



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Medicine TITLE-SERIES: 11-11

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Establishment and Regulation of Limited License
to Practice Medicine and Surgery at Certain State
Veterans Nursing Home Facilities

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

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) Senate Bill 334

Section §64-9-13 Passed On 3/12/2022 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 1, 2022

This rule shall terminate and have no further force or effect from the following date:

August 01, 2027

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. -- May 9, 2022.

1.4. Effective Date. -- June 1, 2022.

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 wvboard.wv.gov, or at any successor domain name published by the Board.

§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:

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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 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 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 applicants' clinical training at the fellowship location.

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

3.1.i. 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.j. Verification from each state where the applicant has been licensed which corroborates that the applicant is in good standing in each such jurisdiction;

3.1.k. 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.m. Any other documents or information as may be required by the Board of all applicants for physician licensure pursuant to section 4.5 of W. Va. Code R. §11-1A-1 *et seq.*

3.2. 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.

3.3. 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.

3.4. 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. 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:

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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.

4.4. 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.

4.5. 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 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.