WEST VIRGINIA CODE: §30-3-15

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

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

(b) Certificate of authorization for in-state medical corporation. —The board may issue a certificate of authorization for a medical corporation to one or more individuals licensed by the board. Licensees of the West Virginia Board of Osteopathic Medicine may join with licensees of the board to receive a certificate of authorization from the board. Eligible licensees may apply for a certificate of authorization by:

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

(2) Furnishing satisfactory proof to the board that each shareholder of the proposed medical or podiatry corporation is a licensed physician pursuant to this article, §30-3E-1 et seq., or §30-14-1 et seq. of this code; and

(3) Submitting applicable fees which are not refundable.

(c) Certificate of authorization for out-of-state medical corporation. — A medical corporation formed outside of this state for the purpose of engaging in the practice of medicine, surgery, and/or podiatric medicine may receive a certificate of authorization from the board to be designated a foreign medical corporation by:

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

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

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

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

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(5) Submitting applicable fees which are not refundable.

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

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

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

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

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

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

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

(i) Ceasing operation - Out-of-state medical corporation. — A medical corporation formed

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outside of this state and holding a certificate of authorization shall immediately cease to engage in practice in this state if:

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

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

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

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

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

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

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

(n) Penalties. — Any officer, shareholder, or employee of a medical corporation who violates

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this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 per violation.

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