

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

HOUSE BILL No. 662

(By Mr. Ayers and Mr. Seabright)



PASSED March 13 1965

In Effect ninety days from Passage



FILED IN THE OFFICE OF  
JOE F. BURDETT  
SECRETARY OF STATE  
THIS DATE 3-19-65

#662

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AN ACT to amend and reenact section two, article two-a; section three, article three, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article three of said chapter by adding thereto two new sections, designated sections four-b and four-c, relating to the powers and duties of the medical licensing board, examinations by the medical licensing board, the practice of medicine and surgery in the state of West Virginia, and the formation of medical corporations; providing certain limitations on medical corporations; and providing penalties.

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

That section two, article two-a; section three, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article three of said chapter be amended by adding thereto two new sections, designated sections four-b and four-c, all to read as follows:

**Article 2-a. Medical Licensing Board.**

**Section 2. Powers and Duties.**—The medical licensing  
2 board of West Virginia shall assume, carry on, and suc-  
3 ceed, to all the duties, rights, powers, obligations and  
4 liabilities heretofore belonging to, exercised by, or as-  
5 sumed by the public health council, with regard to  
6 the licensure of physicians and surgeons, and chiropo-  
7 dists.

8 The medical licensing board shall examine all qualified  
9 applicants for license to practice medicine and surgery,  
10 and chiropody, and it shall license all such applicants  
11 who are qualified under applicable statutes and who  
12 pass any examination that may be required by statute  
13 or by any legally adopted rule or regulation. The board

14 shall also have authority to authorize medical corpora-  
15 tions in accordance with the provisions and subject to  
16 the limitations of article three of this chapter to practice  
17 medicine and surgery through duly licensed physicians  
18 and surgeons.

19 The said board shall have the power to make such ex-  
20 amination of all applicants appearing before it for any  
21 type of license as may be necessary to determine that  
22 the applicant is qualified. The said board shall also have  
23 the power to revoke or suspend any license or certificate  
24 of authorization issued by it, for cause, after having given  
25 the person whose license or medical corporation whose  
26 certificate of authorization is sought to be revoked or  
27 suspended, an opportunity to be heard in the manner pro-  
28 vided by section eight, article one, chapter thirty of this  
29 code. It shall have the power to reinstate any license or  
30 certificate of authorization revoked or suspended by it.

31 The said board is authorized and empowered to hold  
32 and conduct hearings and investigations on the issuance,  
33 suspension, revocation, or reinstatement of licenses or  
34 certificates of authorization.

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

**Article 3. Physicians and Surgeons.**

**Section 3. Examination by Medical Licensing Board.—**

2 The medical licensing board of West Virginia shall ex-  
3 amine all qualified applicants for license to practice  
4 medicine and surgery in this state, and shall examine  
5 the application of medical corporations provided for in  
6 section four-b of this article, and issue certificates of  
7 license, and in the case of proposed medical corporations  
8 certificates of authorization, to all applicants who are  
9 legally entitled to receive the same; and said certificates  
10 shall be signed by the chairman of the said board and by  
11 the director of health as secretary thereof.

**Sec. 4-b. Registration of Medical Corporations.—**When

2 two or more physicians or surgeons duly licensed to prac-  
3 tice medicine in the state of West Virginia wish to form  
4 a medical corporation, such physicians or surgeons shall  
5 file a written application with the medical licensing board,

6 on a form prescribed by the board, and shall furnish proof  
7 satisfactory to the board that all of the signers of such  
8 application are such duly licensed physicians or surgeons.  
9 A fee of twenty-five dollars shall accompany each such  
10 application, no part of which shall be returnable.

11 If the board finds that all of the signers of such appli-  
12 cation are such duly licensed physicians or surgeons, the  
13 board shall notify the secretary of state that a certificate  
14 of authorization has been issued to the individuals sign-  
15 ing such application.

16 When the secretary of state receives notification from  
17 the state medical board that certain persons have been  
18 issued a certificate of authorization, he shall attach such  
19 authorization to the corporation application and upon  
20 compliance by the corporation with chapter thirty-one  
21 of this code shall notify the incorporators that such cor-  
22 poration, through duly licensed physicians and surgeons,  
23 may engage in the practice of medicine and surgery.

**Sec. 4-c. Limitations Pertinent to Medical Corpora-**  
2 **tions.**—(1) A medical corporation may practice medicine  
3 and surgery only through individual physicians and sur-

4 geons duly licensed to practice medicine or surgery in the  
5 state of West Virginia, but such physicians and surgeons  
6 may be employees rather than shareholders of such corpo-  
7 ration, and nothing herein contained shall be construed  
8 to require a license for or other legal authorization of  
9 any individual employed by such corporation to perform  
10 services for which no license or other legal authorization  
11 is otherwise required. Nothing contained in this article  
12 is meant or intended to change in any way the rights,  
13 duties, privileges, responsibilities and liabilities incident  
14 to the physician-patient relationship nor is it meant or  
15 intended to change in any way the personal character  
16 of the physician-patient relationship. A corporation hold-  
17 ing such certificate of authorization shall register bien-  
18 nially, on or before the thirtieth day of June, on a form  
19 prescribed by the medical licensing board, and shall pay  
20 an annual registration fee of fifty dollars.

21 (2) A medical corporation holding a certificate of  
22 authorization shall cease to engage in the practice of  
23 medicine and surgery; upon being notified by the medical  
24 licensing board that any of its shareholders is no longer a

25 duly licensed physician or surgeon; or, when any shares  
26 of such corporation have been sold or disposed of to a  
27 person who is not a duly licensed physician or surgeon:  
28 *Provided*, That the personal representative of a deceased  
29 shareholder shall have a period, not to exceed twelve  
30 months from the date of such shareholder's death, to dis-  
31 pose of such shares; but nothing contained herein shall  
32 be construed as affecting the existence of such corpora-  
33 tion or its right to continue to operate for all lawful pur-  
34 poses other than the practice of medicine and surgery.

35 (3) No corporation shall practice medicine or sur-  
36 gery, or any of its branches, or hold itself out as being  
37 capable of doing so, without a certificate from the medical  
38 licensing board; nor shall any corporation practice medi-  
39 cine or surgery or any of its branches, or hold itself out  
40 as being capable of doing so, after its certificate has been  
41 revoked, or if suspended, during the term of such sus-  
42 pension. A certificate signed by the secretary of the  
43 medical licensing board to which is affixed the official  
44 seal of the board to the effect that it appears from the  
45 records of the board that no such certificate to practice



46 medicine or surgery or any of its branches in the state  
47 has been issued to any such corporation specified therein  
48 or that such certificate has been revoked or suspended  
49 shall be admissible in evidence in all courts of this state  
50 and shall be prima facie evidence of the facts stated  
51 therein.

52 (4) Any officer, shareholder or employee of such cor-  
53 poration who participates in a violation of any provision  
54 of this section shall be guilty of a misdemeanor, and, upon  
55 conviction, shall be fined not exceeding one thousand dol-  
56 lars.

57 (5) If any provision of sections four-b or four-c of  
58 this article is held to be invalid, such invalidity shall not  
59 affect the other provisions of said sections which can be  
60 given effect without such invalid provision, and to this  
61 end the provisions of said sections are severable.

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

*O. Ray Parker*  
Chairman Senate Committee

*James W. Loop*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. Howard Myers*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Harold H. Hanson*  
President of the Senate

*H. Robert White*  
Speaker House of Delegates

The within approved this the 19  
day of March, 1965.

*Hullett C. Smith*  
Governor

