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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

HOUSE BILL No. 4209

(By Delegates P. White, Riggs, Martin,  
Everson, Bennett and Gallagher)



Passed March 12 1994

In Effect 90 Day from Passage

**ENROLLED**  
**H. B. 4209**

(By DELEGATES P. WHITE, RIGGS, MARTIN,  
EVERSON, BENNETT AND GALLAGHER)

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[Passed March 12, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact section thirteen, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unauthorized practice of medicine and surgery, podiatry or physicians assistants; criminal penalties; providing for use of computers or other electronic devices to order and obtain laboratory tests, medications and other patient orders; providing for use of electronic signature or unique electronic identification to effectively sign computer or electronically transmitted materials which require signature as part of authorized medical practice; and relating to limitations on practice.

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

That section thirteen, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

**§30-3-13. Unauthorized practice of medicine and surgery or podiatry; criminal penalties; limitations.**

- 1 (a) A person shall not engage in the practice of
- 2 medicine and surgery or podiatry, hold himself or
- 3 herself out as qualified to practice medicine and surgery
- 4 or podiatry or use any title, word or abbreviation to
- 5 indicate to or induce others to believe that he or she is
- 6 licensed to practice medicine and surgery or podiatry in

7 this state unless he or she is actually licensed under the  
8 provisions of this article. No person may practice as a  
9 physician's assistant, hold himself or herself out as  
10 qualified to practice as a physician's assistant, or use  
11 any title, word or abbreviation to indicate to or induce  
12 others to believe that he or she is licensed to practice  
13 as a physician's assistant in this state unless he or she  
14 is actually licensed under the provisions of this article.  
15 Any person who violates the provisions of this subsection  
16 is guilty of a misdemeanor, and, upon conviction thereof,  
17 shall be fined not more than ten thousand dollars, or  
18 imprisoned in the county jail not more than twelve  
19 months, or both fined and imprisoned.

20 (b) The provisions of this section do not apply to:

21 (1) Persons who are duly licensed health care provid-  
22 ers under other pertinent provisions of this code and are  
23 acting within the scope of their license;

24 (2) Physicians or podiatrists licensed in other states or  
25 foreign countries who are acting in a consulting capacity  
26 with physicians or podiatrists duly licensed in this state,  
27 for a period of not more than three months;

28 (3) Persons holding licenses granted by another state  
29 or foreign country who are commissioned medical  
30 officers of, a member of or employed by the armed  
31 forces of the United States, the United States public  
32 health service, the veterans' administration of the  
33 United States, any federal institution or any other  
34 federal agency while engaged in the performance of  
35 their official duties;

36 (4) Any person providing first-aid care in emergency  
37 situations;

38 (5) The practice of the religious tenets of any recog-  
39 nized church in the administration of assistance to the  
40 sick or suffering by mental or spiritual means;

41 (6) Visiting medical faculty engaged in teaching or  
42 research duties at a medical school or institution  
43 recognized by the board and who are in this state for  
44 periods of not more than six months: *Provided*, That the  
45 individuals do not otherwise engage in the practice of

46 medicine or podiatry outside of the auspices of their  
47 sponsoring institutions;

48 (7) Persons enrolled in a school of medicine approved  
49 by the liaison committee on medical education or by the  
50 board, or persons enrolled in a school of podiatric  
51 medicine approved by the council of podiatry education  
52 or by the board, or persons enrolled in an undergraduate  
53 or graduate physician assistant program approved by  
54 the committee on allied health education and accredita-  
55 tion or its successor on behalf of the American Medical  
56 Association or by the board, or persons engaged in  
57 graduate medical training in a program approved by  
58 the liaison committee on graduate medical education or  
59 the board, or engaged in graduate podiatric training in  
60 a program approved by the council on podiatric medical  
61 education or by the board, who are performing functions  
62 in the course of training including with respect to  
63 functions performed by medical residents or medical  
64 students under the supervision of a licensed physician,  
65 ordering and obtaining laboratory tests, medications  
66 and other patient orders by computer or other electronic  
67 means and no other provision of this code to the contrary  
68 may be construed to prohibit or limit medical residents'  
69 or medical students' use of computers or other electronic  
70 devices in this manner;

71 (8) The fitting, recommending or sale of corrective  
72 shoes, arch supports or similar mechanical appliances in  
73 commercial establishments; and

74 (9) The fitting or sale of a prosthetic or orthotic device  
75 not involving any surgical procedure, in accord with a  
76 prescription of a physician, osteopathic physician, or  
77 where chiropractors or podiatrists are authorized by law  
78 to prescribe such a prosthetic or orthotic device, in  
79 accord with a prescription of a chiropractor or podia-  
80 trist, by a practitioner or registered technician certified  
81 by the American Board for Certification of Orthotics  
82 and Prosthetics in either prosthetics or orthotics:  
83 *Provided*, That the sale of any prosthetic or orthotic  
84 device by a partnership, proprietorship or corporation  
85 which employs such a practitioner or registered techni-  
86 cian who fitted the prosthetic or orthotic device shall not

87 constitute the unauthorized practice of medicine:  
88 *Provided, however,* That the practitioner or registered  
89 technician may, without a prescription, make recom-  
90 mendation solely to a physician or osteopathic physician  
91 or to a chiropractor or podiatrist otherwise authorized  
92 by law to prescribe a particular prosthetic or orthotic  
93 device, regarding any prosthetic or orthotic device to be  
94 used for a patient upon a request for such  
95 recommendation.

96 (c) This section shall not be construed as being in any  
97 way a limitation upon the services of a physician's  
98 assistant performed in accordance with the provisions of  
99 this article.

100 (d) Persons covered under this article may be permit-  
101 ted to utilize electronic signature or unique electronic  
102 identification to effectively sign materials, transmitted  
103 by computer or other electronic means, upon which  
104 signature is required for the purpose of authorized  
105 medical practice. Such signatures are deemed legal and  
106 valid for purposes related to the provision of medical  
107 services. This subsection does not confer any new  
108 practice privilege or right on any persons covered under  
109 this article.

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

*[Handwritten Signature]*  
Chairman Senate Committee

*[Handwritten Signature]*  
Ernest C. Moore  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*[Handwritten Signature]*  
Clerk of the Senate

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

*[Handwritten Signature]*  
President of the Senate

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

The within *is approved* this the *30th*  
day of *March*, 1994.

*[Handwritten Signature]*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/94

Time 9:29 am