



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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6/12/2015 12:55:48 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 7 -- NOTICE OF AN EMERGENCY RULE (Page 1)

AGENCY **Medicine**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **11-11**
RULE NAME **Establishment and Regulation of Limited License to Practice Medicine and Surgery at
Certain State Veterans Nursing Home Facilities**
CITE AUTHORITY **§30-3-11b(d)**

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

On June 11, 2015, HB2098 became effective. This bill amended the West Virginia Medical Practice Act to add a new section, W. Va. Code §30-3-11b. The new section authorizes allopathic physicians to provide services to patients or residents of state-run veterans facilities by allowing them to obtain license without the required examination from the appropriate licensing agency of this state. The section limits the scope of practice pursuant to such license and requires the Board of Medicine to propose emergency rules to implement the provisions of this section.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Robert C Knittle -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 11-11



Rule Id: 9854



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 1)

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PRIMARY CONTACT

Robert C. Knittle, Executive Director
ADDRESS LINE 1
ADDRESS LINE 2
CITY, STATE ZIP

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accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 2)

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CITE AUTHORITY **§30-3-11b(d)**

DATE OF FILING
Friday, June 12, 2015

STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE
§30-3-11b(d)

DATE OF FILING OF PROPOSED LEGISLATIVE RULE
Friday, June 12, 2015

DOES THE EMERGENCY RULE ADOPT NEW LANGUAGE OR DOES IT AMEND OR APPEAL A
CURRENT LEGISLATIVE RULE?

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND EXPIRED?
No

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE
EMERGENCY RULE NECESSARY FOR THE IMMEDIATE PRESERVATION OF PUBLIC PEACE,
HEALTH, SAFETY OR WELFARE.

**W. Va. Code §30-3-11b(d) requires that the Board promulgate emergency rules to implement a new,
limited license to expand eligibility of certain physician providers to care for patients or residents of state-
run veterans facilities.**

**Robert C Knittle -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 3)

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CITE AUTHORITY **§30-3-11b(d)**

IF THE EMERGENCY RULE WAS PROMULGATED IN ORDER TO COMPLY WITH A TIME LIMIT ESTABLISHED BY THE CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN.

No specific time limit for filing a rule is established in W. Va. Code 30-3-11b(d).

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE EMERGENCY RULE NECESSARY TO PREVENT SUBSTANTIAL HARM TO THE PUBLIC INTEREST.

This emergency rule is necessary to ensure that mechanisms are in place to effectuate the purposes of W. Va. Code §30-3-11b, and to make a limited license to practice medicine, thereby expanding the availability of services to patients or residents of state-run veterans facilities, available to eligible allopathic physicians.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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CITE AUTHORITY **§30-3-11b(d)**

PRIMARY CONTACT

Robert C. Knittle, Executive Director
ADDRESS LINE 1
ADDRESS LINE 2
CITY, STATE ZIP

SECONDARY CONTACT

Jamie Frame
ADDRESS LINE 1 SECONDARY
ADDRESS LINE 2 SECONDARY
CITY SECONDARY, STATE SECONDARY ZIP SECONDARY

Robert C Knittle -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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CITE AUTHORITY **§30-3-11b(d)**

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

The Board does not anticipate the cost of implementing this rule to be material.

Robert C Knittle -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

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CITE AUTHORITY **§30-3-11b(d)**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

N/A

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

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CITE AUTHORITY **§30-3-11b(d)**

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED
RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED
ELSEWHERE ON THIS FORM.

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Robert C Knittle -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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CITE AUTHORITY **§30-3-11b(d)**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

On June 11, 2015, HB2098 became effective. This bill amended the West Virginia Medical Practice Act to add a new section, W. Va. Code §30-3-11b. The new section authorizes allopathic physicians to provide services to patients or residents of state-run veterans facilities by allowing them to obtain license without the required examination from the appropriate licensing agency of this state. The section limits the scope of practice pursuant to such license and requires the Board of Medicine to propose emergency rules to implement the provisions of this section. The proposed emergency rule sets forth: the qualification and application process for a limited license to practice at a designated state veterans nursing home facility; the license renewal process; the regulation of the limited license; the process for converting a limited license to a full, unrestricted license, and the circumstances under which the limited license shall terminate.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Robert C Knittle -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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TITLE 11
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE

SERIES 11
ESTABLISHMENT AND REGULATION OF LIMITED LICENSE TO PRACTICE MEDICINE
AND SURGERY AT CERTAIN STATE VETERANS NURSING HOME FACILITIES

§11-11-1. General.

1.1. Scope. – W. Va. Code §30-3-11b provides for the issuance of a limited license by the Board to an applicant to practice medicine and surgery at a designated state veterans nursing home facility under certain specific conditions, and W. Va. Code §30-3-11b(d) requires that the Board promulgate emergency rules to implement the provisions of W. Va. Code §30-3-11b.

1.2. Authority. -- W. Va. Code §30-3-11b(d).

1.3. Filing Date. --

1.4. Effective Date. --

§11-11-2. Definitions.

2.1. For purposes of this rule, the following words and terms mean:

2.1.a. “Designated state veterans nursing home facility” means a nursing home operated by the West Virginia Department of Veteran’s Assistance.

2.1.b. “Limited license to practice medicine and surgery at a designated state veterans nursing home facility” means a license issued to a physician who meets the criteria established in W. Va. Code §30-3-11b(a) and which contains limitations on practice location, practice setting and type of patients.

2.1.c. “Limited licensee” means a person licensed pursuant to this rule.

§11-11-3. Qualification and Application For A Limited License To Practice At A Designated State Veterans Nursing Home Facility.

3.1. An applicant for a limited license to practice medicine and surgery at a designated state veterans nursing home facility shall submit an application in the form designated by the Board which shall include:

3.1.a. Proof that he or she has the requisite qualifications to provide the same standard of care as a physician initially licensed in this State.

3.1.b. A photograph taken within the previous twelve (12) months which substantially resembles the applicant;

3.1.c. Evidence of graduation from a medical school approved by the LCME or by the Board;

3.1.d. Proof of successful completion of at least one (1) year of postgraduate clinical training in a program approved by the ACGME;

3.1.e. A sworn and notarized statement from another allopathic physician that the applicant is of good moral character;

3.1.f. Proof satisfactory to the Board that the applicant is currently employed by and authorized to practice medicine at a Federal Veterans Administration Hospital which is located in the same county as the designated state veterans nursing home facility where the applicant seeks to practice;

3.1.g. Evidence that the applicant maintains a valid, unrestricted license to practice medicine in another state within the United States;

3.1.h. An attestation that the applicant is in good standing in each jurisdiction in which he or she is licensed, and that he or she has had no medical disciplinary action taken against him or her within the last five years and has no medical board complaint investigations or medical board disciplinary action pending against him or her;

3.1.i. A statement from the medical Board in each state where the applicant is licensed which corroborates that the applicant is in good standing in each such jurisdiction;

3.1.j. The number of malpractice settlements made or judgements against the applicant in the last five years;

3.1.k. Any other documents as may be required by the Board of all applicants for physician licensure pursuant to section 8.1 of W. Va. Code R. §11-1A-1 *et. seq.*

3.2. An applicant who is a graduate of a medical school located outside of the United States, Canada, or the Commonwealth of Puerto Rico:

(a) shall also provide evidence of a valid ECFMG certificate or of receipt of a passing score on the examination of the ECFMG: Provided, That an applicant who: (i) is currently fully licensed, excluding any temporary, conditional or restricted license or permit, under the laws of another state, the District of Columbia, Canada or the Commonwealth of Puerto Rico; (ii) has been engaged on a full-time professional basis in the practice of medicine within the state or jurisdiction where the applicant is fully licensed for a period of at least five (5) years; and is not the subject of any pending disciplinary action by a medical licensing board in any jurisdiction, is not required to have a certificate from the educational commission for foreign medical graduates, and

(b) shall also provide evidence of successful completion of at least three (3) years of postgraduate clinical training (internship, residency, or fellowship) in the United States or Canada, which has been approved by the ACGME, or successful completion of at least one (1) such year and current certification by a member board of the American Board of Medical Specialties.

3.3. All evidence and information described in this section may be provided through FCVS, where available through FCVS.

3.4. In the event the staff finds derogatory information during the processing of an application, the information shall be presented to Board members for review and a determination as to whether an individual should appear before the Licensure Committee or if the staff should obtain additional information.

3.5 It is the applicant's responsibility to provide necessary forms to selected institutions for response to the Board, except where FCVS is providing the information directly to the Board.

3.6. Completed verification forms must be provided directly from selected institutions to the Board and not from the applicant, except where FCVS is providing the information directly to the Board.

3.7. All parts of the application shall be completed in full with all required supporting documents received by the Board not later than fifteen (15) days prior to consideration by the Board.

3.8. No fee is required for the submission and processing of an application for a limited license to practice medicine and surgery at a designated state veterans nursing home facility.

§11-11-4. License Renewals

4.1. A licensee issued a limited license to practice medicine and surgery at a designated state veterans nursing home facility shall renew his or her license every two (2) years, as of the first day of July of the year of renewal, upon timely submission of a fully completed renewal application form. Licensees whose last name begins with the letters A through L shall renew their license in even years, and licensees whose last names begin with the letters M through Z shall their licenses in odd years.

4.2. It is the responsibility of the limited licensee to acquire and submit renewal application forms.

4.3. Failure of the licensee to receive a renewal form will not constitute justification for any physician to practice on an expired license. An expired license is not a valid license.

4.4. No fee is required for the submission and processing of a renewal application for a limited license to practice medicine and surgery at a designated state veterans nursing home facility.

§11-11-5. Regulation of Limited License To Practice At A Designated State Veterans Nursing Home Facility.

5.1. A physician granted a limited license pursuant to W. Va. Code §30-3-11b is subject to all the provisions and protections of the West Virginia Medical Practice Act, W. Va. Code §30-3-1 et seq. and all rules of the Board governing the professional practice of medicine and surgery by allopathic physicians.

5.2. A limited licensee shall report, in writing, to the Board within fifteen days of the occurrence:

5.2.a. Any suspension, revocation, probation, restriction, term, condition or other discipline taken against the limited licensee in any other jurisdiction;

5.2.b. Any adverse employment action, restriction upon practice or limitation upon authorization to practice at the Federal Veterans Administration Hospital where the limited licensee is employed; and/or

5.2.c. Any separation from employment or transfer of employment from the Federal Veterans Administration Hospital where the limited licensee is employed.

5.3. Any failure of a limited licensee to make a required report as set forth in Section 5.2 shall constitute dishonorable, unprofessional or unethical conduct which may result in the imposition of discipline against the licensee.

§11-11-6. Conversion of Limited License to Standard License.

6.1. The board may permit a limited licensee to transfer the authorized practice location associated with his or her limited license if the licensee has transferred to a different Federal Veterans Administration Hospital located in this state, and a designated state veterans nursing home exists in the county where the limited licensee has transferred.

6.2. The board may convert the limited license to practice at a designated state veterans nursing home to a standard license upon submission of a complete application and the appropriate fee by a limited licensee who meets the requirements for a standard license.

§11-11-7. Termination of Limited License.

7.1. A limited license to practice medicine and surgery at a designated state veterans nursing home facility shall automatically terminate if:

7.1.a. The limited licensee is no longer employed at the Federal Veterans Administration Hospital which is located in the same county as the designated state veterans nursing home facility for which the limited license was issued;

7.1.b. The limited licensee is no longer practicing, or no longer authorized to practice, at the Federal Veterans Administration Hospital which is located in the same county as the designated state veterans nursing home facility for which the limited license was issued; or

7.1.c. The limited licensee no longer holds a valid, unrestricted license to practice medicine in another state within the United States.