

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 653

SENATORS STOLLINGS AND MARONEY, *original sponsors*

[Passed March 7, 2019; in effect 90 days from passage]

1 AN ACT to amend and reenact §30-3-15 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §30-14-9a of said code, all relating to medical corporations; updating
3 terminology; providing that medical corporations may only practice medicine through
4 certain licensees; permitting certain licensees to be employees of medical corporations;
5 and providing that licensed hospitals do not need to obtain a certificate of authorization so
6 long as the hospital does not exercise control of the independent medical judgment of a
7 licensee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§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. Licensees of the West Virginia Board of Osteopathic Medicine may join with licensees of
8 the board to receive a certificate of authorization from the board. Eligible licensees may apply for
9 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 licensed physician pursuant to this article, §30-3E-1 *et seq.*,
13 or §30-14-1 *et seq.* of this code; and

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

15 (c) *Certificate of authorization for out-of-state medical corporation.* — A medical
16 corporation formed outside of this state for the purpose of engaging in the practice of medicine,

17 surgery, and/or podiatric medicine may receive a certificate of authorization from the board to be
18 designated a foreign medical corporation by:

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

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

24 (3) Furnishing satisfactory proof to the board that at least one shareholder of the proposed
25 medical corporation is a licensed physician or podiatric physician pursuant to this article and is
26 designated as the corporate representative for all communications with the board regarding the
27 designation and continuing authorization of the corporation as a foreign medical corporation;

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

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

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

41 (e) *Authorized practice of medical corporation.* — An authorized medical corporation may
42 only practice medicine and surgery through individual physicians, podiatric physicians, or

43 physician assistants licensed to practice medicine and surgery in this state. Physicians, podiatric
44 physicians, and physician assistants may be employees rather than shareholders of a medical
45 corporation, and nothing herein requires a license for or other legal authorization of, any individual
46 employed by a medical corporation to perform services for which no license or other legal
47 authorization is otherwise required.

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

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

56 (h) *Ceasing operation - In-state medical corporation.* — A medical corporation formed in
57 this state and holding a certificate of authorization shall cease to engage in the practice of
58 medicine, surgery, or podiatry when notified by the board that:

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

61 (2) The shares of the medical corporation have been sold or transferred to a person who
62 is not licensed by the board or the Board of Osteopathic Medicine. The personal representative
63 of a deceased shareholder shall have a period, not to exceed 12 months from the date of the
64 shareholder's death, to transfer the shares. Nothing herein affects the existence of the medical
65 corporation or its right to continue to operate for all lawful purposes other than the professional
66 practice of licensed physicians, podiatric physicians, and physician assistants.

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

70 (1) The corporate shareholders no longer include at least one shareholder who is licensed
71 to practice in this state pursuant to this article;

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

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

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

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

91 (l) *Application of section.* — Nothing in this section is meant or intended to change in any
92 way the rights, duties, privileges, responsibilities, and liabilities incident to the physician-patient

93 or podiatrist-patient relationship, nor is it meant or intended to change in any way the personal
94 character of the practitioner-patient relationship. Nothing in this section shall be construed to
95 require a hospital licensed pursuant to §16-5B-1 *et seq.* of this code to obtain a certificate of
96 authorization from the board so long as the hospital does not exercise control of the independent
97 medical judgment of physicians and podiatric physicians licensed pursuant to this article.

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

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

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-9a. Osteopathic medical corporations — Application for registration; fee; notice to Secretary of State of issuance of certificate; action by secretary of state.

1 (a) One or more osteopathic physicians, allopathic physicians, or physician assistants may
2 form an osteopathic medical corporation. An osteopathic physician or osteopathic physician
3 assistant shall file a written application with the board on a form prescribed by the board, and
4 shall furnish proof satisfactory to the board that the signer or all of the signers of such application
5 is or are duly licensed. A reasonable fee, to be set by the board rules, shall accompany the
6 application, no part of which shall be returnable.

7 (b) If the board finds that the signer or all of the signers of the application are licensed, the
8 board shall notify the Secretary of State that a certificate of authorization has been issued.

9 (c) When the Secretary of State receives notification from the board that a certain
10 individual or individuals has or have been issued a certificate of authorization, he or she shall

- 11 attach the authorization to the corporation application and upon compliance by the corporation
12 with §31-1-1 *et seq.* of this code, the Secretary of State shall notify the incorporators that the
13 corporation may engage in the appropriate practice.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2019.

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Governor