STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

Senate Bill No. 317

(By Senators Jenkins, Stollings, Bowman, Prezioso, Plymale and McKenzie)

[Passed March 6, 2008; in effect ninety days from passage.]
AN ACT to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating to licenses to practice medicine and surgery or podiatry; clarifying the licensing provisions; removing the reciprocity provision; authorizing ten years for an applicant to pass the licensing examination; requiring an applicant who fails the licensing examination three times to appear before the board; establishing the requirements for a restricted license in extraordinary circumstances; and authorizing rule-making authority for a restricted license.

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 and surgery or to practice podiatry to any individual who is qualified to do so in accordance with the provisions of this article.

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

3. (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 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;

4. (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;

5. (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
(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 language 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 an applicant is required to** attain a passing score on all components or steps of the
examination within a period of ten consecutive years:
**Provided further, That an applicant who has failed to** successfully complete and pass any one of the three
steps of the United States medical licensing
eexamination (USMLE) in three attempts is required to
appear before the board for a determination by the
board, in its discretion, as to what, if any, further
education, evaluation and training is required for
further consideration of licensure. The board need not
reject a candidate for a nonmaterial technical or
administrative error or omission in the application
process that is unrelated 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
60 limitations:

61 (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;

64 (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;

84 (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.

91 (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 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 or 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: Provided, That an applicant is required to attain a passing score on all components or steps of the examination within a period of ten consecutive years: Provided, however, That an applicant who has failed to successfully complete and pass any one of the three steps of the National Board of Podiatric Medical Examiners examination in three attempts shall be required to appear before the board for a determination by the board, in its discretion, as to what, if any, further education, evaluation and/or training is required for further consideration of licensure; 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 provisions of this
article, the board may issue a restricted license 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) Upon a finding by the board that the applicant
received his or her post-graduate medical training
outside of the United States and its territories;

(4) That the restricted license issued under
extraordinary circumstances is approved by a vote of
three fourths of the members of the board;

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

(6) 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.

(f) The board shall propose rules for legislative
approval in accordance with the provisions of article
three, chapter twenty-nine-a of this code, that establish
and regulate the restricted license issued to an
applicant in extraordinary circumstances pursuant to
the provisions of this section.

(g) All licenses to practice medicine and surgery
granted prior to the first day of July, two thousand
eight, 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.

(h) The board may not issue a license to a person not
previously licensed in West Virginia whose license has
been revoked or suspended in another state until
reinstatement of his or her license in that state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures and titles]

Originated in the Senate.

In effect ninety days from passage.

[Signatures and titles]

The within is approved this 28th Day of March, 2008.

[Signature]