

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 253**

BY SENATORS TAKUBO, BLAIR AND MILLER

[Introduced February 10, 2017; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §30-14-4 of said code, all relating to licensing requirements for  
3 physicians and osteopathic physicians in this state; setting forth the licensing requirements  
4 relating to an applicant's ability to communicate in the English language; and placing  
5 increased emphasis on an applicant's clinical background, education and expertise.

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

1 That §30-3-10 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; and that §30-14-4 of said code be amended and reenacted, all to read as follows:

**§30-3-10. Licenses to practice medicine and surgery or podiatry.**

3 (a) The board shall issue a license to practice medicine and surgery or to practice podiatry  
4 to any individual who is qualified to do so in accordance with the provisions of this article.

5 (b) For an individual to be licensed to practice medicine and surgery in this state, he or  
6 she must meet the following requirements:

7 (1) He or she shall submit an application to the board on a form provided by the board and  
8 remit to the board a reasonable fee, the amount of the reasonable fee to be set by the board. The  
9 application must, as a minimum, require a sworn and notarized statement that the applicant is of  
10 good moral character and that he or she is physically and mentally capable of engaging in the  
11 practice of medicine and surgery;

12 (2) He or she must provide evidence of graduation and receipt of the degree of doctor of  
13 medicine or its equivalent from a school of medicine, which is approved by the liaison committee  
14 on medical education or by the board;

15 (3) He or she must submit evidence to the board of having successfully completed a  
16 minimum of one year of graduate clinical training in a program approved by the Accreditation  
17 Council for Graduate Medical Education; and

18 (4) He or she must pass an examination approved by the board, which examination can  
19 be related to a national standard. The examination shall be in the English language and be

20 designed to ascertain an applicant's fitness to practice medicine and surgery. The board shall  
21 before the date of examination determine what will constitute a passing score: *Provided*, That the  
22 board, or a majority of it, may accept in lieu of an examination of applicants the certificate of the  
23 National Board of Medical Examiners: *Provided, however*, That an applicant is required to attain  
24 a passing score on all components or steps of the examination within a period of ten consecutive  
25 years. The board need not reject a candidate for a nonmaterial technical or administrative error  
26 or omission in the application process that is unrelated to the candidate's professional  
27 qualifications as long as there is sufficient information available to the board to determine the  
28 eligibility of the candidate for licensure.

29 (c) In addition to the requirements of subsection (b) of this section, any individual who has  
30 received the degree of doctor of medicine or its equivalent from a school of medicine located  
31 outside of the United States, the Commonwealth of Puerto Rico and Canada to be licensed to  
32 practice medicine in this state must also meet the following additional requirements and  
33 limitations:

34 (1) He or she must be able to demonstrate to the satisfaction of the board his or her ability  
35 to communicate in the English language. The provisions of this subdivision shall:

36 (A) Be construed liberally in a manner most favorable to an individual applicant;

37 (B) Not be the sole determining factor used by the board in rendering a decision regarding  
38 an individual applicants license; and

39 (C) Be afforded less importance in reaching a decision as to the issuance of a license to  
40 practice in this state, than the clinical experience, level of education and medical expertise of an  
41 individual applicant.

42 (2) Before taking a licensure examination, he or she must have fulfilled the requirements  
43 of the Educational Commission for Foreign Medical Graduates for certification or he or she must  
44 provide evidence of receipt of a passing score on the examination of the Educational Commission  
45 for Foreign Medical Graduates: *Provided*, That an applicant who: (i) Is currently fully licensed,

46 excluding any temporary, conditional or restricted license or permit, under the laws of another  
47 state, the District of Columbia, Canada or the Commonwealth of Puerto Rico; (ii) has been  
48 engaged on a full-time professional basis in the practice of medicine within the state or jurisdiction  
49 where the applicant is fully licensed for a period of at least five years; and (iii) is not the subject of  
50 any pending disciplinary action by a medical licensing board and has not been the subject of  
51 professional discipline by a medical licensing board in any jurisdiction is not required to have a  
52 certificate from the Educational Commission for Foreign Medical Graduates;

53 (3) He or she must submit evidence to the board of either: (i) Having successfully  
54 completed a minimum of two years of graduate clinical training in a program approved by the  
55 Accreditation Council for Graduate Medical Education; or (ii) current certification by a member  
56 board of the American Board of Medical Specialties.

57 (d) For an individual to be licensed to practice podiatry in this state, he or she must meet  
58 the following requirements:

59 (1) He or she shall submit an application to the board on a form provided by the board and  
60 remit to the board a reasonable fee, the amount of the reasonable fee to be set by the board. The  
61 application must, as a minimum, require a sworn and notarized statement that the applicant is of  
62 good moral character and that he or she is physically and mentally capable of engaging in the  
63 practice of podiatric medicine;

64 (2) He or she must provide evidence of graduation and receipt of the degree of doctor of  
65 podiatric medicine or its equivalent from a school of podiatric medicine which is approved by the  
66 Council of Podiatry Education or by the board;

67 (3) He or she must pass an examination approved by the board, which examination can  
68 be related to a national standard. The examination shall be in the English language and be  
69 designed to ascertain an applicant's fitness to practice podiatric medicine. The board shall before  
70 the date of examination determine what will constitute a passing score: *Provided*, That an  
71 applicant is required to attain a passing score on all components or steps of the examination

72 within a period of ten consecutive years; and

73 (4) He or she must submit evidence to the board of having successfully completed a  
74 minimum of one year of graduate clinical training in a program approved by the Council on  
75 Podiatric Medical Education or the Colleges of Podiatric Medicine. The board may consider a  
76 minimum of two years of graduate podiatric clinical training in the U. S. Armed Forces or three  
77 years' private podiatric clinical experience in lieu of this requirement.

78 (e) Notwithstanding any of the provisions of this article, the board may issue a restricted  
79 license to an applicant in extraordinary circumstances under the following conditions:

80 (1) Upon a finding by the board that based on the applicant's exceptional education,  
81 training and practice credentials, the applicant's practice in the state would be beneficial to the  
82 public welfare;

83 (2) Upon a finding by the board that the applicant's education, training and practice  
84 credentials are substantially equivalent to the requirements of licensure established in this article;

85 (3) Upon a finding by the board that the applicant received his or her post-graduate  
86 medical training outside of the United States and its territories;

87 (4) That the restricted license issued under extraordinary circumstances is approved by a  
88 vote of three fourths of the members of the board;

89 (5) That orders denying applications for a restricted license under this subsection are not  
90 appealable; and

91 (6) That the board report to the President of the Senate and the Speaker of the House of  
92 Delegates all decisions made pursuant to this subsection and the reasons for those decisions.

93 (f) The board shall propose rules for legislative approval in accordance with the provisions  
94 of article three, chapter twenty-nine-a of this code, that establish and regulate the restricted  
95 license issued to an applicant in extraordinary circumstances pursuant to the provisions of this  
96 section.

97 (g) Personal interviews by board members of all applicants are not required. An applicant

98 for a license may be required by the board, in its discretion, to appear for a personal interview  
99 and may be required to produce original documents for review by the board.

100 (h) All licenses to practice medicine and surgery granted prior to July 1, 2008, and valid  
101 on that date shall continue in full effect for the term and under the conditions provided by law at  
102 the time of the granting of the license: *Provided*, That the provisions of subsection (d) of this  
103 section do not apply to any person legally entitled to practice chiropody or podiatry in this state  
104 prior to June 11, 1965: *Provided, however*, That all persons licensed to practice chiropody prior  
105 to June 11, 1965, shall be permitted to use the term "chiropody-podiatry" and shall have the rights,  
106 privileges and responsibilities of a podiatrist set out in this article.

107 (i) The board may not issue a license to a person not previously licensed in West Virginia  
108 whose license has been revoked or suspended in another state until reinstatement of his or her  
109 license in that state.

**§30-14-4. Application for license or educational permit.**

1 (a) Each applicant for examination by the board, with the exception of assistants to  
2 osteopathic physicians and surgeons, as hereinafter provided, shall submit an application therefor  
3 on forms prepared and furnished by the board.

4 (b) Each applicant for a license shall furnish evidence, verified by oath and satisfactory to  
5 the board, establishing that the applicant has satisfied the following requirements:

6 (1) The applicant is eighteen years of age or over;

7 (2) The applicant is of good moral character;

8 (3) The applicant has graduated from an accredited osteopathic college;

9 (4) The applicant has successfully completed either of the following;

10 (A) A minimum of one year of post-doctoral, clinical training in a program approved by the  
11 American Osteopathic Association; or

12 (B) A minimum of one year of post-doctoral, clinical training in a program approved by the  
13 Accreditation Council for Graduate Medical Education and forty hours of continuing medical

14 education in osteopathic manipulative medicine and osteopathic manipulative treatment in  
15 courses approved, and classified as Category 1A, by the American Osteopathic Association.

16 (5) He or she must be able to demonstrate to the satisfaction of the board his or her ability  
17 to communicate in the English language. The provisions of this subdivision shall:

18 (A) Be construed liberally in a manner most favorable to an individual applicant;

19 (B) Not be the sole determining factor used by the board in rendering a decision regarding  
20 an individual applicants license; and

21 (C) Be afforded less importance in reaching a decision as to the issuance of a license to  
22 practice in this state, than the clinical experience, level of education and medical expertise of an  
23 individual applicant.

24 (c) Each applicant for an educational permit shall furnish evidence, verified by oath and  
25 satisfactory to the board, establishing that the applicant has satisfied the following requirements:

26 (1) The applicant is eighteen years of age or over;

27 (2) The applicant is of good moral character;

28 (3) The applicant has graduated from an accredited osteopathic college; and

29 (4) The applicant is under contract as an intern or resident in an approved program of  
30 post-graduate clinical training.

31 (d) The board may not issue a license or permit to any person until the applicant has paid  
32 the application fee established by legislative rule of the board.

33 (e) In order to give timely effect to the amendments to this section and section ten of this  
34 article, the board is authorized to propose a legislative rule consistent with these amendments as  
35 an emergency rule under the provisions of section fifteen, article three, chapter twenty-nine-a of  
36 this code.

NOTE: The purpose of this bill is to clarify the English language requirement used when  
evaluating an individual applicant for medical licensing in the state.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.