WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

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of said code, all relating to the Board of Medicine; providing definitions and current terminology; and removing outdated language.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That §30-3-18 of the Code of West Virginia, 1931, as amended, be repealed; and that §30-3-2, §30-3-4, §30-3-5, §30-3-6 and §30-3-8 of said code be amended and reenacted, all to read as follows: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 and professional discipline of physicians and podiatrists and for the licensure and professional discipline of physician assistants and to provide a professional environment that encourages the delivery of quality medical services 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
must be administered by, or under the direction of, an anesthesiologist or certified registered nurse anesthetist authorized under the State of West Virginia to administer anesthesia. A medical evaluation shall be made by a physician of every patient prior to the administration of other than local anesthesia.

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

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

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

The board shall consist of fifteen members. One member shall be the state health officer ex officio, with the right to vote as a member of the board. The other fourteen mem-
bers shall be appointed by the Governor, with the advice
and consent of the Senate. Eight of the members shall be
appointed from among individuals holding the degree of
doctor of medicine and two shall hold the degree of doctor
of podiatric medicine. One member shall be an individual
licensed by the board as a physician assistant. Each of
these members must be duly licensed to practice his or her
profession in this state on the date of appointment and
must have been licensed and actively practicing that
profession for at least five years immediately preceding
the date of appointment. Three lay members shall be
appointed to represent health care consumers. Neither the
lay members nor any person of the lay members’ immedia-
te families shall be a provider of or be employed by a
provider of health care services. The state health officer’s
term shall continue for the period that he or she holds
office as state health officer. Each other member of the
board shall be appointed to serve a term of five years:
Provided, That the members of the Board of Medicine
holding appointments on the effective date of this section
shall continue to serve as members of the Board of Medi-
cine until the expiration of their term unless sooner
removed. Each term shall begin on October 1 of the
applicable year, and a member may not be appointed to
more than two consecutive full terms on the board.

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

In making appointments to the board, the Governor
shall, so far as practicable, select the members from
different geographical sections of the state. When a
vacancy on the board occurs and less than one year
remains in the unexpired term, the appointee shall be
eligible to serve the remainder of the unexpired term and two consecutive full terms on the board.

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

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

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

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

Meetings of the board shall be held in public session. Disciplinary proceedings, prior to a finding of probable cause as provided in subsection (p), section fourteen of this article, shall be held in closed sessions, unless the party subject to discipline requests that the proceedings be held 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 of the board, shall act as its secretary. He or she shall, together with the president of the board, sign all licenses, reports, orders and other documents that may be required by the board in the performance of its duties.
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 ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within.............. approved.............. this the..............

Day of.............. 2010.

Governor
PRESENTED TO THE GOVERNOR

MAR 23 2010

Time 11:40 AM