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
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.]

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.

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

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

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

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

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

(4) He or she must pass an examination approved by the board, which examination can be related to a national standard. The examination shall be in the English lan-
guage and be designed to ascertain an applicant's fitness
to practice medicine and surgery. The board shall before
the date of examination determine what will constitute a
passing score: Provided, That the board, or a majority of
it, may accept in lieu of an examination of applicants the
certificate of the national board of medical examiners:
Provided, however, That the board is authorized to enter
into reciprocity agreements with medical licensing author-
ities in other states, the District of Columbia, Canada or
the Commonwealth of Puerto Rico and, for an applicant
who: (i) Is currently fully licensed, excluding any tempo-
rary, conditional or restricted license or permit, under the
laws of another state or jurisdiction having reciprocity; (ii)
has been engaged on a full-time professional basis in the
practice of medicine within that state or jurisdiction for a
period of at least five years; and (iii) is not the subject of
any pending disciplinary action by a medical licensing
board and has not been the subject of professional disci-
pline by a medical licensing board in any jurisdiction, the
board may permit licensure in this state by reciprocity. If
an applicant fails to pass the examination on two occa-
sions, he or she shall successfully complete a course of
study or training, as approved by the board, designed to
improve his or her ability to engage in the practice of
medicine and surgery before being eligible for reexamina-
tion: Provided further, That an applicant is required to
attain a passing score on all components or steps of the
examination within a period of seven consecutive years:
And provided further, That the board may, in its discre-
tion, extend this period of seven consecutive years for up
to three additional years for any medical student enrolled
in a dual MD-PhD program. The board need not reject a
candidate for a nonmaterial technical or administrative
error or omission in the application process that is unre-
lated to the candidate's professional qualifications as long
as there is sufficient information available to the board to
determine the eligibility of the candidate for licensure.
(c) In addition to the requirements of subsection (b) of this section, any individual who has received the degree of doctor of medicine or its equivalent from a school of medicine located outside of the United States, the Commonwealth of Puerto Rico and Canada to be licensed to practice medicine in this state must also meet the following additional requirements and limitations:

1. He or she must be able to demonstrate to the satisfaction of the board his or her ability to communicate in the English language;

2. Before taking a licensure examination, he or she must have fulfilled the requirements of the educational commission for foreign medical graduates for certification, or he or she must provide evidence of receipt of a passing score on the examination of the educational commission for foreign medical graduates: Provided, That an applicant who: (i) Is currently fully licensed, excluding any temporary, conditional or restricted license or permit, under the laws of another state, the District of Columbia, Canada or the Commonwealth of Puerto Rico; (ii) has been engaged on a full-time professional basis in the practice of medicine within the state or jurisdiction where the applicant is fully licensed for a period of at least five years; and (iii) is not the subject of any pending disciplinary action by a medical licensing board and has not been the subject of professional discipline by a medical licensing board in any jurisdiction is not required to have a certificate from the educational commission for foreign medical graduates;

3. He or she must submit evidence to the board of either: (i) Having successfully completed a minimum of two years of graduate clinical training in a program approved by the accreditation council for graduate medical education; or (ii) current certification by a member board of the American board of medical specialties.
(d) For an individual to be licensed to practice podiatry in this state, he or she must meet the following requirements:

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

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

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

(4) He or she must submit evidence to the board of having successfully completed a minimum of one year of graduate clinical training in a program approved by the council on podiatric medical education or the colleges of podiatric medicine. The board may consider a minimum of two years of graduate podiatric clinical training in the
U.S. armed forces or three years' private podiatric clinical experience in lieu of this requirement.

(e) Notwithstanding any of the foregoing, the board may grant licenses to an applicant in extraordinary circumstances under the following conditions:

(1) Upon a finding by the board that based on the applicant's exceptional education, training and practice credentials, the applicant's practice in the state would be beneficial to the public welfare;

(2) Upon a finding by the board that the applicant's education, training and practice credentials are substantially equivalent to the requirements of licensure established in this article;

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

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

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

(6) That the provisions of this subsection exist until the first day of July, two thousand five, unless sooner terminated, continued or reestablished by an act of the Legislature.

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

That all persons licensed to practice chiropody prior to the eleventh day of June, one thousand nine hundred sixty-five, shall be permitted to use the term "chiropody-podiatry" and shall have the rights, privileges and responsibilities of a podiatrist set out in this article.
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.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor