WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994


ENROLLED

HOUSE BILL No. 2209

(By Delegates L. White, Riggs, Martin,
Everson, Bennett and Gallagher)

Passed March 12, 1994

In Effect 90 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 unauthorized practice of medicine and surgery, podiatry or physicians assistants; criminal penalties; providing for use of computers or other electronic devices to order and obtain laboratory tests, medications and other patient orders; providing for use of electronic signature or unique electronic identification to effectively sign computer or electronically transmitted materials which require signature as part of authorized medical practice; and relating to limitations on practice.

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 or podiatry; criminal penalties; limitations.

1 (a) A person shall not engage in the practice of medicine and surgery or podiatry, hold himself or herself out as qualified to practice medicine and surgery or podiatry or use any title, word or abbreviation to indicate to or induce others to believe that he or she is licensed to practice medicine and surgery or podiatry in
this state unless he or she is actually licensed under the provisions of this article. No person may practice as a physician's assistant, hold himself or herself out as qualified to practice as a physician's assistant, or use any title, word or abbreviation to indicate to or induce others to believe that he or she is licensed to practice as a physician's assistant in this state unless he or she is actually licensed under the provisions of this article. Any person who violates the provisions of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than ten thousand dollars, or imprisoned in the county jail not more than twelve months, or both fined and imprisoned.

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

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

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

(3) Persons holding licenses granted by another state or foreign country who are commissioned medical officers of, a member of or employed by the armed forces of the United States, the United States public health service, the veterans' administration of the United States, any federal institution or any other federal agency while engaged in the performance of their official duties;

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

(5) The practice of the religious tenets of any recognized church in the administration of assistance to the sick or suffering by mental or spiritual means;

(6) Visiting medical faculty engaged in teaching or research duties at a medical school or institution recognized by the board and who are in this state for periods of not more than six months: Provided, That the individuals do not otherwise engage in the practice of
medicine or podiatry outside of the auspices of their
sponsoring institutions;

(7) Persons enrolled in a school of medicine approved
by the liaison committee on medical education or by the
board, or persons enrolled in a school of podiatric
medicine approved by the council of podiatry education
or by the board, or persons enrolled in an undergraduate
or graduate physician assistant program approved by
the committee on allied health education and accredita-
tion or its successor on behalf of the American Medical
Association or by the board, or persons engaged in
graduate medical training in a program approved by
the liaison committee on graduate medical education or
the board, or engaged in graduate podiatric training in
a program approved by the council on podiatric medical
education or by the board, who are performing functions
in the course of training including with respect to
functions performed by medical residents or medical
students under the supervision of a licensed physician,
ordering and obtaining laboratory tests, medications
and other patient orders by computer or other electronic
means and no other provision of this code to the contrary
may be construed to prohibit or limit medical residents’
or medical students’ use of computers or other electronic
devices in this manner;

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

(9) The fitting or sale of a prosthetic or orthotic device
not involving any surgical procedure, in accord with a
prescription of a physician, osteopathic physician, or
where chiropractors or podiatrists are authorized by law
to prescribe such a prosthetic or orthotic device, in
accord with a prescription of a chiropractor or podia-
trist, by a practitioner or registered technician certified
by the American Board for Certification of Orthotics
and Prosthetics in either prosthetics or orthotics:
Provided, That the sale of any prosthetic or orthotic
device by a partnership, proprietorship or corporation
which employs such a practitioner or registered techni-
cian who fitted the prosthetic or orthotic device shall not
87 constitute the unauthorized practice of medicine:
88 Provided, however, That the practitioner or registered
89 technician may, without a prescription, make recom-
90 mendation solely to a physician or osteopathic physician
91 or to a chiropractor or podiatrist otherwise authorized
92 by law to prescribe a particular prosthetic or orthotic
93 device, regarding any prosthetic or orthotic device to be
94 used for a patient upon a request for such
95 recommendation.
96 (c) This section shall not be construed as being in any
97 way a limitation upon the services of a physician's
98 assistant performed in accordance with the provisions of
99 this article.
100 (d) Persons covered under this article may be permit-
101 ted to utilize electronic signature or unique electronic
102 identification to effectively sign materials, transmitted
103 by computer or other electronic means, upon which
104 signature is required for the purpose of authorized
105 medical practice. Such signatures are deemed legal and
106 valid for purposes related to the provision of medical
107 services. This subsection does not confer any new
108 practice privilege or right on any persons covered under
109 this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of March, 1994.

Governor