WEST VIRGINIA CODE CHAPTER 21 ARTICLE 17

WV Legislature

§21-17-1. Applicability and short title.

The provisions of this article apply to all professions requiring an occupational license or other authorization to practice or perform a specific occupation in this state regulated by this chapter. This article may be known and cited as the “RECAP Act.”

WV Legislature

§21-17-2. Definitions.

The words defined in this section have the meanings given them for purposes of this article unless the context clearly requires otherwise.

“Board” means a government agency, board, department, or other government entity that regulates a lawful occupation and issues an occupational license or other authorization to practice to an individual.

“Lawful occupation” means a course of conduct, pursuit, or profession that includes the sale of goods or services that are not themselves illegal to sell irrespective of whether the individual selling them is subject to an occupational license.

“Occupational license” is a nontransferable authorization in law for an individual to perform or practice a lawful occupation based on meeting personal qualifications established by the Legislature. In an occupation for which a license is required, it is illegal for an individual who does not possess a valid occupational license to perform or practice the occupation.

“Other authorization to practice” is a nontransferable acknowledgment, other than a license, by a state government or board that is provided to an individual asserting that the individual has met the educational and examination requirements to engage in a lawful occupation.

“Other state” or “another state” means any United States territory or state in the United States other than West Virginia.

“Scope of practice” means the procedures, actions, processes, and work that a person may perform under an occupational license or other authorization to practice issued in this state.

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§21-17-3. Occupational license or other authorization to practice.

(a) Notwithstanding any other law, the board shall issue an occupational license or other authorization to practice to a person upon application, if all the following apply:

(1) The person holds a valid occupational license or other authorization to practice in another state in a lawful occupation with a similar scope of practice and with education, experience, and examination requirements for licensure or authorization to practice similar to those of this state, as determined by the board in this state;

(2) The person has held the occupational license or other authorization to practice in the state where he or she holds a valid license or other authorization to practice for at least one year;

(3) The person has met all educational and examination requirements for occupational licensure or other authorization to practice in the state where he or she holds a valid license;

(4) The person is in good standing with the board in every other state where he or she holds a valid license;

(5) The person has established residency as a West Virginia resident as defined by §11-21-7(a) of this code;

(6) The person does not have a disqualifying criminal record as determined by the board in this state;

(7) The person has never had his or her license or other authorization to practice revoked by the board in another state because of negligence or intentional misconduct related to the person’s work in the occupation;

(8) The person did not surrender an occupational license or other authorization to practice because of negligence or intentional misconduct related to the person’s work in the occupation in another state;

(9) The person does not have a complaint, allegation, or investigation pending before a board in another state. If the person has a complaint, allegation, or investigation pending, the board in this state shall not issue or deny an occupational license or other authorization to practice to the person until the complaint, allegation, or investigation is resolved; and

(10) The person pays all applicable fees and meets all applicable bonding requirements in this state.

(b) If West Virginia requires an occupational license to lawfully work in a profession, and another state does not issue an occupational license for the same profession and instead issues another authorization to practice, West Virginia shall issue an occupational license to the person if the person otherwise satisfies subsection (a) of this section.

WV Legislature

(c) Any person issued a license under this article must comply with all relevant continuing education requirements to renew a license established by the board and any other rule promulgated by the board as provided by §21-17-8 of this code.

WV Legislature

§21-17-4. Work experience.

Notwithstanding any other law, the board shall issue an occupational license or other authorization to practice to a person upon application based on work experience in another state, if all the following apply:

(1) The person worked in a state that does not use an occupational license or other authorization to practice that regulates a lawful occupation, but West Virginia uses an occupational license or other authorization to practice that regulates a lawful occupation with a similar scope of practice, as determined by the board;

(2) The person worked for at least two years in the lawful occupation and has acquired experience demonstrating knowledge and proficiency in the occupation similar to that which may be achieved through compliance with the education and examination requirements to practice in this state, as determined by the board;

(3) The person has taken and passed any required national examinations to lawfully practice the occupation or use a title in connection with an occupation in another state; and

(4) The person satisfies §21-17-3(a)(5), §21-17-3(a)(6), and §21-17-3(a)(10) of this code.

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§21-17-5. State law examination.

A board may require a person to pass a jurisprudential examination specific to relevant West Virginia laws that regulate the occupation if an occupational license or other authorization to practice in this state requires a person to pass such examination for original licensure.

WV Legislature

§21-17-6. Decision.

The board will provide the person with a written decision issuing or denying a license within 60 days after receiving a complete application.

WV Legislature

§21-17-7. Appeal.

(a) The person may appeal the board's decision to a court of general jurisdiction in the county where the person resides.

(b) The person may appeal the board's:

(1) Denial of an occupational license or other authorization to practice;

(2) Determination of the occupation;

(3) Determination of the similarity of the scope of practice of the occupational license or other authorization to practice; or

(4) Other determinations under this article.

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§21-17-8. State laws and jurisdiction.

A person who obtains an occupational license or other authorization to practice pursuant to this article is subject to:

(1) The laws regulating the occupation in this state; and

(2) The jurisdiction of the board in this state.

WV Legislature

§21-17-9. Limitations.

(a) An occupational license or other authorization to practice issued pursuant to this article is valid only in West Virginia. It does not make the person eligible to work in another state under an interstate compact or reciprocity agreement unless otherwise provided in law.

(b) Nothing in this article prevents West Virginia from entering into a licensing compact or reciprocity agreement with another state, foreign province, or foreign country.

(c) Nothing in this article prevents West Virginia from recognizing occupational credentials issued by a foreign province, foreign country, international organization, or other entity.

WV Legislature

§21-17-10. Cost for application.

The board may charge a fee to the person to recoup its costs. The fee may not exceed the cost of an application for original licensure charged by the board. Any application for renewing a license after obtaining a license under this article shall comply with the board's established renewal procedures and fee schedule.

WV Legislature

§21-17-11. Preemption.

This article preempts laws by township, municipal, county, and other governments in the state which regulate occupational licenses and other authorization to practice.

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§21-17-12. Rulemaking.

Boards affected by these provisions may promulgate rules pursuant to §29A-3-1 *et seq*. of this code to carry out the provisions of this article.

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