

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 418**

4 (By Senator Stollings)

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6 [Originating in the Committee on Government Organization;
7 reported February 6, 2014.]

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10 A BILL to amend and reenact §30-3-15 of the Code of West Virginia,
11 1931, as amended, relating to medical and podiatry
12 corporations; declaring unlawful acts; clarifying the
13 certificate of authorization requirements for in-state and
14 out-of-state medical and podiatry corporations; setting forth
15 the shareholder requirements; setting notice requirements to
16 the Secretary of State; clarifying renewal requirements for
17 certificate of authorization; clarifying conditions under
18 which the medical and podiatry corporations can practice;
19 ceasing operation requirements; clarifying court evidence; and
20 providing criminal penalties.

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

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

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

1 **§30-3-15. Certificate of authorization requirements for medical**
2 **and podiatry corporations.**

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

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

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

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

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

23 (c) *Certificate of authorization for out-of-state medical or*
24 *podiatry corporation.* - A medical or podiatry corporation formed

1 outside of this state for the purpose of engaging in the practice
2 of medicine and surgery or the practice of podiatry may receive a
3 certificate of authorization from the board to be designated a
4 foreign medical or podiatry corporation by:

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

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

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

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

1 number(s); and

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

3 (d) *Notice of certificate of authorization to Secretary of*
4 *State* - When the board issues a certificate of authorization to a
5 medical or podiatry corporation, then the board shall notify the
6 Secretary of State that a certificate of authorization has been
7 issued. When the Secretary of State receives a notification from
8 the board, he or she shall attach that certificate of authorization
9 to the corporation application and, upon compliance by the
10 corporation with the pertinent provisions of this code, shall
11 notify the incorporators that the medical or podiatry corporation,
12 through licensed physicians or licensed podiatrists, may engage in
13 the practice of medicine and surgery or the practice of podiatry in
14 West Virginia.

15 (e) *Authorized practice of medical or podiatry corporation* -
16 An authorized medical corporation may only practice medicine and
17 surgery through individual physicians licensed to practice medicine
18 and surgery in this state. An authorized podiatry corporation may
19 only practice podiatry through individual podiatrists licensed to
20 practice podiatry in this state. Physicians or podiatrists may be
21 employees rather than shareholders of a medical or podiatry
22 corporation, and nothing herein requires a license for or other
23 legal authorization of, any individual employed by a medical or
24 podiatry corporation to perform services for which no license or

1 other legal authorization is otherwise required.

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

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

14 (h) *Ceasing operation -- In-state medical or podiatry*
15 *corporation.* - A medical or podiatry corporation formed in this
16 state and holding a certificate of authorization shall cease to
17 engage in the practice of medicine, surgery or podiatry when
18 notified by the board that:

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

21 (2) The shares of the medical or podiatry corporation have
22 been sold or transferred to a person who is not a licensed
23 physician or podiatrist in this state. The personal representative
24 of a deceased shareholder shall have a period, not to exceed twelve

1 months from the date of the shareholder's death, to transfer the
2 shares. Nothing herein affects the existence of the medical or
3 podiatry corporation or its right to continue to operate for all
4 lawful purposes other than the practice of medicine and surgery or
5 the practice of podiatry.

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

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

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

16 (3) The shares of the medical or podiatry corporation have
17 been sold or transferred to a person who is not a licensed
18 physician or podiatrist. The personal representative of a deceased
19 shareholder shall have a period, not to exceed twelve months from
20 the date of the shareholder's death, to transfer the shares. In
21 order to maintain its certificate of authorization to practice
22 medicine, surgery or podiatry during the twelve month period, the
23 medical or podiatry corporation shall, at all times, have at least
24 one shareholder who is a licensed physician or podiatrist in this

1 state. Nothing herein affects the existence of the medical or
2 podiatry corporation or its right to continue to operate for all
3 lawful purposes other than the practice of medicine, surgery or
4 podiatry.

5 (j) *Notice to Secretary of State* - Within thirty days of the
6 expiration, revocation or suspension of a certificate of
7 authorization by the board, the board shall submit written notice
8 to the Secretary of State.

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

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

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

24 (n) *Penalties* - Any officer, shareholder or employee of a

1 medical or podiatry corporation who violates this section is guilty
2 of a misdemeanor and, upon conviction thereof, shall be fined not
3 more than \$1,000 per violation.