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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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ENROLLED

SENATE BILL NO. 100

(By Mr. Kuffman)

—•—

PASSED March 8 1984

In Effect ninty days from Passage



# ENROLLED

## Senate Bill No. 100

(By MR. KAUFMAN, BY REQUEST)

[Passed March 8, 1984; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the unauthorized practice of medicine, surgery and podiatry; penalties; setting forth exceptions; providing that the fitting or sale of prosthetic or orthotic devices, in accord with a prescription as required by this section, by duly certified practitioners and registered technicians in prosthetics and orthotics is exempted from medical licensure requirements; providing that any partnership, proprietorship or corporation employing such practitioners or technicians is exempted from medical licensure requirements; permitting such practitioners or technicians to make recommendations to certain specified persons; and excluding the services of a physician's assistant from the effect of this section.

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

That section thirteen, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

### **ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

#### **§30-3-13. Unauthorized practice of medicine and surgery and podiatry; criminal penalties; limitations.**

- 1 (a) A person shall not engage in the practice of medi-
- 2 cine and surgery or podiatry, hold himself out as qualified

3 to practice medicine and surgery or podiatry or use any  
4 title, word or abbreviation to indicate to or induce  
5 others to believe that he is licensed to practice medicine  
6 and surgery or podiatry in this state unless he is actually  
7 licensed under the provisions of this article. Any person  
8 who violates the provisions of this subsection is guilty of  
9 a misdemeanor, and, upon conviction thereof, shall be  
10 fined not more than ten thousand dollars, or imprisoned  
11 in the county jail not more than twelve months, or both  
12 fined and imprisoned.

13 (b) The provisions of this section do not apply to:

14 (1) Persons who are duly licensed health care providers  
15 under other pertinent provisions of this code and are  
16 acting within the scope of their license;

17 (2) Physicians or podiatrists licensed in other states or  
18 foreign countries who are acting in a consulting capac-  
19 ity with physicians or podiatrists duly licensed in this  
20 state, for a period of not more than three months;

21 (3) Persons holding licenses granted by another state  
22 or foreign country who are commissioned medical of-  
23 ficers of, a member of or employed by the armed forces  
24 of the United States, the United States public health ser-  
25 vice, the veterans' administration of the United States,  
26 any federal institution or any other federal agency while  
27 engaged in the performance of their official duties;

28 (4) Any person providing first-aid care in emergency  
29 situations;

30 (5) The practice of the religious tenets of any recog-  
31 nized church in the administration of assistance to the  
32 sick or suffering by mental or spiritual means;

33 (6) Visiting medical faculty engaged in teaching or  
34 research duties at a medical school or institution recog-  
35 nized by the board and who are in this state for periods  
36 of not more than six months: *Provided*, That such indi-  
37 viduals do not otherwise engage in the practice of medi-  
38 cine or podiatry outside of the auspices of their sponsor-  
39 ing institutions;

40 (7) Persons enrolled in a school of medicine approved  
41 by the liaison committee on medical education or by the

42 board, or persons enrolled in a school of podiatric medi-  
43 cine approved by the council of podiatry education or by  
44 the board, or engaged in graduate medical training in a  
45 program approved by the liaison committee on graduate  
46 medical education or the board who are performing func-  
47 tions in the course of training;

48 (8) The fitting, recommending or sale of corrective  
49 shoes, arch supports or similar mechanical appliances in  
50 commercial establishments; and

51 (9) The fitting or sale of a prosthetic or orthotic device  
52 not involving any surgical procedure, in accord with a pre-  
53 scription of a physician, osteopathic physician, or where  
54 chiropractors or podiatrists are authorized by law to pre-  
55 scribe such a prosthetic or orthotic device, in accord with  
56 a prescription of a chiropractor or podiatrist, by a practi-  
57 tioner or registered technician certified by the American  
58 Board for Certification of Orthotics and Prosthetics in  
59 either prosthetics or orthotics: *Provided*, That the sale of  
60 any such prosthetic or orthotic device by a partnership,  
61 proprietorship or corporation which employs such a prac-  
62 titioner or registered technician who fitted such prosthetic  
63 or orthotic device shall not constitute the unauthorized  
64 practice of medicine: *Provided, however*, That such prac-  
65 titioner or registered technician may, without a prescrip-  
66 tion, make recommendation solely to a physician or  
67 osteopathic physician or to a chiropractor or podiatrist  
68 otherwise authorized by law to prescribe a particular  
69 prosthetic or orthotic device, regarding any prosthetic  
70 or orthotic device to be used for a patient upon a request  
71 for such recommendation.

72 (c) This section shall not be construed as being in any  
73 way a limitation upon the services of a physician's as-  
74 sistant performed in accordance with the provisions of  
75 this article.

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

James L. Davis  
Chairman Senate Committee

Donald Anello  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Witten  
Clerk of the Senate

Donald L. Voss  
Clerk of the House of Delegates

Warren R. McBraw  
President of the Senate

W. M. See, Jr.  
Speaker House of Delegates

The within is approved this the 30  
day of March, 1984.

[Signature]  
Governor

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