-11c of said code; to amend said code by adding thereto a new article,
7 designated §30-3G-1, §30-3G-2, §30-3G-3, §30-3G-4, §30-3G-5, §30-3G-6, §30-3G-7,
8 §30-3G-8, §30-3G-9, §30-3G-10, §30-3G-11, and §30-3G-12; to amend and reenact §30-
9 14-3 of said code; and to amend said code by adding thereto two new sections, designated
10 §30-14-18 and §30-14-19, all relating to the licensing of physicians and the transition of
11 the duties and functions of the West Virginia Board of Osteopathic Medicine to the West
12 Virginia Board of Medicine effective January 1, 2025; providing for rulemaking; and
13 expanding board authority to regulate genetic counselors.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1D. PROVISIONS AFFECTING CERTAIN BOARDS OF LICENSURE.

§30-1D-1. Criminal background checks required of new applicants.

1 (a) This article shall be known as "Lynette's Law."
2 (b) The requirements in subsection (c) of this section for criminal background checks apply
3 to those persons applying to be licensed in West Virginia for the first time by the boards governing
4 licensing under the following sections: ~~Section ten, article three of this chapter; section four, article~~
5 ~~three-e of this chapter; section eight, article four of this chapter, section nine, article five of this~~
6 ~~chapter, section six, article seven of this chapter, section three, article seven-a of this chapter,~~
7 ~~section eight, article eight of this chapter, section eight, article ten of this chapter, section four,~~
8 ~~article fourteen of this chapter, and section seven, article twenty-one of this chapter~~ §30-3-10,
9 §30-3E-4, §30-3G-5; §30-4-8; §30-5-9; §30-7-6; §30-7A-3; §30-8-8; §30-10-8; §30-14-4; and §30-
10 21-7.

11 (c) A person applying for licensing to a board listed in subsection (b) of this section must
12 submit to a state and national criminal history record check, as set forth in this subsection:
13 *Provided*, That an applicant for a license who is an attorney at law may submit a letter of good
14 standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of submitting to
15 a state and national criminal history record check.

16 (1) This requirement is found not to be against public policy.

17 (2) The criminal history record check shall be based on fingerprints submitted to the West
18 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

19 (3) The applicant shall meet all requirements necessary to accomplish the state and
20 national criminal history record check, including:

21 (A) Submitting fingerprints for the purposes set forth in this subsection; and

22 (B) Authorizing the board, the West Virginia State Police, and the Federal Bureau of
23 Investigation to use all records submitted and produced for the purpose of screening the applicant
24 for a license.

25 (4) The results of the state and national criminal history record check may not be released
26 to or by a private entity except:

27 (A) To the individual who is the subject of the criminal history record check;

28 (B) With the written authorization of the individual who is the subject of the criminal history
29 record check; or

30 (C) Pursuant to a court order.

31 (5) The criminal history record check and related records are not public records for the
32 purposes of §29B-1-1, *et seq.* of this code.

33 (6) The applicant shall pay the actual costs of the fingerprinting and criminal history record
34 check.

35 (d) Before implementing the provisions of this subsection, the board shall propose rules
36 for legislative approval in accordance with ~~article three, chapter twenty-nine-a~~ §29A-3-1 of this

37 code. The rules shall set forth the requirements and procedures for the criminal history check and
38 must be consistent with standards established by the Federal Bureau of Investigation and the
39 National Crime Prevention and Privacy Compact as authorized by ~~42 U. S. C. A. §14614, 34~~
40 U.S.C.S. § 40311 *et seq.*

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-1. Legislative findings.

1 The Legislature hereby finds and declares that the practice of allopathic, osteopathic,
2 and/or podiatric medicine and surgery ~~and the practice of podiatry~~ is a privilege and not a natural
3 right of individuals. As a matter of public policy, it is necessary to protect the public interest through
4 enactment of this article and to regulate the granting of such privileges and their use.

§30-3-2. Purpose.

1 The purpose of this article is to provide for the licensure and professional discipline of
2 allopathic physicians and podiatrists and for the licensure and professional discipline of physician
3 assistants and to provide a professional environment that encourages the delivery of quality
4 medical services within this state. Effective January 1, 2025, the purpose of this article shall also
5 apply to the licensure and professional discipline of osteopathic physicians.

§30-3-4. Definitions.

1 As used in this article:

2 "ACGME" means the Accreditation Council of Graduate Medical Education.

3 "Accredited osteopathic college" means a college of osteopathy and surgery which
4 requires as a minimum prerequisite for admission preprofessional training of at least two years of
5 academic work in specified scientific subjects, as prescribed by the board or by the college
6 accrediting agency of the American Osteopathic Association, in an accredited college of arts and
7 sciences and which requires for graduation a course of study approved by the board in
8 accordance with the minimum standards established by the American Osteopathic Association.

9 "AOA" means the American Osteopathic Association.

10 "APMLE" means the American Podiatric Medical Licensing Examination.

11 "Approved graduate medical education" means education received through: (1) an
12 internship, residency, or clinical fellowship program conducted in the United States and accredited
13 by either the ACGME or AOA; or (2) a residency program conducted in Canada and accredited
14 by RCPSC.

15 "Approved medical school" means an allopathic school of medicine approved by the
16 LCME or the board and which confers the degree of medical doctor or its equivalent upon
17 graduation.

18 (4) "Board" means the West Virginia Board of Medicine established in ~~section five~~ §30-
19 3-5 of this article code.

20 "COMLEX-USA" means the Comprehensive Osteopathic Medical Licensing Examination
21 of the United States.

22 "ECFMG" means the Educational Commission for Foreign Medical Graduates.

23 "LCME" means the Liaison Committee on Medical Education.

24 "License" means the legal authorization issued by the board to a fully qualified allopathic
25 physician or osteopathic physician to engage in the regular practice of medicine and surgery. A
26 license may also be issued by the board to a fully qualified podiatrist to engage in the practice of
27 podiatric medicine and surgery, and to fully qualified physician assistants who practice in
28 collaboration with physicians licensed under this article.

29 (2) "Medical peer review committee" means a committee of, or appointed by, a state or
30 local professional medical society, or a committee of, or appointed by, a medical staff of a licensed
31 hospital, long-term care facility, or other health care facility, or any health care peer review
32 organization as defined in ~~section one, article three-c of this chapter~~ §30-3C-1 et seq. of this code,
33 or any other organization of professionals in this state formed pursuant to state or federal law and
34 authorized to evaluate medical and health care services.

35 "Medicine and surgery" means the practice of allopathic medicine and surgery. Effective
36 January 1, 2025, except where specifically limited, "medicine and surgery" means the practice of
37 allopathic and osteopathic medicine and surgery.

38 "Osteopathy" means a system of healing arts which places the chief emphasis on the
39 structural integrity of the body mechanism as being the most important single factor in maintaining
40 the well-being of the organism in health and disease.

41 ~~(3)~~ "Practice of medicine and surgery" means the diagnosis or treatment of, or operation
42 or prescription for, any human disease, pain, injury, deformity or other physical or mental
43 condition. "Surgery" includes the use on humans of lasers, ionizing radiation, pulsed light, and
44 radiofrequency devices. The provisions of this section do not apply to any person who is a duly
45 licensed health care provider under other pertinent provisions of this code and who is acting within
46 the scope of his or her license.

47 ~~(4)~~ "Practice of podiatry" means the examination, diagnosis, treatment, prevention and
48 care of conditions and functions of the human foot and ankle by medical, surgical, and other
49 scientific knowledge and methods; with surgical treatment of the ankle authorized only when a
50 podiatrist has been granted privileges to perform ankle surgery by a hospital's medical staff
51 credentialing committee based on the training and experience of the podiatrist; and medical and
52 surgical treatment of warts and other dermatological lesions of the hand which similarly occur in
53 the foot. When a podiatrist uses other than local anesthesia, in surgical treatment of the foot, the
54 anesthesia must be administered by, or under the direction of, an anesthesiologist or certified
55 registered nurse anesthetist authorized under the State of West Virginia to administer anesthesia.
56 A medical evaluation shall be made by a physician of every patient prior to the administration of
57 other than local anesthesia.

58 "Practice credential" or "credential" means any permit, certification, registration, or
59 authorization, other than a license, issued by this Board which authorizes the credential holder to

60 practice allopathic, osteopathic, or podiatric medicine and surgery, or to practice as a physician
61 assistant, to patients in West Virginia within the limits established for the specific credential type.

62 "RCPSC" means the Royal College of Physicians and Surgeons of Canada.

63 "USMLE" means the United States Medical Licensing Examination.

64 ~~(5)~~ "State health officer" means the commissioner for the Bureau for Public Health or his
65 or her designee, which officer or designee shall be a physician and shall act as secretary of the
66 board and shall carry out any and all responsibilities assigned in this article to the secretary of the
67 board.

**§30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and
terms of members; vacancies; removal.**

1 (a) The West Virginia Board of Medicine has assumed, carried on, and succeeded to all
2 the duties, rights, powers, obligations, and liabilities heretofore belonging to or exercised by the
3 Medical Licensing Board of West Virginia. All the rules, orders, rulings, licenses, certificates,
4 permits, and other acts and undertakings of the Medical Licensing Board of West Virginia as
5 heretofore constituted have continued as those of the West Virginia Board of Medicine until they
6 expired or were amended, altered, or revoked. The board remains the sole authority for the
7 issuance of licenses to practice allopathic medicine and surgery and podiatry, and to practice as
8 physician assistants in this state in collaboration with physicians licensed under this article. The
9 board shall continue to be a regulatory and disciplinary body for the practice of medicine and
10 surgery, the practice of podiatry, and for physician assistants in this state.

11 (b) Until January 1, 2025, The the board shall consist of 15 members. One member shall
12 be the state health officer ex officio, with the right to vote as a member of the board. The other 14
13 members shall be appointed by the Governor, with the advice and consent of the Senate. Eight
14 of the members shall be appointed from among individuals holding the degree of doctor of
15 medicine, and one shall hold the degree of doctor of podiatric medicine. Two members shall be
16 physician assistants licensed by the board. Each of these members must be duly licensed to

17 practice his or her profession in this state on the date of appointment and must have been licensed
18 and actively practicing that profession for at least five years immediately preceding the date of
19 appointment. Three lay members shall be appointed to represent health care consumers. Neither
20 the lay members nor any person of the lay members' immediate families shall be a provider of or
21 be employed by a provider of health care services. The state health officer's term shall continue
22 for the period that he or she holds office as state health officer. Each other member of the board
23 shall be appointed to serve a term of five years: *Provided*, That the members of the Board of
24 Medicine holding appointments on the effective date of this section shall continue to serve as
25 members of the Board of Medicine until the expiration of their term unless sooner removed. Each
26 term shall begin on October 1 of the applicable year and a member may not be appointed to more
27 than ~~two~~ three consecutive full terms on the board.

28 ~~A person is not eligible for membership on the board who is a member of any political~~
29 ~~party executive committee or, with the exception of the state health officer, who holds any public~~
30 ~~office or public employment under the federal government or under the government of this state~~
31 ~~or any political subdivision thereof.~~

32 ~~In making appointments to the board, the Governor shall, so far as practicable, select the~~
33 ~~members from different geographical sections of the state. When a vacancy on the board occurs~~
34 ~~and less than one year remains in the unexpired term, the appointee shall be eligible to serve the~~
35 ~~remainder of the unexpired term and two consecutive full terms on the board.~~

36 ~~No member may be removed from office by the Governor except for official misconduct,~~
37 ~~incompetence, neglect of duty, or gross immorality: *Provided*, That the expiration, surrender, or~~
38 ~~revocation of the professional license by the board of a member of the board shall cause the~~
39 ~~membership to immediately and automatically terminate.~~

40 (c) Effective January 1, 2025:

41 (1) The West Virginia Board of Medicine assumes, carries on, and succeeds to all the
42 duties, rights, powers, obligations, and liabilities previously belonging to, or exercised by, the West
43 Virginia Board of Osteopathic Medicine;

44 (2) All rules, orders, rulings, licenses, certificates, practice credentials, pending complaints
45 and investigations, pending disciplinary proceedings and appeals, and other acts and
46 undertakings of the West Virginia Board of Osteopathic Medicine shall be continued as those of
47 the West Virginia Board of Medicine until they expire, or are amended, altered, or revoked;

48 (3) The board shall assume sole authority for the issuance of licenses and other practice
49 credentials to practice osteopathic medicine and surgery, and to practice as physician assistants
50 in this state; and

51 (4) The board shall be the sole regulatory and disciplinary body for the practice of
52 allopathic, osteopathic and podiatric medicine and surgery, and for physician assistants who
53 practice in collaboration with physicians.

54 (d) Effective January 1, 2025, the existing members of the Board of Medicine and the
55 existing members of the Board of Osteopathic Medicine, holding appointments as of December
56 31, 2024, shall serve as members of the board until the expiration of their term unless sooner
57 removed. In the event that the Board's membership on January 1, 2025, exceeds 21 members,
58 subsequent appointments and reappointments shall be undertaken to limit the board to 21
59 members, with membership allocated as set forth in subsection (e) of this section.

60 (e) After January 1, 2025, except as set forth in subsection (d) of this section, the board
61 shall consist of the following 21 members:

62 (1) The state health officer, who shall serve ex officio, with the right to vote as a member
63 of the board, for the length of his or her term as state health officer;

64 (2) Twelve physicians, at least four of which shall be allopathic physicians and four of
65 which shall be osteopathic physicians;

66 (3) One podiatrist;

67 (4) Three physician assistants; and

68 (5) Four citizen members.

69 (f) With the exception of the state health officer, all members shall be appointed by the
70 Governor with the advice and consent of the Senate. In making appointments to the board, the
71 Governor shall, so far as practicable, select the members from different geographical sections of
72 the state.

73 (g) A person is not eligible for membership on the board who is a member of any political
74 party executive committee or, with the exception of the state health officer, who holds any public
75 office.

76 (h) To be eligible to serve on the board, physicians, podiatrists, and physician assistants
77 must:

78 (1) Reside in West Virginia;

79 (2) Hold an active, full and unrestricted license to practice as a physician, podiatrist, or
80 physician assistant in West Virginia, and have held such license for at least five years; and

81 (3) Be engaged in active clinical practice in this state as a licensed provider and have a
82 history of active clinical practice in West Virginia for the five years prior to the date of appointment.
83 "Active clinical practice" means that the licensee is engaged in the full-time practice of clinical
84 medicine in West Virginia for a minimum of 50 percent of the licensee's professional practice.

85 (i) To be eligible to serve on the board, citizen members, who represent the interests of
86 health care consumers, and who are appointed to the board after January 1, 2025:

87 (1) Shall reside in West Virginia and have a history of residing in West Virginia for at least
88 five years prior to appointment; and

89 (2) Shall not be licensed under the provisions of this article and shall never have performed
90 any services as a licensed health care provider; and

91 (3) Shall not have a financial interest in the practice of the professions regulated by the
92 board. A person shall be deemed to have a financial interest in the practice of the professionals
93 regulated by the board if the individual:

94 (A) Owns or operates a business that is engaged in the delivery of health care services or
95 the provision of health care related goods, services, or staffing:

96 (B) Is married to a health care provider who is licensed to practice in this state; or

97 (C) Is employed by an entity which provides health care goods or services to West Virginia
98 patients if the individual's work responsibilities relate, in whole or in part, to the delivery of health
99 care services, health care administration, management, or policy.

100 (j) Board membership terms shall begin on October 1 of the applicable year and a member
101 may not be appointed to more than two consecutive full terms on the board: *Provided*, That to
102 ensure continuity of board governance as the Board of Medicine assumes the duties and
103 responsibilities of the Board of Osteopathic Medicine, a member may be appointed to a third
104 consecutive term if the member's second term expires in 2025 or 2026. Full terms served on the
105 Board of Osteopathic Medicine and terms initiated on the Board of Osteopathic Medicine and
106 transferred to the board shall be considered full terms for the purpose of determining a member's
107 eligibility for reappointment.

108 (k) When a vacancy on the board occurs and less than one year remains in the unexpired
109 term, the appointee shall be eligible to serve the remainder of the unexpired term and two
110 consecutive full terms on the board.

111 (l) A member whose term has expired may continue to serve until an eligible successor
112 has been appointed.

113 (m) A member who has served two consecutive full terms may not be selected for re-
114 appointment for at least one year after completion of his or her second full term.

115 (n) Excepting the state health officer, whose term shall be limited to their service in that
116 office, a member of the board immediately and automatically forfeits membership to the board if:

117 (1) The member's license to practice is suspended, revoked, surrendered, expired, or
118 placed in inactive status;

119 (2) The member is convicted of a felony under the laws of any jurisdiction;

120 (3) The member no longer meets the active clinical practice requirement;

121 (4) The member becomes a non-resident of this state; or

122 (5) A citizen member, who is appointed after January 1, 2025, commences providing
123 health care services or develops a financial interest in the practice of the professions regulated
124 by the board.

125 (o) No member may be removed from office by the Governor except for official misconduct,
126 incompetence, neglect of duty, or gross immorality.

**§30-3-6. Conduct of business of West Virginia Board of Medicine; meetings; officers;
compensation; expenses; quorum.**

1 Every two years the board shall elect from among its members a president and vice
2 president. Regular meetings shall be held as scheduled by the rules of the board. Special
3 meetings and emergency meetings of the board may be called by the joint action of the president
4 and vice president or by any three members of the board. ~~on seven days' prior written notice by~~
5 ~~mail postage prepaid or electronic means or, in case of emergency, on two days' notice by~~
6 ~~telephone and electronic means.~~ With the exception of the state health officer, members of the
7 board shall receive compensation and expense reimbursement in accordance with ~~section~~
8 ~~eleven, article one of this chapter §30-1-11 of this code.~~

9 A majority of the membership of the board constitutes a quorum for the transaction of
10 business, and business is transacted by a majority vote of a quorum, except for disciplinary
11 actions which shall require the affirmative vote of not less than ~~five members~~ seven members or
12 a majority vote of those present, whichever is greater.

13 Meetings of the board shall be held in public session. Disciplinary proceedings, prior to a
14 finding of probable cause as provided in ~~subsection (p), section fourteen of this article~~ §30-3-14(p)

15 of this code, shall be held in closed sessions, unless the party subject to discipline requests that
16 the proceedings be held in public session.

§30-3-7. Powers and duties of West Virginia Board of Medicine.

1 (a) The board is autonomous and, in accordance with this article, shall determine
2 qualifications of applicants for licenses and other practice credentials to practice medicine and
3 surgery, to practice podiatry, and to practice as a physician assistant ~~for a~~ in collaboration with
4 ~~physician~~ physicians licensed under this article, and shall issue licenses and other practice
5 credentials to qualified applicants and shall regulate the professional conduct and discipline of
6 such individuals. Beginning January 1, 2025, the Board shall also determine license and other
7 practice credential qualifications, issue licenses and other practice credentials, and regulate the
8 professional conduct and discipline of osteopathic physicians. In carrying out its functions, the
9 board may:

10 (1) Adopt such rules as are necessary to carry out the purposes of this article;

11 (2) Hold hearings and conduct investigations, subpoena witnesses and documents, and
12 administer oaths;

13 (3) Institute proceedings in the courts of this state to enforce its subpoenas for the
14 production of witnesses and documents and its orders and to restrain and enjoin violations of this
15 article and of any rules promulgated under it;

16 (4) Employ investigators, attorneys, hearing examiners, consultants, and such other
17 employees as may be necessary, who shall be exempt from the classified service of the Division
18 of Personnel and who shall serve at the will and pleasure of the board; ~~In addition, all personnel~~
19 ~~employed through the Department of Health and Human Resources on June 30, 2009, to provide~~
20 ~~services for the board are hereby transferred to the board effective July 1, 2009. However, the~~
21 ~~employment, salary, benefits or position classification of any person transferred under this section~~
22 ~~may not be reduced or diminished by reason of this section. All persons transferred shall retain~~
23 ~~their coverage under the classified service of the Division of Personnel and all matters relating to~~

24 ~~job classification, job tenure and conditions of employment shall remain in force and effect from~~
25 ~~and after the date of this section, to the same extent as if this section had not been reenacted.~~
26 ~~Also, nothing herein shall prohibit the disciplining or dismissal of any employee for cause.~~

27 (5) Enter into contracts and receive and disburse funds according to law: Provided, That
28 the provisions of §5A-3-1 et seq. and §5A-6-1 et seq. of this code do not apply to purchases of
29 hardware, software, technology, or technical services made for the purpose of digitizing records
30 or improving the board's technological capability to carry out its functions;

31 (6) Establish and certify standards for ~~the supervision and certification of~~ physician
32 assistants;

33 (7) Authorize medical and podiatry corporations in accordance with the limitations of
34 ~~section fifteen of this article~~ §30-3-15 of this code to practice medicine and surgery or podiatry
35 through duly licensed physicians or podiatrists; ~~and~~

36 (8) Establish the circumstances under which the approval of applications and the issuance
37 of licenses and other practice credentials may be delegated to board staff; and

38 (9) Perform such other duties as are set forth in this article or otherwise provided for in this
39 code.

40 (b) The board shall submit an annual report of its activities to the Legislature. The report
41 shall include a statistical analysis of complaints received, charges investigated, charges
42 dismissed after investigation, the grounds for each such dismissal, and disciplinary proceedings
43 and disposition.

§30-3-7a. Findings and Rule-making authority.

1 [Repealed.]

§30-3-8. State health officer to act as secretary of the board.

1 The state health officer, in addition to being a member of the board, shall act as its
2 secretary. He or she shall, together with the president of the board, sign all licenses, reports,
3 orders, and other documents that may be required by the board in the performance of its duties.

4 With the authorization of the Board President and Secretary, the Board may utilize electronic
5 signatures on licenses and other practice credentials.

§30-3-9. Records of board; expungement; examination; notice; public information; voluntary agreements relating to alcohol or chemical dependency; confidentiality of same; physician-patient privileges.

1 (a) The board shall maintain a permanent record of the names of all physicians, podiatrists,
2 and physician assistants, licensed, certified, or otherwise lawfully practicing in this state and of all
3 persons applying to be so licensed to practice, along with an individual historical record for each
4 such individual containing reports and all other information furnished the board under this article
5 or otherwise. Such record may include, in accordance with rules established by the board,
6 additional items relating to the individual's record of professional practice that will facilitate proper
7 review of such individual's professional competence.

8 (b) Upon a determination by the board that any report submitted to it is without merit, the
9 report shall be expunged from the individual's historical record.

10 (c) A physician, podiatrist, physician assistant, ~~or~~ applicant, or authorized representative
11 thereof, has the right, upon request, to examine his or her own individual historical record
12 maintained by the board pursuant to this article and to place into such record a statement of
13 reasonable length of his or her own view of the correctness or relevance of any information
14 existing in such record. Such statement shall at all times accompany that part of the record in
15 contention.

16 (d) A physician, podiatrist, physician assistant, or applicant has the right to seek through
17 court action the amendment or expungement of any part of his or her historical record.

18 (e) A physician, podiatrist, physician assistant, or applicant shall be provided written notice
19 within ~~thirty~~ 30 days of the placement and substance of any information in his or her individual
20 historical record that pertains to him or her and that was not submitted to the board by him or her.

21 (f) Except for information relating to biographical background, education, professional
22 training and practice, a voluntary agreement entered into pursuant to §30-3-9(h) of this code and
23 which has been disclosed to the board, prior disciplinary action by any entity, or information
24 contained on the licensure application, the board shall expunge information in an individual's
25 historical record unless it has initiated a proceeding for a hearing upon such information within
26 two years of the placing of the information into the historical record.

27 (g) Orders and decisions of the board relating to disciplinary action against a physician,
28 podiatrist, or physician assistant are public information and shall be placed into the historical
29 record.

30 (h)(1) In order to encourage voluntary participation in monitored alcohol, chemical
31 dependency, or major mental illness programs and in recognition of the fact that major mental
32 illness, alcoholism, and chemical dependency are illnesses, a physician, podiatrist, or physician
33 assistant licensed, certified, or otherwise lawfully practicing in this state or applying for a license
34 to practice in this state may enter into a voluntary agreement with the physician health program
35 as defined in §30-3D-2 of this code. The agreement between the physician, podiatrist, or
36 physician assistant and the physician health program shall include a jointly agreed upon treatment
37 program and mandatory conditions and procedures to monitor compliance with the program of
38 recovery.

39 (2) Any voluntary agreement entered into pursuant to this subsection shall not be
40 considered a disciplinary action or order by the board, shall not be disclosed to the board, and
41 shall not be public information if:

42 (A) Such voluntary agreement is the result of the physician, podiatrist, or physician
43 assistant self-enrolling or voluntarily participating in the board-designated physician health
44 program;

45 (B) The board has not received nor filed any written complaints regarding said physician,
46 podiatrist, or physician assistant relating to an alcohol, chemical dependency, or major mental

47 illness affecting the care and treatment of patients, nor received any reports pursuant to §30-3-
48 14(b) of this code relating to an alcohol or chemical dependency impairment; and

49 (C) The physician, podiatrist, or physician assistant is in compliance with the voluntary
50 treatment program and the conditions and procedures to monitor compliance.

51 (3) If any physician, podiatrist, or physician assistant enters into a voluntary agreement
52 with the board-approved physician health program, pursuant to this subsection and then fails to
53 comply with or fulfill the terms of said agreement, the physician health program shall report the
54 noncompliance to the board within ~~twenty-four~~ 24 hours. The board may initiate disciplinary
55 proceedings pursuant to §30-3-14(a)(1) of this code or may permit continued participation in the
56 physician health program or both.

57 (4) If the board has not instituted any disciplinary proceeding as provided for in this article,
58 any information received, maintained, or developed by the board relating to the alcohol or
59 chemical dependency impairment of any physician, podiatrist, or physician assistant and any
60 voluntary agreement made pursuant to this subsection shall be confidential and not available for
61 public information, discovery, or court subpoena, nor for introduction into evidence in any medical
62 professional liability action, or other action for damages arising out of the provision of or failure to
63 provide health care services.

64 In the board's annual report of its activities to the Legislature required under ~~section seven~~
65 ~~of this article~~ §30-3-7 of this code, the board shall include information regarding the success of the
66 voluntary agreement mechanism established therein: *Provided*, That in making such report, the
67 board shall not disclose any personally identifiable information relating to any physician, podiatrist,
68 or physician assistant participating in a voluntary agreement as provided herein.

69 Notwithstanding any of the foregoing provisions, the board may cooperate with and
70 provide documentation of any voluntary agreement entered into pursuant to this subsection to
71 licensing boards in other jurisdictions of which the board has become aware and may be
72 appropriate.

73 (i) When the board receives a report submitted pursuant to the provisions of §30-3-14 of
74 this code, or when the board receives or initiates a complaint regarding the conduct of anyone
75 practicing medicine or surgery, the board shall create a separate complaint file in which the board
76 shall maintain all documents relating to the investigation and action upon the alleged conduct.
77 The final disposition of a complaint is public information and shall be placed in the physician,
78 podiatrist, or physician assistant's historical record.

79 ~~(i)~~ (j) Any physician-patient privilege does not apply in any investigation or proceeding by
80 the board, or by a medical peer review committee, or by a hospital governing board with respect
81 to relevant hospital medical records, while any of the aforesaid are acting within the scope of their
82 authority: *Provided*, That the disclosure of any information pursuant to this provision shall not be
83 considered a waiver of any such privilege in any other proceeding.

**§30-3-10. Licenses to practice allopathic, osteopathic, and podiatric medicine and
surgery ~~or podiatry~~.**

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

2 ~~(b)~~ (a) License to practice allopathic medicine and surgery – graduates of approved
3 medical schools located in the United States, Canada, or Puerto Rico. – The board may grant a
4 license to practice allopathic medicine and surgery to an applicant. A license may be granted to
5 an applicant who has graduated and received the degree of doctor of medicine or its equivalent
6 from a school of medicine located within the United States, the Commonwealth of Puerto Rico, or
7 Canada, and is approved by the ~~Liaison Committee on Medical Education~~ LCME or by the board,
8 and who:

- 9 (1) Submits a complete application;
- 10 (2) Pays the applicable fees;
- 11 (3) Demonstrates to the board's satisfaction that the applicant:
- 12 ~~(A) Is of good moral character;~~

13 ~~(B)~~ (A) Is physically and mentally capable of engaging in the practice of medicine and
14 surgery;

15 ~~(C)~~ (B) Has, within 10 consecutive years, passed all component parts of the ~~United States~~
16 ~~Medical Licensing Examination~~ USMLE or any prior examination or examination series approved
17 by the board which relates to a national standard, is administered in the English language, and is
18 designed to ascertain an applicant's fitness to practice medicine and surgery;

19 ~~(D)~~ (C) Has successfully completed one year of approved graduate medical education;
20 and

21 ~~(i) A minimum of one year of graduate clinical training in a program is approved by the~~
22 ~~Accreditation Council for Graduate Medical Education; or~~

23 ~~(ii) A graduate medical education residency program outside of the United States and a~~
24 ~~minimum of one year of fellowship training in the United States in a clinical field related to the~~
25 ~~applicant's residency training which was completed:~~

26 ~~(I) At an institution that sponsors or operates a residency program in the same clinical field~~
27 ~~or a related clinical field approved by the Accreditation Council for Graduate Medical Education;~~

28 ~~or~~

29 ~~(II) At a time when accreditation was not available for the fellowship's clinical field and the~~
30 ~~board has determined that the training was similar to accredited training due to objective~~
31 ~~standards, including, but not limited to, the presence of other accredited programs at the~~
32 ~~sponsoring institution during the applicant's clinical training at the fellowship location; and~~

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

36 ~~(e)~~ (b) License to Practice Allopathic Medicine and Surgery – International Medical
37 Graduates.

38 The board may grant a license to practice allopathic medicine and surgery to an applicant.

39 ~~A license may be granted to an applicant~~ who has received the degree of doctor of medicine or
40 its equivalent from a an approved school of medicine located outside of the United States, the
41 Commonwealth of Puerto Rico, and Canada, who:

42 (1) Submits a complete application;

43 (2) Pays the applicable fees;

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

45 ~~(A) Is of good moral character;~~

46 ~~(B)~~ (A) Is physically and mentally capable of engaging in the practice of medicine and
47 surgery;

48 ~~(C)~~ (B) Has, within 10 consecutive years, passed all component parts of the ~~United States~~
49 ~~Medical Licensing Examination~~ USMLE or any prior examination or examination series approved
50 by the board which relates to a national standard, is administered in the English language, and is
51 designed to ascertain an applicant's fitness to practice medicine and surgery;

52 ~~(D)~~ (C) Has successfully completed:

53 ~~(i) A minimum of two years of graduate clinical training approved by the Accreditation~~
54 ~~Council for Graduate Medical Education;~~ Two years of approved graduate medical education; or

55 ~~(ii) A minimum of one year of graduate clinical training approved by the Accreditation~~
56 ~~Council for Graduate Medical Education or one year of fellowship training which comports with~~
57 ~~the requirements of subparagraph (iii) of this paragraph~~ one year of approved graduate medical
58 education and the applicant holds a current certification by a member board of the American
59 Board of Medical Specialties. ~~or;~~

60 ~~(iii) A graduate medical education residency program outside of the United States and a~~
61 ~~minimum of two years of fellowship training in the United States in a clinical field related to the~~
62 ~~applicant's residency training which was completed:~~

63 ~~(I) At an institution that sponsors or operates a residency program in the same clinical field~~
64 ~~or a related clinical field approved by the Accreditation Council for Graduate Medical Education;~~
65 ~~or~~

66 ~~(II) At a time when accreditation was not available for the fellowship's clinical field and the~~
67 ~~board has determined that the training was similar to accredited training due to objective~~
68 ~~standards, including, but not limited to, the presence of other accredited programs at the~~
69 ~~sponsoring institution during the applicant's clinical training at the fellowship location;~~

70 ~~(E) (D)~~ Holds a valid ECFMG certificate certification issued by the Educational
71 Commission for Foreign Medical Graduates or:

72 (i) Holds a full, unrestricted, and unconditional license to practice medicine and surgery
73 under the laws of another state, the District of Columbia, Canada, or the Commonwealth of Puerto
74 Rico;

75 (ii) Has been engaged in the practice of medicine on a full-time professional basis within
76 the state or jurisdiction where the applicant is fully licensed for a period of at least five years; and

77 (iii) Is not the subject of any pending disciplinary action by a medical licensing board and
78 has not been the subject of professional discipline reportable to the National Practitioner Data
79 Bank by a medical licensing board in any jurisdiction;

80 ~~(F) (E)~~ Can communicate in the English language; and

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

84 (c) License to Practice Osteopathic Medicine and Surgery. – Beginning January 1, 2025,
85 the board may grant a license to practice osteopathic medicine and surgery to an applicant who:

86 (1) Submits a complete application;

87 (2) Pays the applicable fees;

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

89 (A) Is physically and mentally capable of engaging in the practice of osteopathic medicine
90 and surgery;

91 (B) Graduated from an accredited osteopathic college;

92 (C) Has, within 10 consecutive years, passed all component parts of the COMLEX-USA
93 examination or any prior state examination or examination series approved by the board which
94 relates to a national standard, has been determined by the board to have equivalent standards to
95 the COMLEX-USA, is administered in the English language, and is designed to ascertain an
96 applicant's fitness to practice osteopathic medicine and surgery.

97 (D) Has completed one year of approved graduate medical education; and

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

100 ~~(d) A person seeking licensure as a podiatrist shall apply to the board. A license may be~~
101 ~~granted to an applicant who: License to practice podiatric medicine and surgery. – The board may~~
102 ~~grant a license to practice podiatric medicine and surgery to an applicant who:~~

103 (1) Submits a complete application;

104 (2) Pays the applicable fees;

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

106 ~~(A) Is of good moral character;~~

107 ~~(B) (A) Is physically and mentally capable of engaging in the practice of podiatric medicine~~
108 ~~and surgery;~~

109 ~~(C) (B) Has graduated and received the degree of doctor of podiatric medicine or its~~
110 ~~equivalent from a school of podiatric medicine approved by the Council of Podiatric Medical~~
111 ~~Education or by the board;~~

112 ~~(D) (C) Has, within 10 consecutive years, passed all component parts of the American~~
113 ~~Podiatric Medical Licensing Examination APMLE, or any prior examination or examination series~~

114 approved by the board which relates to a national standard, is administered in the English
115 language, and is designed to ascertain an applicant's fitness to practice podiatric medicine;

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

121 ~~(F)~~ (E) Meets any other reasonable criteria for licensure set forth in this article or in
122 legislative rules promulgated by the board.

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

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

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

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

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

134 ~~(5) That orders denying applications for a restricted license under this subsection are not
135 appealable.~~

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

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

142 ~~(h)~~ (f) All licenses to practice medicine and surgery granted prior to July 1, 2008, and valid
143 on that date shall continue in full effect for the term and under the conditions provided by law at
144 the time of the granting of the license. ~~Provided, That the provisions of subsection (d) of this~~
145 ~~section do not apply to any person legally entitled to practice chiroprody or podiatry in this state~~
146 ~~prior to June 11, 1965: Provided, however, That all persons licensed to practice chiroprody prior~~
147 ~~to June 11, 1965, are permitted to use the term "chiroprody podiatry" and shall have the rights,~~
148 ~~privileges, and responsibilities of a podiatrist set out in this article.~~

149 ~~(i)~~ (g) The board shall not issue a license to a person not previously licensed in West
150 Virginia whose license has been revoked or suspended in another state until reinstatement of his
151 or her license in that state.

152 ~~(j)~~ (h) The board shall not issue an initial license, reinstate, or reactivate a license, to any
153 individual whose license has been revoked, suspended, surrendered, or deactivated in another
154 state based upon conduct which is substantially equivalent to an act of unprofessional conduct
155 prohibited by §30-3-14(c) of this code or the board's legislative rules, until reinstatement of his or
156 her license in that state.

157 ~~(k)~~ (i) The board need not reject a candidate for a nonmaterial technical or administrative
158 error or omission in the application process that is unrelated to the candidate's professional
159 qualifications as long as there is sufficient information available to the board to determine the
160 eligibility and qualifications of the candidate for licensure.

§30-3-10b. Special license types.

1 (a) Restricted License Issued in Extraordinary Circumstances. – A restricted license
2 issued in extraordinary circumstances may be limited as directed by the board based upon the
3 facts and circumstances of the application. Notwithstanding any of the provisions of this article,

4 the board may issue a restricted license to an allopathic physician applicant in extraordinary
5 circumstances who submits a complete application and pays the applicable fee under the
6 following conditions:

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

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

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

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

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

18 (b) *Medical School Faculty License.* – The medical practice of a physician licensed under
19 this subsection is limited to the medical center of the medical school to where the physician holds
20 an academic faculty member appointment. A limited license issued under this section is valid for
21 a term of one year from the effective date of the faculty appointment. The board shall issue a
22 limited license to practice allopathic medicine and surgery without examination to an individual
23 appointed to a West Virginia medical school faculty who holds a valid license to practice medicine
24 and surgery from another state, the District of Columbia, the Commonwealth of Puerto Rico,
25 Canada, or other country the board determines has substantially equivalent requirements for
26 licensure as those jurisdictions, and who:

27 (1) Submits a complete application;

28 (2) Pays the applicable fees;

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

30 (A) Is physically and mentally capable of engaging in the practice of medicine and surgery;

31 (B) Is able to communicate in English;

32 (C) Is a graduate of an international school of medicine which is approved by the LCME
33 or by the World Health Organization or by the board with the degree of doctor of medicine or its
34 equivalent;

35 (D) Has successfully completed one year of approved graduate medical education or has
36 received other training which the board determines to be substantially equivalent or in excess of
37 this requirement;

38 (E) Has not committed any act in this or any other jurisdiction which would constitute the
39 basis for disciplining a physician under §30-3-14 of this code; and

40 (E) Has been offered and has accepted a faculty appointment to teach in a medical school
41 in this state.

42 (c) The board shall investigate applicants seeking special license types set forth in this
43 section, and may require a personal interview to review the applicant's qualifications and
44 professional credentials.

45 (d) A medical school faculty license issued pursuant to this section will automatically expire
46 and be void, without notice to the physician, when the physician's faculty appointment is
47 terminated. The dean of the medical school shall notify the board within five days of the
48 termination of a faculty appointment of a physician licensed pursuant to this section.

49 (e) A physician issued a medical school faculty license under this section must keep all
50 medical licenses issued by other jurisdictions in good standing and must notify the board, within
51 15 days of its occurrence, of any denial, suspension or revocation of or any limitation placed on
52 a medical license issued by another jurisdiction.

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

56 (g) A physician licensed under this section may apply for license renewal. The board may
57 propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this
58 code that establish and regulate the renewal and continuing education requirements for licenses
59 issued pursuant to this section.

**§30-3-11. Endorsement of licenses to practice medicine and surgery and podiatry; fees;
temporary license; summer camp ~~doctors~~ license.**

1 (a)(1) Any person seeking to be licensed to practice medicine and surgery in this state
2 who holds a valid license to practice medicine and surgery attained under requirements similar to
3 the requirement of §30-3-10 of this code from another state, the District of Columbia, the
4 Commonwealth of Puerto Rico, or Canada; or

5 (2) Any person seeking to be licensed to practice podiatry in this state who holds a valid
6 license to practice podiatry attained under requirements similar to the requirements in §30-3-10
7 of this code from another jurisdiction shall be issued a license to practice podiatry, as appropriate,
8 in this state if he or she meets the following requirements:

9 (A) He or she must submit an application to the board on forms provided by the board and
10 remit a licensure fee, as provided in legislative rule. The application must, as a minimum, require
11 a statement that the applicant is a licensed physician, or podiatrist in good standing and indicate
12 whether any medical disciplinary action has been taken against him or her in the past; and

13 (B) He or she must demonstrate to the satisfaction of the board that he or she has the
14 requisite qualifications to provide the same standard of care as a physician or podiatrist initially
15 licensed in this state.

16 (b) The board may investigate the applicant and may request a personal interview to
17 review the applicant's qualifications and professional credentials.

18 (c) The board may grant a temporary license to an individual applying for licensure under
19 this section if the individual meets the requirements of this section. A temporary license issued by
20 the board authorizes the holder to practice medicine and surgery or podiatry in West Virginia for

21 the term of the temporary license and includes full prescriptive authority. The temporary license
22 is valid until its holder has either been granted or denied a license at the next regular meeting of
23 the board. The board may fix and collect a fee for a temporary license, as provided in legislative
24 rule.

25 (d) The application fee shall be waived, and to the extent consistent with the integrity of
26 the licensure process and the requirements for licensure as set forth in this section and in the
27 relevant legislative rules, the board shall expedite its processing of an individual's application to
28 practice medicine and surgery, or practice podiatry: *Provided*, That the sole purpose for licensure
29 is to provide services at a children's summer camp for not more than one specifically designated
30 three-week period annually. The license shall be issued for a period of the specifically designated
31 three weeks only, on an annual basis.

32 (e) Beginning January 1, 2025, the provisions of this section shall be equally available
33 to any person seeking to be licensed to practice osteopathic medicine and surgery in this state
34 who holds a valid license to practice medicine and surgery attained under requirements similar
35 to the requirement of §30-3-10(c) of this code from another state, the District of Columbia, or the
36 Commonwealth of Puerto Rico.

**~~§30-3-11a. Endorsement of licenses to practice medicine and surgery as medical school
faculty. Administrative medicine license.~~**

1 ~~(a) The board shall issue a limited license to practice medicine and surgery without~~
2 ~~examination to an individual appointed to a West Virginia medical school faculty who holds a valid~~
3 ~~license to practice medicine and surgery from another state, the District of Columbia, the~~
4 ~~Commonwealth of Puerto Rico, Canada or other country the board determines has substantially~~
5 ~~equivalent requirements for licensure as those jurisdictions, and who has completed the~~
6 ~~application form prescribed by the board, remitted a nonrefundable application fee in the amount~~
7 ~~of \$150 and who presents satisfactory proof to the board that:~~

8 (1) ~~He or she is of good moral and professional character;~~

9 ~~(2) He or she is physically and mentally capable of engaging in the practice of medicine~~
10 ~~and surgery;~~

11 ~~(3) He or she is able to communicate in English;~~

12 ~~(4) He or she is a graduate of a school of medicine which is approved by the liaison~~
13 ~~committee on medical education or by the World Health Organization or by the board with the~~
14 ~~degree of doctor of medicine or its equivalent;~~

15 ~~(5) He or she has successfully completed one year of approved graduate clinical training~~
16 ~~or a fellowship of at least one year, or has received training which the board determines to be~~
17 ~~equivalent to or exceeds the one year graduate clinical training or fellowship requirement;~~

18 ~~(6) He or she has not committed any act in this or any other jurisdiction which would~~
19 ~~constitute the basis for disciplining a physician under section fourteen of this article; and~~

20 ~~(7) He or she has been offered and has accepted a faculty appointment to teach in a~~
21 ~~medical school in this state.~~

22 ~~(b) The board shall investigate the applicant and may request a personal interview to~~
23 ~~review the applicant's qualifications and professional credentials.~~

24 ~~(c) The medical practice of a physician licensed under this section is limited to the medical~~
25 ~~center of the medical school to which the physician has been appointed to the faculty.~~

26 ~~(d) A limited license issued under this section is valid for a term of one year. No limited~~
27 ~~license issued pursuant to this section may be renewed.~~

28 ~~(e) Before the limited license has expired, a physician licensed under this section may~~
29 ~~apply for a license to practice medicine and surgery in West Virginia pursuant to the provisions of~~
30 ~~section twelve of this article: *Provided*, That any license granted by the board pursuant to this~~
31 ~~subsection, retains the practice limitations set out in subsection (c) of this section.~~

32 ~~(f) Any license issued under this section will automatically expire and be void, without~~
33 ~~notice to the physician, when the physician's faculty appointment is terminated. The dean of the~~

34 ~~medical school shall notify the board within five days of the termination of a faculty appointment~~
35 ~~of a physician licensed pursuant to this section.~~

36 ~~(g) A physician licensed under this section must keep all medical licenses issued by other~~
37 ~~jurisdictions in good standing and must notify the board, within fifteen days of its occurrence, of~~
38 ~~any denial, suspension or revocation of or any limitation placed on a medical license issued by~~
39 ~~another jurisdiction.~~

1 (a) For purposes of this section:

2 (1) "Administrative medicine" means administration or management related to the practice
3 of medicine or to the delivery of health care services using the medical knowledge, skill, and
4 judgment of a licensed physician that may affect the health of the public or medical research,
5 excluding clinical trials on humans. Administrative medicine does not include the authority to
6 practice clinical medicine; examine, care for, or treat patients; prescribe medications, including
7 controlled substances; or direct or delegate medical acts or prescriptive authority to others.

8 (2) "Administrative medicine license" means a medical license restricted to the practice of
9 administrative medicine. A physician with an administrative medicine license may manage the
10 integration of clinical medicine, strategy, operations, and other business activities related to the
11 delivery of health care services, advise organizations, both public and private, on health care
12 matters; authorize and deny financial payments for care; organize and direct research programs;
13 review care provided for quality; and perform other similar duties that do not require or involve
14 direct patient care.

15 (3) "Clinical medicine" includes, but is not limited to:

16 (A) Direct involvement in patient evaluation, diagnosis, and treatment;

17 (B) Prescribing, administering, or dispensing any medication;

18 (C) Delegating medical acts, service, or prescriptive authority; and

19 (D) Supervision of physicians or podiatric physicians who practice clinical medicine,
20 physicians and podiatric physicians engaged in graduate medical education, physician assistants

21 who render medical services in collaboration with physicians, and/or the clinical practice of any
22 other medical professional.

23 (b) The board may issue an administrative medicine license to a physician who:

24 (1) Files a complete application;

25 (2) Pays the applicable fee;

26 (3) Meets all qualifications and criteria for licensure set forth in §30-3-10 or §30-3-11 of

27 this code and the board's legislative rules; and

28 (4) Demonstrates competency to practice administrative medicine.

29 (c) Administrative medicine licensees may not practice clinical medicine.

30 (d) A physician applying to renew an administrative medicine license must pay the same

31 fees and meet the same requirements for renewing an active status license, including submission

32 of certification of participation in and successful completion of a minimum of 50 hours of continuing

33 medical and/or osteopathic education satisfactory to the board during the preceding two-year

34 period.

35 (e) The board may deny an application for an administrative medicine license and may

36 discipline an administrative medicine licensee who, after a hearing, has been adjudged by the

37 board as unqualified due to any reason set forth in §30-3-14 of this code or the board's rules and

38 pursuant to the processes set forth therein.

39 (f) The board shall propose legislative rules pursuant to the provisions of §29A-3-1 et seq.

40 of this code to implement the provisions of this section and to regulate the practice of

41 administrative medicine.

**§30-3-11b. License to practice medicine and surgery at certain state veterans nursing
home facilities.**

1 [Repealed.]

§30-3-11c. Administrative medicine license.

1 [Repealed.]

§30-3-12. Biennial renewal of license to practice medicine and surgery or podiatry; continuing education; rules; fee; inactive license; denial for conviction of felony offense.

1 (a) A license to practice medicine and surgery or podiatry in this state is valid for a term of
2 two years.

3 (b) The license shall be renewed:

4 (1) Upon receipt of a reasonable fee, as set by the board;

5 (2) Submission of an application on forms provided by the board; and

6 (3) A certification of participation in and successful completion of a minimum of fifty hours
7 of continuing medical, osteopathic, or podiatric education satisfactory to the board, as appropriate
8 to the particular license, during the preceding two-year period.

9 (c) The application may not require disclosure of a voluntary agreement entered into
10 pursuant to ~~subsection (h), section nine of this article~~ §30-3-9(h) of this code.

11 (d) Continuing medical education satisfactory to the board is continuing medical education
12 designated as Category I by the American Medical Association or the Academy of Family
13 Physicians and alternate categories approved by the board.

14 (e) Continuing podiatric education satisfactory to the board is continuing podiatric
15 education approved by the Council on Podiatric Education and alternate categories approved by
16 the board.

17 (f) Continuing osteopathic education satisfactory to the board is continuing osteopathic
18 education designated as Category I by the either the American Osteopathic Association or the
19 American Medical Association and alternative categories approved by the board.

20 ~~(f)~~ (g) Notwithstanding any provision of this chapter to the contrary, beginning July 1, 2007,
21 failure to timely submit to the board a certification of successful completion of a minimum of ~~fifty~~
22 50 hours of continuing medical, osteopathic, or podiatric education satisfactory to the board, as
23 appropriate to the particular license, shall result in the automatic expiration of any license to

24 practice medicine and surgery or podiatry until such time as the certification, with all supporting
25 written documentation, is submitted to and approved by the board.

26 ~~(g)~~ (h) If a license is automatically expired and reinstatement is sought within one year of
27 the automatic expiration, the former licensee shall:

28 (1) Provide certification with supporting written documentation of the successful
29 completion of the required continuing education;

30 (2) Pay a renewal fee; and

31 (3) Pay a reinstatement fee equal to ~~fifty~~ 50 percent of the renewal fee.

32 ~~(h)~~ (i) If a license is automatically expired and more than one year has passed since the
33 automatic expiration, the former licensee shall:

34 (1) Apply for a new license;

35 (2) Provide certification with supporting written documentation of the successful
36 completion of the required continuing education; and

37 (3) Pay such fees as determined by the board.

38 ~~(i)~~ (j) Any individual who accepts the privilege of practicing medicine and surgery or
39 podiatry in this state is required to provide supporting written documentation of the continuing
40 education represented as received within ~~thirty~~ 30 days of receipt of a written request to do so by
41 the board. If a licensee fails or refuses to provide supporting written documentation of the
42 continuing education represented as received as required in this section, such failure or refusal
43 to provide supporting written documentation is prima facie evidence of renewing a license to
44 practice medicine and surgery or podiatry by fraudulent misrepresentation.

45 ~~(j)~~ (k) The board may renew, on an inactive basis, the license of a physician or podiatrist
46 who is currently licensed to practice medicine and surgery or podiatry in, but is not actually
47 practicing, medicine and surgery or podiatry in this state. A physician or podiatrist holding an
48 inactive license shall not practice medicine and surgery or podiatry in this state.

49 ~~(k)~~ (l) An inactive license may be converted by the board to an active license upon a written
50 request by the licensee to the board that:

51 (1) Accounts for his or her period of inactivity to the satisfaction of the board; and

52 (2) ~~Submits~~ Includes written documentation of participation in and successful completion
53 of a minimum of ~~fifty~~ 50 hours of continuing medical or podiatric education satisfactory to the
54 board, as appropriate to the particular license, during each preceding two-year period.

55 ~~(j)~~ (m) An inactive license may be obtained upon receipt of a reasonable fee, as set by the
56 board, and submission of an application on forms provided by the board on a biennial basis.

57 ~~(m)~~ (n) The board may not require any physician or podiatrist who is retired or retiring from
58 the active practice of medicine and surgery or the practice of podiatry and who is voluntarily
59 surrendering their license to return to the board the license certificate issued to them by the board.

60 ~~(n)~~ (o) The board may deny or refuse to reissue a license to any person who has been
61 convicted of a felony under the laws of this state, any other state, the United States or the laws of
62 any other country or state outside of the United States.

**§30-3-13. Licensing requirements for the practice of medicine and surgery or podiatry;
exceptions; unauthorized practice; notice; criminal penalties.**

1 (a) It is unlawful for any person who does not hold an active, unexpired license issued
2 pursuant to this article, or who is not practicing pursuant to the licensure exceptions set forth in
3 this section, to:

4 (1) Engage in the practice of medicine and surgery or podiatry in this state;

5 (2) Represent that he or she is a physician, surgeon or podiatrist authorized to practice
6 medicine and surgery or podiatry in this state; or

7 (3) Use any title, word, or abbreviation to indicate or induce others to believe that he or
8 she is licensed to practice medicine and surgery or podiatry in this state.

9 (b) It is unlawful for any person who does not hold an active, unexpired license, or other
10 practice credential issued ~~pursuant to this article~~ by the board to engage in the practice of

11 telemedicine within this state. As used in this section, the "practice of telemedicine" means the
12 practice of medicine using communication tools such as electronic communication, information
13 technology or other means of interaction between a licensed health care professional in one
14 location and a patient in another location, with or without an intervening health care provider, and
15 typically involves secure real time audio/video conferencing or similar secure audio/video
16 services, remote monitoring, interactive video and store and forward digital image or health data
17 technology to provide or support health care delivery by replicating the interaction of a traditional
18 in person encounter between a provider and a patient. The practice of telemedicine occurs in this
19 state when the patient receiving health care services through a telemedicine encounter is
20 physically located in this state.

21 (c) It is not unlawful for a person:

22 (1) Who is a licensed health care provider under this code to act within his or her scope of
23 practice;

24 (2) Who is not a licensed health care professional in this state to provide first aid care in
25 an emergency situation; or

26 (3) To engage in the bona fide religious tenets of any recognized church in the
27 administration of assistance to the sick or suffering by mental or spiritual means.

28 (d) The following persons are exempt from the licensure requirements under this article:

29 (1) A person enrolled in ~~a school of medicine approved by the Liaison Committee on~~
30 ~~Medical Education or by the board~~ an approved medical school, an accredited osteopathic
31 college, or a school of podiatric medicine approved by the Council of Podiatry Education or by the
32 board;

33 (2) ~~A person enrolled in a school of podiatric medicine approved by the Council of Podiatry~~
34 ~~Education or by the board~~ A physician, podiatrist, or physician assistant practicing in this state
35 pursuant to, and within the limitations of, a practice credential issued by the board;

36 (3) A person engaged in graduate podiatric training in a program approved by the Council
37 on Podiatric Education or by the board;

38 (4) A physician or podiatrist engaged in the performance of his or her official duties holding
39 one or more licenses from another state or foreign country and who is a commissioned medical
40 officer of, a member of, or employed by:

41 (A) The United States Military;

42 (B) The Department of Defense;

43 (C) The United States Public Health Service; or

44 (D) Any other federal agency;

45 (5) A physician or podiatrist holding one or more unrestricted licenses granted by another
46 state or foreign country serving as visiting medical faculty engaged in education, training, or
47 research duties at a medical school or institution recognized by the board for up to six months if:

48 (A) The physician does not engage in the practice of medicine and surgery or podiatry
49 outside of the auspices of the sponsoring school or institution; and

50 (B) The sponsoring medical school or institution provides prior written notification to the
51 board including the physician's name, all jurisdictions of licensure and the beginning and end date
52 of the physician's visiting medical faculty status;

53 (6) A physician or podiatrist holding one or more unrestricted licenses granted by another
54 state present in the state as a member of an air ambulance treatment team or organ harvesting
55 team;

56 (7) A physician or podiatrist holding one or more unrestricted licenses granted by another
57 state or foreign country providing a consultation on a singular occasion to a licensed physician or
58 podiatrist in this state, whether the consulting physician or podiatrist is physically present in the
59 state for the consultation or not;

60 (8) A physician or podiatrist holding one or more unrestricted licenses granted by another
61 state or foreign country providing teaching assistance, in a medical capacity, for a period not to
62 exceed seven days; and

63 ~~(9) A physician or podiatrist holding one or more unrestricted licenses granted by another~~
64 ~~state or foreign country serving as a volunteer in a noncompensated role for a charitable function~~
65 ~~for a period not to exceed seven days; and~~

66 ~~(10)~~ (9) A physician or podiatrist holding one or more unrestricted licenses granted by
67 another state or foreign country providing medical services to a college or university affiliated
68 and/or sponsored sports team or an incorporated sports team if:

69 (A) He or she has a written agreement with that sports team to provide care to team
70 members, band member, cheerleader, mascot, coaching staff, and families traveling with the
71 team for a specific sporting event, team appearance, or training camp occurring in this state;

72 (B) He or she may only provide care or consultation to team members, coaching staff, and
73 families traveling with the team no longer than seven consecutive days per sporting event;

74 (C) He or she is not authorized to practice at a health care facility or clinic, acute care
75 facility or urgent care center located in this state, but the physician may accompany the patient to
76 the facility and consult; and

77 (D) The physician or podiatrist may be permitted, by written permission from the executive
78 director, to extend his or her authorization to practice medicine for a maximum of seven additional
79 consecutive days if the requestor shows good cause for the extension.

80 (e) A physician or podiatrist who does not hold a license issued by the board and who is
81 practicing medicine in this state pursuant to the exceptions to licensure set forth in this section
82 may practice in West Virginia under one or more of the licensure exceptions for no greater than
83 a cumulative total of ~~thirty~~ 30 days in any one calendar year.

84 (f) The executive director shall send by certified mail to a physician not licensed in this
85 state a written order that revokes the privilege to practice medicine under this section if the

86 executive director finds good cause to do so. If no current address can be determined, the order
87 may be sent by regular mail to the physician's last known address.

88 (g) A person who engages in the unlawful practice of medicine and surgery or podiatry
89 while holding a license or other practice credential issued pursuant to this article which has been
90 classified by the board as expired for ~~ninety~~ 90 days or fewer is guilty of a misdemeanor and,
91 upon conviction, shall be fined not more than \$5,000 or confined in jail not more than ~~twelve~~ 12
92 months, or both fined and confined.

93 (h) A person who ~~is found to be engaging in the practice of medicine and~~ practices or
94 attempts to practice medicine and surgery or podiatry and: (1) Has never been licensed by the
95 board under this article; (2) holds a license or a practice credential which has been classified by
96 the board as expired for greater than ~~ninety~~ 90 days; or (3) holds a license or a practice credential
97 which has been placed in inactive status, revoked, suspended, or surrendered to the board is
98 guilty of a felony and, upon conviction, shall be fined not more than \$10,000 or imprisoned in a
99 correctional facility for not less than one year nor more than five years or both fined and
100 imprisoned.

101 (i) Upon a determination by the board that any report or complaint submitted to it concerns
102 allegations of the unlawful practice of medicine and surgery by an individual who is licensed under
103 another article of this chapter, the board shall refer the complaint to the appropriate licensing
104 authority. Additionally, whenever the board receives credible information that an individual is
105 engaging in the unlawful practice of medicine and surgery or podiatry in violation of this section,
106 the board may report such information to the appropriate state and/or federal law enforcement
107 authority and/or prosecuting attorney.

§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rulemaking.

1 (a) *Definitions.* – For the purposes of this section:

2 (1) "Chronic nonmalignant pain" means pain that has persisted after reasonable medical
3 efforts have been made to relieve the pain or cure its cause and that has continued, either
4 continuously or episodically, for longer than three continuous months. "Chronic nonmalignant
5 pain" does not include pain associated with a terminal condition or illness or with a progressive
6 disease that, in the normal course of progression, may reasonably be expected to result in a
7 terminal condition or illness.

8 (2) "Physician" means a person licensed or registered by the West Virginia Board of
9 Medicine to practice allopathic or osteopathic medicine in West Virginia.

10 (3) "Store and forward telemedicine" means the asynchronous computer-based
11 communication of medical data or images from an originating location to a physician or podiatrist
12 at another site for the purpose of diagnostic or therapeutic assistance.

13 (4) "Telemedicine" means the practice of medicine using tools such as electronic
14 communication, information technology, store and forward telecommunication, audio only
15 telephone calls, or other means of interaction between a physician or podiatrist in one location
16 and a patient in another location, with or without an intervening health care provider.

17 (5) "Telemedicine technologies" means technologies and devices which enable secure
18 communications and information exchange in the practice of telemedicine, and typically involve
19 the application of secure real-time audio/video conferencing or similar secure video services,
20 remote monitoring or store and forward digital image technology, or audio only telephone calls to
21 provide or support health care delivery by replicating the interaction of a traditional in-person
22 encounter between a physician or podiatrist and a patient.

23 (b) *Licensure or registration.* –

24 (1) The practice of medicine occurs where the patient is located at the time the
25 telemedicine technologies are used.

26 (2) A physician or podiatrist who practices telemedicine must be licensed as provided in
27 this article or registered as provided in §30-1-1 *et seq.* of this code.

28 (3) This section does not apply to:

29 (A) An informal consultation or second opinion, at the request of a physician or podiatrist
30 who is licensed to practice medicine or podiatry in this state: *Provided*, That the physician or
31 podiatrist requesting the opinion retains authority and responsibility for the patient's care; and

32 (B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency
33 or disaster, if no charge is made for the medical assistance.

34 (c) *Physician-patient or podiatrist-patient relationship through telemedicine encounter.* –

35 (1) A physician-patient or podiatrist-patient relationship may not be established through
36 text-based communications such as e-mail, Internet questionnaires, text-based messaging, or
37 other written forms of communication.

38 (2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to
39 the utilization to telemedicine technologies, or if services are rendered solely through telemedicine
40 technologies, a physician-patient or podiatrist-patient relationship may only be established:

41 (A) Through the use of telemedicine technologies which incorporate interactive audio
42 using store and forward technology, real-time videoconferencing, or similar secure video services
43 during the initial physician-patient or podiatrist-patient encounter;

44 (B) For the practice of pathology and radiology, a physician-patient relationship may be
45 established through store and forward telemedicine or other similar technologies; or

46 (C) Through the use of audio-only calls or conversations that occur in real time. Patient
47 communication though audio-visual communication is preferable, if available or possible. Audio-
48 only calls or conversations that occur in real time may be used to establish the physician-patient
49 relationship.

50 (3) Once a physician-patient or podiatrist-patient relationship has been established, either
51 through an in-person encounter or in accordance with subdivision (2) of this subsection, the
52 physician or podiatrist may utilize any telemedicine technology that meets the standard of care
53 and is appropriate for the patient presentation.

54 (d) *Telemedicine practice.* – A physician or podiatrist using telemedicine technologies to
55 practice medicine or podiatry shall:

56 (1) Verify the identity and location of the patient;

57 (2) Provide the patient with confirmation of the identity and qualifications of the physician
58 or podiatrist;

59 (3) Provide the patient with the physical location and contact information of the physician;

60 (4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms
61 to the standard of care;

62 (5) Determine whether telemedicine technologies are appropriate for the patient
63 presentation for which the practice of medicine or podiatry is to be rendered;

64 (6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

65 (7) Conduct all appropriate evaluations and history of the patient consistent with traditional
66 standards of care for the patient presentation;

67 (8) Create and maintain health care records for the patient which justify the course of
68 treatment and which verify compliance with the requirements of this section; and

69 (9) The requirements of ~~§30-3-13(a)(1) through §30-3-13(a)(8)~~ §30-3-13a(d)(1) through
70 §30-3-13a(d)(8) of this code do not apply to the practice of pathology or radiology medicine
71 through store and forward telemedicine.

72 (e) *Standard of care.* – The practice of medicine or podiatry provided via telemedicine
73 technologies, including the establishment of a physician-patient or podiatrist-patient relationship
74 and issuing a prescription via electronic means as part of a telemedicine encounter, are subject
75 to the same standard of care, professional practice requirements, and scope of practice limitations
76 as traditional in-person physician-patient or podiatrist-patient encounters. Treatment, including
77 issuing a prescription, based solely on an online questionnaire, does not constitute an acceptable
78 standard of care.

79 (f) *Patient records.* – The patient record established during the use of telemedicine
80 technologies shall be accessible and documented for both the physician or podiatrist and the
81 patient, consistent with the laws and legislative rules governing patient health care records. All
82 laws governing the confidentiality of health care information and governing patient access to
83 medical records shall apply to records of practice of medicine or podiatry provided through
84 telemedicine technologies. A physician or podiatrist solely providing services using telemedicine
85 technologies shall make documentation of the encounter easily available to the patient, and
86 subject to the patient's consent, to any identified care provider of the patient.

87 (g) *Prescribing limitations.* –(1) A physician or podiatrist who practices medicine to a
88 patient solely through the utilization of telemedicine technologies may not prescribe to that patient
89 any controlled substances listed in Schedule II of the Uniform Controlled Substances Act:
90 *Provided,* That the prescribing limitations contained in this section do not apply to a physician or
91 a member of the same group practice with an established patient.

92 (2) The prescribing limitations in this subsection do not apply when a physician is providing
93 treatment to patients who are minors, or if 18 years of age or older, who are enrolled in a primary
94 or secondary education program and are diagnosed with intellectual or developmental disabilities,
95 neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance
96 with guidelines as set forth by organizations such as the American Psychiatric Association, the
97 American Academy of Child and Adolescent Psychiatry, or the American Academy of Pediatrics.
98 The physician must maintain records supporting the diagnosis and the continued need of
99 treatment.

100 (3) The prescribing limitations in this subsection do not apply to a hospital, excluding the
101 emergency department, when a physician submits an order to dispense a controlled substance,
102 listed in Schedule II of the Uniform Controlled Substances Act, to a hospital patient for immediate
103 administration in a hospital.

104 (4) A physician or podiatrist may not prescribe any pain-relieving controlled substance
105 listed in Schedule II of the Uniform Controlled Substance Act as part of a course of treatment for
106 chronic nonmalignant pain solely based upon a telemedicine encounter: *Provided*, That the
107 prescribing limitations contained in this section do not apply to a physician or a member of the
108 same group practice with an established patient.

109 (5) A physician or health care provider may not prescribe any drug with the intent of
110 causing an abortion. The term "abortion" has the same meaning ascribed to it in ~~§16-2F-2~~ §16-
111 2R-2 of this code.

112 (h) *Exceptions.* – This article does not prohibit the use of audio-only or text-based
113 communications by a physician or podiatrist who is:

114 (1) Responding to a call for patients with whom a physician-patient or podiatrist-patient
115 relationship has been established through an in-person encounter by the physician or podiatrist;

116 (2) Providing cross coverage for a physician or podiatrist who has established a physician-
117 patient or podiatrist-patient relationship with the patient through an in-person encounter; or

118 (3) Providing medical assistance in the event of an emergency.

119 (i) *Rulemaking.* – The West Virginia Board of Medicine and ~~West Virginia Board of~~
120 ~~Osteopathic Medicine~~ may propose joint rules for legislative approval in accordance with §29A-
121 3-1, of this code to implement standards for and limitations upon the utilization of telemedicine
122 technologies in the practice of medicine and podiatry in this state.

123 (j) *Preserving traditional physician-patient or podiatrist-patient relationship.* – Nothing in
124 this section changes the rights, duties, privileges, responsibilities, and liabilities incident to the
125 physician-patient or podiatrist-patient relationship, nor is it meant or intended to change in any
126 way the personal character of the physician-patient or podiatrist-patient relationship. This section
127 does not alter the scope of practice of any health care provider or authorize the delivery of health
128 care services in a setting, or in a manner, not otherwise authorized by law.

§30-3-15. Certificate of authorization requirements for medical corporations.

1 (a) *Unlawful acts.* — It is unlawful for any corporation to practice or offer to practice
2 medicine, surgery, podiatric medicine, or to perform medical acts through one or more physician
3 assistants in this state without a certificate of authorization issued by the board designating the
4 corporation as an authorized medical corporation.

5 (b) *Certificate of authorization for in-state medical corporation.* —The board may issue a
6 certificate of authorization for a medical corporation to one or more individuals licensed by the
7 board. Prior to January 1, 2025, licensees ~~Licensees~~ of the West Virginia Board of Osteopathic
8 Medicine may join with licensees of the board to receive a certificate of authorization from the
9 board. Eligible licensees may apply for a certificate of authorization by:

- 10 (1) Filing a written application with the board on a form prescribed by the board;
11 (2) Furnishing satisfactory proof to the board that each shareholder of the proposed
12 medical or podiatry corporation is a:

13 (A) licensed ~~licensed~~ physician pursuant to this article, §30-3E-1 *et seq.*, or §30-14-1 *et*
14 *seq.* of this code; ~~and or~~

15 (B) A licensed physician assistant pursuant to §30-3E-1 *et seq.* of this code; and

16 (3) Submitting applicable fees which are not refundable.

17 (c) *Certificate of authorization for out-of-state medical corporation.* — A medical
18 corporation formed outside of this state for the purpose of engaging in the practice of medicine,
19 surgery, ~~and/or~~ podiatric medicine, or for medical acts through one or more licensed physician
20 assistants may receive a certificate of authorization from the board to be designated a foreign
21 medical corporation by:

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

23 (2) Furnishing satisfactory proof to the board that the medical corporation has received a
24 certificate of authorization or similar authorization from the appropriate authorities as a medical
25 corporation or professional corporation in its state of incorporation and is currently in good
26 standing with that authority;

27 (3) Furnishing satisfactory proof to the board that at least one shareholder of the proposed
28 medical corporation is a licensed physician, ~~or~~ podiatric physician, or physician assistant,
29 pursuant to this article or §30-3E-1 et seq. of this code and is designated as the corporate
30 representative for all communications with the board regarding the designation and continuing
31 authorization of the corporation as a foreign medical corporation;

32 (4) Furnishing satisfactory proof to the board that all of the medical corporation's
33 shareholders are licensed physicians, podiatric physicians, or physician assistants in one or more
34 states and submitting a complete list of the shareholders, including each shareholder's name,
35 their state or states of licensure, and their license number(s); and

36 (5) Submitting applicable fees which are not refundable.

37 (d) *Notice of certificate of authorization to Secretary of State.* — When the board issues a
38 certificate of authorization to a medical corporation, then the board shall notify the Secretary of
39 State that a certificate of authorization has been issued. When the Secretary of State receives a
40 notification from the board, he or she shall attach that certificate of authorization to the corporation
41 application and, upon compliance by the corporation with the pertinent provisions of this code,
42 shall notify the incorporators that the medical corporation, through licensed physicians,
43 podiatrists, ~~and/or~~ physician assistants may engage in the practice of medicine, surgery, ~~or~~ the
44 practice of podiatry, or performing medical acts through the practice of physician assistants in
45 West Virginia.

46 (e) *Authorized practice of medical corporation.* — An authorized medical corporation may
47 only practice medicine and surgery through individual physicians, podiatric physicians, or
48 physician assistants licensed to practice medicine and surgery in this state. Physicians, podiatric
49 physicians, and physician assistants may be employees rather than shareholders of a medical
50 corporation, and nothing herein requires a license for or other legal authorization of, any individual
51 employed by a medical corporation to perform services for which no license or other legal
52 authorization is otherwise required.

53 (f) *Renewal of certificate of authorization.* — A medical corporation holding a certificate of
54 authorization shall register biennially, on or before the expiration date on its certificate of
55 authorization, on a form prescribed by the board, and pay a biennial fee. If a medical corporation
56 does not timely renew its certificate of authorization, then its certificate of authorization
57 automatically expires.

58 (g) *Renewal for expired certificate of authorization.* — A medical corporation whose
59 certificate of authorization has expired may reapply for a certificate of authorization by submitting
60 a new application and application fee in conformity with subsection (b) or (c) of this section.

61 (h) *Ceasing operation - In-state medical corporation.* — A medical corporation formed in
62 this state and holding a certificate of authorization shall cease to engage in the practice of
63 medicine, surgery, ~~or podiatry,~~ or performing medical acts through the practice of physician
64 assistants when notified by the board that:

65 (1) One of its shareholders is no longer a duly licensed physician, podiatric physician, or
66 physician assistant in this state; or

67 (2) The shares of the medical corporation have been sold or transferred to a person who
68 is not licensed by the board or, until January 1, 2025, the Board of Osteopathic Medicine. The
69 personal representative of a deceased shareholder shall have a period, not to exceed 12 months
70 from the date of the shareholder's death, to transfer the shares. Nothing herein affects the
71 existence of the medical corporation or its right to continue to operate for all lawful purposes other
72 than the professional practice of licensed physicians, podiatric physicians, and physician
73 assistants.

74 (i) *Ceasing operation - Out-of-state medical corporation.* — A medical corporation formed
75 outside of this state and holding a certificate of authorization shall immediately cease to engage
76 in practice in this state if:

77 (1) The corporate shareholders no longer include at least one shareholder who is licensed
78 to practice in this state pursuant to this article or §30-3E-1 et seq. of this code;

79 (2) The corporation is notified that one of its shareholders is no longer a licensed physician,
80 podiatric physician, or physician assistant; or

81 (3) The shares of the medical corporation have been sold or transferred to a person who
82 is not a licensed physician, podiatric physician, or physician assistant. The personal
83 representative of a deceased shareholder shall have a period, not to exceed 12 months from the
84 date of the shareholder's death, to transfer the shares. In order to maintain its certificate of
85 authorization to practice medicine and surgery, podiatric medicine, or to perform medical acts
86 through one or more physician assistants during the 12-month period, the medical corporation
87 shall, at all times, have at least one shareholder who is licensed in this state pursuant to this
88 article or §30-3E-1 et seq. of this code. Nothing herein affects the existence of the medical
89 corporation or its right to continue to operate for all lawful purposes other than the professional
90 practice of licensed physicians, podiatric physicians, and physician assistants.

91 (j) *Notice to Secretary of State.* — Within 30 days of the expiration, revocation, or
92 suspension of a certificate of authorization by the board, the board shall submit written notice to
93 the Secretary of State.

94 (k) *Unlawful acts.* — It is unlawful for any corporation to practice or offer to practice
95 medicine, surgery, podiatric medicine, or to perform medical acts through one or more physician
96 assistants after its certificate of authorization has expired or been revoked, or if suspended, during
97 the term of the suspension.

98 (l) *Application of section.* — Nothing in this section is meant or intended to change in any
99 way the rights, duties, privileges, responsibilities, and liabilities incident to the physician-patient,
100 ~~or podiatrist-patient~~ or physician assistant-patient relationship, nor is it meant or intended to
101 change in any way the personal character of the practitioner-patient relationship. Nothing in this
102 section shall be construed to require a hospital licensed pursuant to §16-5B-1 *et seq.* of this code
103 to obtain a certificate of authorization from the board so long as the hospital does not exercise

104 control of the independent medical judgment of physicians, ~~and~~ podiatric physicians or physician
105 assistants licensed pursuant to this article or §30-3E-1 et seq. of this code.

106 (m) *Court evidence.* — A certificate of authorization issued by the board to a corporation
107 to practice medicine and surgery, podiatric medicine, or to perform medical acts through one or
108 more physician assistants in this state that has not expired, been revoked, or suspended is
109 admissible in evidence in all courts of this state and is prima facie evidence of the facts stated
110 therein.

111 (n) *Penalties.* — Any officer, shareholder, or employee of a medical corporation who
112 violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not
113 more than \$1,000 per violation.

§30-3-16. Educational permit.

1 (a) Beginning July 1, 2019, no person shall participate in a program of graduate medical
2 training in this state unless such person holds a license to practice medicine and surgery in this
3 state or has been issued an educational permit ~~issued~~ by the board.

4 (b) An educational permit issued by the board authorizes the recipient to practice medicine
5 and surgery only within the parameters of the recipient's training program.

6 (c) An applicant for an educational permit shall file an application with the board and
7 furnish evidence establishing that the applicant has satisfied the following requirements:

8 (1) The applicant is ~~eighteen~~ 18 years of age or over;

9 (2) The applicant has paid the applicable fee;

10 ~~(3) The applicant is of good moral character;~~

11 ~~(4) (3)~~ The applicant has:

12 (A) Graduated from an accredited osteopathic college;

13 ~~(B) Graduated from an allopathic college approved by the Liaison Committee on Medical~~
14 ~~Education~~ an approved medical school;

15 ~~(B)~~ (C) Graduated from a medical college that meets requirements for certification by the
16 ~~Educational Commission for Foreign Medical Graduates~~ ECFMG; or

17 ~~(C)~~ (D) Completed an alternate pathway for meeting initial entry requirements or
18 prerequisite or transfer requirements recognized by the ~~Accreditation Council for Graduate~~
19 ~~Medical Education~~ ACGME;

20 ~~(5)~~ (4) The applicant:

21 (A) Is under contract as a resident in a program of post-graduate clinical training approved
22 by the ~~Accreditation Council for Graduate Medical Education~~ ACGME; or

23 (B) Has completed a residency program approved by the ~~Accreditation Council for~~
24 ~~Graduate Medical Education~~ AOA, ACGME, or a residency program recognized by the
25 ~~Educational Commission for Foreign Medical Graduates~~ ECFMG and is under contract as a fellow
26 in an approved program of post-graduate clinical training sponsored by an institution that is
27 accredited to provide graduate medical education;

28 ~~(6)~~ (5) The applicant has never held a license to practice medicine and surgery in West
29 Virginia; and

30 ~~(7)~~ (6) The applicant has fulfilled any other reasonable requirement specified in rule by the
31 Board.

32 (d) An educational permit shall be valid for up to one year of post-graduate training. An
33 educational permit may be renewed if the holder remains eligible to receive a renewed permit.

34 (e) The Board may deny an application or suspend or revoke a permit at any time upon
35 grounds defined by the board by legislative rule.

36 (f) In order to give timely effect to this section, the board may promulgate emergency rules
37 pursuant to the provisions of §29A-3-15 of this code, including:

38 ~~(1) An implementation schedule for the issuance of educational permits prior to July 1,~~
39 2019; Implementation of the transfer of responsibility to the board for the issuance and regulation
40 of educational permits for graduates of accredited osteopathic colleges;

41 (2) The extent to which residents and fellows may practice medicine and surgery pursuant
42 to an educational permit;

43 (3) Criteria for the issuance of reciprocal educational permits for out of state allopathic
44 medical residents seeking to complete a residency rotation in West Virginia;

45 (4) Requirements for educational permits and the renewal of such permits, including
46 eligibility criteria for renewal;

47 (5) Criteria for when an educational permit application may be denied;

48 (6) Grounds for permit suspension or revocation;

49 (7) A fee schedule;

50 (8) Procedures for transitioning existing medical education trainees prior to
51 implementation; and

52 (9) Any other rules necessary to effectuate and implement the provisions of this section.

§30-3-17. Limitation of article.

1 The Prior to January 1, 2025, the practice of medicine and surgery by persons possessing
2 the degree of doctor of osteopathy and authorized by the laws of this state to practice medicine
3 and surgery shall in no way be affected by the provisions of this article.

§30-3-18. Combining staff functions with West Virginia Board of Osteopathic Medicine.

1 The Prior to January 1, 2025, the West Virginia Board of Medicine may employ
2 investigators, attorneys, clerks, and administrative staff in collaboration with the West Virginia
3 Board of Osteopathic Medicine to share duties and functions between the two boards when it
4 may be efficient and practical for the functioning of the boards. Any sharing of staff or staff
5 resources shall be documented and performed pursuant to the provisions of ~~section nineteen,~~
6 ~~article one of this chapter~~ §30-1-19 of this code.

§30-3-21. Applicability; transition plan.

1 (a) Notwithstanding any provision of this code to the contrary, effective January 1, 2025,
2 the West Virginia Board of Medicine shall assume any and all remaining functions of the West
3 Virginia Board of Osteopathic Medicine.

1 (b) The West Virginia Board of Medicine shall consult with the West Virginia Board of
2 Osteopathic Medicine to develop and implement a transition plan for the transfer of their remaining
3 functions to the West Virginia Board of Medicine as set forth in §30-14-19 of this code.

§30-3-22. Fees; special revenue account; administrative fines.

1 (a) The special revenue funds as expended pursuant to the authority granted under §30-
2 14-1 et seq. of this code shall expire December 31, 2024, and all such remaining funds shall
3 transfer to the special revenue account of this board.

4 (b) All fees and other moneys, except administrative fines, received by the board shall be
5 deposited in the board's special revenue fund. The fund is used by the board for the administration
6 of this article. Except as provided in §30-1-1 et seq. of this code, the board retains the amount in
7 the special revenue account from year to year. No compensation or expense incurred pursuant
8 to this article is a charge against the General Revenue Fund.

ARTICLE 3G. GENETIC COUNSELORS PRACTICE ACT.

§30-3G-1. Purpose.

1 The purpose of this article is to provide for the licensure and professional discipline of
2 genetic counselors and to provide a professional environment that encourages the delivery of
3 quality genetic counseling services within this state, with reasonable skill and safety for patients
4 and other recipients of genetic counseling services. This article sets forth the requirements for
5 licensure of genetic counselors and provides for the regulation of professional discipline of genetic
6 counseling practitioners.

§30-3G-2. Definitions.

1 As used in this article:

2 "ABGC" means the American Board of Genetic Counseling, or any successor organization
3 recognized as an equivalent organization by the board.

4 "ABMG" means the American Board of Medical Genetics and Genomics, or any successor
5 organization recognized as an equivalent organization by the board.

6 "ACGC" means the Accreditation Counsel for Genetic Counseling, or any successor
7 organization recognized as an equivalent organization by the board.

8 "ACS" or "Active Candidate Status" means a status conferred by ABGC upon a person
9 who has met ABGC's requirements to take the ABGC certification examination in general genetics
10 and genetic counseling.

11 "ACS permit" means a permit issued to an individual who has attained Active Candidate
12 Status to take the ABGC certification examination in general genetics and genetic counseling
13 which authorizes the permit holder to practice genetic counseling under the supervision of a
14 qualified supervisor.

15 "ACS permittee" means a person with an ACS permit issued by the Board.

16 "Board" means the West Virginia Board of Medicine established in § 30-3-1 *et seq.* of this
17 code.

18 "Genetic counseling" means the provision of services to individuals, couples, families, and
19 organizations by one or more appropriately licensed individuals to address physical and
20 psychological issues associated with the occurrence or risk of occurrence of a genetic disorder,
21 birth defect, or genetically influenced condition or disease in an individual or a family.

22 "Genetic counseling intern" means a student enrolled in a genetic counseling program
23 accredited by the ACGC or ABMG.

24 "Genetic counselor" means an individual who is licensed by the Board to practice genetic
25 counseling.

26 "Qualified supervisor" means any person who is a genetic counselor licensed pursuant to
27 this article or a physician licensed pursuant to §30-3-1 *et seq.*

28 "Supervision" means supervision by a qualified supervisor who has the overall
29 responsibility of assessing the work of an ACS permittee, including regular meetings and chart
30 review, provided that the annual supervision contract signed by the qualified supervisor and the
31 ACS permittee is on file with both parties. Supervision does not require the qualified supervisor
32 to be present during the performance of services by an ACS permittee.

§30-3G-3. License required; and licensure exceptions.

1 (a) Effective July 1, 2025, and except as provided in subsection (b) of this section, a person
2 shall not engage, or offer to engage, in the practice of genetic counseling to patients in this state
3 without a current, valid license issued by the board.

4 (b) The licensure requirement set forth in this article does not apply to:

5 (1) Any person, such as a physician, advanced practiced registered nurse, or physician
6 assistant, who is lawfully practicing within the scope of the person's profession, is engaged in
7 work of a nature consistent with the person's training, and has a license, permit, registration,
8 certification, or other authorization to practice his or her profession in West Virginia;

9 (2) Any person employed as a genetic counselor by the federal government or an agency
10 of the federal government, if the person provides genetic counseling services exclusively under
11 the direction and control of his or her federal employer;

12 (3) Any person assisting a genetic counselor in practice under the direct, on-premises
13 supervisions of the genetic counselor;

14 (4) A genetic counseling intern, if the genetic counseling services performed by the student
15 or intern are an integral part of the student's course of study, are performed under the direct
16 supervision of a licensed genetic counselor, and the student is practicing under the designation
17 of "genetic counseling intern";

18 (5) An ACS permittee practicing under the supervision of a qualified supervisor; or

19 (6) A person who is licensed to practice genetic counseling in another state and who is
20 providing consulting services in this state on a temporary basis, as determined by the board by
21 legislative rule, if the person satisfies all of the following:

22 (A) The person is certified by the ABGC; and

23 (B) The person received authorization from the board to provide consulting services in this
24 state on a temporary basis pursuant to the process established in legislative rule.

25 (c) Effective July 1, 2025, any person who is not licensed by the board as a genetic
26 counselor may not hold himself or herself out to the public as a genetic counselor, and may not,
27 in connection with his or her name or place of business, use the terms "genetic counselor",
28 "licensed genetic counselor", or any words, letters, abbreviations or insignia indicating or implying
29 that the person holds a genetic counseling license. ACS permittees may use the term "genetic
30 counselor, Active Candidate Status" and may indicate that they hold an ACS permit.

§30-3G-4. Duties and powers of the board.

1 (a) In addition to the powers and duties of the board as set forth in 30-3-1 et seq. of this
2 code, and in conformity with this article, the board shall:

3 (1) Establish the requirements for licenses and ACS permits;

4 (2) Determine the qualifications of applicants for licenses and permits to practice genetic
5 counseling;

6 (3) Establish the procedures for submitting, approving, and rejecting applications for
7 licenses and permits, including renewal and reinstatement;

8 (4) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 et
9 seq. of this code to implement the provisions of and carry out the purposes of this article;

10 (5) Receive and initiate genetic counseling complaints, conduct investigations, convene
11 hearings, issue subpoenas for witnesses and documents and administer oaths;

12 (6) Institute proceedings in the courts of this state to enforce its subpoenas for the
13 production of witnesses and documents and its orders, and to restrain and enjoin violations of this
14 article and of any rules promulgated under it;

15 (7) Establish and certify standards for the supervision of ACS permittees;

16 (8) Establish the circumstances under which the approval of applications and the issuance
17 of licenses and permits may be delegated to the executive director; and

18 (9) Perform such other duties as are set forth in this article or otherwise provided for in this
19 code.

20 (b) The board's annual report to the Legislature shall include a statistical analysis of
21 complaints received, charges investigated, charges dismissed after investigation, the grounds for
22 each such dismissal and disciplinary proceedings and disposition.

§30-3G-5. Licensure requirements.

1 (a) The Board shall issue a genetic counseling license to an applicant who:

2 (1) Is at least 21 years of age;

3 (2) Submits an application for licensure to the board on a form approved by the board;

4 (3) Pays the applicable fee, as established in legislative rule;

5 (4) Submits satisfactory evidence to the board that he or she does not have a prior,
6 unreversed, criminal conviction for a crime that bears a rational nexus to the profession of genetic
7 counseling;

8 (5) Submits satisfactory evidence to the board that the applicant has earned a master's
9 degree from a genetic counseling training program that is accredited by the ACGC, or a
10 substantially equivalent educational program approved by the board;

11 (6) Provides satisfactory evidence to the board of current certification as a:

12 (A) Genetic counselor by the ABGC or ABMG; or

13 (B) Medical geneticist by the ABMG;

14 (7) Is mentally and physically able to engage safely in practice as a genetic counselor;

15 (8) Is not currently subject to any limitation, restriction, suspension, revocation, or
16 discipline concerning a genetic counselor license, certification, or registration in any jurisdiction:
17 Provided, That if the board is made aware of any problems with a genetic counselor license,
18 certification, or registration, it may elect to issue a license notwithstanding the provisions of this
19 subdivision if doing so is consistent with protecting the public; and

20 (9) Has fulfilled any other requirement specified by the board in rule for legislative
21 approval.

22 (b) The board shall not issue an initial license, reinstate, or reactivate a license, to any
23 individual whose license has been revoked, suspended, surrendered, or deactivated in another
24 state based upon conduct which is substantially equivalent to an act of unprofessional conduct
25 prohibited by §30-3G-9 of this code or the board's legislative rules, until reinstatement of his or
26 her license in that state.

27 (c) The board shall issue a certificate of licensure to each person who is licensed under
28 this article.

§30-3G-6. ACS Permit.

1 (a) An ACS permit authorizes an individual who has attained Active Candidate Status with
2 the ABGC to practice genetic counseling under the supervision of a qualified supervisor and in
3 accord with the board's legislative rules regarding supervised practice.

4 (b) The Board shall issue an ACS permit to an applicant who:

5 (1) Submits an application for license to the board on a form approved by the board;

6 (2) Pays the applicable fee, as established in legislative rule;

7 (3) Provides satisfactory evidence that he or she currently holds an Active Candidate
8 Status from the ABGC; and

9 (4) Has fulfilled any other requirement specified by the board in legislative rule.

10 (c) An ACS permit granted by the board shall be valid for up to one year from the date
11 issuance, and shall expire upon the earliest of the following:

- 12 (1) The granting of a genetic counselor license pursuant to §30-3G-4;
13 (2) Thirty days after an ACS permittee no longer holds an Active Candidate Status with
14 the ABGC;
15 (3) Upon notice to the ACS permittee of failure of the ABGC certification exam; or
16 (4) One year after the issuance of the permit.
17 (d) An ACS permittee shall apply for and take the ABGC certification examination within
18 12 months of the issuance of an ACS permit by the board.
19 (e) The board may, in its discretion, and only once, extend an ACS permit for a limited
20 period specified by the board, if the person maintains Active Candidate Status with the ABGC and
21 has not failed the ABGC certification exam during the initial permit period.
22 (f) A person who holds an ABGC permit may only practice genetic counseling if he or she
23 has entered into a written genetic counseling supervision agreement with a qualified supervisor
24 and practices under qualified supervision at all times. The board shall promulgate rules for
25 legislative approval governing direct supervision of a person holding an ACS permit.
26 (g) The board shall issue a certificate to each person who is approved for supervised
27 genetic counseling practice under this article.

§30-3G-7. License expiration, renewal, reinstatement of expired licenses and continuing education.

- 1 (a) A license issued by the board shall expire on June 30 of odd-numbered years unless
2 sooner suspended, revoked, or surrendered.
3 (b) A licensee shall renew by submitting:
4 (1) A complete renewal application;
5 (2) The renewal fee;
6 (3) Evidence that the renewal applicant is currently certified as a genetic counselor by the
7 ABGC or ABMG or as a medical geneticist by the ABMG; and

8 (4) Evidence that the renewal candidate has completed 30 hours of continuing education
9 as approved by the board within the preceding two-year period.

10 (c) If a licensee fails to timely renew his or her license, then the license automatically
11 expires.

12 (d) A person who applies for initial licensure shall be exempt from the continuing education
13 requirements for the biennial renewal period following initial licensure.

14 (e) The board may waive all or a portion of the continuing education requirement for
15 biennial renewal for a licensee who shows to the satisfaction of the board that the licensee was
16 unable to complete the requirements due to serious illness, military services, or other
17 demonstrated hardship.

18 (f) Continuing education programs and providers shall be approved by the board in
19 accordance with standards and criteria established in legislative rule, along with criteria and
20 process for seeking a waiver of the continuing education requirement due to illness, military
21 service, or demonstrated hardship.

22 (g) If a license automatically expires and reinstatement is sought within one year of the
23 automatic expiration, then an applicant shall submit:

24 (1) A complete reinstatement application;

25 (2) The applicable fees as set forth in legislative rule;

26 (3) Evidence that the reinstatement applicant is currently certified as a genetic counselor
27 by the ABGC or ABMG or as a medical geneticist by the ABMG; and

28 (4) Evidence that the reinstatement applicant has completed all applicable continuing
29 education requirements for the biennial renewal period preceding the reinstatement application.

30 (h) If a license automatically expires and more than one year has passed since the
31 automatic expiration, then the individual shall apply for a new license.

§30-3G-8. Scope of practice.

1 (a) A genetic counselor's scope of practice includes the following:

2 (1) Obtaining and evaluating individual patient and patient family member medical
3 histories to determine the genetic risk for genetic or medical conditions and diseases in a patient,
4 his or her offspring, and other family members;

5 (2) Discussing with a patient and the patient's family the features, natural history, means
6 of diagnosis, genetic and environmental factors, and management of risk factors for genetic or
7 medical conditions and diseases.

8 (3) Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic
9 studies as appropriate for genetic assessment, consistent with practice-based competencies
10 provided by ACGC;

11 (4) Integrating genetic laboratory test results and other diagnostic studies with personal
12 and family medical history to assess and communicate risk factors for genetic or medical
13 conditions and diseases.

14 (5) Explaining to a patient and the patient's family the clinical implications of genetic
15 laboratory tests and other diagnostic studies and their results;

16 (6) Evaluating the patient's or family's responses to the condition or risk of recurrence and
17 provide patient-centered counseling and anticipatory guidance;

18 (7) Identifying and utilizing community resources that provide medical, educational,
19 financial, and psychosocial support and advocacy; and

20 (8) Providing written documentation of medical, genetic, and counseling information to
21 patients, their families, and health care professionals;

22 (b) Genetic counseling does not include diagnosis or treatment and when, in the course
23 of providing genetic counseling services to a client, a genetic counselor finds any indication of a
24 disease or condition that requires diagnosis and treatment, the genetic counselor shall refer the
25 client to a licensed physician or appropriate licensed health care provider.

26 (c) A genetic counselor may provide telehealth services. The board shall promulgate a
27 rule for legislative approval establishing the standard of care for the provision of genetic
28 counseling via telehealth.

29 (d) Nothing in this article shall be construed to permit a genetic counselor to diagnose,
30 test, or treat any disease or condition.

31 (e) In the course of his or her professional practice, a genetic counselor may not
32 recommend that an expectant mother obtain an elective abortion.

33 (f) Notwithstanding any other provision of this code to the contrary, and to the degree
34 permitted by federal law, genetic counselors shall be considered providers and shall not be
35 reimbursed at rates lower than other providers who render similar genetic counseling services by
36 health insurers as well as health plans operated or paid for by the state.

§30-3G-9. Disciplinary proceedings and actions; prohibited practice.

1 (a) The board may receive or initiate complaints, conduct investigations, and conduct
2 hearings to determine whether a violation of this article or any rule has occurred.

3 (b) All hearings and procedures related to denial of a license, and all complaints,
4 investigations, hearings, and procedures regarding a genetic counselor license and/or an ACS
5 permit and the discipline accorded thereto, shall be in accordance with the processes and
6 procedures set forth in §30-3-1 et seq. and the board's rules.

7 (c) Information received by the board pursuant to an investigation is confidential and not
8 subject to discovery in any civil action.

9 (d) The board may deny an application for a license or other authorization to practice
10 genetic counseling in this state and may discipline a genetic counselor or ACS permittee
11 otherwise lawfully practicing in this state who, after a hearing, has been adjudged by the board
12 as unqualified due to any of the following reasons:

13 (1) Made a material misstatement in an application for a license, or for license renewal or
14 reinstatement, or knowingly presented or caused to be made or presented any false, fraudulent,

15 or forged statement, writing, certificate, diploma, or other document relating to an application for
16 licensure;

17 (2) Interfered with an investigation or disciplinary proceeding by using threats,
18 harassment, or intentional misrepresentation of facts;

19 (3) Been convicted of an offense the circumstance of which bear a rational nexus to the
20 practice of genetic counseling;

21 (4) Been adjudicated mentally incompetent by a court;

22 (5) Developed a physical or mental disability or other condition that presents a danger in
23 continuing to practice genetic counseling to patients, the public, or other health care personnel,

24 (6) Practiced or assisted in the practice of genetic counseling while the individual's ability
25 to practice was impaired by alcohol or other drugs or the individual was otherwise mentally or
26 physically unable to practice with reasonable skill and safety to patients, the public, or other health
27 care personnel;

28 (7) Knowingly made or caused to be made or aided or abetted in the making of a false
29 statement in any document executed in connection with the practice of genetic counseling;

30 (8) Advertised in a manner that is false, deceptive, or misleading;

31 (9) Aided, assisted, or abetted the unlawful practice of genetic counseling;

32 (10) Willfully violated a confidential communication;

33 (11) Performed the services of a genetic counselor in an unprofessional, incompetent, or
34 grossly or chronically negligent manner;

35 (12) Been removed, suspended, expelled, or placed on probation by any health care
36 facility or professional society for unprofessional conduct, incompetence, negligence, or violation
37 of any provision of the code of ethics set forth in the board's legislative rules;

38 (13) Exceeded the scope of practice for which the genetic counselor is licensed or
39 permitted to practice by the board

40 (14) Engaged in unprofessional or unethical conduct in violation of the code of ethics
41 established by rule for legislative approval;

42 (15) Engaged in conduct while practicing genetic counseling that evidences a lack of
43 knowledge or ability to apply professional principles or skills;

44 (16) Violated this article or any rule promulgated hereunder;

45 (17) Violated any term of probation or other discipline imposed by the board; or

46 (18) Failed to complete the required number of hours of approved continuing education.

47 (e) Whenever it finds any person unqualified because of any of the grounds set forth in
48 §30-3G-7(b) of this code, the board may enter an order imposing one or more of the following:

49 (1) Deny his or her application;

50 (2) Administer a public reprimand;

51 (3) Suspend, limit, or restrict his or her authorization to practice for up to five years;

52 (4) Revoke his or her license or other authorization to practice genetic counseling for any
53 period of time that the board may find to be reasonable and necessary according to evidence
54 presented in a hearing before the board or its designee;

55 (5) Require him or her to submit to care, counseling, or treatment designated by the board
56 as a condition for initial or continued licensure or renewal of licensure or other authorization to
57 practice genetic counseling;

58 (6) Require him or her to participate in a program of education prescribed by the board;

59 (7) Require him or her to practice under the supervision of a qualified supervisor
60 designated or approved by the board for a specified period of time; and

61 (8) Assess a civil fine of no more than \$10,000.

62 (f) The board shall automatically terminate the license of a genetic counselor who has
63 failed to maintain certification with the ABGC or ABMG or whose certification with either certifying
64 board has been revoked.

65 (g) A genetic counselor may voluntarily surrender his or her license to the board, which
66 may refuse to accept the surrender if the board has received allegations of unprofessional conduct
67 against the genetic counselor. The board may negotiate stipulations in consideration for accepting
68 the surrender of the license.

69 (h) The board may restore a license that has been voluntarily surrendered under this
70 section on such terms and conditions as it considers appropriate.

71 (i) The board may report final disciplinary action taken against a genetic counselor to any
72 national database that includes information about disciplinary action taken against health care
73 professionals;

74 (j) The board may share any information it receives pursuant to an investigation, including
75 patient records and patient record information, with law enforcement agencies, other licensing
76 boards, and other governmental agencies that are prosecuting, adjudicating, or investigating
77 alleged violations of statutes or administrative rules. An agency or board that receives the
78 information shall comply with the same requirements regarding confidentiality as those with which
79 the board must comply.

§30-3G-10. Injunctive relief.

1 If the board has any reason to believe that any person is violating this article or any rule
2 promulgated under this article, and in addition to the complaint, investigation, and hearing
3 processes set forth herein and in §30-3-1 et seq. of this code, the board or the attorney general
4 may bring action in the name and on behalf of the board to enjoin the person from the violation
5 and seek any other remedies available.

§30-3G-11. Health care facility reporting requirements.

1 (a) A health care facility shall report, in writing, to the board within 60 days after the
2 completion of the facility's formal disciplinary procedure or after the commencement and
3 conclusion of any resulting legal action against a licensee.

4 (b) The report shall include:

5 (1) The name of the genetic counselor practicing in the facility whose ability to practice as
6 a genetic counselor was revoked, restricted, reduced, or terminated for any cause including
7 resignation;

8 (2) All pertinent information relating to the action; and

9 (3) The formal disciplinary action taken against the genetic counselor by the facility relating
10 to professional ethics, professional incompetence, professional malpractice, moral turpitude or
11 drug or alcohol abuse.

12 (c) A health care facility does not need to report temporary suspensions for failure to
13 maintain records on a timely basis or for related, minor administrative matters.

§30-3G-12. Unlawful act and penalty.

1 It is unlawful for any genetic counselor or ACS permittee to represent to any person that
2 he or she is a licensed physician. A person who violates this section is guilty of a felony and, upon
3 conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor
4 more than two years, or be fined not more than \$2,000, or both fined and imprisoned.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-3. Board of Osteopathic Medicine.

1 (a) The West Virginia Board of Osteopathy is continued and effective July 1, 2012, shall
2 be known as the West Virginia Board of Osteopathic Medicine. The members of the board shall
3 continue to serve until a successor is appointed and may be reappointed.

4 (b) The Governor shall appoint, by and with advice and consent of the Senate, two
5 additional members and stagger their initial terms:

6 (1) One person who is a licensed osteopathic physician or surgeon; and

7 (2) One person who is a licensed osteopathic physician assistant.

8 (c) The board consists of the following seven members, who are appointed to staggered
9 terms by the Governor with the advice and consent of the Senate:

10 (1) Four licensed osteopathic physicians and surgeons;

11 (2) One licensed osteopathic physician assistant; and
12 (3) Two citizen members, who are not associated with the practice of osteopathic
13 medicine.

14 (d) After the initial appointment, a board member's term shall be for 5 five years.

15 (e) The West Virginia Osteopathic Medical Association may submit recommendations to
16 the Governor for the appointment of an osteopathic physician board member, and the West
17 Virginia Association of Physician Assistants may submit recommendations to the Governor for
18 the appointment of an osteopathic physician assistant board member.

19 (f) Each licensed member of the board, at the time of his or her appointment, must have
20 held a license in this state for a period of not less than five years immediately preceding the
21 appointment.

22 (g) Each member of the board must be a U.S. citizen and a resident of this state for a
23 period of not less than five years immediately preceding the appointment and while serving as a
24 member of the board.

25 (h) A member may not serve more than ~~two~~ three consecutive full terms. ~~A member having~~
26 ~~served two consecutive full terms may not be appointed for one year after completion of his or~~
27 ~~her second full term.~~ A member may continue to serve until a successor has been appointed and
28 has qualified.

§30-14-18. Termination of West Virginia Board of Osteopathic Medicine.

1 (a) The West Virginia Board of Osteopathic Medicine shall terminate effective December
2 31, 2024, and shall be transferred to and combined with the West Virginia Board of Medicine to
3 be known as the West Virginia Board of Medicine, which is codified in §30-3-1 et seq. of this code.

4 (b) The provisions of §30-14-1 et seq. of this code shall become null and void and
5 unenforceable as of January 1, 2025, with the exception that the provisions of this section and in
6 §30-14-19 of this code, shall remain in effect until the obligations, duties and transfers required
7 by these sections are fully satisfied and in effect.

8 (c) As of January 1, 2025, all monies, employees, and assets of the West Virginia Board
9 of Osteopathic Medicine codified at §30-14-1 et seq. of this code are transferred to the West
10 Virginia Board of Medicine, pursuant to the provision of §30-3-1 et seq. of this code.

11 (d) The special revenue fund as expended by the West Virginia Board of Osteopathic
12 Medicine pursuant to the authority granted under previous enactments of this article shall expire
13 December 31, 2024, and all such remaining funds shall transfer to the special revenue account
14 of the West Virginia Board of Medicine, pursuant to the provisions of §30-3-1 et seq. of this code.

15 (e) The West Virginia Board of Osteopathic Medicine rules in effect and not in conflict with
16 §30-3-1 et seq. of this code shall remain in effect until they are amended, replaced, or rescinded
17 by the West Virginia Board of Medicine.

18 (f) As of January 1, 2025, any reference in this code to the West Virginia Board of
19 Osteopathic Medicine shall be to and shall refer to the West Virginia Board of Medicine.

§30-14-19. Applicability; transition plan.

1 (a) Notwithstanding any provision of this code to the contrary, effective January 1, 2025,
2 the West Virginia Board of Osteopathic Medicine shall transfer to the West Virginia Board of
3 Medicine any and all remaining functions of the West Virginia Board of Osteopathic Medicine.

1 (b) The West Virginia Board of Osteopathic Medicine shall, in consultation with the West
2 Virginia Board of Medicine, develop and implement a transition plan to transfer all of its remaining
3 functions to the West Virginia Board of Medicine. The plan shall be submitted to the Joint
4 Committee on Government and Finance, the Governor, the Secretary of State, the West Virginia
5 Board of Medicine, the Secretary of the Department of Administration, and the Division of
6 Personnel. This plan shall be submitted no later than July 1, 2024. The plan shall include the
7 following:

8 (1) Transition to appropriate entities or destruction of hard and electronic copies of files;

9 (2) Transfer of all licensure matters pending as of December 31, 2024, to the West Virginia
10 Board of Medicine;

11 (3) Transfer of all complaints, investigations, administrative hearings, appeal processes
12 and other regulatory matters pending December 31, 2024, to the West Virginia Board of Medicine;

13 (4) Transfer of access and ownership of all electronic data of the Board of Osteopathy to
14 the West Virginia Board of Medicine;

15 (5) In consultation with the Department of Administration, discontinuance of the current
16 building including termination of any lease or rental agreement, if necessary;

17 (6) In consultation with the Department of Administration, disposition of all state owned or
18 leased office furniture and equipment, including any state-owned vehicles, if necessary;

19 (7) Closing out and transferring existing budget allocations;

20 (8) A transition plan developed in conjunction with the Division of Personnel for remaining
21 employees not transferred to other offices within state government;

22 (c) The transition plan shall be fully implemented by December 31, 2024.