



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/30/2021 10:25:41 AM

Office of West Virginia
Secretary Of State

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

AGENCY: Medicine TITLE-SERIES: 11-11
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 11-11 Establishment and Regulation of Limited License to Practice Medicine and Surgery at
Certain State Veterans Nursing Home Facilities

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code § 30-3-11b(d)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY
OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY
PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code § 30-3-11b(d)

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN
EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/29/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/29/2021

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO
COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

The Board publicized notice of the proposed rule change by: including a notice of the proposed amendments and comment period on the Board of Medicine website with a link to the proposed rule; sending email notification to licensees and registrants of the Board regarding notice of the proposed amendments and comment period with a link to the proposed rule; and notifying other interested professional associations and governmental entities including: West Virginia State Medical Association; West Virginia Podiatric Medical Association; West Virginia Primary Care Association and West Virginia Hospital Association.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Series eleven establishes 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.

Section two establishes the new definition Website or Boards website.

Section three was amended to align the licensure eligibility requirements for limited license to practice at a designated state veterans nursing home facility with Senate Bill 372, to harmonize the provisions of this rule with similar provisions in the Boards other licensing rules, including 11 CSR 1A, to remove redundant or unnecessary provisions and for general clean-up.

Section four was modified to provide greater clarification with regard to the licensure renewal process and termination of a license due to failure to renew by the deadline.

General clean-up and standardization occur throughout the bill.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

During the 2021 regular legislative session Senate Bill 372 was enacted. This bill modifies W.Va. Code § 30-3-10 to expand the categories of acceptable graduate clinical training for medical licensure eligibility. Pursuant to the bill, physicians who have completed fellowship training in programs for which accreditation is not available, but which meet other appropriate standards, may now be eligible for medical licensure. The proposed amendments to this rule align the licensure requirements for limited license to practice at a designated state veterans nursing home facility with Senate Bill 372.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Mark A Spangler -- 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. -- ~~July 12, 2016~~

1.4. Effective Date. -- ~~August 11, 2016~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, 2027.

§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.

2.1.d. “Website” or “Board’s website” means the set of related web pages operated by or on behalf of the West Virginia Board of Medicine located at the domain name wvbm.wv.gov, or at any successor domain name published by the Board.

§11-11-3. Qualification and Application ~~F~~for ~~Aa~~ Limited License ~~T~~to Practice ~~Aat~~ ~~Aa~~ 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~~ Liaison Committee on Medical Education or by the Board;

3.1.d. Applicants who graduated from an approved medical school located in United States, Canada, or the Commonwealth of Puerto Rico shall submit proof of successful completion of at least one ~~(1)~~ year of postgraduate clinical training in a program approved by the Accreditation Council for Graduate Medical Education (ACGME) or a graduate medical education residency program outside of the United States and a minimum of one year of fellowship training in the United States in a clinical field related to the applicant's residency training which was completed:

3.1.d.1. At an institution that sponsors or operates a residency program in the same clinical field or a related clinical field approved by the ACGME; or

3.1.d.2. At a time when accreditation was not available for the fellowship's clinical field and the board has determined that the training was similar to accredited training due to objective standards, including, but not limited to, the presence of other accredited programs at the sponsoring institution during the applicant's clinical training at the fellowship location;

~~3.1.e. A sworn and notarized statement from another allopathic physician that the applicant is of good moral character;~~ Graduates of international medical schools located outside of the United States, Canada, or the Commonwealth of Puerto Rico shall submit proof of:

3.1.e.1. Successful completion of a minimum of two years of graduate clinical training approved by the ACGME;

3.1.e.2. Successful completion of a graduate medical education residency program outside of the United States and a minimum of two years of fellowship training in the United States in a clinical field related to the applicant's residency training which was completed:

3.1.e.2.1. At an institution that sponsors or operates a residency program in the same clinical field or a related clinical field approved by the ACGME; or

3.1.e.2.2. At a time when accreditation was not available for the fellowship's clinical field and the board has determined that the training was similar to accredited training due to objective standards, including, but not limited to, the presence of other accredited programs at the sponsoring institution during the applicant's clinical training at the fellowship location; or

3.1.e.3. Proof of current certification by a member board of the American Board of Medical Specialties and a minimum of one year of graduate clinical training which comports with the accreditation requirements subdivision 3.1.e.1 or 3.1.e.2.

3.1.f. Graduates of international medical schools located outside of the United States, Canada, or the Commonwealth of Puerto Rico shall also submit evidence of a valid certificate issued by the Educational Commission for Foreign Medical Graduates ("ECFMG") or documentation 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;

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

3.1.hi. 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.ij. ~~A statement from the medical Board in~~ Verification from each state where the applicant ~~has been licensed is licensed~~ which corroborates that the applicant is in good standing in each such jurisdiction;

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

3.1.l. A criminal history record check in conformity with the procedure set forth in section 8 of W. Va. Code R. § 11-1A-1 et seq.

3.1.lem. Any other documents or information as may be required by the Board of all applicants for physician licensure pursuant to section ~~8-4~~ 4.5 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.~~

~~3.32. All evidence and information described in this section may be provided through FCVS, where available through FCVS. Complete applications are considered by the Board at regular Board meetings. The Board will not consider an application or decide upon the issuance of a license to an applicant until~~

the complete application, including all third-party documentation and/or verifications, is on file with the Board and the Board has had at least ten days to review the application.

~~3.43. 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. If derogatory or conflicting information regarding an applicant's qualifications exists within a pending application file, the information shall be presented to the Board's Licensure Committee for review. Thereafter, the Licensure Committee shall determine whether the applicant should be scheduled to appear before the Committee. The Committee may also direct staff to obtain additional information related to the applicant's qualifications or make a recommendation upon the application.~~

~~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.~~

~~3.8.4. 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. With the exception of an initial license, a limited license to practice medicine and surgery at a designated state veterans nursing home facility is issued for a term of two years. An initial license is issued with an expiration date consistent with the applicant's renewal classification as set forth in subsection 4.2.~~

4.2. License renewal for all physicians issued a limited license pursuant to this rule shall occur on the following schedule:

4.2.a. Physicians whose last names begin with the letters "A" through "L" shall renew prior to July 1 of every even year; and

4.2.b. Physicians whose last names begin with the letters "M" through "Z" shall renew prior to July 1 of every odd year.

4.3. Renewal deadlines shall be published by the Board on its website.

4.24. Renewal applications shall be available on the Board's website. 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~~5~~. 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.

4.6. A limited license shall expire if not renewed by the renewal deadline set by the Board. An expired license is not a valid license.

§11-11-5. Regulation of Limited License ~~T~~to Practice ~~A~~at ~~A~~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

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