



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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7/27/2015 12:41:25 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

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 PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

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



Document: 26939



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

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PRIMARY CONTACT

Robert C. Knittle
101 Dee Drive, Suite 103

Charleston, STATE ZIP

SECONDARY CONTACT

Jamie C. Frame
101 Dee Drive, Suite 103

Charleston, STATE SECONDARY ZIP SECONDARY

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AUTHORIZING STATUTE(S) CITATION
§30-3-11b

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Friday, June 12, 2015

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?
**Notice of the comment period was provided on the West Virginia Board of Medicine website,
www.wvbom.wv.gov, as well as published in the Board newsletter.**

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Monday, July 13, 2015

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ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

No comments received

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Monday, July 27, 2015

**Robert C Knittle -- By my signature, I certify that I am the person authorized to file legislative rules, in
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IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. GIVE THE DATE UPON WHICH YOU FILED IN THE STATE REGISTER A NOTICE OF THE TIME AND PLACE OF A HEARING FOR THE TAKING OF EVIDENCE AND A GENERAL DESCRIPTION OF THE ISSUES TO BE DECIDED.

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DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
None

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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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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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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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.

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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, HB 2098 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 in this state. The section limits the scope of practice pursuant to such license and requires the Board of Medicine to propose rules to implement the provisions of this section. This 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. The agency approved 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. No changes have been made to the agency approved rule, and no comments on the proposed rule were received.

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
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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.