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**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-NINTH LEGISLATURE**  
**REGULAR SESSION, 2010**

OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

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**ENROLLED**

**Senate Bill No. 372**

(BY SENATORS STOLLINGS, JENKINS,  
UNGER, FOSTER AND EDGELL)

[Passed March 13, 2010; in effect ninety days from passage.]

SB 372

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**Senate Bill No. 372**

(BY SENATORS STOLLINGS, JENKINS, UNGER, FOSTER AND EDGELL)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to repeal §30-3-18 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-3-2, §30-3-4, §30-3-5, §30-3-6 and §30-3-8 of said code, all relating to the Board of Medicine; providing definitions and current terminology; and removing outdated language.

*Be it enacted by the Legislature of West Virginia:*

That §30-3-18 of the Code of West Virginia, 1931, as amended, be repealed; and that §30-3-2, §30-3-4, §30-3-5, §3-3-6 and §30-3-8 of said code be amended and reenacted, all to read as follows:

**ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

**§30-3-2. Purpose.**

1 The purpose of this article is to provide for the licensure  
2 and professional discipline of physicians and podiatrists  
3 and for the licensure and professional discipline of physi-  
4 cian assistants and to provide a professional environment  
5 that encourages the delivery of quality medical services  
6 within this state.

**§30-3-4. Definitions.**

1 As used in this article:

2 (1) "Board" means the West Virginia Board of Medicine  
3 established in section five of this article.

4 (2) "Medical peer review committee" means a committee  
5 of, or appointed by, a state or local professional medical  
6 society, or a committee of, or appointed by, a medical staff  
7 of a licensed hospital, long-term care facility or other  
8 health care facility, or any health care peer review organi-  
9 zation as defined in section one, article three-c of this  
10 chapter, or any other organization of professionals in this  
11 state formed pursuant to state or federal law and autho-  
12 rized to evaluate medical and health care services.

13 (3) "Practice of medicine and surgery" means the  
14 diagnosis or treatment of, or operation or prescription for,  
15 any human disease, pain, injury, deformity or other  
16 physical or mental condition. "Surgery" includes the use  
17 on humans of lasers, ionizing radiation, pulsed light and  
18 radiofrequency devices. The provisions of this section do  
19 not apply to any person who is a duly licensed health care  
20 provider under other pertinent provisions of this code and  
21 who is acting within the scope of his or her license.

22 (4) "Practice of podiatry" means the examination,  
23 diagnosis, treatment, prevention and care of conditions  
24 and functions of the human foot and ankle by medical,  
25 surgical and other scientific knowledge and methods; with  
26 surgical treatment of the ankle authorized only when a  
27 podiatrist has been granted privileges to perform ankle  
28 surgery by a hospital's medical staff credentialing com-  
29 mittee based on the training and experience of the podia-  
30 trist; and medical and surgical treatment of warts and  
31 other dermatological lesions of the hand which similarly  
32 occur in the foot. When a podiatrist uses other than local  
33 anesthesia, in surgical treatment of the foot, the anesthesia

34 must be administered by, or under the direction of, an  
35 anesthesiologist or certified registered nurse anesthetist  
36 authorized under the State of West Virginia to administer  
37 anesthesia. A medical evaluation shall be made by a  
38 physician of every patient prior to the administration of  
39 other than local anesthesia.

40 (5) "State health officer" means the commissioner for  
41 the Bureau for Public Health or his or her designee, which  
42 officer or designee shall be a physician and shall act as  
43 secretary of the board and shall carry out any and all  
44 responsibilities assigned in this article to the secretary of  
45 the board.

**§30-3-5. West Virginia Board of Medicine powers and duties  
continued; appointment and terms of members;  
vacancies; removal.**

1 The West Virginia Board of Medicine has assumed,  
2 carried on and succeeded to all the duties, rights, powers,  
3 obligations and liabilities heretofore belonging to or  
4 exercised by the Medical Licensing Board of West Vir-  
5 ginia. All the rules, orders, rulings, licenses, certificates,  
6 permits and other acts and undertakings of the medical  
7 licensing board of West Virginia as heretofore constituted  
8 have continued as those of the West Virginia Board of  
9 Medicine until they expired or were amended, altered or  
10 revoked. The board remains the sole authority for the  
11 issuance of licenses to practice medicine and surgery and  
12 to practice podiatry and to practice as physician assistants  
13 in this state under the supervision of physicians licensed  
14 under this article. The board shall continue to be a  
15 regulatory and disciplinary body for the practice of  
16 medicine and surgery and the practice of podiatry and for  
17 physician assistants in this state.

18 The board shall consist of fifteen members. One member  
19 shall be the state health officer ex officio, with the right to  
20 vote as a member of the board. The other fourteen mem-

21 bers shall be appointed by the Governor, with the advice  
22 and consent of the Senate. Eight of the members shall be  
23 appointed from among individuals holding the degree of  
24 doctor of medicine and two shall hold the degree of doctor  
25 of podiatric medicine. One member shall be an individual  
26 licensed by the board as a physician assistant. Each of  
27 these members must be duly licensed to practice his or her  
28 profession in this state on the date of appointment and  
29 must have been licensed and actively practicing that  
30 profession for at least five years immediately preceding  
31 the date of appointment. Three lay members shall be  
32 appointed to represent health care consumers. Neither the  
33 lay members nor any person of the lay members' immedi-  
34 ate families shall be a provider of or be employed by a  
35 provider of health care services. The state health officer's  
36 term shall continue for the period that he or she holds  
37 office as state health officer. Each other member of the  
38 board shall be appointed to serve a term of five years:  
39 *Provided*, That the members of the Board of Medicine  
40 holding appointments on the effective date of this section  
41 shall continue to serve as members of the Board of Medi-  
42 cine until the expiration of their term unless sooner  
43 removed. Each term shall begin on October 1 of the  
44 applicable year, and a member may not be appointed to  
45 more than two consecutive full terms on the board.

46 A person is not eligible for membership on the board  
47 who is a member of any political party executive commit-  
48 tee or, with the exception of the state health officer, who  
49 holds any public office or public employment under the  
50 federal government or under the government of this state  
51 or any political subdivision thereof.

52 In making appointments to the board, the Governor  
53 shall, so far as practicable, select the members from  
54 different geographical sections of the state. When a  
55 vacancy on the board occurs and less than one year  
56 remains in the unexpired term, the appointee shall be

57 eligible to serve the remainder of the unexpired term and  
58 two consecutive full terms on the board.

59 No member may be removed from office by the Governor  
60 except for official misconduct, incompetence, neglect of  
61 duty or gross immorality: *Provided*, That the expiration,  
62 surrender or revocation of the professional license by the  
63 board of a member of the board shall cause the member-  
64 ship to immediately and automatically terminate.

**§30-3-6. Conduct of business of West Virginia Board of Medi-  
cine; meetings; officers; compensation; expenses;  
quorum.**

1 Every two years the board shall elect from among its  
2 members a president and vice president. Regular meetings  
3 shall be held as scheduled by the rules of the board.  
4 Special meetings of the board may be called by the joint  
5 action of the president and vice president or by any three  
6 members of the board on seven days' prior written notice  
7 by mail postage prepaid or electronic means or, in case of  
8 emergency, on two days' notice by telephone and elec-  
9 tronic means. With the exception of the state health  
10 officer, members of the board shall receive compensation  
11 and expense reimbursement in accordance with section  
12 eleven, article one of this chapter.

13 A majority of the membership of the board constitutes a  
14 quorum for the transaction of business, and business is  
15 transacted by a majority vote of a quorum, except for  
16 disciplinary actions which shall require the affirmative  
17 vote of not less than five members or a majority vote of  
18 those present, whichever is greater.

19 Meetings of the board shall be held in public session.  
20 Disciplinary proceedings, prior to a finding of probable  
21 cause as provided in subsection (p), section fourteen of this  
22 article, shall be held in closed sessions, unless the party  
23 subject to discipline requests that the proceedings be held  
24 in public session.

**§30-3-8. State health officer to act as secretary of the board.**

1 The state health officer, in addition to being a member  
2 of the board, shall act as its secretary. He or she shall,  
3 together with the president of the board, sign all licenses,  
4 reports, orders and other documents that may be required  
5 by the board in the performance of its duties.

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

*[Handwritten Signature]*

.....  
Chairman Senate Committee

*[Handwritten Signature]*

.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Handwritten Signature]*

.....  
Clerk of the Senate

*[Handwritten Signature]*

.....  
Clerk of the House of Delegates

*[Handwritten Signature]*

.....  
President of the Senate

*[Handwritten Signature]*

.....  
Speaker House of Delegates

The within *is approved* ..... this the *24th*  
*Main*  
Day of ..... , 2010.

*[Handwritten Signature]*

.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 23 2010

Time 11:40am