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.
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.
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.

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

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

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

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

(3) Submitting applicable fees which are not refundable.

(c) Certificate of authorization for out-of-state medical or podiatry corporation. — A medical or podiatry corporation formed outside of this state for the purpose of engaging in the practice of medicine and surgery or the practice of podiatry may
receive a certificate of authorization from the board to be
designated a foreign medical or podiatry corporation by:

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

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

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

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

(5) Submitting applicable fees which are not refundable.

(d) Notice of certificate of authorization to Secretary of
State — When the board issues a certificate of authorization to
a medical or podiatry corporation, then the board shall notify the
Secretary of State that a certificate of authorization has been
issued. When the Secretary of State receives a notification from
the board, he or she shall attach that certificate of authorization
to the corporation application and, upon compliance by the
corporation with the pertinent provisions of this code, shall
notify the incorporators that the medical or podiatry corporation, through licensed physicians or licensed podiatrists, may engage in the practice of medicine and surgery or the practice of podiatry in West Virginia.

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

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

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

(h) Ceasing operation — In-state medical or podiatry corporation. — A medical or podiatry corporation formed in this state and holding a certificate of authorization shall cease to engage in the practice of medicine, surgery or podiatry when notified by the board that:
(1) One of its shareholders is no longer a duly licensed physician or podiatrist in this state; or

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

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

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

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

(3) The shares of the medical or podiatry corporation have been sold or transferred to a person who is not a licensed physician or podiatrist. The personal representative of a deceased shareholder shall have a period, not to exceed twelve months from the date of the shareholder’s death, to transfer the shares. In order to maintain its certificate of authorization to practice medicine, surgery or podiatry during the twelve month period, the medical or podiatry corporation shall, at all times, have at least one shareholder who is a licensed physician or podiatrist in this state. Nothing herein affects the existence of the medical or podiatry corporation or its right to continue to operate for all
lawful purposes other than the practice of medicine, surgery or podiatry.

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

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

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

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

(n) Penalties — Any officer, shareholder or employee of a medical or podiatry corporation who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 per violation.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman, House Committee

Member

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

[Signatures]

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

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

Governor
PRESENTED TO THE GOVERNOR

MAY 28 2014

Time 10:48 AM