TITLE 11
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE
(EMERGENCY RULE)

SERIES 1A
LICENSING OF PHYSICIANS AND PODIATRIC PHYSICIANS AND DISCIPLINARY PROCEDURES FOR APPLICANTS, LICENSEES, CREDENTIAL HOLDERS.

§11-1A-1. General.

1.1. Scope. -- W. Va. Code §30-3-7(1)(a) authorizes the Board of Medicine to promulgate rules which are necessary to perform the duties and responsibilities of the Board. This legislative rule implements the West Virginia Medical Practice Act, W. Va. Code §30-3-1 *et seq,* provides the process for physician and podiatric physician licensure, administrative medicine licensure, identifies grounds for licensure denial, establishes professional conduct standards for providers authorized to practice by the Board, identifies prohibited professional misconduct, and sets forth a disciplinary process and professional misconduct penalties.

1.2. Authority. -- W. Va. Code § 30-3-7(a)(1); § 30-1D-1(d); § 30-3-11c(f), § 30-3-14(u), and § 30-1-26(b).

1.3. Filing Date. -- June 30, 2026.

1.4. Effective Date. -- August 11, 2026.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, ~~2028~~ 2032.

§11-1A-2. Definitions Applicable to all Board of Medicine Rules.

2.1. "ABMS" means the American Board of Medical Specialties.

2.2. "ACGME" means the Accreditation Council of Graduate Medical Education.

~~2.2.~~2.3. “Administrative medicine” means administration or management related to the practice of medicine or to the delivery of health care services using the medical knowledge, skill, and judgment of a licensed physician that may affect the health of the public or medical research, excluding clinical trials on humans. Administrative medicine does not include the authority to practice clinical medicine; examine, care for, or treat patients; prescribe medications, including controlled substances; or direct or delegate medical acts or prescriptive authority to others.

~~2.3.~~2.4. “Administrative medicine license” means a medical license restricted to the practice of administrative medicine. A physician with an administrative medicine license may manage the integration of clinical medicine, strategy, operations, and other business activities related to the delivery of health care services, advise organizations, both public and private, on health care matters; authorize and deny financial payments for care; organize and direct research programs; review care provided for quality; and perform other similar duties that do not require or involve direct patient care.

~~2.4.~~2.5. "AMA" means the American Medical Association.

2.6. “AOA” means the American Osteopathic Association.

~~2.5.~~2.7. "APMA" means the American Podiatric Medical Association.

~~2.6.~~2.8. “APMLE” means the American Podiatric Medical Licensing Examination.

2.9. "Approved graduate medical education" means education received through: (1) an internship, residency, or clinical fellowship program conducted in the United States and accredited by either the ACGME or AOA; or (2) a residency program conducted in Canada and accredited by RCPSC.

2.10. "Approved medical school" means an allopathic school of medicine approved by the LCME or the board and which confers the degree of medical doctor or its equivalent upon graduation.

~~2.7.~~2.11. "Board" means the West Virginia Board of Medicine, established in W. Va. Code §30-3-5.

~~2.8.~~2.12. “Clinical medicine and surgery” includes, but is not limited to:

~~2.8.a.~~2.12.a. Direct involvement in patient evaluation, diagnosis, and treatment;

~~2.8.b.~~2.12.b. Prescribing, administering, or dispensing any medication;

~~2.8.c~~.2.12.c. Delegating medical acts, service, or prescriptive authority; and

~~2.8.d~~.2.12.d. Supervision of physicians and/or podiatric physicians who practice clinical medicine, physician assistants who render medical services in collaboration with physicians, or the clinical practice of any other medical professional.

~~2.9.~~2.13. "ECFMG" means the Educational Commission for Foreign Medical Graduates.

2.14. “Emeritus license” is an honorific license status available to retired physicians, podiatric physicians and physician assistants who meet the eligibility criteria set forth in W. Va. Code § 30-3-12a. An emeritus license does not authorize the holder to practice any profession in this state or engage in any clinical practice whatsoever.

~~2.10.~~2.15. "False or deceptive advertising" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results or includes representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or be deceived.

~~2.11.~~2.16. “FCVS” means the Federation of State Medical Boards’ Credentials Verification Service.

~~2.12.~~2.17. "FLEX" means the Federation of State Medical Boards Licensing Examination.

~~2.13.~~2.18. “IMLC” means the Interstate Medical Licensure Compact.

~~2.14.~~2.19. “IMLC licensee” means a physician who was granted licensure to practice clinical medicine and surgery in this state through the IMLC licensing process.

~~2.15.~~2.20. "LCME" means the Liaison Committee on Medical Education.

~~2.16.~~2.21. "Legend drug" means a drug that may be dispensed under federal or state law only pursuant to the prescription of an authorized prescriber.

2.22. "License" means the legal authorization issued by the board to: a fully qualified allopathic physician to engage in the regular practice of medicine and surgery; a fully qualified podiatrist to engage in the practice of podiatric medicine and surgery; or a fully qualified physician assistant to practice in collaboration with physicians licensed under this article or §30-14-1 et seq. of this code.

~~2.17.~~2.23. “Licensee” means a physician or podiatric physician who has been granted a license to practice medicine and surgery, administrative medicine only, or podiatric medicine and surgery in West Virginia pursuant to W. Va. Code § 30-3-1 *et seq*. and this rule. A physician may only hold one valid license at a time.

~~2.18.~~2.24. "NBME" means the National Board of Medical Examiners.

~~2.19.~~2.25. "PMLexis" means the Podiatric Medical Licensing Examination for States.

~~2.20.~~2.26. “Practice credential” or “credential” means any permit, certification, registration or authorization, other than a license, issued by this Board which authorizes the credential holder to practice medicine and surgery or podiatric medicine and surgery to patients in West Virginia within the limits established for the specific credential type.

~~2.21.~~2.27. "Probation" means imposing conditions and requirements upon a licensee for a period of time that the Board, in its discretion, determines to be justified under any provision of law. A licensee placed on probation may continue to practice subject to limitations imposed by the Board, including the requirements that the licensee appear before the Board, or an officer or agent thereof, at the times and places designated by the Board. A licensee may be placed on probation without a previous or concurrent suspension or revocation of his or her license.

2.28. "RCPSC" means the Royal College of Physicians and Surgeons of Canada.

~~2.22.~~2.29. "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

~~2.23.~~2.30. "USMLE" means the United States Medical Licensing Examination, the successor to the FLEX and NBME.

~~2.24.~~2.31. “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 wvbom.wv.gov, or at any successor domain name published by the Board.

~~2.25.~~2.32. "West Virginia Medical Practice Act" means W. Va. Code §30-3-1 *et seq*.

§11-1A-3. Qualification and Application for a License to Practice Medicine and Surgery.

3.1. Minimum qualifications for initial licensure as a medical doctor for applicants who graduated and received the degree of doctor of medicine or its equivalent from a Board or LCME approved school of medicine located within the United States, the Commonwealth of Puerto Rico, or Canada are set forth in West Virginia Code §30-3-10~~(b)~~(a).

3.2. An application for a license to practice medicine and surgery shall be completed on a form provided by the Board, which is available on the Board’s website.

3.3. A completed application is 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 verification, is on file with the Board and the Board has had at least fifteen days to review the application.

3.4. An application for licensure must be accompanied by payment of a nonrefundable application fee in an amount established by 11 CSR 4.

3.5. The Board's physician licensure application shall include, and applicants must provide, the following information:

3.5.a. The applicant's name, e-mail address, home address, preferred mailing address and primary practice location address(es) and telephone numbers;

3.5.b. Demographic information of the applicant, such as date of birth, place of birth, sex, etc.;

3.5.c. A photograph taken within the previous twelve months which substantially resembles the applicant;

3.5.d. Evidence of graduation from a medical school approved by the LCME or by the Board;

3.5.e. Information with respect to the applicant's professional practice, good moral character, and fitness to practice.

3.5.f. Information as determined by the Board which relates to whether the applicant is mentally and physically able to engage safely in the practice of medicine and surgery.

3.5.g. Evidence satisfactory to the Board that the applicant has successfully completed one year of approved graduate medical education.

~~3.5.g. Provide evidence satisfactory to the Board that the applicant:~~

~~3.5.g.1. Has successfully completed one year of postgraduate clinical training approved by the ACGME; or~~

~~3.5.g.2. Has successfully completed 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:~~

~~3.5.g.2.a. At an institution that sponsors or operates a residency program in the same clinical field or a related clinical field approved by the Accreditation Council for Graduate Medical Education; or~~

~~3.5.g.2.b. 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;~~

3.5.h. An AMA biographical report;

3.5.i. All hospitals where the physician has had privileges in the last five years;

3.5.j. Information regarding medical schools attended by the applicant;

3.5.k. A list of, and requested information regarding, training programs, including postgraduate training, in which the applicant ever participated;

3.5.l. A list of jurisdictions in which the applicant has applied for licensure, the disposition of such applications, and a list of licenses the applicant holds or has ever held and the current status of each license;

3.5.m. A copy of the individual's birth certificate, certificate of naturalization, or passport to be used in identifying the applicant and the appropriate spelling of his or her name;

3.5.n. A copy of legal documentation satisfactory to the Board which verifies any name change the applicant has experienced;

3.5.o. A report from the National Practitioner Data Bank;

3.5.p. A criminal history record check as set forth in section 8;

3.5.q. Evidence that the applicant has received passing scores on all required examinations as set forth in section 7 of this rule; and

3.5.r. Other documents as may be required by the Board to evaluate the qualifications and fitness of an applicant to practice medicine and surgery in West Virginia.

3.6. Evidence and information described in this section may be provided through FCVS, where available through FCVS.

3.7. The applicant shall provide necessary forms to ~~selected institutions~~ the applicant's medical school(s) and graduate medical education program(s) for direct submission ~~response~~ to the Board, except where FCVS is providing the information directly to the Board.

3.8. 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.

3.9. If the staff finds derogatory or conflicting information or unusual circumstances regarding an applicant's qualifications, or information requiring clarification or further explanation by the applicant, 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.

3.10. An applicant may be required to appear personally before the Licensure Committee in support of his or her application. The Board may require production of original documents at the required attendance at a Board or Committee meeting.

3.11. The Board, at its discretion, may obtain additional information through the Federation of State Medical Boards and/or through oral or written examinations, psychiatric evaluation, physical examination or other tests as may be necessary to determine the competency of the applicant.

3.12. The Board shall require applicants to take the SPEX or a competency examination in their field

of practice prior to issuing a license, whenever the Board considers it necessary to evaluate the medical knowledge and clinical skills of an applicant.

3.13. A complete application, including all associated documentation submitted to the Board, become the property of the Board and will not be returned.

3.14. The burden of satisfying the Board of the applicant's qualifications for licensure is upon the applicant.

3.15. In evaluating an application and determining an applicant's qualification for licensure, the Board may consider any recent period(s) of absence from the practice of medicine which may affect the applicant's clinical skills and/or knowledge when the absence(s) individually or cumulatively equal or exceed two years. The applicant shall:

3.15.a. Demonstrate that any such absence from practice has not resulted in a loss of current skills or knowledge;

3.15.b. Provide proof satisfactory to the Board that the applicant has taken effective measures to ensure that his or her clinical skills and knowledge are current; and

3.15.c. Propose a plan designed to ensure his or her safe reentry into practice.

3.16. The Board may require the examination and/or assessment of the competencies, medical knowledge and clinical skills necessary to assist in assessing a safe reentry into practice.

§11-1A-4. Additional Licensure Requirements for Graduates of Medical Schools Located Outside of the United States, the Commonwealth of Puerto Rico or Canada.

4.1. Minimum qualifications for initial licensure as a medical doctor for applicants who have received the degree of doctor of medicine or its equivalent from a school of medicine outside of the United States, the Commonwealth of Puerto Rico or Canada are set forth in West Virginia Code §30-3-10(b) and (c). In addition to the qualifications and application requirements for licensure to practice medicine and surgery which are set forth in section ~~4~~ 3, an applicant for licensure who is a graduate of a medical school located outside of the United States, the Commonwealth of Puerto Rico or Canada shall:

4.1.a. Provide an acceptable copy of the applicant's valid ECFMG certificate, or submit documentation satisfactory to the Board which demonstrates that:

4.1.a.1. The applicant 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;

4.1.a.2. The applicant 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 not to include practice via telemedicine technologies from a location physically outside of the state or jurisdiction of licensure; and

4.1.a.3. The applicant provides proof satisfactory to the Board that he or she is not the subject of any pending disciplinary action by a medical licensing board in any jurisdiction;

4.1.b. Possess a demonstrable ability to communicate in the English language; and

~~4.1.c. Provide evidence satisfactory to the Board that the applicant:~~

~~4.1.c.1. Has successfully completed at least two years of ACGME approved postgraduate clinical training;~~

~~4.1.c.2. Has successfully completed 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:~~

~~4.1.c.2.a. At an institution that sponsors or operates a residency program in the same clinical field or a related clinical field approved by the Accreditation Council for Graduate Medical Education; or~~

~~4.1.c.2.b. 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~~

~~4.1.c.3. Holds 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 4.1.c.1. or 4.1.c.2.~~

4.1.c. Provide evidence satisfactory to the Board that the applicant has successfully completed:

4.1.c.1. Two years of approved graduate medical education; or

4.1.c.2. One year of approved graduate medical education and the applicant holds a current certification by an ABMS member board; or

4.1.c.3. All requirements of an international graduate medical education residency training program and the applicant:

4.1.c.3.a. Has successfully completed two full years of non-accredited fellowship training in the United States in a clinical field related to the applicant's international residency training at an institution that sponsors or operates an ACGME-accredited residency program in the same clinical field or a related clinical field. Provided, that one complete year of approved graduate medical education may be substituted for one year of non-accredited training; and

4.1.c.3.b. Submits evidence that he or she has an offer of employment to practice medicine and surgery in this state.

§11-1A-5. Qualification and Application for an Administrative Medicine License; Conversion of License Type.

5.1. An applicant for an administrative medicine license shall meet the qualifications and requirements for initial medical licensure set forth in W. Va. Code § 30-3-10(d) and in sections 3 and/or 4 of this rule, except that administrative medicine licensure applicants do not need to demonstrate active clinical practice in the two year period preceding application for administrative medical licensure.

5.2. For consideration of an administrative medicine license, a physician shall submit:

5.2.a. An application and fee for an initial medical license as set forth in Section ~~4~~ 3 of this rule;

5.2.b. Evidence of competency to practice administrative medicine; and

5.2.c. A notarized declaration, on a form provided by the Board, that the applicant shall not practice clinical medicine and surgery to West Virginia patients while holding an administrative medicine license issued by the Board.

5.3. The Board will not consider an application or decide upon the issuance of an administrative medicine license to an applicant until the complete application, including all third-party documentation and/or verification, is on file with the Board and the Board has had at least fifteen days to review the application.

5.4. An administrative medicine licensee may not:

5.4.a. Practice clinical medicine and surgery;

5.4.b. Prescribe, administer, or dispense any medication;

5.4.c. Delegate medical acts or prescriptive authority; or

5.4.d. Supervise the practice of clinical providers.

5.5. Administrative medicine licensees shall be required to pay the same fees and meet all other requirements for license renewal as a person holding an active license to practice medicine and surgery. Administrative medicine licenses are renewable as set forth in section 10 of this Rule, and licensees must comply with continuing medical education requirements set forth in W. Va. Code R. § 11-6-1 *et. seq.*

5.6. Administrative medicine licensees are subject to the requirements of the West Virginia Medical Practice Act and Board rules, and shall comply with all professional conduct standards set forth therein which do not relate exclusively to the practice of clinical medicine and surgery.

5.7. Any physician who holds an unexpired license may petition the Board, without fee, for license conversion to an administrative license if:

5.7.a. The physician holds an unrestricted medical license, seeks to self-limit practice to administrative medicine and submits a notarized declaration as set forth in subdivision ~~5.3.2~~ 5.2.c; or

5.7.b. The physician's West Virginia medical license is restricted to administrative medicine only by a board order based solely upon:

5.7.b.1. The physician's voluntary decision to self-limit practice to administrative medicine; or

5.7.b.2. The physician's absence from recent clinical practice.

5.8. Upon conversion of a license to practice medicine and surgery to an administrative medicine license, the Board shall terminate any order limiting the licensee's practice to administrative medicine.

5.9. Administrative medicine licensees may not be eligible to participate in the interstate medical licensure compact utilizing West Virginia as the physician's state of principal licensure. A West Virginia medical license granted to a physician pursuant to the IMLC licensing process may not be converted to an administrative license. However, IMLC pathway licensees may apply anew for administrative medicine licensure.

5.10. An administrative medicine licensee may apply for a full and unrestricted license to practice medicine and surgery pursuant to sections four and five of this Rule. Any such application shall include evidence that the physician has the clinical competence to practice medicine under an unrestricted license and meets all applicable eligibility requirements for an unrestricted license. The applicant shall:

5.10.a. Demonstrate that any absence from clinical practice has not resulted in a loss of current skills or knowledge;

5.10.b. Provide proof satisfactory to the Board that the applicant has taken effective measures to ensure that his or her clinical skills and knowledge are current, including, if necessary, passage of any examinations deemed appropriate by the Board; and

5.10.c. Propose a plan designed to ensure the physician's safe reentry into clinical practice.

§11-1A-6. Qualification and Application for a License to Practice Podiatric Medicine and Surgery.

6.1. Minimum qualifications for initial licensure as a podiatric physician and surgeon are set forth in West Virginia Code §30-3-10~~(d)~~(e).

6.2. An application for a license to practice podiatric medicine and surgery for an applicant seeking initial licensure, ~~or licensure by endorsement pursuant to West Virginia Code §30-3-11(a),~~ shall be completed on a Board-approved application.

6.3. A completed application is considered by the Board at regular Board meetings. The Board will not consider an application until the complete application, including all third-party documentation and/or verification, is on file with the Board and the Board has had at least fifteen days to review the application.

6.4. An application for licensure must be accompanied by payment of a nonrefundable application fee in an amount established by 11 CSR 4.

6.5. An applicant must provide the following information:

6.5.a. The applicant's name, e-mail address, home address, preferred mailing address and primary practice location address(es) and telephone numbers;

6.5.b. Demographic information of the applicant, such as date of birth, place of birth, sex, etc.;

6.5.c. A photograph taken within the previous twelve months which substantially resembles the applicant;

6.5.d. Evidence of graduation and receipt of the degree of doctor of podiatric medicine or its equivalent from a school of podiatric medicine which is approved by the Council of Podiatric Education or by the board;

6.5.e. Information as determined by the Board which relates to whether the applicant is mentally

and physically able to engage safely in the practice of podiatric medicine and surgery;

6.5.f. Evidence of completion of:

6.5.f.1. One year of graduate podiatric clinical training in a program approved by the CPME or the CPM; or

6.5.f.2. Two years of graduate podiatric clinical training in the U.S. armed forces; or

6.5.f.3. Three years of private podiatric clinical experience satisfactory to the Board;

6.5.g. A list of, and requested information regarding, training programs, including postgraduate training, in which the applicant ever participated;

6.5.h. A list of jurisdictions in which the applicant has applied for licensure, the disposition of such applications, and a list of all licenses the applicant holds or has ever held and the current status of each license;

6.5.i. A copy of the individual's birth certificate, certificate of naturalization, or passport to be used in identifying the applicant and the appropriate spelling of his or her name;

6.5.j. A copy of legal documentation satisfactory to the Board which verifies any name change;

6.5.k. A criminal history record check as set forth in section 8;

6.5.l. Evidence that the applicant has received passing scores on all required examinations as set forth in section 7 of this rule;

6.5.m. A report from the National Practitioner Data Bank; and

6.5.n. Other documents as may be required by the Board to evaluate the qualifications and fitness of an applicant to practice podiatric medicine and surgery in West Virginia.

6.6. The applicant shall provide necessary forms to ~~selected institutions~~ the applicant's podiatric school(s) and graduate podiatric clinical training program(s) for direct submission ~~response~~ to the Board. Completed verification forms must be provided directly from selected institutions to the Board and not from the applicant.

6.7. If the staff finds derogatory or conflicting information regarding an applicant's qualifications, or information requiring clarification or further explanation by the applicant, 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.

6.8. An applicant may be required to appear personally before the Licensure Committee of the Board in support of his or her application. The Board may require production of original documents at the required attendance at a Board or Committee meeting.

6.9. The Board may obtain additional information, oral and/or written examinations, psychiatric evaluation, physical examination or other tests as may be necessary to determine the competency of the applicant.

6.10. The Board shall require applicants to take a competency examination prior to issuing a license, whenever the Board considers it necessary to evaluate the medical knowledge and clinical skills of an applicant.

6.11. A complete application, including all associated documentation submitted to the Board, become the property of the Board and will not be returned.

6.12. The burden of satisfying the Board of the applicant's qualifications for licensure is upon the applicant.

6.13. In evaluating an application and determining an applicant's qualification for licensure, the Board may consider any recent period(s) of absence from the practice of podiatric medicine which may affect the applicant's clinical skills and/or knowledge when such absence(s) individually or cumulatively equal or exceed two years. The applicant shall:

6.13.a. Demonstrate that any such absence from practice has not resulted in a loss of current skills or knowledge;

6.13.b. Provide proof satisfactory to the Board that the applicant has taken effective measures to ensure that his or her clinical skills and knowledge are current; and

6.13.c. Propose a plan designed to ensure his or her safe reentry into practice.

The Board may require the examination and/or assessment of the competencies, medical knowledge and clinical skills necessary to assist in assessing a safe reentry into practice.

6.14. The provisions of this rule that relate to disciplinary procedures, reports and complaints, and the provisions of the contested case hearing and appeal procedures, W. Va. Code §29A-5-1 et seq. and 11 CSR 3, Board Organization and Meeting Procedure; Complaint and Contested Case Hearing Procedures, are applicable to podiatric physicians and surgeons and the practice of podiatric medicine and surgery and shall be applied in that context to matters relating to podiatric physicians and surgeons.

§11-1A-7. Required Examinations for a License to Practice Medicine and Surgery; Required Examinations for a License to Practice Podiatric Medicine and Surgery.

7.1. To be eligible for consideration for a license to practice medicine and surgery in this state, including a license to practice administrative medicine only, an applicant must demonstrate that he or she has successfully passed all components of the United States Medical Licensing Examination (USMLE) with a score greater than or equal to the minimum passing score as determined by the developer on each component part, including USMLE Step 1, USMLE Step 2 and USMLE Step 3. However, an applicant shall not be eligible for licensure if:

7.1.a. The applicant failed to obtain a passing score on a component part of the USMLE in six attempts, or within the attempt limit implemented by the governing body of the USMLE, the Composite Committee, at the time the applicant sat for the exam component, whichever is lower; or

7.1.b. Passing scores on all component parts of the USMLE were not obtained by the applicant within ten consecutive years.

7.2. An applicant who has not taken all component steps of the USMLE may be eligible for

consideration for licensure to practice medicine and surgery, if the applicant can demonstrate that, within ten consecutive years:

7.2.a. The applicant passed all component parts of previously administered examinations, such as the State Board Examination, FLEX or NBME with a passing score of 75% or better; or

7.2.b. The applicant passed a combination of the component parts of currently or previously administered examinations which have been identified as acceptable by the Board. The Board shall publish a current list of examination combinations which have been approved by the Board on its website.

7.3. The board may accept an examination sequence which was successfully completed in more than 10 consecutive years if the applicant holds current specialty board certification from a member board of ABMS. To request consideration pursuant to this exception, an applicant shall submit:

7.3.a. A written explanation of the facts and circumstances resulting in the applicant taking more than 10 consecutive years to successfully complete the exam sequence; and

7.3.b. Evidence of the applicant's current certification status with an ABMS member board.

~~7.3.~~7.4. To be eligible for consideration for a license to practice podiatric medicine and surgery in this state, an applicant must demonstrate that he or she has, within a period of ten consecutive years, successfully passed all components of:

~~7.3.a.~~7.4.a. The American Podiatric Medical Licensing Examination (APMLE) including Steps 1, 2, and 3; or

~~7.3.b.~~7.4.b. The PMLexis Steps 1, 2, and 3 with minimum passing scores on each step as determined by the developers; Provided, the nationally recommended cut score is criterion referenced according to the method known as the Angoff method; or

~~7.3.c.~~7.4.c. Any other examination, or combination of examinations, which have been identified as acceptable by the Board. The Board shall publish a current list of examination combinations which have been approved by the Board on its website.

~~7.4.~~7.5. Examination(s) approved by the Board shall be in the English language.

§11-1A-8. Criminal History Record Check.

8.1. In addition to all of the requirements for licensure set forth elsewhere in this legislative rule, all applicants applying to this Board for licensure shall request and submit to the Board the results of a state and a national criminal history record check.

8.2. The purpose of the criminal history record check is to assist the Board in obtaining information that may relate to the applicant's fitness for licensure.

8.3. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section instead of requiring the applicant to apply directly to the West Virginia State Police or similar out-of-state agency for the criminal history records checks. Provided, that any such company must utilize protocols consistent with standards established by the

Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

8.4. The applicant shall furnish to the State Police, or other organization duly designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

8.5. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

8.6. The Board may require the applicant to obtain a criminal history records check from a similar Board approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

8.7. The applicant shall authorize the release of all records obtained by the criminal history record check to the Board.

8.8. A criminal history record check submitted in support of an application for licensure must have been requested by the applicant no earlier than twelve months immediately prior to the Board's receipt of the applicant's electronic application for licensure.

8.9. A medical or podiatric initial licensure application is not complete until the Board receives the results of a state and a national criminal history record check conducted by the State Police or another entity duly authorized by the Board. The Board shall not grant an application for licensure submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

8.10. The Board may, in its discretion, require any applicant for reactivation of a medical license which has been expired for greater than five years to request and submit to the Board the results of a state and a national criminal history record check in conformity with the requirements of this section.

8.11. Should criminal offenses be reported on an applicant's criminal history record check, the board will consider the nature, severity, and recency of offenses, as well as rehabilitation and other factors on a case by case basis for licensure.

8.12. The results of the state and national criminal history record check may not be released to or by a private entity except:

8.12.a. To the individual who is the subject of the criminal history record check;

8.12.b. With the written authorization of the individual who is the subject of the criminal history record check; or

8.12.c. Pursuant to a court order.

8.13. Criminal history record checks and related records are not public records for the purposes of chapter twenty-nine-b of the West Virginia Code.

§11-1A-9. ~~Temporary License to Practice Medicine and Surgery or Podiatric Medicine and Surgery.~~ Issuance of Licenses.

~~9.1. The applicant for licensure to practice medicine and surgery or podiatric medicine and surgery may request a temporary license if:~~

~~9.1.a. The applicant has submitted a complete application pursuant to section four or five of this rule;~~

~~9.1.b. The applicant meets all of the qualifications for a license to practice medicine and surgery or podiatric medicine and surgery and is not applying for an administrative medicine license;~~

~~9.1.c. The applicant holds a valid, unrestricted license to practice medicine and surgery or podiatric medicine and surgery from another state, the District of Columbia, the Commonwealth of Puerto Rico or Canada;~~

~~9.1.d. All licenses held by the applicant are unrestricted and in good standing;~~

~~9.1.e. The applicant provides proof satisfactory to the Board that he or she is not the subject of any pending disciplinary complaints, investigations or actions by any medical licensing board in any jurisdiction;~~

~~9.1.f. The applicant's application does not contain any derogatory or conflicting information, or any other information regarding an applicant's qualifications which require the information to be presented to the Board's Licensure Committee for review; and~~

~~9.1.g. The applicant is awaiting the next scheduled meeting of the Board for action upon his or her application.~~

~~9.2. The Board may authorize its staff to issue a temporary license to an applicant who meets all of the qualifications set forth in subsection 9.1. and who provides the following additional items with his or her licensure application:~~

~~9.2.a. A written request that the applicant be issued a temporary license; and~~

~~9.2.b. A nonrefundable temporary license fee in an amount established by 11 CSR 4.~~

~~9.3. A temporary license issued pursuant to this section authorizes the holder to practice medicine and surgery or podiatry in West Virginia for the term of the temporary license, and includes full prescriptive authority. The temporary license is valid until its holder has either been granted or denied a license at the next regular meeting of the board.~~

9.1. The Board shall establish the circumstances under which the approval of applications and the issuance of licenses and other practice credentials may be delegated to board staff.

9.2. If the underlying application is complete and does not contain unresolved unusual circumstances or discrepant information regarding the applicant's eligibility such that review and consideration by the Board is warranted, the executive director is authorized to approve the issuing or re-issuing of the following practice credentials:

9.2.a. Licenses and interstate telehealth registrations to practice medicine and surgery;

9.2.b. Licenses to practice administrative medicine;

9.2.c. Licenses and interstate telehealth registrations to practice podiatric medicine and surgery;

9.2.d. Summer camp licenses;

9.2.e. Volunteer licenses;

9.2.f. Emeritus licenses;

9.2.g. Educational permits and reciprocal educational permits;

9.2.h. Licenses and interstate telehealth registrations to practice as a physician assistant;

9.2.i. Genetic counselor licenses and ACS permits;

9.2.j. Controlled Substance Dispensing Practitioner Registrations; and

9.2.k. Business entity registrations and authorizations.

9.3. All other applications, except as set forth in subdivision 9.2, once complete, shall be presented to the Board for review and action.

9.4. Medical school faculty licenses and restricted licenses issued in extraordinary circumstances may only be issued by the Board.

9.5. Notwithstanding the authorization to issue licenses set forth in this section, the executive director may determine to present any application to the Board for a determination of eligibility for the requested practice credential.

§11-1A-10. Licensure Renewal, Inactive Status Licensure: Physicians and Podiatric Physicians and Surgeons.

10.1. With the exception of an initial license, licenses to practice medicine and surgery, administrative medicine, and podiatric medicine are 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 10.2. Provided, that if an initial license is issued within 60 days of an established renewal deadline, the license shall be issued with an expiration date consistent with the subsequent renewal deadline for the renewal cohort.

10.2. License renewal for all licensed physicians whose last names begin with the letters "A" through "L" shall occur prior to July 1 of every even year. License renewal for all licensed physicians whose last names begin with the letters "M" through "Z" and all podiatric physicians shall occur prior to July 1 of every odd year .

10.3. A license shall expire, if not renewed by the renewal deadline set by the Board and will be published on the Board's website. An expired license is not a valid license.

10.4. To avoid expiration, an eligible licensee shall seek to renew his or her license every two years by:

10.4.a. Completing and submitting an application approved by the Board;

10.4.b. Certifying that he or she has successfully completed all legally required continuing medical education for the preceding two-year period; and

10.4.c. Submitting the nonrefundable license renewal fee, as established by the Board.

10.5. The appropriate renewal application is available online or through the Board's website. Physicians licensed through the IMLC licensing process may access the initial renewal application through the IMLC. The Board shall provide IMLC licensees with additional forms required for renewal in West Virginia via email. Failure of an IMLC licensee to complete and return the West Virginia renewal addendum within 30 days shall constitute unprofessional conduct.

10.6. A licensee shall maintain current contact information on file with the Board including: a preferred mailing address; a home address; current practice locations; and a current e-mail address. A licensee shall notify the Board of any changes to such contact information within fifteen days of the change.

10.7. Communications and notifications regarding the renewal process will be conveyed to a licensee via e-mail.

10.8. A licensee shall be aware of his or her license expiration date and shall acquire and submit a renewal application and required documentation. Failure of the licensee to receive a renewal notification does not constitute justification for a licensee to practice on an expired license.

10.9. At a minimum, the Board's renewal application for physicians and for podiatric physicians shall include, and renewal applicants must provide, the following information:

10.9.a. The applicant's name, e-mail address, home address, preferred mailing address, primary practice location address(es), and telephone numbers;

10.9.b. Demographic information of the applicant, such as date of birth, sex, etc.;

10.9.c. A statement concerning any disciplinary action taken against the applicant in the last two years, and any pending disciplinary complaints, investigations or actions in any jurisdiction;

10.9.d. A statement concerning any medical professional liability claims or actions which were settled or with respect to which judgments against the applicant were rendered, and/or any criminal arrests, charges, pleas or litigation commenced against the applicant within the last two years;

10.9.e. A statement describing an applicant's present ability to possess or dispense controlled substances;

10.9.f. A statement of all other jurisdictions in which the applicant is licensed to practice medicine;

10.9.g. The number of medical professional liability settlements made by or on behalf of the applicant and/or judgements entered against the applicant in the last two years;

10.9.h. Any treatment received for chemical substance or alcohol dependency in the last two years with the exception of any treatment received in association with a voluntary agreement entered into pursuant to West Virginia Code §30-3-~~10(h)~~ 9(h);

10.9.i. Any limitation of hospital privileges in the last two years;

10.9.j. Information with respect to the renewal applicant's professional practice, character and fitness to practice medicine and surgery, administrative medicine, or podiatric medicine and surgery;

10.9.k. Certification of successful completion of all required continuing medical education

requirements; and

10.9.l. Other information required by the Board for renewal of a license.

10.10. Upon request, the Board may renew the license of a physician or a podiatric physician who is licensed to practice in this state, but who is not currently practicing in West Virginia, as an inactive status license. An inactive status licensee shall not practice his or her profession in this state while maintaining an inactive status license.

10.11. An inactive license may be obtained upon receipt of a nonrefundable fee, as established by 11 CSR 4, and submission of an application provided by the Board. An inactive license is valid for a term of two years, and is renewable.

10.12. Upon request, the Board may convert an inactive status license to an active status license if the requesting licensee:

10.12.a. Completes and submits a change of status application;

10.12.b. Submits the nonrefundable change of licensure status fee;

10.12.c. Accounts for the licensee's period of inactivity to the satisfaction of the Board; and

10.12.d. Provides evidence of successful completion of all required continuing medical education requirements for the prior renewal period in accordance with 11 CSR 6.

10.13. Administrative medicine licenses are not eligible for inactive status.

§11-1A-11. Confidentiality of Complaint and Investigation Process.

11.1. When the Board receives a report submitted pursuant to the provisions of West Virginia Code §30-3-14, or when the Board receives or initiates a complaint regarding the conduct of anyone practicing medicine and surgery, podiatric medicine and surgery or practicing as a physician assistant pursuant to a license or other credential issued by the Board, the Board shall create a complaint file in which the Board shall maintain all documents relating to the investigation and action upon the alleged conduct.

11.2. When the Board receives a complaint or initiates a complaint regarding a licensee's or credential holder's professional conduct, the Board shall provide the licensee or credential holder with a copy of the complaint as soon as practical. If providing a copy of the complaint identifies an anonymous complainant or compromises the integrity of an investigation, the Board shall provide the licensee or credential holder with a summary of all substantial elements of the complaint. Otherwise, during the pendency of an investigation, complaints regarding a licensee's or credential holder's professional conduct are confidential.

11.3. All records, papers, investigative files, investigative reports, other investigative information and other documents containing information in the possession of or received or gathered by the Board, or its members or employees or consultants as a result of investigations, inquiries, assessments, or interviews conducted in connection with a licensing, credentialing, complaint, assessment, potential impairment matter, or disciplinary matter, are privileged and/or otherwise confidential. If the Board finds probable cause to institute disciplinary charges against a licensee or credential holder, he or she shall be entitled to receive disclosures of information contained within the complaint file as set forth in West Virginia Code §30-3-14(i).

11.4. If investigative information in the possession of the Board, its employees, or agents indicates that a crime may have been committed, the Board shall report the information to the appropriate law enforcement agency or state or federal prosecuting attorney.

11.5. The Board shall cooperate with and assist any state or federal law enforcement agency, any state or federal regulatory agency and/or any state or federal prosecuting attorney conducting an investigation or a prosecution of a licensee or credential holder by providing the entity information that is relevant to an investigation or prosecution. Information disclosed by the Board to any entity pursuant to this subsection remains confidential and may not be disclosed by the recipient agency, except as necessary to further the investigation. Information received by the Board from state or federal law enforcement agencies, state or federal regulatory agencies or state or federal prosecuting attorneys shall remain confidential and may not be disclosed by the Board except as necessary to further the Board's investigation or when disclosure to the responding licensee is required by West Virginia Code §30-3-14(i).

11.6. The disposition of a complaint is public information.

§11-1A-12. Causes for Denial, Probation, Limitation, Discipline, Suspension or Revocation of Licenses and Other Professional Credentials.

12.1. The Board may deny an application for a license, place a licensee or credential holder on probation, suspend a license or credential, limit or restrict a license or credential or revoke any license or credential upon satisfactory proof that the licensee or credential holder has:

12.1.a. Knowingly made, or presented or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other material in connection with an application for a license or other credential;

12.1.b. Been or is involved in fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license;

12.1.c. Become addicted to a controlled substance;

12.1.d. Become a chronic or persistent alcoholic;

12.1.e. Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof;

12.1.f. Willfully violated a confidential communication;

12.1.g. Had his or her license to practice medicine or podiatric medicine in any other state, territory, jurisdiction or foreign nation revoked, suspended, restricted or limited, or otherwise acted against, or has been subjected to any other disciplinary action by the licensing authority thereof, or has been denied licensure in any other state, territory, jurisdiction, or foreign nation.

12.1.h. Been or is unable to practice medicine or podiatric medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals or any other type of material, or by reason of any physical or mental abnormality;

12.1.i. Demonstrated a lack of professional competence to practice medicine or podiatric medicine with a reasonable degree of skill and safety for patients. In this connection, the Board may consider repeated acts of a physician or podiatric physician indicating his or her failure to properly

treat a patient and may require the physician or podiatric physician to submit to inquiries or examinations, written or oral, by members of the Board, or by other physicians or podiatric physicians to practice medicine or podiatric medicine in this State, as the Board considers necessary to determine the professional qualifications of the licensee or credential holder;

12.1.j. Engaged in unprofessional conduct, including, but not limited to, any departure from, or failure to conform to, the standards of acceptable and prevailing medical or podiatric practice, or the ethics of the medical or podiatric profession, irrespective of whether or not a patient is injured thereby, or has committed any act contrary to honesty, justice or good morals, whether the same is committed in the course of his or her practice or otherwise and whether committed within or without this State;

12.1.k. Been convicted of or found guilty of a crime in any jurisdiction which directly relates to the practice of medicine or podiatric medicine or to the ability to practice medicine or podiatric medicine. Any plea of nolo contendere shall be considered conviction for purposes of this rule;

12.1.l. Advertised, practiced or attempted to practice under a name other than his or her own;

12.1.m. Failed to report to the Board any person whom the licensee or credential holder knows is in violation of this rule, other rules of the Board, or of provisions of the West Virginia Medical Practice Act or the West Virginia Physician Assistants Practice Act;

12.1.n. Aided, assisted, procured or advised any person to practice medicine or podiatry without a license or other practice credential or in a manner that is otherwise contrary to this rule, the West Virginia Medical Practice Act or the West Virginia Physician Assistants Practice Act;

12.1.o. Failed to perform any statutory or legal obligation placed upon a licensed or credentialed physician, podiatric physician or physician assistant;

12.1.p. Made or filed a report which the licensee or credential holder knows to be false; intentionally or negligently failed to file a report or record required by state or federal law, willfully impeded or obstructed such filing or induced another person to do so. The reports or records shall include only those which are signed in the capacity as a licensed or credentialed physician, podiatric physician or physician assistant.

12.1.q. Paid or received any commission, bonus, kickback or rebate, or engaged in any split-fee arrangement in any form whatsoever with a physician, podiatric physician, other practitioner, organization, agency or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The provisions of this subdivision shall not be construed to prevent a physician or podiatric physician from receiving a fee for professional consultation services;

12.1.r. Exercised influence within a provider-patient relationship for purposes of engaging a patient in sexual activity, engaged in sexual activity with a patient, sexually harassed or exploited a patient, or otherwise violated the professional conduct standards set forth in the Board's legislative rule prohibiting practitioner sexual misconduct, ~~W. Va. Code R. § 11-16-1 *et. seq.*~~ 11 CSR 16;

12.1.s. Made deceptive, untrue or fraudulent representations in the practice of medicine or podiatric medicine and surgery or employed a trick or scheme in the practice of medicine or podiatric medicine and surgery when the trick or scheme fails to conform to the generally prevailing standards of treatment in the medical or podiatric community;

12.1.t. Solicited patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or by overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate response from the recipient;

12.1.u. Failed to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results and test results and treatment rendered, if any;

12.1.v. Exercised influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or credential holder, or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs and the promoting or advertising on any prescription form of a community pharmacy. For the purposes of this subdivision, it is legally presumed that prescribing, dispensing, administering, mixing or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities, is not in the best interests of the patient and is not in the course of the physician's or podiatric physician's professional practice, without regard to his or her intent;

12.1.w. Prescribed, dispensed or administered any medicinal drug appearing on any schedule set forth in W. Va. Code §60A-1-1 et. seq. by the physician or podiatric physician to himself or herself, except one prescribed, dispensed or administered to the physician or podiatric physician by another practitioner authorized to prescribe, dispense or administer medicinal drugs;

12.1.x. Engaged in malpractice or failed to practice medicine or podiatric medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent, physician or podiatric physician engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances;

12.1.y. Performed any procedure or prescribed any therapy which, by the prevailing standards of medical or podiatric practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed and written consent from the patient;

12.1.z. Practiced or offered to practice medicine and surgery or podiatric medicine and surgery beyond the scope permitted by law or accepted and performed professional responsibilities which the licensee or credential holder knows or has reason to know he or she is not competent to perform;

12.1.aa. Delegated professional responsibilities to a person whom the licensee or credential holder knew or had reason to know is not qualified by training, experience or professional credential to perform the responsibilities;

12.1.bb. Violated or attempted to violate any law or lawfully promulgated rule or regulation of this State, any other state, the Board, the United States or any other lawful authority (without regard to whether the violation is criminally punishable), which law or rule or regulation relates to or in part regulates the practice of medicine or podiatric medicine and surgery, when the licensee, credential holder or applicant knows or should know that such action is violative of the law, rule or regulation; or has violated a lawful order of the Board; or has failed to comply with a lawfully issued subpoena of the Board; or has violated an order of any court entered pursuant to any proceedings commenced by the Board;

12.1.cc. Pre-signed blank prescription forms;

12.1.dd. Prescribed any medicinal drug appearing on Schedule II in W. Va. Code § 60A-1-1 *et. seq*. for office use;

12.1.ee. Prescribed, ordered, dispensed, administered, supplied, sold or given any drug which is an amphetamine or sympathomimetic amine drug and a compound designated as a Schedule II controlled substance under W. Va. Code §60A-1-1 *et. seq*. to or for any person except for:

12.1.ee.A. The treatment of narcolepsy; binge eating disorder, attention deficit disorder, a behavioral syndrome characterized by inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability and impulsivity; or drug-induced brain dysfunction;

12.1.ee.B. The differential diagnostic psychiatric evaluation of depression or the treatment of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

12.1.ee.C. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefore is submitted to, reviewed and approved by the Board before such investigation is begun;

12.1.ff. Knowingly maintained a professional connection or association with any person who is in violation of the West Virginia Medical Practice Act or the rules of the Board; or has knowingly aided, assisted, procured or advised any person to practice medicine or podiatry contrary to the West Virginia Medical Practice Act or to the Rules of the Board; or knowingly performed any act which in any way aids, assists, procures, advises or encourages any unlicensed and uncredentialed person or entity to practice medicine or podiatry; or has divided fees or agreed to divide fees received for professional services with any person, firm, association, corporation or other entity for bringing or referring a patient; or has engaged in the practice of medicine or podiatry as an officer or employee of any corporation other than one organized and existing pursuant to the West Virginia Medical Practice Act, except as a licensed or credentialed physician, podiatric physician or physician assistant, intern or resident of a hospital or teaching institution licensed by this State;

12.1.gg. Offered, undertaken or agreed to cure or treat disease by a secret method, procedure, treatment or medicine; or has treated, operated or prescribed for any human condition, by a method, means, or procedure which the licensee or credential holder has refused to divulge upon demand of the Board.

12.1.hh. Engaged in false or deceptive advertising.

12.1.ii. Engaged in advertising that is not in the public interest. Advertising that is not in the public interest includes the following, with the exceptions specifically listed:

12.1.ii.A. Advertising that has the effect of intimidating or exerting undue pressure;

12.1.ii.B. Advertising which is false, deceptive, misleading, sensational or flamboyant;

12.1.ii.C. Advertising which guarantees satisfaction or a cure;

12.1.ii.D. Advertising which offers gratuitous services or discounts, the purpose of which is to deceive the public. This subdivision does not apply to advertising which contains an offer to negotiate fees, nor to advertising in conjunction with an established policy or program of free care for patients; and

12.1.ii.E. Advertising which makes claims of professional superiority which a licensee or credential holder is unable to substantiate.

12.1.jj. Failure to maintain a medical record for each patient which is adequate to enable the

physician or podiatric physician to provide proper diagnosis and treatment, and/or to keep such patient medical records for a minimum of three years from the date of the last patient encounter and in a manner which permits the former patient or a successor practitioner access to them within the terms of this rule and as set forth in W. Va. Code § 16-29-1 *et seq*.

12.1.kk Practicing clinical medicine and surgery pursuant to an administrative medicine license.

12.2. Acts declared to constitute dishonorable, unethical or unprofessional conduct: As used in this rule at subdivision 12.1.e, "Dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" includes, but is not limited to:

12.2.a. Prescribing or dispensing any "Controlled Substance" as defined in W. Va. Code § 60A-1-1 *et. seq*.:

12.2.a.A. With the intent or knowledge that a controlled substance will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose;

12.2.a.B. With the intent to evade any law with respect to the sale, use or disposition of the controlled substances;

12.2.a.C. For the licensee's or credential holder's personal use, or for the use of his or her immediate family when the licensee or credential holder knows or has reason to know that an abuse of controlled substance(s) is occurring, or may result from such a practice; or

12.2.a.D. In such amounts that the licensee or credential holder knows or has reason to know, under the attendant circumstances, that the amounts prescribed or dispensed are excessive under accepted and prevailing medical practice standards;

12.2.b. Issuing or publishing in any manner whatsoever, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including, but not limited to:

12.2.b.A. Any representation in which the licensee or credential holder claims that he or she is able to cure or treat manifestly incurable diseases, ailments or infirmities by any method, procedure, treatment or medicine which the licensee or credential holder knows or has reason to know has little or no therapeutic value;

12.2.b.B. Represents or professes or holds himself or herself out as being able and willing to treat diseases, ailments or infirmities under a system or school of practice:

12.2.b.B(a) Other than that for which he or she holds a certificate, credential or license granted by the Board;

12.2.b.B(b) Other than that for which he or she holds a degree or diploma from a school otherwise recognized as accredited by the Board; or

12.2.b.B(c) Which he or she professes to be self-taught;

12.2.c. A serious act, or a pattern of acts committed during the course of his or her medical or podiatric practice which, under the attendant circumstances, would be considered to be gross incompetence, gross ignorance, gross negligence or malpractice, including the performance of any unnecessary service or procedure;

12.2.d. Conduct which is calculated to bring or has the effect of bringing the medical or podiatric profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing medical or podiatric practice within the state, and any departure from or failure to conform to the current principles of medical ethics of the AMA available from the AMA in Chicago, Illinois, or the principles of podiatric ethics of the APMA available from the APMA in Bethesda, Maryland. For the purposes of this subsection, actual injury to a patient need not be established;

12.2.e. Any charges or fees for any type of service rendered within seventy-two hours of the initial visit, if the licensee or credential holder advertises free service, free examination or free treatment;

12.2.f. The administration of anabolic steroids for other than therapeutic purposes;

12.2.g. Failing to meet the standard of practice in connection with any supervisory and/or collaborative agreement with any category of health practitioner;

12.2.h. Violation of the Board rules for dispensing prescription drugs, as set forth in West Virginia Board of Medicine Rule 11 CSR 5;

12.2.i. Charging or collecting an excessive, unconscionable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

12.2.i.A. The time and effort required;

12.2.i.B. The novelty and difficulty of the procedure or treatment;

12.2.i.C. The skill required to perform the procedure or treatment properly;

12.2.i.D. Any requirements or conditions imposed by the patient or circumstances;

12.2.i.E. The nature and length of the professional relationship with the patient;

12.2.i.F. The experience, reputation, and ability of the licensee or credential holder; and

12.2.i.G. The nature of the circumstances under which the services are provided.

In any case where it is found that an excessive, unconscionable fee has been charged, in addition to any actions taken under the provisions of subsection 12.3 of this rule, the Board may require the licensee or credential holder to reduce or pay back the fee; and

12.2.j. Failure by a licensee or credential holder to report a known or observed violation of this rule, the rule for dispensing prescription drugs as set forth in West Virginia Board of Medicine Rule 11 CSR 5, and/or the provisions of the West Virginia Medical Practice Act.

12.2.k. A practice of providing treatment recommendations relating to issuing prescriptions, via electronic or other means, for persons without establishing an on-going provider-patient relationship wherein the physician, podiatric physician or physician assistant has obtained information adequate to support the prescription: Provided, That this definition does not apply: in a documented emergency; or in an on-call or cross coverage situation; or where patient care is rendered in consultation with another provider who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications.

12.3. When the Board finds that any applicant is unqualified to be granted a license or finds that any licensee or credential holder should be disciplined pursuant to the West Virginia Medical Practice Act or rules of the Board, the Board may take any one or more of the following actions:

12.3.a. Refuse to grant a license to an applicant;

12.3.b. Administer a public reprimand;

12.3.c. Suspend, limit or restrict any license for a definite period, not to exceed five years;

12.3.d. Require any licensee or credential holder to participate in a program of education prescribed by the Board;

12.3.e. Revoke any license or credential;

12.3.f. Require the licensee or credential holder to submit to care, counseling or treatment by physicians or other professional persons;

12.3.g. Assess a civil fine of between $1,000 and $10,000 and/or assess cost of the Board's investigation and administrative proceedings against the licensee or credential holder;

12.3.h. Require him or her to practice under the direction or supervision of another practitioner or

12.3.i. Require the licensee or credential holder to provide a period of free public or charitable service.

In addition to and in conjunction with these actions, the Board may make a finding adverse to the licensee, credential holder or applicant, but withhold imposition of judgment and penalty, or it may impose the judgement and penalty but suspend enforcement of penalty and place the physician or podiatric physician on probation. Probation may be vacated upon noncompliance with such reasonable terms as the Board may impose. In its discretion, the Board may restore and reissue a license to practice medicine or podiatric medicine issued under the West Virginia Medical Practice Act or any antecedent law, and as a condition thereof, it may impose any disciplinary or corrective measure provided for in this Rule or in the West Virginia Medical Practice Act.

12.4. The Board has the authority to place a licensee or credential in a probationary status and to apply varying conditions during the probationary period.

12.4.a. Conditions for probation: Upon reaching the conclusion that a license or credential should be placed on probation, the Board may impose any one or more of the following conditions:

12.4.a.A. The Board may appoint one or more Board members to be responsible for having the probationary licensee report for interviews on a regular basis. These interviews may be set up on a periodic basis as determined by the Board and the Board members so appointed shall report back to the Board at its regularly scheduled meeting on the progress of the licensee or credential holder;

12.4.a.B. The Board may cause the probationary licensee or credential holder to appear before the Board at such intervals as the Board may determine to provide progress reports. During these appearances, the Board may ask questions so as to observe behavior and probationary progress;

12.4.a.C. The Board may select a physician or podiatric physician, as applicable, or request the subject licensee or credential holder to select a physician or podiatric physician, as applicable, for Board approval. The physician or podiatric physician shall submit periodic progress reports on the concerned licensee or credential holder as the Board may direct;

12.4.a.D. The Board may appoint a medical consultant whose responsibility is to handle interviews with the probationary licensee or credential holder. The probationary licensee or credential holder shall report to the appointed medical consultant on a regular basis as determined by the Board, and the medical consultant shall report to the Board at intervals determined by the Board;

12.4.a.E. In cases of alcoholism and/or drug abuse, as a condition of probation, the Board may require that the probationary licensee or credential holder submit periodic blood samples and/or urine drug screen samples or participate in direct monitoring by the Board-designated physician health program;

12.4.a.F. The Board may require that a probationary licensee or credential holder report all medications that he or she may be utilizing and that he or she make reports to the Board, at such intervals as the Board may direct from time to time;

12.4.a.G. The Board may require that the probationary licensee or credential holder authorize his or her personal physician or provider to submit to the Board, for review, the subject licensee's or credential holder's medical history, both as to past medical history and any and all new medical history as may become available to the personal physician or provider during the period of the probationary term;

12.4.a.H. The Board may require that prior to the termination of a probationary term, the probationary licensee or credential holder appear at a regularly scheduled Board or Board Committee meeting and furnish the Board with information as it may then request, and the Board may utilize subpoenas, subpoenas duces tecum and its investigators as it considers necessary to gather facts and evidence to determine compliance by the subject licensee or credential holder with the terms of probation; and

12.4.a.I. In those situations where indicated, the Board may impose additional terms of probation upon a licensee or credential holder who has initially been placed on probation, as long as the entire period of any additional imposed probationary period does not exceed five years from the initiation date of the originally imposed probationary period.

§11-1A-13. Required Reports from Insurers.

13.1. Every insurer providing professional liability insurance to a physician or podiatric physician in this state shall submit to the Board the following information regarding the Board's licensees and professional credential holders within thirty days from any judgment or settlement of a civil or medical professional liability action or claim: The name of the insured; the date of any judgment or settlement; whether any appeal has been taken on the judgment, and, if so, by which party; the amount of any settlement or judgment against the insured; and such other information within the knowledge of the insurer as the Board requires.

13.2. An insurer must submit a medical professional liability claim report on a specific health care practitioner:

13.2.a. The practitioner must either be named, identified or otherwise described in both the written complaint or claim demanding monetary payment for damages and the settlement release agreement or final judgment; and

13.2.b. A payment was made by the insurer on behalf of the insured practitioner.

13.3. The Board shall publish guidance on its website which is consistent with this section regarding reportable medical professional liability action or claim events.