WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1949

ENROLLED

HOUSE BILL No. 134

(By Mr. Speaker, Mr. Flannery)

PASSED February 21, 1949

In Effect July 1, 1949, Passage
AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article two-a, and by amending article three by adding thereto a new section, to be designated section four-a, and by amending and reenacting sections three to eight, inclusive of said article three; by amending and reenacting sections one, three, four and five, article eleven; and by amending and reenacting sections one to five, inclusive and sections thirteen and fifteen, article sixteen; relating to the creation, organization, powers and duties of a medical licensing board for the licensing of physicians and surgeons, chiropodists, and chiropractors; providing for the licensing, revocation and suspension of license, and biennial registration of physicians and surgeons, and for the licensing and the revoca-
tion and suspension of license of chiropodists and chiropractors, all relating to the licensure by the medical licensing board of physicians and surgeons, chiropodists and chiropractors.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thousand, nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article two-a; by amending article three by adding thereto a new section, to be designated section four-a; and by amending and reenacting sections three to eight, inclusive, of said article three; by amending and reenacting sections one, three, four and five, article eleven; and by amending and reenacting sections one to five, inclusive, and sections thirteen and fifteen, article sixteen; all to read as follows:

Article 2-a. Medical Licensing Board

Section 1. Medical Licensing Board; Creation and Membership.—There is hereby created a medical licensing board to be known as “The Medical Licensing Board of West Virginia”.

The medical licensing board shall consist of eleven
members. One of such members shall be the state director of health ex officio whose term as such member shall continue for the period that he holds office as state director of health. The other ten members shall be appointed by the governor with the advice and consent of the senate. The term of all members, except the state director of health, shall be five years, except that the persons originally appointed shall be designated to serve, two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years. Upon the expiration of such initial appointments, the term of each new appointee shall be five years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Before appointing any member, the governor shall request the state professional society of the profession practiced by any proposed appointee to furnish to the governor a full and complete report con-
cerning the qualifications and suitability of the proposed
appointee.

Of the members to be appointed by the governor, six
shall be physicians or surgeons holding the degree of doc-
tor of medicine, two shall be chiropodists, and two shall
be chiropractors. All persons appointed to membership
on the board shall be citizens of this state and shall have
been citizens and residents of the state for at least five
years prior to the date of their appointment. Each
such person shall have been duly licensed to practice
his profession in this state on the date of his appoint-
ment and shall have been so licensed and have been
actively practicing his profession for at least five years
immediately preceding the date of such appointment.

The chiropodists who are members of the medical
licensing board, shall participate in its proceedings and
vote as members of the board only on matters per-
taining to the licensure, examination, or suspension, re-
vocation, or reinstatement of the licenses of chiropodists.

The chiropractors who are members of the medical li-
censing board, shall participate in its proceedings and vote as members of the board only on matters pertaining to the licensure, examination, or suspension, revocation or reinstatement of the licenses of chiropractors.

No more than three doctors of medicine, one chiropractor and one chiropodist appointed by the governor as members of the board shall belong to the same political party. No person shall be eligible for membership on the board who is a member of any political party executive committee, or, with the exception of the state director of health, who holds any public office or public employment under the Federal government or under the government of this state, or any of its political subdivisions, or who is an appointee or employee of the state board of health.

All members shall be eligible for reappointment.

In making appointments to the board, the governor shall, so far as may be possible and practicable, select the several members from different geographical sections of the state.

No member may be removed from office except for of-
ficial misconduct, incompetence, neglect of duty or gross
immorality: Provided, however, That the expiration or
revocation of the professional license of a member of the
board shall be cause for his removal: Provided further
That the state director of health shall cease to be a mem-
ber of the medical licensing board upon the expiration
or termination of his appointment as state director of
health.

Sec. 2. Medical Licensing Board; Powers and Duties.—
The medical licensing board of West Virginia shall as-
sume, carry on, and succeed, to all the duties, rights,
powers, obligations and liabilities heretofore belonging
to, exercised by, or assumed by the public health council,
with regard to the licensure of physicians and surgeons,
chiropractors and chiropodists.
The medical licensing board shall examine all qualified
applicants for license to practice medicine and surgery,
chiropody and chiropractic, and it shall license all such ap-
pliers who are qualified under applicable statutes and
who pass any examination that may be required by stat-
The said board shall have the power to make such examination of all applicants appearing before it for any type of license as may be necessary to determine that the applicant is qualified. The said board shall also have the power to revoke or suspend any license issued by it, for cause, after having given the person whose license is sought to be revoked or suspended, an opportunity to be heard in the manner provided by section eight, article one, chapter thirty of this code. It shall have the power to reinstate any license revoked or suspended by it.

The said board is authorized and empowered to hold and conduct hearings and investigations on the issuance, suspension, revocation, or reinstatement of licenses.

The said board shall have the power to hire, fix the compensation of, and discharge such employees as are necessary for the performance of the powers and duties vested in the said board by law.

Sec. 3. Medical Licensing Board; Organization and Officers.—The board shall organize by electing from among its members, a chairman, who shall serve as such
for a period of two years. Such chairman shall have the
power to act for and in the name of the board in all
matters within the lawful powers of the board and duly
authorized by a majority of its members.

An office shall be established and maintained by the
board in the city of Charleston. In addition, the board
may establish and maintain such other offices within the
state as it may deem necessary or expedient.

Sec. 4. State Director of Health to Act as Secretary of
Medical Licensing Board.—The state director of health,
in addition to being a member of the medical licensing
board, shall act as its secretary and shall be in charge of
its offices and responsible to the board for the mainte-
nance of the said offices, and the preparation of application
forms, licenses, reports and all other papers or documents
which may be required by the board in the performance
of its duties. He shall, together with the chairman of the
board, sign all licenses, reports and other documents.

Article 3. Physicians and Surgeons

Section 3. Examination by Medical Licensing Board.—
The medical licensing board of West Virginia shall ex-
am aine all qualified applicants for license to practice medicine and surgery in this state, and issue certificates of license to all applicants who are legally entitled to receive the same; and said certificates shall be signed by the chairman of the said board and by the director of health as secretary thereof.

Sec. 4. Who Permitted to Practice Medicine and Surgery in This State; Licensing of Licensed Practitioners from Other States; Permits to Practice in Prescribed Areas.—The following persons and no others shall hereafter be permitted to practice medicine and surgery in this state: (a) All such persons as shall be legally entitled to practice medicine and surgery in this state at the time of the adoption of this act; (b) all such persons as shall be graduates of class "A" medical schools, as classified by the Council on Medical Education and Hospitals of the American Medical Association, the American Association of Medical Colleges, the American Institute of Homeopathy and the National Eclectic Medical Association, and then only from such schools, when so classified, as require, as a condition to entrance upon the study
of medicine, at least two years of academic work of collegiate grade in a standard college of arts and sciences of equal rank with the college of arts and sciences in the West Virginia University, and who shall pass an examination before the medical licensing board and shall receive a certificate therefrom as hereinafter provided: Provided, however, That the said board, or a majority of them, may accept in lieu of an examination, the certificate of the national board of medical examiners, or the certificate of license to practice medicine and surgery legally granted by the state board of registration or examination or licensing board of another state, territory or any foreign country, whose standard of qualification for the practice of medicine and surgery is equivalent to that of this state, and grant to such applicant a certificate of license to practice medicine and surgery in this state, provided such state, territory or foreign country accords like privileges to licentiates of this state: Provided further, That whenever in the judgment of the medical licensing board a condition exists in which medical service may be required, the said board is authorized to grant permits for
the practice of medicine to qualified physicians in prescribed areas, and such permits shall be subject to revocation when the agreement, under which they were issued, has been violated.

Sec. 4-a. Biennial Registration of Physicians and Surgeons.—Every person who, on or before the thirty-first day of August, one thousand nine hundred forty-nine, is licensed as a physician or surgeon to practice medicine and surgery in this state, shall, on or before the said thirty-first day of August, one thousand nine hundred forty-nine, make application to the medical licensing board for registration, and shall be registered by the said board, as the holder of such license, which registration shall be for the period ending on the thirtieth day of June, one thousand nine hundred fifty-one. On or before the said thirtieth day of June, one thousand nine hundred fifty-one, and biennially thereafter, on or before the thirtieth day of June of each biennial period, every person licensed as a physician or surgeon in this state, shall apply to the said board for registration, or a renewal of registration, as such license holder: Provided, That no registration
shall be required of any holder of a certificate of licensure
for the biennial period, or any portion thereof, during
which such certificate is issued.
Each applicant for registration or renewal thereof shall
remit to the board, with his application, a fee of two
dollars.
The failure of any person to comply with the provisions
of this section shall operate automatically, and without
further proceedings, to cancel the certificate of such per-
son, and the license issued thereunder. Continued prac-
tice by any such person after such cancellation of his
certificate and license shall constitute practicing without
a license, and any person so practicing shall be subject to
all of the penalties provided by law for practicing
without a license.
Any certificate and license cancelled pursuant to the
provisions of this section, and not for any other reason,
shall be reinstated by the said board upon submission to
it of an application for registration by the person whose
certificate has been cancelled, together with current and
delinquent fees, and ten dollars reinstatement fee.
Sec. 5. Examinations; Certificates; Adherents of Particular Schools or Theories of Medicine.—The medical licensing board shall, at such times as a majority of them deem proper, hold examinations for the licensing of applicants for license to practice medicine and surgery in this state. No fewer than two examinations shall be held during the year, at such place in the state as may be determined by the medical licensing board. At such examination written and oral questions shall be submitted to the applicants, covering all the essential branches of the sciences of medicine and surgery, and the examination shall be a thorough and decisive test of the knowledge and ability of the applicant. The chairman and secretary of the board shall issue certificates to all who successfully pass the said examination and to all whose certificates said board, or a majority of them, shall accept in lieu of an examination, as hereinbefore provided. Such certificates shall be deemed licenses to practice medicine and surgery in all their branches in this state. The medical licensing board shall give reasonable notice of the time and place of holding such examinations in at least three
newspapers of general circulation in this state, and all such persons wishing to present themselves for examination shall notify the secretary and comply with the rules of the board. No applicant for license to practice medicine and surgery in this state shall be rejected because of his adherence to any particular school or theory of medicine. The medical licensing board may call to its assistance in the examination of any applicant who professes the homeopathic or eclectic school of medicine, a homeopathic or eclectic physician entitled to practice medicine in this state under this article, and such homeopathic or eclectic physician so called to the assistance of the board shall be allowed the same per diem and actual expenses incurred as are allowed the regular members of the said board.

Sec. 6. Refusal to Issue, Suspension or Revocation of License.—The medical licensing board may refuse to grant a certificate of license to a person guilty of felony or gross immorality or addicted to drunkenness or the habitual use of narcotic drugs, and may suspend or revoke a certificate for like cause, or for malpractice, or for fraud in procuring the certificate; but no such refusal,
suspension or revocation shall be ordered by reason of
the individual belonging to or practicing in any partic-
ular school or system of medicine.

Sec. 7. Fees.—The medical licensing board shall be entitled to charge and collect the following fees, in addi-
tion to those provided in article one of this chapter: For
granting to a licensed physician or surgeon from another state, territory or foreign country, a license to practice medicine in this state, under the provisions of section four of this article, one hundred dollars; for a reciprocal indorsement, ten dollars.

Sec. 8. Division of Fees by Physicians or Surgeons; Penalties; Revocation of Certificate.—It shall be unlawful for any physician or surgeon in this state, directly or indirectly, to divide, or agree to divide, any fee or compensation of any sort whatsoever, charged for a surgical operation or for medical services, with any other physician, surgeon or other person who brings, sends or recom-
mends a patient to such surgeon or physician for treat-
ment, without the express knowledge and consent, previously had, of the person paying such fee or compen-
sation, or against whom the same may be charged. It shall be unlawful for any physician, surgeon or other person residing in this state to accept any fee or other compensation from any other surgeon, physician or other person not residing in this state for taking, sending or recommending a patient for treatment to such nonresident physician, surgeon or other person. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars for each offense, and in the discretion of the court, may be imprisoned in the county jail not to exceed twelve months in addition to said fine. If any person shall be convicted of a second offense under the provisions of this section, the medical licensing board shall revoke the certificate licensing such person to practice medicine and surgery in this state.

Article 11. Chiropodists

Section 1. Chiropody; License Required.—It shall be unlawful for any person to practice or offer to practice in this state the branch of medicine known as chiropody,
as hereinafter defined, unless duly licensed so to do by
the medical licensing board of this state, after examina-
tion conducted by such board or a committee thereof,
under rules and regulations prepared and promulgated
by it, except as hereinafter provided: Provided, however,
That the provisions of this section shall not apply to any
person legally entitled to practice chiropody in this state
at the time of the adoption of this act.

Sec. 3. Qualifications of Applicant for License.—An ap-
plicant for license shall furnish to the medical licensing
board satisfactory proof that he is: (a) Twenty-one years
of age or over; (b) of good moral character; (c) a grad-
uate of a school of chiropody registered by the state
department of education as being of proper standard, or
that he has been in the practice of chiropody in some
other state for at least five years, and of good standing
in such state, in which said state an examination is re-
quired by law equal to the requirements of this state,
and that said applicant has taken the examination in said
state and received a license therein; (d) possessed of a
minimum education equivalent to two years’ attendance
at a high school recognized by the state department of education as being of proper standard; (e) a bona fide resident of the state of West Virginia at the time of application.

Sec. 4. Examination for License; Issuance of License.—The medical licensing board shall conduct examinations for license to practice chiropody at the times and places designated by it for conducting examinations for license to practice medicine. Examinations shall be in English, and in writing, and shall be of a scientific and practical character. They shall cover the subjects of anatomy and physiology of the foot, chemistry, materia medica, therapeutics and minor surgery, including bandaging. The medical licensing board shall issue licenses to practice chiropody to successful applicants therefor.

Sec. 5. Offenses; Penalties.—Whoever, not being lawfully authorized to practice chiropody within the state of West Virginia, holds himself out as a practitioner of chiropody, or advertises himself as such, or whoever practices chiropody under a false or assumed name, or under a name other than that under which he has license
to practice chiropody as aforesaid, or whoever impersonates another practitioner of a like or a different name, or whoever lends his name or his professional connection with anyone who has been convicted of any offense, as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than two hundred dollars, or confined in the county jail not less than one nor more than four months, or both, for each and every offense, and in addition, the medical licensing board may suspend or revoke his license for an indefinite period, but for not less than six months. A person so convicted shall not be entitled to any fee for services rendered, and, if a fee has been paid, the patient or guardian or heir may recover the same as debts of like amount are now recovered by law.

Article 16. Chiropractors

Section 1. Chiropractic; License Required.—It shall be unlawful for any person to practice, or offer to practice, in this state chiropractic, as hereinafter defined, unless duly licensed to do so by the medical licensing board of this state, after examination conducted by such board or a
committee thereof, under rules and regulations prepared
and promulgated by it, except as hereinafter provided:

Provided, however, That the provisions of this section
shall not apply to any person legally entitled to practice
chiropractic in this state at the time of the adoption of
this act.

Sec. 2. Application for License; Qualifications of Applicant.—Any person wishing to practice chiropractic in
this state shall apply to the secretary of the medical licen-
sing board for a license so to practice. Each applicant shall
be a graduate of a chiropractic school or college recognized
by the American Chiropractic Association, or other recog-
nized chiropractic society, which teaches a resident course
of at least three calendar years of eight months each and
requires active attendance upon the same, and shall be a
graduate of an accredited high school giving a four-year
course or have an education equivalent to the same, and
shall have attended for at least two years an academic col-
lege equal in standing to the West Virginia university, as
preliminary education.

Each application shall be accompanied by a certificate
from the school or college attended by the applicant, which certificate shall set forth in full the training of said applicant, showing his studies and the length of his clinical practice. The medical licensing board shall require of all applicants satisfactory evidence of good moral character.

Sec. 3. Examination by Medical and Chiropractic Members of Medical Licensing Board.—Applicants to practice chiropractic in this state shall be examined by the medical physicians who are members of the state medical licensing board in the following subjects: Anatomy, histology, physiology, pathology, symptomatology, physical diagnosis, hygiene, sanitation, chemistry and bacteriology. The chiropractic members of the medical licensing board shall give an examination in the following subjects: Chiropractic philosophy, chiropractic analysis, nerve tracing, palpation and the art of adjusting.

All applicants shall be required to secure an average grade of eighty per cent in all subjects: sixty-five per cent shall be the minimum grade in any subject.

Sec. 4. Licensing Chiropractors From Other States.—Persons licensed to practice chiropractic under the laws
of any other state having requirements equivalent to those of this article, and extending like privileges to practitioners of this state, may in the discretion of the medical licensing board, be licensed to practice in this state without examination.

Sec. 5. Refusal to Issue, Suspension or Revocation of License.—The medical licensing board may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this state upon any of the following grounds, to-wit: The employment of fraud or deception in applying for a license or in passing the examination provided for in this article; the practice of chiropractic under a false or an assumed name or the impersonation of another practitioner of like or different name; the conviction of a crime involving moral turpitude; or habitual intemperance in the use of intoxicating liquors or narcotic drugs. In addition to the above stated grounds, the medical licensing board shall revoke or refuse to grant a license to anyone practicing, under the guise of chiropractic, any health science or mode of healing other than chiropractic as defined in this article.
Sec. 13. *Unlawful to Practice Chiropractic Without License.*—No person shall practice chiropractic in this state without first having obtained a license so to do, or after revocation and before renewal, or during suspension, of such license as provided in this article.

Sec. 15. *Duties of Prosecuting Attorneys and Secretary of Medical Licensing Board.*—It shall be the duty of the several prosecuting attorneys of this state to enforce the provisions of this article, and it shall be the duty of the secretary of the medical licensing board, under the direction of said board, to aid such attorneys in such enforcement.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1949—passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 26th day of February, 1949.

[Signature]
Governor

[Signature]
D. Pitt O'Brien, Secretary of State

Filed in the Office of the Secretary of State of West Virginia, FEB 28, 1949.