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OFFICE OF THE SECRETARY OF STATE

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.]

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CLARENCE M. WEAVER
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(BY SENATORS JENKINS, STOLLINGS, BOWMAN, PREZIOSO,
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[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
2 and surgery or to practice podiatry to any individual
3 who is qualified to do so in accordance with the
4 provisions of this article.

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

8 (1) He or she shall submit an application to the board
9 on a form provided by the board and remit to the board
10 a reasonable fee, the amount of the reasonable fee to be
11 set by the board. The application must, as a minimum,
12 require a sworn and notarized statement that the
13 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
18 equivalent from a school of medicine, which is
19 approved by the liaison committee on medical
20 education or by the board;

21 (3) He or she must submit evidence to the board of
22 having successfully completed a minimum of one year
23 of graduate clinical training in a program approved by
24 the Accreditation Council for Graduate Medical

25 Education; and

26 (4) He or she must pass an examination approved by
27 the board, which examination can be related to a
28 national standard. The examination shall be in the
29 English language and be designed to ascertain an
30 applicant's fitness to practice medicine and surgery.
31 The board shall before the date of examination
32 determine what will constitute a passing score:
33 *Provided*, That the board, or a majority of it, may
34 accept in lieu of an examination of applicants the
35 certificate of the National Board of Medical Examiners:
36 *Provided, however*, That an applicant is required to
37 attain a passing score on all components or steps of the
38 examination within a period of ten consecutive years:
39 *Provided further*, That an applicant who has failed to
40 successfully complete and pass any one of the three
41 steps of the United States medical licensing
42 examination (USMLE) in three attempts is required to
43 appear before the board for a determination by the
44 board, in its discretion, as to what, if any, further
45 education, evaluation and training is required for
46 further consideration of licensure. The board need not
47 reject a candidate for a nonmaterial technical or
48 administrative error or omission in the application
49 process that is unrelated to the candidate's professional
50 qualifications as long as there is sufficient information
51 available to the board to determine the eligibility of the
52 candidate for licensure.

53 (c) In addition to the requirements of subsection (b) of
54 this section, any individual who has received the degree
55 of doctor of medicine or its equivalent from a school of
56 medicine located outside of the United States, the
57 Commonwealth of Puerto Rico and Canada to be
58 licensed to practice medicine in this state must also
59 meet the following additional requirements and

60 limitations:

61 (1) He or she must be able to demonstrate to the
62 satisfaction of the board his or her ability to
63 communicate in the English language;

64 (2) Before taking a licensure examination, he or she
65 must have fulfilled the requirements of the Educational
66 Commission for Foreign Medical Graduates for
67 certification or he or she must provide evidence of
68 receipt of a passing score on the examination of the
69 Educational Commission for Foreign Medical
70 Graduates: *Provided*, That an applicant who: (i) Is
71 currently fully licensed, excluding any temporary,
72 conditional or restricted license or permit, under the
73 laws of another state, the District of Columbia, Canada
74 or the Commonwealth of Puerto Rico; (ii) has been
75 engaged on a full-time professional basis in the practice
76 of medicine within the state or jurisdiction where the
77 applicant is fully licensed for a period of at least five
78 years; and (iii) is not the subject of any pending
79 disciplinary action by a medical licensing board and
80 has not been the subject of professional discipline by a
81 medical licensing board in any jurisdiction is not
82 required to have a certificate from the Educational
83 Commission for Foreign Medical Graduates;

84 (3) He or she must submit evidence to the board of
85 either: (i) Having successfully completed a minimum of
86 two years of graduate clinical training in a program
87 approved by the Accreditation Council for Graduate
88 Medical Education; or (ii) current certification by a
89 member board of the American Board of Medical
90 Specialties.

91 (d) For an individual to be licensed to practice
92 podiatry in this state, he or she must meet the following

93 requirements:

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

102 (2) He or she must provide evidence of graduation and
103 receipt of the degree of doctor of podiatric medicine or
104 its equivalent from a school of podiatric medicine
105 which is approved by the Council of Podiatry
106 Education or by the board;

107 (3) He or she must pass an examination approved by
108 the board, which examination can be related to a
109 national standard. The examination shall be in the
110 English language and be designed to ascertain an
111 applicant's fitness to practice podiatric medicine. The
112 board shall before the date of examination determine
113 what will constitute a passing score: *Provided*, That an
114 applicant is required to attain a passing score on all
115 components or steps of the examination within a period
116 of ten consecutive years: *Provided, however*, That an
117 applicant who has failed to successfully complete and
118 pass any one of the three steps of the National Board of
119 Podiatric Medical Examiners examination in three
120 attempts shall be required to appear before the board
121 for a determination by the board, in its discretion, as to
122 what, if any, further education, evaluation and/or
123 training is required for further consideration of
124 licensure; and

125 (4) He or she must submit evidence to the board of

126 having successfully completed a minimum of one year
127 of graduate clinical training in a program approved by
128 the Council on Podiatric Medical Education or the
129 Colleges of Podiatric Medicine. The board may
130 consider a minimum of two years of graduate podiatric
131 clinical training in the U. S. armed forces or three
132 years' private podiatric clinical experience in lieu of
133 this requirement.

134 (e) Notwithstanding any of the provisions of this
135 article, the board may issue a restricted license to an
136 applicant in extraordinary circumstances under the
137 following conditions:

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

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

146 (3) Upon a finding by the board that the applicant
147 received his or her post-graduate medical training
148 outside of the United States and its territories;

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

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


154 (6) That the board report to the President of the
155 Senate and the Speaker of the House of Delegates all

156 decisions made pursuant to this subsection and the
157 reasons for those decisions.

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

164 (g) All licenses to practice medicine and surgery
165 granted prior to the first day of July, two thousand
166 eight, and valid on that date shall continue in full effect
167 for the term and under the conditions provided by law
168 at the time of the granting of the license: *Provided*, That
169 the provisions of subsection (d) of this section do not
170 apply to any person legally entitled to practice
171 chiropody or podiatry in this state prior to the eleventh
172 day of June, one thousand nine hundred sixty-five:
173 *Provided, however*, That all persons licensed to practice
174 chiropody prior to the eleventh day of June, one
175 thousand nine hundred sixty-five, shall be permitted to
176 use the term "chiropody-podiatry" and shall have the
177 rights, privileges and responsibilities of a podiatrist set
178 out in this article.

179 (h) The board may not issue a license to a person not
180 previously licensed in West Virginia whose license has
181 been revoked or suspended in another state until
182 reinstatement of his or her license in that state.



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

Randy White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Rareed E. White
.....
Clerk of the Senate

Bryce M. Smith
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

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

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 14 2008

Time 11:25 AM