

COMMITTEE ON HEALTH, HOSPITALS, AND HUMAN
SERVICES

BILL NO. 34-0042

Thirty-Fourth Legislature of the Virgin Islands

April 9, 2021

An Act repealing title 3 Virgin Islands Code, chapter 23, section 415 relating to the Boards of Examiners for Medicine, Surgery, Dentistry, Pharmacy, Nursing, Optometry, Physical Therapy, Chiropractic and Podiatry and reestablishing the respective boards establishment of and re-establishing the language in Title 27 Virgin Islands Code, chapter 1, section 1a; and establishing a temporary board

PROPOSED BY: Senator Novelle E. Francis, Jr., by Request of the Governor

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 3 Virgin Islands Code, chapter 23, section 415 is repealed.

SECTION 2. Title 27 Virgin Islands Code, chapter 1 is amended by re-numbering subchapter I as subchapter II and inserting a new subchapter I that reads as follows:

Subchapter I. Boards established

1a. Boards of Examiners for Medicine, Surgery, Dentistry, Pharmacy, Nursing, Optometry, Physical Therapy, Chiropractic and Podiatry established

(a) The following boards are established within the Department of Health:

(1) The Board of Medical Examiners

- 1 (2) The Board of Dental Examiners
- 2 (3) The Board of Pharmacy
- 3 (4) The Board of Nurse Licensure
- 4 (5) The Board of Optometrical Examiners
- 5 (6) The Board of Physical Therapy
- 6 (7) The Board of Chiropractic Examiners
- 7 (8) The Board of Podiatry Examiners.

8 **Composition; qualifications; appointment; tenure**

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10 (b) The Boards provided in subsection (a) of this section are composed of members

11 appointed by the Governor with the advice and consent of the Legislature as follows:

12 (1) The Board of Medical Examiners—

13 (A) Four physicians licensed to practice in the Virgin Islands; two of

14 whom must reside in the district of the St. Croix and two in the district of St.

15 Thomas and St. John.

16 (B) Three members from the Virgin Islands community of

17 recognized ability and integrity in non-medical professions; one of whom must

18 reside on St. Croix, one on St. Thomas and one on St. John.

19 (2) The Board of Dental Examiners—

20 (A) five dentists licensed to practice in the Virgin Islands for at least

21 five years before the date of appointment—three to be appointed for initial terms

22 of two years, and two for initial terms of four years. Thereafter, all appointments

23 are for four years. Three examiners shall reside in the district of St. Thomas and

24 St. John, and two must reside in the district of St. Croix.

25 (B) One dental hygienist or dental therapist who must be a resident

26 of the Virgin Islands; and one member of the public of recognized ability and

1 integrity in a non-healthcare profession, who has been a resident of the Virgin
2 Islands for at least five years. Appointments made in accordance with this
3 subparagraph must be for a term of four years, and no member appointed under
4 this subparagraph may serve more than two terms on the Board.

5 (3) The Board of Pharmacy—five pharmacists registered in the Virgin
6 Islands for at least five years prior to the date of appointment; the members of the Board
7 first to be appointed shall hold office, one for one year, one for two years, one for three
8 years, one for four years, and one for five years, the term of each to be designated by
9 the Governor. Thereafter all appointments are for five years. Not more than three
10 members may reside in any one district, and not less than two may be pharmacists in the
11 retail pharmacy business.

12 (4) The Board of Nurse Licensure—one nurse anesthetist, one nurse-
13 midwife, one nurse educator, two nurses from varied areas of specialization, two
14 licensed practical nurses and two voting lay people; one to represent St. Croix and one
15 from St. Thomas/St. John; five to be appointed for initial terms of two years and six for
16 initial terms of three years. Thereafter, all terms are for three years. Members may be
17 reappointed. Upon the expiration of a member's term, the member may serve until the
18 member's successor is appointed. Each member of the Board must have been a citizen
19 of the United States and a resident of the United States Virgin Islands for at least five
20 years. Each nurse appointee shall possess a license to practice nursing in the Virgin
21 Islands, must have at least five years of experience in nursing, and must preferably be
22 actively engaged in nursing at the time of the appointment. All nurse specialists must be
23 certified in their area of practice. A panel of nominees, representative of all three islands,
24 shall be submitted by recognized organized nursing organizations or groups to the
25 Governor at least 90 days prior to the expiration of the term of each board member, from

1 which panel the Governor in consultation with the Commissioner of Health may select
2 his appointees to the board.

3 (5) The Board of Optometrical, Examiners—seven members including three
4 optometrists, who are licensed to practice in the Virgin Islands. Of the three
5 optometrists, one must be appointed for an initial term of two years, one for an initial
6 term of three years, and the third for an initial term of four years. Thereafter, and for the
7 remaining four members, all appointments are for four years. Of the remaining four
8 members, three must be employees of the Government of the Virgin Islands and one
9 must be a member of the private sector. The members of the Board must have been
10 residents of the Virgin Islands for at least five years; but, that not more than four
11 examiners may reside in any one district and that the Board shall elect a chairman from
12 among its members.

13 (6) (A) The Board of Physical Therapy shall consist of five members, all of
14 whom must reside in the Virgin Islands and have been practicing in the Virgin Islands
15 for not less than three years prior to their appointments. Two members must reside in
16 the district of St. Croix, two members must reside in the district of St. Thomas and St.
17 John, and at least one member must represent the public and must not be in the medical
18 profession or have a conflict of interest. Two of the members, one of whom may be a
19 physical therapist assistant, must be elected by a majority vote of all licensed and
20 practicing physical therapists and physical therapist assistants residing in the Territory,
21 and the other three members must be nominated as provided in this section.

22 (B) The Governor shall appoint one member from each district and the public
23 member.

24 (7) The Board of Chiropractic Examiners—four chiropractic physicians who
25 have held a license to practice chiropractic in the Territory at least three years, all of

whom must be licensed to practice in the Virgin Islands, and one member of the public, who is neither a physician nor a chiropractic physician, all of whom must be bona fide residents of the Virgin Islands.

(8) The Board of Podiatry Examiners—five physicians or podiatrists, at least one of whom must be a podiatrist and all of whom must be licensed to practice in the Virgin Islands; three to be appointed by the Governor upon the recommendation of the Commissioner of Health for initial terms of three years and two for initial terms of four years. Thereafter, all appointments are for four years or until such time as a successor is appointed. Not more than three examiners may reside in any one district. Members may be removed by the Governor for cause.

(c) **Chairperson.** Each board shall elect annually one of its members to serve as its Chairman; but the Governor shall designate the first Chairperson of each board initially appointed under this section.

(d) **Removal of members**

(1) The members may be removed by the Governor for cause.

(2) The Governor may remove any member of the Board of Nurse Licensure for neglect of any duty required by law or for incompetence or unprofessional or dishonorable conduct as recommended by the Board of Nurse Licensure.

(e) **Temporary Board**

(1) Licensed sitting members of the Board of Medical Examiners, appointed under the requirements in subsection (b)(1)(A), may serve temporarily as de facto board members of any of the boards established under subsection (a), and the Naturopathic Board established in 27 V.I.C. §193, if those boards do not have enough members to establish a quorum.

(2) The de facto board created in paragraph (1) may be used to establish a quorum and carry out the duties of the boards established under subsection (a), and the Naturopathic Board established in 27 V.I.C. §193, including issuing licenses.

BILL SUMMARY

The bill repeals title 3 Virgin Islands Code, chapter 23, section 415 which section established the Boards of Medical Examiners, Dental Examiners, Pharmacy, Nurse Licensure, Optometrical Examiners, Physical Therapy, Chiropractic Examiners, and Podiatry Examiners. The language in 3 V.I.C. §415 was re-established in title 27 Virgin Islands Code, chapter 1, section 1a with additional language that establishes a temporary board comprised of the licensed sitting members of the Board of Medical Examiners to serve as temporary board members of the Boards of Medical Examiners, Dental Examiners, Pharmacy, Nurse Licensure, Optometrical Examiners, Physical Therapy, Chiropractic Examiners, and Podiatry Examiners, and the Naturopathic Board to carry out the duties of those boards if the boards do not have enough members to establish a quorum.

BR21-0382B/ April 09, 2021/GC

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DRAFTER'S NOTE

The Legal Counsels Office recommends that this bill be amended before it is considered in the Committee on Rules and the Judiciary. The updated draft sent by the Governor on February 8, 2021, in section proposes to repeal and relocate section 415 of title establishing eight medical boards to a new subchapter in chapter 1 of title 27. However, legislation reestablishing eight boards that have quasi-judicial authority and the members of which must be confirmed by the Legislature, would violated the Revised Organic Act, §16(c) proscription against legislation relating to more than one board. To avoid constitutional issues, the Legal Counsels Office recommends that section 415 is not addressed in BR 21-0382. The critical measures may be addressed without addressing section 415.