

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 603

BY SENATOR TAKUBO

[Introduced February 09, 2022; referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating
2 to prohibiting licensure or renewal of licensure when the applicant or licensee has certain
3 unresolved disciplinary proceedings pending in another jurisdiction.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

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

1 (a) A person seeking licensure as an allopathic physician shall apply to the board.

2 (b) A license may be granted to an applicant who has graduated and received the degree
3 of doctor of medicine or its equivalent from a school of medicine located within the United States,
4 the Commonwealth of Puerto Rico, or Canada, and is approved by the Liaison Committee on
5 Medical Education or by the board, and who:

6 (1) Submits a complete application;

7 (2) Pays the applicable fees;

8 (3) Demonstrates to the board's satisfaction that the applicant:

9 (A) Is of good moral character;

10 (B) Is physically and mentally capable of engaging in the practice of medicine and surgery;

11 (C) Has, within 10 consecutive years, passed all component parts of the United States
12 Medical Licensing Examination or any prior examination or examination series approved by the
13 board which relates to a national standard, is administered in the English language, and is
14 designed to ascertain an applicant's fitness to practice medicine and surgery;

15 (D) Has successfully completed:

16 (i) A minimum of one year of graduate clinical training in a program is approved by the
17 Accreditation Council for Graduate Medical Education; or

18 (ii) A graduate medical education residency program outside of the United States and a
19 minimum of one year of fellowship training in the United States in a clinical field related to the
20 applicant's residency training which was completed:

21 (I) At an institution that sponsors or operates a residency program in the same clinical field
22 or a related clinical field approved by the Accreditation Council for Graduate Medical Education;
23 or

24 (II) At a time when accreditation was not available for the fellowship's clinical field and the
25 board has determined that the training was similar to accredited training due to objective
26 standards, including, but not limited to, the presence of other accredited programs at the
27 sponsoring institution during the applicant's clinical training at the fellowship location; and

28 (E) Meets any other criteria for licensure set forth in this article or in rules promulgated by
29 the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 *et seq.* of this code.

30 (c) A license may be granted to an applicant who has received the degree of doctor of
31 medicine or its equivalent from a school of medicine located outside of the United States, the
32 Commonwealth of Puerto Rico, and Canada, who:

33 (1) Submits a complete application;

34 (2) Pays the applicable fees;

35 (3) Demonstrates to the board's satisfaction that the applicant:

36 (A) Is of good moral character;

37 (B) Is physically and mentally capable of engaging in the practice of medicine and surgery;

38 (C) Has, within 10 consecutive years, passed all component parts of the United States
39 Medical Licensing Examination or any prior examination or examination series approved by the
40 board which relates to a national standard, is administered in the English language, and is
41 designed to ascertain an applicant's fitness to practice medicine and surgery;

42 (D) Has successfully completed:

43 (i) A minimum of two years of graduate clinical training approved by the Accreditation
44 Council for Graduate Medical Education;

45 (ii) A minimum of one year of graduate clinical training approved by the Accreditation
46 Council for Graduate Medical Education or one year of fellowship training which comports with

47 the requirements of subparagraph (iii) of this paragraph and the applicant holds a current
48 certification by a member board of the American Board of Medical Specialties; or

49 (iii) A graduate medical education residency program outside of the United States and a
50 minimum of two years of fellowship training in the United States in a clinical field related to the
51 applicant's residency training which was completed:

52 (I) At an institution that sponsors or operates a residency program in the same clinical field
53 or a related clinical field approved by the Accreditation Council for Graduate Medical Education;
54 or

55 (II) At a time when accreditation was not available for the fellowship's clinical field and the
56 board has determined that the training was similar to accredited training due to objective
57 standards, including, but not limited to, the presence of other accredited programs at the
58 sponsoring institution during the applicant's clinical training at the fellowship location;

59 (E) Holds a valid ECFMG certificate issued by the Educational Commission for Foreign
60 Medical Graduates or:

61 (i) Holds a full, unrestricted, and unconditional license to practice medicine and surgery
62 under the laws of another state, the District of Columbia, Canada, or the Commonwealth of Puerto
63 Rico;

64 (ii) Has been engaged in the practice of medicine on a full-time professional basis within
65 the state or jurisdiction where the applicant is fully licensed for a period of at least five years; and

66 (iii) Is not the subject of any pending disciplinary action by a medical licensing board and
67 has not been the subject of professional discipline reportable to the National Practitioner Data
68 Bank by a medical licensing board in any jurisdiction;

69 (F) Can communicate in the English language; and

70 (G) Meets any other criteria for licensure set forth in this article or in rules promulgated by
71 the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 *et seq.* of this code.

72 (d) A person seeking licensure as a podiatrist shall apply to the board. A license may be
73 granted to an applicant who:

74 (1) Submits a complete application;

75 (2) Pays the applicable fees;

76 (3) Demonstrates to the board's satisfaction that the applicant:

77 (A) Is of good moral character;

78 (B) Is physically and mentally capable of engaging in the practice of podiatric medicine
79 and surgery;

80 (C) Has graduated and received the degree of doctor of podiatric medicine or its equivalent
81 from a school of podiatric medicine approved by the Council of Podiatric Medical Education or by
82 the board;

83 (D) Has, within 10 consecutive years, passed all component parts of the American
84 Podiatric Medical Licensing Examination, or any prior examination or examination series
85 approved by the board which relates to a national standard, is administered in the English
86 language, and is designed to ascertain an applicant's fitness to practice podiatric medicine;

87 (E) Has successfully completed a minimum of one year of graduate clinical training in a
88 program approved by the Council on Podiatric Medical Education or the Colleges of Podiatric
89 Medicine. The board may consider a minimum of two years of graduate podiatric clinical training
90 in the United States armed forces or three years' private podiatric clinical experience in lieu of this
91 requirement; and

92 (F) Meets any other reasonable criteria for licensure set forth in this article or in legislative
93 rules promulgated by the board.

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

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

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

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

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

105 (5) That orders denying applications for a restricted license under this subsection are not
106 appealable.

107 (f) The board may propose rules for legislative approval in accordance with the provisions
108 of §29A-3-1 *et seq.* of this code that establish and regulate the restricted license issued to an
109 applicant in extraordinary circumstances pursuant to the provisions of this section.

110 (g) Personal interviews by board members of all applicants are not required. An applicant
111 for a license may be required by the board, in its discretion, to appear for a personal interview
112 and may be required to produce original documents for review by the board.

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

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

123 (j) The board shall not issue an initial license, or reinstate or reactivate a license, to any
124 individual who:

125 (1) Is prohibited from practicing a health care profession in another state based upon
126 conduct which is substantially equivalent to an act of unprofessional conduct prohibited by §30-
127 3-14(c) of this code or the board's legislative rules; or

128 (2) Has an unresolved administrative complaint currently pending before a licensing board
129 or authority in any other another jurisdiction which alleges that the applicant:

130 (A) Exercised influence within a provider-physician relationship for the purpose of
131 engaging a patient in sexual activity or engaged in other sexual misconduct with a patient;

132 (B) Engaged in drug diversion by transferring controlled substances or prescriptions for
133 controlled substances to:

134 (i) The applicant for personal use;

135 (ii) Any person with whom the applicant is having a sexual relationship; or

136 (iii) Any person without a legitimate medical purpose and outside the bounds of
137 professional practice;

138 (C) Fraudulently prescribed, or engaged in theft of, controlled substances; or

139 (D) Is unable to practice medicine and surgery or podiatry with reasonable skill and safety
140 to patients due to physical or mental impairment, including deterioration through the aging
141 process, loss of motor skill, or abuse of drugs or alcohol.

142 Once a practice prohibition is lifted and/or a complaint is resolved, the board may evaluate
143 the application and make a licensure determination based upon the facts and circumstances
144 presented by the application.

145 (k) The board need not reject a candidate for a nonmaterial technical or administrative
146 error or omission in the application process that is unrelated to the candidate's professional
147 qualifications as long as there is sufficient information available to the board to determine the
148 eligibility and qualifications of the candidate for licensure.