



State of West Virginia

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April 28, 1986

The Honorable Ken Hechler
Secretary of State
West Virginia State Capitol
Charleston, West Virginia 25305

FILED
1986 APR 28 AM 11:28
OFFICE OF THE SECRETARY OF STATE

NOTICE OF FINAL FILING - LEGISLATIVE RULES

TITLE: Board of Medicine Approval of Medical Schools Not Accredited by the Liaison Committee on Medical Education

The attached legislative rules are hereby final filed with the Secretary of State by the West Virginia Board of Medicine as authorized by Senate Bill 434, Section 64-2-30(3)(7)(c).

Secret 2

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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

March 11, 1986

IMPORTANT NOTICE

TO: Ron Walton

FROM: RICH O. HARTMAN, DIRECTOR

RE: LEGISLATIVE RULE Approval of Medical Schools not Accredited
by the Liason Committee on Medical Education

THE 1986 LEGISLATURE HAS AUTHORIZED YOUR AGENCY TO FINAL FILE AND ADOPT THE ABOVE LEGISLATIVE RULE. THIS AUTHORIZATION IS IN S.B. 434 SECTION 64-2-30(3)(7)(c) PASSED ON March 8, 1986, EFFECTIVE FROM PASSAGE. YOU HAVE 60 DAYS FROM THAT DATE TO FINAL FILE THE ABOVE RULE WITH THIS OFFICE. NO RULE WILL BE ACCEPTED AFTER THAT DATE. YOU MAY ESTABLISH ANY EFFECTIVE DATE FOR YOUR RULE RANGING FROM THE SAME DATE YOU FINAL FILE TO 90 DAYS FROM THE DATE YOU FINAL FILE. REMEMBER TO RE-TYPE YOUR RULE IN ITS ENTIRETY FOLLOWING THE PROPER FORMAT. PLEASE CALL IF YOU HAVE ANY QUESTIONS.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Board of Medicine

Subject: Proposed rules and regulations governing approval
of medical schools not accredited by the Liaison
Committee on Medical Education.

Fiscal Impact: None.

PERTINENT DATES

Filed for public hearing: December 21, 1984
Date of public hearing: January 22, 1985
Filed following public hearing: March 18, 1985
Filed LRMRC: March 18, 1985
Filed as emergency:

ABSTRACT

Section 25.1 relates the scope of the proposed legislative rules, which is to empower the Board of Medicine to carry out its statutory duty of approving medical schools not otherwise accredited by the Liaison Committee on Medical Education.

Section 25.2 gives W. Va. Code, §30-3-7(a)(1) and §30-3-10(b)(2) as the authority for promulgation of the proposed legislative rules.

Section 25.3 lists a filing date for the proposed legislative rules of December 21, 1984.

Section 25.4 will provide the effective date of the proposed legislative rules.

Section 25.5 places the responsibility on an applicant of a nonaccredited medical school for acquiring and presenting to the Board all of the information required by the Board to approve the medical school.

Section 25.6 requires the applicant to provide the Board with certain verified information regarding the medical school from which he graduated. The information is to be submitted on a form provided by the Board and is to include, in part, data regarding twelve listed subject areas such as a description of the curriculum and program of studies at the

medical school and a list of all graduate degree programs offered by the medical school.

Section 25.7 permits the Board, upon the basis of the information supplied, to determine if it will require additional information relating to the medical school in question and allows the Board to solicit information directly or to require an on-site visit at the expense of the applicant or the medical school. An applicant may provide supplemental information to the Board at any time.

Section 25.8 requires the Board to evaluate all of the information obtained under Section 25.6 and 25.7 to determine whether or not the medical school's standards are equivalent to those established by the Liaison Committee on Medical Education. If the standards are equivalent, the Board must approve the medical school for licensing purposes. If the standards are not equivalent, the Board may not approve the medical school for licensing purposes and must give the applicant written notice containing the reasons for the Board's decision.

Section 25.9 allows the applicant 30 days from receipt of the notice to request a hearing for the presentation of additional evidence to the Board. Hearings are to be conducted in accordance with the W. Va. Administrative Procedures Act.

Section 25.10 allows the Board to conduct one hearing where more than one applicant for licensure has graduated from a single medical school.

Section 25.11 prohibits the Board from evaluating a single medical school more than once in any twelve-month period.

Section 25.12 allows the Board to reevaluate any previously approved medical school to determine whether the approval shall be continued or withdrawn. The same procedures and standards used for the initial approval must be used for the reevaluation.

AUTHORITY

Statutory authority: W. Va. Code, §30-3-7(a)(1) and §30-3-10(b)(2).

W. Va. Code, §30-3-7(a)(1), provides as follows:

- (a) ... the board may:
 - (1) Adopt such regulations as are necessary to carry out the purposes of this article;

W. Va. Code, §30-3-10(b)(2), provides as follows:

(b) For an individual to be licensed to practice medicine and surgery in this State, he must meet the following requirements:

...

(2) He must provide evidence of graduation and receipt of the degree of doctor of medicine which is approved by the liaison committee on medical education or by the board;

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No. Under W. Va. Code, §30-3-10(b)(2) the Board of Medicine is empowered to approve certain medical schools not accredited by the Liaison Committee on Medical Education. W. Va. Code, §30-3-7(a)(1) authorizes the Board to promulgate rules and regulations necessary to carry out the purposes of the article.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes. W. Va. Code, §30-3-10(b)(2) shows that the Legislature intended that the Board of Medicine be able to approve nonaccredited medical schools. The rule is necessary to provide standards and procedures for obtaining approval from the Board.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

Section 25.9 of the proposed legislative rule requires hearings to be conducted in accordance with the West Virginia Administrative Procedures Act. W. Va. Code, §30-3-14(h) requires the Board to conduct hearings relating to licensure denial in accordance with the Act and that section. The proposed legislative rule should include the provisions of this section by reference also.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes, as stated above in II.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

The rule would be more readily understandable to the general public if it was made clear exactly what the Liaison Committee on Medical Education is.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Under W. Va. Code, §29A-3-11(a) the agency is to submit a brief summary of the content of the legislative rule and a statement of the circumstances which require the rule. The Board of Medicine did not submit either item.

WEST VIRGINIA PROPOSED LEGISLATIVE RULES
WEST VIRGINIA BOARD OF MEDICINE
CHAPTER 30-3
SERIES II

Title: Approval of Medical Schools for Purposes of Physician Licensure

Section 25. Approval of Medical Schools for Purposes of Physician Licensure

25.1. Scope - These rules are issued in order to provide standards for the Board of Medicine's approval of medical schools for purposes of physician licensure as required by West Virginia Code §30-3-10(b)(2).

25.2. Authority - These legislative rules are issued under the authority of and are related to West Virginia Code §30-3-10(b)(2) and West Virginia Code §30-3-7(a)(1).

25.3. Filing Date - _____, 1985.

25.4. Effective Date - _____, 1985.

25.5. The Liaison Committee on Medical Education is a national organization which accredits medical schools located in the United States, the Commonwealth of Puerto Rico, and Canada. The Educational Commission for Foreign Medical Graduates is a national organization which certifies the basic English language skills and the fundamental medical education and training of individuals who attended schools outside the United States, the Commonwealth of Puerto Rico, and Canada. The Foreign Medical Graduates Examination in the Medical Sciences is the name of the examination first offered by the Educational Commission for Foreign Medical Graduates on July 24, 1984.

25.6. Any applicant who has graduated from a medical school located in the United States, the Commonwealth of Puerto Rico, or Canada, and who seeks to become authorized to practice medicine and surgery by either a license, a temporary permit, an educational training permit, or a license by reciprocal endorsement, must provide evidence of graduation and receipt of

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the degree of doctor of medicine or its equivalent from a medical school accredited by the Liaison Committee on Medical Education.

25.7. Evidence of graduation and receipt of a degree of doctor of medicine or its equivalent from a medical school located in the United States, the Commonwealth of Puerto Rico, or Canada which is not accredited by the Liaison Committee on Medical Education shall be a basis for denying an application for a license or permit.

25.8. Any applicant who has graduated from a medical school located outside the United States, the Commonwealth of Puerto Rico, or Canada, and who seeks to become authorized to practice medicine and surgery by either a license, a temporary permit, an educational training permit, or a license by reciprocal endorsement, shall be solely responsible for acquiring and presenting to the Board all information required by it for licensure.

25.9. The applicant from a medical school located outside the United States, the Commonwealth of Puerto Rico, or Canada shall provide, on a verified form provided by the Board, certain information regarding the medical school from which the applicant has graduated. The information shall include, in part:

a. whether the medical school is legally recognized and authorized by the jurisdiction in which it confers a degree of doctor of medicine, or its equivalent;

b. whether the medical school is part of any other institution, and, if so, a description of the medical school's relationship with that institution;

c. whether the medical school is a proprietary or non-profit institution;

d. the total number of months required to complete the medical school's program;

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e. a list of each hospital, institution, facility, or program where the applicant received clinical education, listing each clinical clerkship with the appropriate hospital, institution, facility, or program;

f. a list of all graduate degree programs offered by the medical school;

g. a description of the curriculum and program of studies at the medical school;

h. whether the medical school has any full-time faculty members, and, if so, the approximate number;

i. the number of students at the medical school;

j. a description of the standards and methods for selecting students matriculating at the medical school;

k. a description of the medical school's physical plant, including the number of campuses, library facilities, laboratories, and classrooms;

l. the names and locations of all hospitals, institutions, facilities, or programs providing clinical education to the medical school's medical students; and

m. whether the applicant, since graduation from the medical school, has fulfilled all requirements of the Educational Commission for Foreign Medical Graduates for certification.

25.10. Certification of an applicant by the Educational Commission for Foreign Medical Graduates based upon passage of the Foreign Medical Graduates Examination in the Medical Sciences on or after July 24, 1985, but not before that date, shall be sufficient for the Board to approve the individual applicant's degree of doctor of medicine or its equivalent from any medical school located outside of the United States, the Commonwealth of Puerto Rico, or Canada.

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25.11. Any applicant, whose certification by the Educational Commission for Foreign Medical Graduates is for a limited period, shall maintain the ongoing validity of that certification in order to be eligible for licensure. The failure to maintain the current validity of that certification shall be a basis for denying an application for a license or permit, and shall be a basis for revoking an existing license or permit.

25.12. Approval of any individual applicant for a medical license or permit based, in part, upon that applicant's passage of the Foreign Medical Graduates Examination in the Medical Sciences on or after July 24, 1985, shall not constitute the approval of the applicant's medical school for any other individual applicant. Each applicant must individually demonstrate his compliance with Section 25 to be granted a license or permit.

25.13. The Board may, at any time, determine whether it will require additional information relating to the applicant or to the medical school in question. The Board may solicit information directly from the medical school and any institution, hospital, facility, or program with which the medical school is affiliated. The Board may also require an on-site visit of the medical school by the Board's designated representatives. The costs of such an on-site visit shall be the sole responsibility of the applicant and/or the medical school being considered. At any time, the applicant may supply the Board with any additional information relevant to the evaluation.

25.14. The Board shall evaluate the information supplied pursuant to Section 25.8, Section 25.9, and Section 25.13 by all applicants who have not passed the Foreign Medical Graduates Examination in the Medical Sciences on or after July 24, 1985, in order to determine whether the applicant's medical school has standards for graduation which are equivalent to those established by the Liaison Committee on Medical Education. If the medical school's standards are equivalent to those established by the Liaison Committee on Medical Education, the Board shall approve the medical school for licensing purposes.

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If the Board determines that the medical school from which the applicant has graduated fails to meet standards for graduation equivalent to those established by the Liaison Committee on Medical Education, the Board shall give written notice to the applicant, together with a brief statement of the basis for the Board's decision.

25.15. Any applicant who seeks to become authorized to practice medicine and surgery by either a license, a temporary permit, an educational training permit, or a license by a reciprocal endorsement, and who is denied such a license or permit, may within thirty (30) days after receipt of such denial request an opportunity to present additional evidence to the Board at a hearing. All such hearings shall be conducted in accordance with the provisions of West Virginia Code §29A-5-1 et seq.

25.16. If more than one applicant for licensure has graduated from a single medical school which the Board has determined fails to meet equivalent standards for graduation, one (1) hearing may be held for each such medical school.

25.17. The Board may not evaluate a single medical school more than once in any twelve (12) month period.

25.18. The Board may, at any time, choose to re-evaluate any medical school which it has previously approved in order to determine whether approval of that medical school should continue or be withdrawn. The procedures and standards for re-evaluating any previously approved medical school shall be identical to those previously set forth herein.

1 Bill 18

H. B. 1763

(By Delegate Casey)

(Introduced February 5, 1986; referred to the

Committee on Health and Welfare with the direction,

that it later be referred to the Committee on the

Judiciary.]



10 A BILL to amend article two, chapter sixty-four of the code of
11 West Virginia, one thousand nine hundred thirty-one, as
12 amended, by adding thereto two new sections designated
13 sections thirty(three)(seven) and thirty(three)(ten),
14 relating to rules governing approval of medical schools not
15 accredited by the liason committee on medical education.

16 Be it enacted by the Legislature of West Virginia:

17 That article two, chapter sixty-four of the code of West
18 Virginia, one thousand nine hundred thirty-one, as amended, be
19 amended by adding thereto two new sections, designated sections
20 thirty(three)(seven) and thirty(three)(ten), to read as follows:

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
22 LEGISLATIVE RULES.

23 §64-2-30(3)(7). West Virginia board of medicine.

24 The legislative rules filed in the state register on the
25 eighth day of March, one thousand nine hundred eighty-five,
26 modified by the West Virginia board Medicine to meet the

1763

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the eighteenth day of December,
3 one thousand nine hundred eighty-five, relating to the West
4 Virginia board of medicine (rules governing the approval of
5 medical schools not accredited by the liason committee on medical
6 education) are authorized. These rules were proposed by the West
7 Virginia board of medicine pursuant to sections seven and ten,
8 article three, chapter thirty of this code.

9 §64-2-30(3)(10). West Virginia board of medicine.

10 The rules authorized by the Legislature in subsection (a),
11 section thirty(three)(seven) of this article were also proposed
12 by the West Virginia board of medicine pursuant to section ten,
13 article three, chapter thirty of this code.

14
15
16 NOTE: The purpose of this bill is to authorize the West
17 Virginia board of medicine to promulgate legislative rules
18 relating to governing the approval of medical schools not
19 accredited by the liason committee on medical education.

20
21 This section is new; therefore, strike-throughs and
22 underscoring have been omitted.
23

1 Bill 18

SENATE BILL NO. 446

2 (By Senator R. Williams

3)
4 [Introduced February 3, 1986;

5 referred to the Committee on Health and Human Resources;

6 then to the Committee on the Judiciary

7
8
9
0 A BILL to amend article two, chapter sixty-four of the code of
1 West Virginia, one thousand nine hundred thirty-one, as
2 amended, by adding thereto two new sections designated
3 sections thirty(three)(seven) and thirty(three)(ten),
4 relating to rules governing approval of medical schools not
5 accredited by the liason committee on medical education.

6 Be it enacted by the Legislature of West Virginia:

7 That article two, chapter sixty-four of the code of West
8 Virginia, one thousand nine hundred thirty-one, as amended, be
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10 thirty(three)(seven) and thirty(three)(ten), to read as follows:

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Health/Ten

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5 medical schools not accredited by the liason committee on medical
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7 Virginia board of medicine pursuant to sections seven and ten,
8 article three, chapter thirty of this code.

9 §64-2-30(3)(10). West Virginia board of medicine.

10 The rules authorized by the Legislature in subsection (a),
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12 by the West Virginia board of medicine pursuant to section ten,
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16 Virginia board of medicine to promulgate legislative rules
17 relating to governing the approval of medical schools not
18 accredited by the liason committee on medical education.
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21 underscoring have been omitted.
22
23