

3/13/05

FILED  
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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



# ENROLLED

## House Bill No. 3151

(By Delegates Beane, Michael, Leach, Long,  
Kominar, Perdue, Hatfield, Palumbo,  
Fragale, Trump and H. White)



Passed April 9, 2005

In Effect July 1, 2005

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**E N R O L L E D**

## **H. B. 3151**

(BY DELEGATES BEANE, MICHAEL, LEACH, LONG,  
KOMINAR, PERDUE, HATFIELD, PALUMBO,  
FRAGALE, TRUMP AND H. WHITE)

[Passed April 9, 2005; in effect July 1, 2005]

AN ACT to amend and reenact §30-7C-1, §30-7C-2, §30-7C-3, §30-7C-4, §30-7C-5 and §30-7C-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto seven new sections, designated §30-7C-7, §30-7C-8, §30-7C-9, §30-7C-10, §30-7C-11, §30-7C-12 and §30-7C-13, all relating to regulating dialysis technicians by the Board of Examiners for Registered Professional Nurses; authorizing performance and delegation of dialysis care; defining terms and activities; establishing qualifications and exceptions; providing for an application process and payment of fees to the Board; authorizing the use of titles; providing for approval of training programs and testing standards; defining powers and duties of the Board; providing for rule-making authority; establishing a dialysis technician advisory council; establishing a disciplinary procedure and grounds for discipline; prohibiting certain acts; providing for penalties; and providing for judicial review and injunctive and other relief.

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

That §30-7C-1, §30-7C-2, §30-7C-3, §30-7C-4, §30-7C-5 and §30-7C-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto seven new sections, designated §30-7C-7, §30-7C-8, §30-7C-9, §30-7C-10, §30-7C-11, §30-7C-12 and §30-7C-13, all to read as follows:

**ARTICLE 7C. DIALYSIS TECHNICIANS.**

**§30-7C-1. Definitions.**

1 As used in this article:

2 (1) “Approved dialysis technician training program” means  
3 any board approved program used to train dialysis technicians  
4 including, but not limited to, a Board approved dialysis  
5 facility-sponsored training program or another state approved  
6 program.

7 (2) “Board” means the West Virginia Board of Examiners  
8 for Registered Professional Nurses.

9 (3) “Dialysis care” means performing and monitoring  
10 dialysis procedures which includes initiating and discontinuing  
11 dialysis, drawing blood, and administering medications  
12 authorized under section seven of this article.

13 (4) “Dialysis technician trainee” means an individual  
14 enrolled in an approved dialysis technician program.

15 (5) “Direct supervision” means initial and ongoing direc-  
16 tion, procedural guidance, observation and evaluation, and the  
17 on-site presence of a registered nurse or physician.

18 (6) “Facility” means any entity that is certified by the  
19 Office of Health Facilities Licensure and Certification to  
20 provide dialysis services.

21 (7) “West Virginia dialysis technician or dialysis techni-  
22 cian” means an individual certified by the Board who has  
23 successfully completed an approved dialysis technician training  
24 program and who has achieved national certification as a  
25 dialysis technician, or an individual who meets the require-  
26 ments set forth in subsection (b), section three of this article.

**§30-7C-2. Authority to delegate care; dialysis care by trainees in approved program.**

1 (a) A registered professional nurse licensed under the  
2 provisions of article seven of this chapter may delegate dialysis  
3 care to a dialysis technician if:

4 (1) The dialysis technician has completed the requirements  
5 set forth in this article and established by the Board by legisla-  
6 tive rule;

7 (2) The registered professional nurse considers the dialysis  
8 technician to be competent; and

9 (3) The dialysis technician provides the care under the  
10 direct supervision of the registered professional nurse.

11 (b) A registered professional nurse licensed under the  
12 provisions of article seven of this chapter may not delegate  
13 dialysis care to an individual who is listed on the nurse aide  
14 abuse registry with a substantiated finding of abuse, neglect or  
15 misappropriation of property.

16 (c) Nothing in this article may be construed to prohibit a  
17 dialysis technician trainee from performing dialysis care as a  
18 part of and within the scope of the clinical skills instruction  
19 segment of an approved dialysis technician training program.

**§30-7C-3. Qualifications; exceptions; application form and fees.**

1 (a) In order to be certified by the Board as a dialysis  
2 technician, an individual must demonstrate that he or she:

3 (1) Is of good moral character;

4 (2) Has acquired at least a high school diploma, general  
5 equivalency diploma or equivalent;

6 (3) Has successfully completed an approved dialysis  
7 technician training program;

8 (4) Has achieved national certification as a dialysis techni-  
9 cian; and

10 (5) Has met such other qualifications required by the Board  
11 by legislative rule.

12 (b) On or before the first day of July, two thousand five, an  
13 individual who is currently working as a dialysis technician in  
14 a dialysis facility, and whose administrative registered profes-  
15 sional nurse in charge acknowledges that he or she is competent  
16 to perform the delegated duties and practices in accordance  
17 with the laws regulating the provision of dialysis care, the rules  
18 of the Board and any other applicable federal and state laws and  
19 rules, will be considered as having met the requirements of  
20 subdivisions (3) and (4), subsection (a) of this section for the  
21 purposes of being certified by the Board as a dialysis techni-  
22 cian.

23 (c) On or before the first day of July, two thousand six, an  
24 individual who has successfully completed an approved dialysis  
25 technician training program and who was working on or before  
26 the first day of July, two thousand five, as a dialysis technician  
27 trainee in a dialysis facility, and whose administrative regis-  
28 tered professional nurse in charge acknowledges that he or she  
29 is competent to perform the delegated duties and practices in  
30 accordance with the laws regulating the provision of dialysis

31 care, the rules of the Board and any other applicable federal and  
32 state laws and rules, will be considered as having met the  
33 requirements of subdivision (4), subsection (a) of this section  
34 for the purposes of being certified by the Board as a dialysis  
35 technician.

36 (d) An applicant for certification must file with the Board  
37 an application in the form and manner established by the Board  
38 demonstrating that he or she has met the qualifications set forth  
39 in subsection (a) of this section, and pay an application fee as  
40 established by legislative rule.

41 (e) The Board may, upon receipt of a completed application  
42 and fee in accordance with legislative rule, issue a temporary  
43 permit to practice as a dialysis technician to any applicant who  
44 has completed a board approved dialysis technician training  
45 program. A temporary permit is not renewable, and is effective  
46 from the date of issuance until three days following receipt by  
47 the applicant and the Board of the results of the first written  
48 certification examination, unless the Board revokes the tempo-  
49 rary permit prior to its expiration.

50 (f) The Board may, upon receipt of a completed application  
51 and fee in accordance with legislative rule, issue a temporary  
52 endorsement to practice as a dialysis technician to an applicant  
53 who has been certified as a dialysis technician under the laws  
54 of another state, territory or foreign country and who meets the  
55 qualifications of the Board. A temporary endorsement is not  
56 renewable and is effective for ninety days unless the Board  
57 revokes the endorsement prior to its expiration.

**§30-7C-4. Use of title “West Virginia dialysis technician” or  
“dialysis technician”; dialysis technician trainees.**

1 (a) An individual certified by the Board as a dialysis  
2 technician pursuant to the provisions of this article shall be  
3 known as a West Virginia dialysis technician or dialysis

4 technician and may use the initials "D.T." after his or her name.  
5 After the thirtieth day of June, two thousand five, no other  
6 individual may use the title, abbreviation or any other words,  
7 letters, figures, signs or devices to indicate that he or she is a  
8 dialysis technician.

9 (b) An individual enrolled in an approved dialysis techni-  
10 cian training program shall use the title dialysis technician  
11 trainee. A dialysis technician trainee shall adhere to the  
12 standards for dialysis technicians and is subject to disciplinary  
13 action by the Board as provided in the Board's rules.

**§30-7C-5. Authorized activities.**

1 A dialysis technician is authorized to perform the follow-  
2 ing, under the direct supervision of a registered professional  
3 nurse or a licensed physician:

4 (1) Preparation and initiation of dialysis access sites;

5 (2) Initiating, delivering or discontinuing dialysis care; and

6 (3) Administration of the following medications only:

7 (A) Heparin to prime the pump, initiate treatment or for  
8 administration throughout the treatment, in an amount pre-  
9 scribed by a physician or other authorized practitioner. This  
10 may be done intravenously, peripherally via a fistula needle or  
11 in another clinically acceptable manner;

12 (B) Normal saline via the dialysis extra corporeal circuit as  
13 needed throughout the dialysis procedure; and

14 (C) Intradermal anesthetic in an amount prescribed by a  
15 physician or other authorized practitioner;

16 (4) Obtaining a blood specimen via the dialysis extra  
17 corporeal circuit or a peripheral access site;

18 (5) Reporting changes that arise in conjunction with  
19 dialysis care to the registered nurse or physician; and

20 (6) Engaging in other acts as delegated by the registered  
21 nurse or physician in order to provide dialysis care.

**§30-7C-6. Approval of training programs and testing standards.**

1 (a) The Board shall prescribe standards for approved  
2 dialysis technician training programs, and prescribe testing  
3 standards and requirements, by legislative rule.

4 (b) Persons and organizations providing training programs  
5 and testing services must be approved by the Board.

6 (c) Approval may be denied or withdrawn for failure to  
7 meet the standards set out in code or rule.

**§30-7C-7. Powers and duties of Board; rule-making authority.**

1 (a) The Board may:

2 (1) Adopt and amend rules consistent with this article  
3 necessary to enable it to carry into effect the provisions of this  
4 article, including disciplinary rules;

5 (2) Prescribe standards for preparing individuals for the role  
6 of dialysis technician under this article;

7 (3) Provide for standards for approved dialysis technician  
8 training programs;

9 (4) Accredite educational programs for the preparation of  
10 dialysis technicians that meet the requirements of this article;



11 (5) Provide surveys of educational programs when the  
12 Board considers it necessary;

13 (6) Approve, reapprove and prescribe standards for testing  
14 organizations and the tests offered by organizations for dialysis  
15 technicians;

16 (7) Deny or withdraw approval of testing organizations;

17 (8) Prescribe standards for dialysis technician trainees;

18 (9) Issue, renew or revoke temporary permits, endorsements  
19 and certifications for dialysis technicians;

20 (10) Deny or withdraw accreditation of approved dialysis  
21 technician training programs for failure to meet or maintain  
22 prescribed standards required by this article and by the Board;

23 (11) Conduct hearings upon charges calling for discipline  
24 of a dialysis technician;

25 (12) Keep a record of all proceedings of the Board; and

26 (13) Further regulate, as necessary, dialysis technicians:  
27 *Provided*, That the Board is not authorized to establish staffing  
28 ratios.

29 (b) The Board shall propose rules for legislative approval  
30 in accordance with the provisions of article three, chapter  
31 twenty-nine-a of the code to:

32 (1) Prescribe standards for training programs;

33 (2) Prescribe testing standards and requirements;

34 (3) Prescribe requirements for persons and organizations  
35 providing training programs and testing services;

36 (4) Assess fees for the certification of dialysis technicians,  
37 approval of training programs, tests and providers of training  
38 programs and testing services, and other services performed by  
39 the Board; and

40 (5) Provide for any other requirements necessary to carry  
41 out the purposes of this article.

42 (c) The Board may promulgate emergency rules pursuant  
43 to the provisions of section fifteen, article three, chapter twenty-  
44 nine-a of this code for the purposes set forth in this section.

#### **§30-7C-8. Fees.**

1 All fees and other moneys collected by the Board pursuant  
2 to the provisions of this article shall be kept in a separate  
3 special fund called the Dialysis Technician Fund to be estab-  
4 lished for the Board in the State Treasury and shall be used for  
5 the administration of this article. No part of this special fund  
6 reverts to the General Fund of this state. The costs and all  
7 expenses incurred under this article are to be paid from this  
8 special fund. No compensation or expense incurred under this  
9 article is a charge against the general fund of this state.

#### **§30-7C-9. Dialysis technician advisory council.**

1 (a) There is created, under the Board, the dialysis technician  
2 advisory council, which shall advise the Board regarding  
3 qualifications, standards for training, competency determination  
4 of dialysis technicians and all other matters related to dialysis  
5 technicians.

6 (b) The council shall be appointed by the Board and  
7 consists of:

8 (1) One member of the Board, who serves as chair of the  
9 council;

10 (2) Two dialysis technicians;

11 (3) Two nurses who regularly perform dialysis and care for  
12 patients who receive dialysis; and

13 (4) One physician who regularly treats patients receiving  
14 dialysis care.

15 (c) The Board may solicit nominations for the council from  
16 interested parties or organizations.

17 (d) The Board shall specify the terms for the council  
18 members. Members serve at the discretion of the Board and  
19 shall receive reimbursement for their actual and necessary  
20 expenses incurred in the performance of their official duties.

**§30-7C-10. Disciplinary proceeding; grounds for discipline of a  
dialysis technician.**

1 (a) The Board may, in accordance with rules promulgated  
2 under the provisions of article three, chapter twenty-nine-a of  
3 this code, refuse to approve a dialysis technician.

4 (b) The Board may deny, revoke or suspend its certification  
5 of a dialysis technician in accordance with the provisions of this  
6 article, or to otherwise impose discipline upon proof that he or  
7 she:

8 (1) Is or was guilty of fraud or deceit in procuring or  
9 attempting to procure approval to be a dialysis technician;

10 (2) Has been convicted of a felony;

11 (3) Is unfit or incompetent by reason of negligence, habits  
12 or other causes;

13 (4) Is habitually intemperate or is addicted to the use of  
14 alcohol or habit-forming drugs;

15 (5) Is mentally incompetent;

16 (6) Is guilty of conduct derogatory to the morals or standing  
17 of the practice;

18 (7) Is practicing or attempting to practice as a dialysis  
19 technician without Board approval; or

20 (8) Has willfully or repeatedly violated any of the provi-  
21 sions of this article.

22 (c) After following procedures to be determined by the  
23 Board in rules, the discipline may include any of the following:

24 (1) Summary suspension of the right to practice or reprimand of the dialysis technician;

26 (2) Probation of the dialysis technician for a specified  
27 period of time, with or without limitations and conditions;

28 (3) Suspension of the dialysis technician for a specified  
29 period of time; or

30 (4) Permanent revocation of dialysis technician privileges.

31 (d) The Board may establish a committee that has the  
32 authority to resolve disciplinary matters through a formal  
33 consent agreement with a licensee, permitting the licensee to  
34 voluntarily agree to disciplinary action in lieu of a formal  
35 evidentiary hearing.

**§30-7C-11. Prohibited acts; penalties.**

1 (a) No individual, firm, corporation, facility or association  
2 of individuals may:

3 (1) Sell or fraudulently obtain or furnish any national  
4 dialysis technician certification credential or documentation of

5 successful completion of a dialysis technician training program  
6 or aid or abet therein;

7 (2) Act as a dialysis technician unless authorized by the  
8 provisions of this article;

9 (3) Use in connection with his or her name any designation  
10 tending to imply that he or she is a dialysis technician unless  
11 authorized by the provisions of this article; or

12 (4) Otherwise violate any provision of this article.

13 (b) An individual violating a provision of subsection (a) of  
14 this section is guilty of a misdemeanor and, upon conviction  
15 thereof, shall be fined not less than five hundred nor more than  
16 one thousand dollars.

17 (c) It is unlawful for any individual to practice as a dialysis  
18 technician who is listed on the nurse aide abuse registry with a  
19 substantiated finding of abuse, neglect or misappropriation of  
20 property.

**§30-7C-12. Judicial review; appeal to Supreme Court of Appeals.**

1 (a) Any individual, firm, corporation, facility or association  
2 of individuals adversely affected by a decision of the Board  
3 rendered after a hearing held in accordance with the provisions  
4 of this article is entitled to a judicial review of the decision. All  
5 of the pertinent provisions of section four, article five, chapter  
6 twenty-nine-a of this code apply to and govern the judicial  
7 review with like effect as if the provisions of section four of  
8 this article were set forth in this section.

9 (b) The judgment of the circuit court is final unless re-  
10 versed, vacated or modified on appeal to the Supreme Court of  
11 Appeals in accordance with the provisions of section one,  
12 article six, chapter twenty-nine of this code.

**§30-7C-13. Injunction or other relief against unlawful acts.**

1       (a) The practice of dialysis technician by an individual who  
2 has not met the requirements of this article is declared to be  
3 inimical to the public health and welfare and to be a public  
4 nuisance.

5       (b) Whenever, in the judgment of the Board, an individual  
6 has engaged in, is engaging in, or is about to engage in, the  
7 practice of dialysis technician without holding a valid certifica-  
8 tion under this article, or has engaged, is engaging or is about  
9 to engage in any act which constitutes, or will constitute, a  
10 violation of this article, the Board may make application to the  
11 appropriate court having equity jurisdiction for an order  
12 enjoining the practices or acts, and upon a showing that the  
13 individual has engaged, is engaging or is about to engage, in  
14 any such practices or acts, an injunction, restraining order, or  
15 other order as the court considers appropriate shall be entered  
16 by the court.

17       (c) The remedy provided in this section is in addition to,  
18 and not in lieu of, all other penalties and remedies provided in  
19 this article.

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

  
Chairman Senate Committee

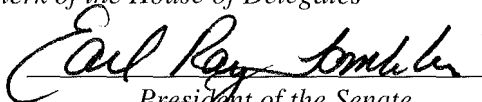
  
Chairman House Committee

Originating in the House.

In effect July 1, 2005.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 2nd  
day of May, 2005.

  
Governor

PRESENTED TO THE  
GOVERNOR

APR 22 2005

Time 2:05pm