

HB 4278

**FILED**

2014 MAR 28 P 5:04

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2014



**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 4278**

(By Delegates Perdue, Fleischauer, Morgan,  
Guthrie, Ellington, Staggers and Swartzmiller)



Passed March 8, 2014

In effect ninety days from passage.

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**(BY DELEGATES PERDUE, FLEISCHAUER, MORGAN,  
GUTHRIE, ELLINGTON, STAGGERS AND SWARTZMILLER)**

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**AN ACT to amend and reenact §30-3-15 of the Code of West Virginia, 1931, as amended, relating to medical and podiatry corporations; declaring certain unlawful acts; clarifying the certificate of authorization requirements for in-state and out-of-state medical and podiatry corporations; setting forth the shareholder requirements; setting notice certain requirements to the Secretary of State; clarifying renewal requirements for certificate of authorization; clarifying conditions under which the medical and podiatry corporations can practice; stating requirements for ceasing operation; ensuring the physician-patient and podiatrist-patient relationships are not changed; declaring certain evidence as admissible and prima facie evidence of the facts contained; creating a misdemeanor offense; and providing criminal penalties.**

DE 113

Be it enacted by the Legislature of West Virginia:

That §30-3-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§30-3-15. Certificate of authorization requirements for medical and podiatry corporations.**

1           (a) *Unlawful acts.* — It is unlawful for any corporation to  
2 practice or offer to practice medicine and surgery or podiatry in  
3 this state without a certificate of authorization issued by the  
4 board designating the corporation as an authorized medical or  
5 podiatry corporation.

6           (b) *Certificate of authorization for in-state medical or*  
7 *podiatry corporation.* — One or more physicians licensed to  
8 practice medicine and surgery in this state under this article, or  
9 one or more physicians licensed under this article and one or  
10 more physicians licensed under article fourteen of this chapter,  
11 or one or more podiatrists licensed to practice podiatry in this  
12 state may receive a certificate of authorization from the board to  
13 be designated a medical or podiatry corporation by:

14           (1) Filing a written application with the board on a form  
15 prescribed by the board;

16           (2) Furnishing satisfactory proof to the board that each  
17 shareholder of the proposed medical or podiatry corporation is  
18 a licensed physician or podiatrist pursuant to this article or  
19 article fourteen of this chapter; and

20           (3) Submitting applicable fees which are not refundable.

21           (c) *Certificate of authorization for out-of-state medical or*  
22 *podiatry corporation.* — A medical or podiatry corporation  
23 formed outside of this state for the purpose of engaging in the  
24 practice of medicine and surgery or the practice of podiatry may

25 receive a certificate of authorization from the board to be  
26 designated a foreign medical or podiatry corporation by:

27 (1) Filing a written application with the board on a form  
28 prescribed by the board;

29 (2) Furnishing satisfactory proof to the board that the  
30 medical or podiatry corporation has received a certificate of  
31 authorization or similar authorization from the appropriate  
32 authorities as a medical or podiatry corporation, or professional  
33 corporation in its state of incorporation and is currently in good  
34 standing with that authority;

35 (3) Furnishing satisfactory proof to the board that at least  
36 one shareholder of the proposed medical or podiatry corporation  
37 is a licensed physician or podiatrist pursuant to this article and  
38 is designated as the corporate representative for all  
39 communications with the board regarding the designation and  
40 continuing authorization of the corporation as a foreign medical  
41 or podiatry corporation;

42 (4) Furnishing satisfactory proof to the board that all of the  
43 medical or podiatry corporation's shareholders are licensed  
44 physicians or podiatrists in one or more states and submitting a  
45 complete list of the shareholders, including each shareholder's  
46 name, their state or states of licensure and their license  
47 number(s); and

48 (5) Submitting applicable fees which are not refundable.

49 (d) *Notice of certificate of authorization to Secretary of*  
50 *State* — When the board issues a certificate of authorization to  
51 a medical or podiatry corporation, then the board shall notify the  
52 Secretary of State that a certificate of authorization has been  
53 issued. When the Secretary of State receives a notification from  
54 the board, he or she shall attach that certificate of authorization  
55 to the corporation application and, upon compliance by the  
56 corporation with the pertinent provisions of this code, shall

57 notify the incorporators that the medical or podiatry corporation,  
58 through licensed physicians or licensed podiatrists, may engage  
59 in the practice of medicine and surgery or the practice of  
60 podiatry in West Virginia.

61       (e) *Authorized practice of medical or podiatry*  
62 *corporation* — An authorized medical corporation may only  
63 practice medicine and surgery through individual physicians  
64 licensed to practice medicine and surgery in this state. An  
65 authorized podiatry corporation may only practice podiatry  
66 through individual podiatrists licensed to practice podiatry in this  
67 state. Physicians or podiatrists may be employees rather than  
68 shareholders of a medical or podiatry corporation, and nothing  
69 herein requires a license for or other legal authorization of, any  
70 individual employed by a medical or podiatry corporation to  
71 perform services for which no license or other legal  
72 authorization is otherwise required.

73       (f) *Renewal of certificate of authorization* — A medical or  
74 podiatry corporation holding a certificate of authorization shall  
75 register biennially, on or before the expiration date on its  
76 certificate of authorization, on a form prescribed by the board,  
77 and pay a biennial fee. If a medical or podiatry corporation does  
78 not timely renew its certificate of authorization, then its  
79 certificate of authorization automatically expires.

80       (g) *Renewal for expired certificate of authorization* — A  
81 medical or podiatry corporation whose certificate of  
82 authorization has expired may reapply for a certificate of  
83 authorization by submitting a new application and application  
84 fee in conformity with subsection (b) or (c) of this section.

85       (h) *Ceasing operation* — *In-state medical or podiatry*  
86 *corporation*. — A medical or podiatry corporation formed in this  
87 state and holding a certificate of authorization shall cease to  
88 engage in the practice of medicine, surgery or podiatry when  
89 notified by the board that:

90 (1) One of its shareholders is no longer a duly licensed  
91 physician or podiatrist in this state; or

92 (2) The shares of the medical or podiatry corporation have  
93 been sold or transferred to a person who is not a licensed  
94 physician or podiatrist in this state. The personal representative  
95 of a deceased shareholder shall have a period, not to exceed  
96 twelve months from the date of the shareholder's death, to  
97 transfer the shares. Nothing herein affects the existence of the  
98 medical or podiatry corporation or its right to continue to operate  
99 for all lawful purposes other than the practice of medicine and  
100 surgery or the practice of podiatry.

101 (i) *Ceasing operation — Out-of-state medical or podiatry*  
102 *corporation.* — A medical or podiatry corporation formed  
103 outside of this state and holding a certificate of authorization  
104 shall immediately cease to engage in the practice of medicine,  
105 surgery or podiatry in this state if:

106 (1) The corporate shareholders no longer include at least one  
107 shareholder who is licensed to practice as a physician or  
108 podiatrist in this state;

109 (2) The corporation is notified that one of its shareholders is  
110 no longer a licensed physician or podiatrist; or

111 (3) The shares of the medical or podiatry corporation have  
112 been sold or transferred to a person who is not a licensed  
113 physician or podiatrist. The personal representative of a deceased  
114 shareholder shall have a period, not to exceed twelve months  
115 from the date of the shareholder's death, to transfer the shares.  
116 In order to maintain its certificate of authorization to practice  
117 medicine, surgery or podiatry during the twelve month period,  
118 the medical or podiatry corporation shall, at all times, have at  
119 least one shareholder who is a licensed physician or podiatrist in  
120 this state. Nothing herein affects the existence of the medical or  
121 podiatry corporation or its right to continue to operate for all

122 lawful purposes other than the practice of medicine, surgery or  
123 podiatry.

124 (j) *Notice to Secretary of State* — Within thirty days of the  
125 expiration, revocation or suspension of a certificate of  
126 authorization by the board, the board shall submit written notice  
127 to the Secretary of State.

128 (k) *Unlawful acts.* — It is unlawful for any corporation to  
129 practice or offer to practice medicine and surgery or podiatry  
130 after its certificate of authorization has expired or been revoked,  
131 or if suspended, during the term of the suspension.

132 (l) *Application of section* — Nothing in this section is meant  
133 or intended to change in any way the rights, duties, privileges,  
134 responsibilities and liabilities incident to the physician-patient or  
135 podiatrist-patient relationship, nor is it meant or intended to  
136 change in any way the personal character of the  
137 physician-patient or podiatrist-patient relationship.

138 (m) *Court evidence* — A certificate of authorization issued  
139 by the board to a corporation to practice medicine and surgery or  
140 podiatry in this state that has not expired, been revoked or  
141 suspended is admissible in evidence in all courts of this state and  
142 is prima facie evidence of the facts stated therein.

143 (n) *Penalties* — Any officer, shareholder or employee of a  
144 medical or podiatry corporation who violates this section is  
145 guilty of a misdemeanor and, upon conviction thereof, shall be  
146 fined not more than \$1,000 per violation.

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

*Danny Wells*  
Chairman, House Committee

*[Signature]*  
Member ~~Chairman, Senate Committee~~

Originating in the House.

In effect ninety days from passage.

*Gregory D. Sawyer*  
Clerk of the House of Delegates

*Joseph M. Minard*  
Clerk of the Senate

*[Signature]*  
Speaker of the House of Delegates

*[Signature]*  
President of the Senate

The within *is approved* this the *28th*  
day of *March*, 2014.

*Earl Ray Tomblin*  
Governor



**PRESENTED TO THE GOVERNOR**

MAR 28 2014

Time 10:45 am