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SB 3003

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
3rd Extraordinary Session, 2004



ENROLLED

Committee Substitute For

SENATE BILL NO. 3003

*(By Senators Tomblin, Mr. President, and Sprouse)
By Request of the Executive)*



PASSED November 16, 2004

In Effect from Passage

FILED

2004 DEC -2 P 4: 38

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 3003

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed November 16, 2004; in effect from passage.]

AN ACT to amend and reenact §30-3-10 of the code of West Virginia, 1931, as amended, relating to granting the board of medicine flexibility under special circumstances to issue a license to applicants who otherwise do not meet the requirement of the article; allowing granting of licensure where there are purely technical, nonmaterial errors or omissions in the application process; setting forth criteria for issuance of licenses in extraordinary circumstances; requiring that those issued licenses under extraordinary circumstances have substantially equivalent credentials; requiring a three-fourths vote for issuance of an extraordinary circumstances license; requiring reporting to president of the Senate and speaker of the House of Delegates of board's decision; application for extraordinary circumstances applications; and establishing first day of July, two thousand five, as the

cut-off date for applying for extraordinary circumstances licensure.

Be it enacted by the Legislature of West Virginia:

That §30-3-10 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-10. Licenses to practice medicine and surgery or podiatry.

1 (a) The board shall issue a license to practice medicine
2 and surgery or to practice podiatry to any individual who
3 is qualified to do so in accordance with the provisions of
4 this article.

5 (b) For an individual to be licensed to practice medicine
6 and surgery in this state, he or she must meet the following
7 requirements:

8 (1) He or she shall submit an application to the board on
9 a form provided by the board and remit to the board a
10 reasonable examination fee, the amount of the reasonable
11 fee to be set by the board. The application must, as a
12 minimum, require a sworn and notarized statement that
13 the applicant is of good moral character and that he or she
14 is physically and mentally capable of engaging in the
15 practice of medicine and surgery;

16 (2) He or she must provide evidence of graduation and
17 receipt of the degree of doctor of medicine or its equivalent
18 from a school of medicine, which is approved by the
19 liaison committee on medical education or by the board;

20 (3) He or she must submit evidence to the board of
21 having successfully completed a minimum of one year of
22 graduate clinical training in a program approved by the
23 accreditation council for graduate medical education; and

24 (4) He or she must pass an examination approved by the
25 board, which examination can be related to a national
26 standard. The examination shall be in the English lan-

27 guage and be designed to ascertain an applicant's fitness
28 to practice medicine and surgery. The board shall before
29 the date of examination determine what will constitute a
30 passing score: *Provided*, That the board, or a majority of
31 it, may accept in lieu of an examination of applicants the
32 certificate of the national board of medical examiners:
33 *Provided, however*, That the board is authorized to enter
34 into reciprocity agreements with medical licensing author-
35 ities in other states, the District of Columbia, Canada or
36 the Commonwealth of Puerto Rico and, for an applicant
37 who: (i) Is currently fully licensed, excluding any tempo-
38 rary, conditional or restricted license or permit, under the
39 laws of another state or jurisdiction having reciprocity; (ii)
40 has been engaged on a full-time professional basis in the
41 practice of medicine within that state or jurisdiction for a
42 period of at least five years; and (iii) is not the subject of
43 any pending disciplinary action by a medical licensing
44 board and has not been the subject of professional disci-
45 pline by a medical licensing board in any jurisdiction, the
46 board may permit licensure in this state by reciprocity. If
47 an applicant fails to pass the examination on two occa-
48 sions, he or she shall successfully complete a course of
49 study or training, as approved by the board, designed to
50 improve his or her ability to engage in the practice of
51 medicine and surgery before being eligible for reexamina-
52 tion: *Provided further*, That an applicant is required to
53 attain a passing score on all components or steps of the
54 examination within a period of seven consecutive years:
55 *And provided further*, That the board may, in its discre-
56 tion, extend this period of seven consecutive years for up
57 to three additional years for any medical student enrolled
58 in a dual MD-PhD program. The board need not reject a
59 candidate for a nonmaterial technical or administrative
60 error or omission in the application process that is unre-
61 lated to the candidate's professional qualifications as long
62 as there is sufficient information available to the board to
63 determine the eligibility of the candidate for licensure.

64 (c) In addition to the requirements of subsection (b) of
65 this section, any individual who has received the degree of
66 doctor of medicine or its equivalent from a school of
67 medicine located outside of the United States, the Com-
68 monwealth of Puerto Rico and Canada to be licensed to
69 practice medicine in this state must also meet the follow-
70 ing additional requirements and limitations:

71 (1) He or she must be able to demonstrate to the satisfac-
72 tion of the board his or her ability to communicate in the
73 English language;

74 (2) Before taking a licensure examination, he or she must
75 have fulfilled the requirements of the educational commis-
76 sion for foreign medical graduates for certification, or he
77 or she must provide evidence of receipt of a passing score
78 on the examination of the educational commission for
79 foreign medical graduates: *Provided*, That an applicant
80 who: (i) Is currently fully licensed, excluding any tempo-
81 rary, conditional or restricted license or permit, under the
82 laws of another state, the District of Columbia, Canada or
83 the Commonwealth of Puerto Rico; (ii) has been engaged
84 on a full-time professional basis in the practice of medi-
85 cine within the state or jurisdiction where the applicant is
86 fully licensed for a period of at least five years; and (iii) is
87 not the subject of any pending disciplinary action by a
88 medical licensing board and has not been the subject of
89 professional discipline by a medical licensing board in any
90 jurisdiction is not required to have a certificate from the
91 educational commission for foreign medical graduates;

92 (3) He or she must submit evidence to the board of either:
93 (i) Having successfully completed a minimum of two years
94 of graduate clinical training in a program approved by the
95 accreditation council for graduate medical education; or
96 (ii) current certification by a member board of the Amer-
97 ican board of medical specialties.

98 (d) For an individual to be licensed to practice podiatry
99 in this state, he or she must meet the following requirements:

100 (1) He or she shall submit an application to the board on
101 a form provided by the board and remit to the board a
102 reasonable examination fee, the amount of the reasonable
103 fee to be set by the board. The application must, as a
104 minimum, require a sworn and notarized statement that
105 the applicant is of good moral character and that he or she
106 is physically and mentally capable of engaging in the
107 practice of podiatric medicine;

108 (2) He or she must provide evidence of graduation and
109 receipt of the degree of doctor of podiatric medicine and
110 its equivalent from a school of podiatric medicine which is
111 approved by the council of podiatry education or by the
112 board;

113 (3) He or she must pass an examination approved by the
114 board, which examination can be related to a national
115 standard. The examination shall be in the English lan-
116 guage and be designed to ascertain an applicant's fitness
117 to practice podiatric medicine. The board shall before the
118 date of examination determine what will constitute a
119 passing score. If an applicant fails to pass the examination
120 on two occasions, he or she shall successfully complete a
121 course of study or training, as approved by the board,
122 designed to improve his or her ability to engage in the
123 practice of podiatric medicine, before being eligible for
124 reexamination: *Provided*, That an applicant is required to
125 attain a passing score on all components or steps of the
126 examination within a period of seven consecutive years;
127 and

128 (4) He or she must submit evidence to the board of
129 having successfully completed a minimum of one year of
130 graduate clinical training in a program approved by the
131 council on podiatric medical education or the colleges of
132 podiatric medicine. The board may consider a minimum
133 of two years of graduate podiatric clinical training in the

134 U. S. armed forces or three years' private podiatric clinical
135 experience in lieu of this requirement.

136 (e) Notwithstanding any of the foregoing, the board may
137 grant licenses to an applicant in extraordinary circum-
138 stances under the following conditions:

139 (1) Upon a finding by the board that based on the appli-
140 cant's exceptional education, training and practice creden-
141 tials, the applicant's practice in the state would be benefi-
142 cial to the public welfare;

143 (2) Upon a finding by the board that the applicant's
144 education, training and practice credentials are substan-
145 tially equivalent to the requirements of licensure estab-
146 lished in this article;

147 (3) That a license granted under these extraordinary
148 circumstances is approved by a vote of three fourths of the
149 members of the board;

150 (4) That orders denying applications for a license under
151 this subsection are not appealable;

152 (5) That the board report to the president of the Senate
153 and the speaker of the House of Delegates all decisions
154 made pursuant to this subsection and the reasons for those
155 decisions; and

156 (6) That the provisions of this subsection exist until the
157 first day of July, two thousand five, unless sooner termi-
158 nated, continued or reestablished by an act of the Legisla-
159 ture.

160 (f) All licenses to practice medicine and surgery granted
161 prior to the first day of July, one thousand nine hundred
162 ninety-one, and valid on that date shall continue in full
163 effect for the term and under the conditions provided by
164 law at the time of the granting of the license: *Provided,*
165 That the provisions of subsection (d) of this section do not
166 apply to any person legally entitled to practice chiropody
167 or podiatry in this state prior to the eleventh day of June,

168 one thousand nine hundred sixty-five: *Provided, however,*
169 That all persons licensed to practice chiropody prior to the
170 eleventh day of June, one thousand nine hundred
171 sixty-five, shall be permitted to use the term “chirop-
172 ody-podiatry” and shall have the rights, privileges and
173 responsibilities of a podiatrist set out in this article.

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

Larry W. ...
.....
Chairman Senate Committee

Sharon Spencer
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Parrell ...
.....
Clerk of the Senate

Bryon M. ...
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert ...
.....
Speaker House of Delegates

The within *is approved* this the *2nd* Day of *December*, 2004.

Bob Wise
.....
Governor

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DATE
TIME

TO
GVERNOR
11/19/04
4:20 pm