

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 837  
ORIGINATING IN THE COMMITTEE ON THE JUDICIARY

(By Mr. \_\_\_\_\_)

PASSED *MARCH 11,* 1971

In Effect NINETY DAYS From Passage



938

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 839**

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AN ACT to amend and reenact section two, article two-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one and two, article three of said chapter; and to further amend said chapter by adding thereto a new article, designated article three-a, all relating to the establishment of qualifications and certification of assistants to licensed physicians; definition of terms; and fees.

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

That section two, article two-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, be amended and reenacted; that sections one and two, article three of said chapter be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article three-a, all to read as follows:

**ARTICLE 2A. MEDICAL LICENSING BOARD.**

**§30-2A-2. Powers and duties.**

1 The medical licensing board of West Virginia shall as-  
2 sume, carry on, and succeed to all the duties, rights,  
3 powers, obligations and liabilities heretofore belonging  
4 to, exercised by, or assumed by the public health council,  
5 with regard to the licensure of physicians and surgeons  
6 and podiatrists.

7 The medical licensing board shall examine all quali-  
8 fied applicants for license to practice medicine and sur-  
9 gery, and podiatry and it shall license all such applicants  
10 who are qualified under applicable statutes and who  
11 pass any examination that may be required by statute  
12 or by any legally adopted rule or regulation. The board  
13 shall also have authority to authorize medical corpora-  
14 tions in accordance with the provisions and subject to  
15 the limitations of article three of this chapter to prac-

16 tice medicine and surgery through duly licensed physi-  
17 cians and surgeons.

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

31 The board is authorized and empowered to hold and  
32 conduct hearings and investigations on the issuance, sus-  
33 pension, revocation or reinstatement of licenses or cer-  
34 tificates of authorization. The said board shall have the  
35 power to hire, fix the compensation of, and discharge

36 such employees as are necessary for the performance of  
37 the powers and duties vested in the said board by law.

38 The board shall have the power to certify and establish  
39 standards for employment of assistants to licensed physi-  
40 cians and licensed podiatrists.

**ARTICLE 3. PHYSICIANS AND SURGEONS.**

**§30-3-1. Evidence of qualification to practice and license required.**

1 Any person practicing or offering to practice medicine  
2 and surgery in this state, with the exception of an as-  
3 sistant to a licensed physician or licensed podiatrist, shall  
4 be required to submit evidence that he is qualified so  
5 to practice, and shall be licensed as hereinafter provided.

**§30-3-2. Who deemed practitioner; limitations of article.**

1 The term "practice medicine and surgery," as used in  
2 this article, shall be construed to mean the treatment of  
3 any human ailment or infirmity by any method. To  
4 open an office for such purpose or to announce to the  
5 public in any way a readiness to treat the sick or afflicted  
6 shall be deemed to engage in the practice of medicine  
7 and surgery within the meaning of this article: *Provided,*  
8 That the provisions of this article, with the exceptions

9 of sections eight and ten, shall not apply to dentists,  
10 dental hygienists, nurses, optometrists, podiatrists, osteo-  
11 pathic physicians and surgeons, midwives, or chiroprac-  
12 tors, regularly licensed or registered as such under the  
13 provisions of this chapter applicable to such professions  
14 and occupations, in the practice of their respective pro-  
15 fessions and occupations; nor to assistants to physicians or  
16 podiatrists; nor to physicians or surgeons living in other  
17 states and duly qualified to practice medicine therein  
18 who shall be called in consultation into this state by a  
19 physician or surgeon legally entitled to practice medicine  
20 and surgery in this state; nor to commissioned officers  
21 of the United States army, navy or marine hospital ser-  
22 vice when in the actual discharge of their duties as such;  
23 nor to the practice of the religious tenets of any church  
24 in the administration to the sick or suffering by mental  
25 or spiritual means, whether gratuitously or for compen-  
26 sation: *Provided, however,* That sanitary and public  
27 health laws shall be complied with: *Provided further,*  
28 That no practices shall be used which may be dangerous  
29 or detrimental to life or health and that no person shall

30 be denied the benefits of accepted medical and surgical  
31 practices.

**ARTICLE 3A. ASSISTANTS TO PHYSICIANS.**

**§30-3A-1. Definition.**

1 The term "assistant to a physician," as used in this  
2 chapter, shall mean a person employed in a physician's  
3 or podiatrist's office, licensed hospital or any licensed  
4 health care institution who performs selected medical  
5 tasks and functions in accordance with an approved job  
6 description, and who possesses the qualifications which  
7 have been established for the described job. The as-  
8 sistant to a physician shall be under the supervision of a  
9 permanently licensed physician or podiatrist in West Vir-  
10 ginia. Certification of an assistant to a physician prac-  
11 ticing the specialty of ophthalmology shall neither be  
12 required nor permitted under this article.

**§30-3A-2. Approval and certification by medical licensing  
board.**

1 Approval of a job description and establishment of  
2 qualifications for employment as an assistant to a physi-  
3 cian or podiatrist must be obtained from the medical  
4 licensing board. The medical licensing board shall certify

5 each qualified applicant for employment as an assistant  
6 to a physician or podiatrist upon submission of a job  
7 description, and shall provide for annual renewal of cer-  
8 tification. The board shall have the power to revoke  
9 or suspend any certification of an assistant to a physician  
10 or podiatrist, for cause, after having given the person an  
11 opportunity to be heard in the manner provided by sec-  
12 tions eight and nine, article one of this chapter.

**§30-3A-3. Fees.**

1 Each job description submitted by permanently licensed  
2 physician or physicians shall be accompanied by a fee  
3 of fifty dollars. A fee of five dollars shall be charged for  
4 each annual renewal of certification.

**§30-3A-4. Limitation on scope of duties.**

1 Assistants to physicians and podiatrists shall not sign  
2 prescriptions or perform any service which his employing  
3 physician or podiatrist is not qualified to perform.



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

*Fursey G. Beane*  
Chairman Senate Committee

*Phyllis Kirtledge*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Howard Rogers*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*Edmund*  
President of the Senate

*Lewis N. McManus*  
Speaker House of Delegates

The within *approved* this the *31<sup>st</sup>*  
day of *March*, 1971.

*Arch A. Shaw, Jr.*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/16/71

Time 1:25 p.m.