

**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

115

## **ENROLLED**

# **Senate Bill No. 115**

(By Mr. Hamilton)

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

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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.**

1 The examination for a license to practice medicine and  
2 surgery as an osteopathic physician and surgeon shall be  
3 written and oral and shall cover all the essential branches  
4 of medicine and surgery including anatomy, physiology,  
5 chemistry, pharmacology, pathology, public health—preven-  
6 tive medicine, surgery, obstetrics and gynecology, osteo-  
7 pathic medicine, materia medica principles and practice of  
8 osteopathy; and this list of subjects may be expanded or  
9 regrouped at the discretion of the board.

10 The board shall issue certificates of license to all appli-  
11 cants who shall successfully pass the said examination and  
12 shall present evidence showing that they have served an  
13 internship in a hospital approved for intern training. The  
14 board shall also examine the application of any one or more  
15 osteopathic physicians or surgeons for the formation of an  
16 osteopathic medical corporation, filed pursuant to the pro-  
17 visions of section nine-a of this article, and issue a certi-  
18 ficate of authorization therefor to any applicant or applicants  
19 legally entitled to receive the same. The board shall also  
20 have authority to authorize osteopathic medical corpora-  
21 tions, in accordance with the provisions of sections nine-a

22 and nine-b of this article, to practice osteopathic medicine  
23 and surgery through duly licensed osteopathic physicians  
24 and surgeons.

25 The board shall have the power to certify and establish  
26 standards for employment of assistants to osteopathic physi-  
27 cians and surgeons.

28 No license shall be issued under the provisions of this  
29 section until the person applying therefor shall have paid  
30 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.**

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

12 If the board finds that the signer or all of the signers of  
13 such application are duly licensed, the board shall notify the  
14 secretary of state that a certificate of authorization has been  
15 issued to the individual or individuals signing such applica-  
16 tion.

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

**§30-14-9b. Same—Rights and limitations generally; biennial  
registration; fee; when practice to cease; admissi-  
bility and effect of certificate signed by board;  
penalty.**

1 (a) An osteopathic medical corporation may practice osteo-  
2 pathic medicine and surgery only through individual osteo-  
3 pathic physicians and surgeons duly licensed to practice  
4 osteopathic medicine or surgery in the state of West Virginia,  
5 but such osteopathic physicians and surgeons may be em-  
6 ployees rather than shareholders of such corporation, and  
7 nothing herein contained shall be construed to require a  
8 license for or other legal authorization of any individual  
9 employed by such corporation to perform services for which  
10 no license or other legal authorization is otherwise re-  
11 quired. Nothing contained in sections five and nine-a and  
12 this section of this article is meant or intended to change in  
13 any way the rights, duties, privileges, responsibilities and  
14 liabilities incident to the osteopathic physician-patient re-  
15 lationship nor is it meant or intended to change in any way  
16 the personal character of the osteopathic physician-patient  
17 relationship. A corporation holding such certificate of authori-  
18 zation shall register biennially, on or before the thirtieth  
19 day of June, on a form prescribed by the board, and shall  
20 pay an annual registration fee of fifty dollars.

21 (b) An osteopathic medical corporation holding a certifi-  
22 cate of authorization shall cease to engage in the practice of  
23 osteopathic medicine and surgery upon being notified by  
24 the board that any of its shareholders is no longer a duly  
25 licensed osteopathic physician or surgeon, or when any  
26 shares of such corporation have been sold or disposed of  
27 to a person who is not a duly licensed osteopathic physi-  
28 cian or surgeon: *Provided*, That the personal representative  
29 of a deceased shareholder shall have a period, not to  
30 exceed twelve months from the date of such shareholder's  
31 death, to dispose of such shares; but nothing contained here-  
32 in shall be construed as affecting the existence of such  
33 corporation or its right to continue to operate for all  
34 lawful purposes other than the practice of osteopathic  
35 medicine and surgery.

36 (c) No corporation shall practice osteopathic medicine  
37 or surgery, or any of its branches, or hold itself out as  
38 being capable of doing so, without a certificate from the  
39 board; nor shall any corporation practice osteopathic medi-  
40 cine or surgery or any of its branches, or hold itself out  
41 as being capable of doing so, after its certificate has been  
42 revoked, or if suspended, during the term of such suspen-

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43 sion. A certificate signed by the secretary of the board to  
44 which is affixed the official seal of the board to the effect  
45 that it appears from the records of the board that no such  
46 certificate to practice osteopathic medicine or surgery or  
47 any of its branches in the state has been issued to any such  
48 corporation specified therein or that such certificate has  
49 been revoked or suspended shall be admissible in evidence  
50 in all courts of this state and shall be prima facie evidence  
51 of the facts stated therein.

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

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

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

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

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

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

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

12 (5) Gross malpractice;

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

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

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

19 (b) The board shall also have the power to suspend or  
20 revoke for cause any certificate of authorization issued by it.

21 It shall have the power to reinstate any certificate of  
22 authorization suspended or revoked by it.

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

*W. Marshall Darby*  
.....  
Chairman Senate Committee

*James A. Christiani Jr.*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

*Howard W. Carson*  
.....  
Clerk of the Senate

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

*H. D. Brotherton*  
.....  
President of the Senate

*Louis R. Thomas*  
.....  
Speaker House of Delegates

The within *approved* ..... this the *14<sup>th</sup>*  
*March*  
day of ....., 1973.

*Richard Thomas Jr.*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/12/73

Time 1:40 p.m.