WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973

ENROLLED

SENATE BILL NO. 115

(By Mr. HAMiLTON)

PASSED MARCH 6, 1973

In Effect From _______ Passage

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 3-19-73
ENROLLED

Senate Bill No. 115

(By Mr. Hamilton)

[Passed March 6, 1973; in effect from passage.]

AN ACT to amend and reenact sections five and eleven, article fourteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article by adding thereto two new sections, designated sections nine-a and nine-b, relating to osteopathic medicine and surgery, the examination for a license to practice same, the issuance of license to successful applicants therefor, the application for the formation of an osteopathic medical corporation and the issuance of a certificate of authorization therefor; empowering the West Virginia board of osteopathy to authorize osteopathic medical corporations to practice osteopathic medicine and surgery through osteopathic physicians and surgeons; relating to assistants to osteopathic physicians and surgeons; relating to fee for license; establishing fee for an application for the formation of an osteopathic medical corporation; relating to the duties of the secretary of state concerning an osteopathic medical corporation; authorizing osteopathic physicians and surgeons to be employees rather than shareholders of an osteopathic medical corporation; relating to the osteopathic physician-patient relationship; providing for biennial registration of and registration fee to be paid by osteopathic medical corporations; specifying conditions under which an osteopathic medical corporation is to cease to engage in the practice of osteopathic medicine and surgery; requiring a certificate of authorization which has been neither suspended nor revoked; providing for the admissibility and
effect of a certificate signed by the secretary of the West Virginia board of osteopathy; providing criminal offenses and penalties; specifying the causes for which a license to practice osteopathic medicine or surgery may be refused, suspended or revoked; and authorizing the West Virginia board of osteopathy to suspend, revoke or reinstate any certificate of authorization for an osteopathic medical corporation.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-5. Examination; certificate of license; certificate of authorization for osteopathic medical corporation; certification and establishment of standards for employment of assistants; fee.

The examination for a license to practice medicine and surgery as an osteopathic physician and surgeon shall be written and oral and shall cover all the essential branches of medicine and surgery including anatomy, physiology, chemistry, pharmacology, pathology, public health—preventive medicine, surgery, obstetrics and gynecology, osteopathic medicine, materia medica principles and practice of osteopathy; and this list of subjects may be expanded or regrouped at the discretion of the board.

The board shall issue certificates of license to all applicants who shall successfully pass the said examination and shall present evidence showing that they have served an internship in a hospital approved for intern training. The board shall also examine the application of any one or more osteopathic physicians or surgeons for the formation of an osteopathic medical corporation, filed pursuant to the provisions of section nine-a of this article, and issue a certificate of authorization therefor to any applicant or applicants legally entitled to receive the same. The board shall also have authority to authorize osteopathic medical corporations, in accordance with the provisions of sections nine-a
and nine-b of this article, to practice osteopathic medicine and surgery through duly licensed osteopathic physicians and surgeons.

The board shall have the power to certify and establish standards for employment of assistants to osteopathic physicians and surgeons.

No license shall be issued under the provisions of this section until the person applying therefor shall have paid to the board a fee of five dollars.

§30-14-9a. Osteopathic medical corporations—Application for registration; fee; notice to secretary of state of issuance of certificate; action by secretary of state.

When one or more osteopathic physicians or surgeons duly licensed to practice osteopathic medicine in the state of West Virginia wish to form an osteopathic medical corporation, such osteopathic physician or surgeon, or osteopathic physicians or surgeons, shall file a written application with the board on a form prescribed by the board, and shall furnish proof satisfactory to the board that the signer or all of the signers of such application is or are a duly licensed osteopathic physician or surgeon or osteopathic physicians or surgeons. A fee of twenty-five dollars shall accompany each such application, no part of which shall be returnable.

If the board finds that the signer or all of the signers of such application are duly licensed, the board shall notify the secretary of state that a certificate of authorization has been issued to the individual or individuals signing such application.

When the secretary of state receives notification from the board that a certain individual or individuals has or have been issued a certificate of authorization, he shall attach such authorization to the corporation application and upon compliance by the corporation with chapter thirty-one of this code shall notify the incorporators that such corporation, through a duly licensed osteopathic physician or surgeon or duly licensed osteopathic physicians and surgeons, may engage in the practice of osteopathic medicine and surgery.

§30-14-9b. Same—Rights and limitations generally; biennial registration; fee; when practice to cease; admissibility and effect of certificate signed by board; penalty.
(a) An osteopathic medical corporation may practice osteopathic medicine and surgery only through individual osteopathic physicians and surgeons duly licensed to practice osteopathic medicine or surgery in the state of West Virginia, but such osteopathic physicians and surgeons may be employees rather than shareholders of such corporation, and nothing herein contained shall be construed to require a license for or other legal authorization of any individual employed by such corporation to perform services for which no license or other legal authorization is otherwise required. Nothing contained in sections five and nine-a and this section of this article is meant or intended to change in any way the rights, duties, privileges, responsibilities and liabilities incident to the osteopathic physician-patient relationship nor is it meant or intended to change in any way the personal character of the osteopathic physician-patient relationship. A corporation holding such certificate of authorization shall register biennially, on or before the thirtieth day of June, on a form prescribed by the board, and shall pay an annual registration fee of fifty dollars.

(b) An osteopathic medical corporation holding a certificate of authorization shall cease to engage in the practice of osteopathic medicine and surgery upon being notified by the board that any of its shareholders is no longer a duly licensed osteopathic physician or surgeon, or when any shares of such corporation have been sold or disposed of to a person who is not a duly licensed osteopathic physician or surgeon: Provided, That the personal representative of a deceased shareholder shall have a period, not to exceed twelve months from the date of such shareholder's death, to dispose of such shares; but nothing contained herein shall be construed as affecting the existence of such corporation or its right to continue to operate for all lawful purposes other than the practice of osteopathic medicine and surgery.

(c) No corporation shall practice osteopathic medicine or surgery, or any of its branches, or hold itself out as being capable of doing so, without a certificate from the board; nor shall any corporation practice osteopathic medicine or surgery or any of its branches, or hold itself out as being capable of doing so, after its certificate has been revoked, or if suspended, during the term of such suspen-
sion. A certificate signed by the secretary of the board to
which is affixed the official seal of the board to the effect
that it appears from the records of the board that no such
certificate to practice osteopathic medicine or surgery or
any of its branches in the state has been issued to any such
corporation specified therein or that such certificate has
been revoked or suspended shall be admissible in evidence
in all courts of this state and shall be prima facie evidence
of the facts stated therein.

(d) Any officer, shareholder or employee of such corpora-
tion who participates in a violation of any provision of this
section shall be guilty of a misdemeanor, and, upon
conviction, shall be fined not exceeding one thousand
dollars.

§3-14-11. Refusal, suspension or revocation of license; suspension
or revocation of certificate of authorization.

(a) The board may either refuse to issue or may suspend or
revoke any license for any one or more of the following
causes:

(1) Conviction of a felony, as shown by a certified copy of
the record of the trial court;

(2) Conviction of a misdemeanor involving moral turpi-
tude;

(3) Violation of any provision of this article regulating
the practice of osteopathic physicians and surgeons;

(4) Fraud, misrepresentation or deceit in procuring or
attempting to procure admission to practice;

(5) Gross malpractice;

(6) Advertising by means of knowingly false or deceptive
statements;

(7) Advertising, practicing or attempting to practice
under a name other than one's own;

(8) Habitual drunkenness, or habitual addiction to the
use of morphine, cocaine or other habit-forming drugs.

(b) The board shall also have the power to suspend or
revoke for cause any certificate of authorization issued by it.
It shall have the power to reinstate any certificate of authorization suspended or revoked by it.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 14th day of March, 1973.

Governor
PRESENTED TO THE GOVERNOR

Date: 3/12/73
Time: 1:40 p.m.