

1 **H. B. 2569**

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3 (By Delegates Morgan, Stephens, Staggers,
4 Eldridge, Paxton, Lynch and Border)

5 [Introduced February 20, 2013; referred to the
6 Committee on Government Organization.]

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10 A BILL to amend and reenact §30-3-10 of the Code of West Virginia,
11 1931, as amended, relating to requirements for licenses to
12 practice medicine and surgery and licenses to practice
13 podiatry; eliminating the requirement that applicants must
14 appear before the West Virginia Board of Medicine if they have
15 failed to pass certain national licensing examinations; and
16 granting the Board of Medicine the authority to require
17 applicants to appear in person or electronically and produce
18 original documents.

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

20 That §30-3-10 of the Code of West Virginia, 1931, as amended,
21 be amended and reenacted to read as follows:

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

23 **§30-3-10. Licenses to practice medicine and surgery or podiatry.**

24 (a) The board shall issue a license to practice medicine and

1 surgery or to practice podiatry to any individual who is qualified
2 to do so in accordance with ~~the provisions of~~ this article.

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

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

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

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

21 (4) He or she must pass an examination approved by the board,
22 which examination can be related to a national standard. The
23 examination shall be in the English language and be designed to
24 ascertain an applicant's fitness to practice medicine and surgery.

1 The board shall before the date of examination determine what will
2 constitute a passing score: *Provided*, That the board, or a
3 majority of it, may accept in lieu of an examination of applicants
4 the certificate of the National Board of Medical Examiners:
5 *Provided, however*, That an applicant is required to attain a
6 passing score on all components or steps of the examination within
7 a period of ten consecutive years. ~~*Provided further*, That an~~
8 ~~applicant who has failed to successfully complete and pass any one~~
9 ~~of the three steps of the United States medical licensing~~
10 ~~examination (USMLE) in three attempts is required to appear before~~
11 ~~the board for a determination by the board, in its discretion, as~~
12 ~~to what, if any, further education, evaluation and training is~~
13 ~~required for further consideration of licensure.~~ The board need not
14 reject a candidate for a nonmaterial technical or administrative
15 error or omission in the application process that is unrelated to
16 the candidate's professional qualifications as long as there is
17 sufficient information available to the board to determine the
18 eligibility of the candidate for licensure.

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

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

4 (2) Before taking a licensure examination, he or she must have
5 fulfilled the requirements of the Educational Commission for
6 Foreign Medical Graduates for certification or he or she must
7 provide evidence of receipt of a passing score on the examination
8 of the Educational Commission for Foreign Medical Graduates:
9 *Provided*, That an applicant who: (i) Is currently fully licensed,
10 excluding any temporary, conditional or restricted license or
11 permit, under the laws of another state, the District of Columbia,
12 Canada or the Commonwealth of Puerto Rico; (ii) has been engaged on
13 a full-time professional basis in the practice of medicine within
14 the state or jurisdiction where the applicant is fully licensed for
15 a period of at least five years; and (iii) is not the subject of
16 any pending disciplinary action by a medical licensing board and
17 has not been the subject of professional discipline by a medical
18 licensing board in any jurisdiction is not required to have a
19 certificate from the Educational Commission for Foreign Medical
20 Graduates;

21 (3) He or she must submit evidence to the board of either: –
22 ~~(i)~~ (A) Having successfully completed a minimum of two years
23 of graduate clinical training in a program approved by the
24 Accreditation Council for Graduate Medical Education; or

1 ~~(ii)~~ (B) current certification by a member board of the
2 American Board of Medical Specialties.

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

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

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

16 (3) He or she must pass an examination approved by the board,
17 which examination can be related to a national standard. The
18 examination shall be in the English language and be designed to
19 ascertain an applicant's fitness to practice podiatric medicine.
20 The board shall before the date of examination determine what will
21 constitute a passing score: *Provided*, That an applicant is
22 required to attain a passing score on all components or steps of
23 the examination within a period of ten consecutive years; and
24 ~~*Provided, however, That an applicant who has failed to successfully*~~

~~1 complete and pass any one of the three steps of the National Board
2 of Podiatric Medical Examiners examination in three attempts shall
3 be required to appear before the board for a determination by the
4 board, in its discretion, as to what, if any, further education,
5 evaluation and/or training is required for further consideration of
6 licensure;~~

7 (4) He or she must submit evidence to the board of having
8 successfully completed a minimum of one year of graduate clinical
9 training in a program approved by the Council on Podiatric Medical
10 Education or the Colleges of Podiatric Medicine. The board may
11 consider a minimum of two years of graduate podiatric clinical
12 training in the U.S. Armed Forces or three years' private podiatric
13 clinical experience in lieu of this requirement.

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

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

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

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

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

7 (5) That orders denying applications for a restricted license
8 under this subsection are not appealable; and

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

12 (f) The board shall propose rules for legislative approval in
13 accordance with ~~the provisions of~~ article three, chapter
14 twenty-nine-a of this code, that establish and regulate the
15 restricted license issued to an applicant in extraordinary
16 circumstances pursuant to ~~the provisions of~~ this section.

17 (g) The board may require applicants to appear in person or
18 electronically before the board and, upon request, to produce
19 original documents to the board.

20 ~~(g)~~ (h) All licenses to practice medicine and surgery granted
21 prior to July 1, 2008, and valid on that date shall continue in
22 full effect for the term and under the conditions provided by law
23 at the time of the granting of the license: *Provided, That* ~~the~~
24 ~~provisions of~~ subsection (d) of this section ~~do~~ does not apply to

1 any person legally entitled to practice chiropody or podiatry in
2 this state prior to June 11, 1965: *Provided, however,* That all
3 persons licensed to practice chiropody prior to June 11, 1965,
4 shall be permitted to use the term "chiropody-podiatry" and shall
5 have the rights, privileges and responsibilities of a podiatrist
6 set out in this article.

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

NOTE: The purpose of this bill is to eliminate the requirement that applicants for licenses to practice medicine and surgery or podiatry who have failed to pass any of the three steps of the United States Medical Licensing Examination or National Board of Podiatric Examiners examination must appear before the West Virginia Board of Medicine. The bill authorizes the Board of Medicine to require personal interviews and documents on a case-by-case basis.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.