WEST VIRGINIA CODE CHAPTER 29 ARTICLE 29

WV Legislature

§29-29-1. Short title.

This article shall be known as and may be cited to as the "Volunteer for Nonprofit Youth Organizations Act".

WV Legislature

§29-29-2. Legislative purpose.

The Legislature finds that:

(1) Adventure and recreational activities attractive to nonprofit youth organizations interested in training and inspiring young people from other parts of the United States and throughout the world will contribute significantly to the economy of West Virginia, and enhance the state's reputation as a place to visit and transact business; and

(2) Nonprofit youth organizations must rely on volunteers to staff and support their events and programs and that some of the volunteers are medical, nursing, emergency medical service and law-enforcement professionals authorized to practice in other states. Because of the large number of volunteers required to support those events and programs, the benefits these events and programs provide to youth, the multicounty areas those events and programs may cover and the number of agencies potentially involved in granting authorizations to practice for those volunteers to provide those services in this state, it is in the state's best interest to provide a streamlined system to permit those volunteers to practice for the periods of time they engage in volunteer work at those events and programs.

WV Legislature

§29-29-3. Definitions.

As used in this article:

(a) "Applicant" means any emergency medical service applicant, law-enforcement applicant or medical services applicant, that is registered as a volunteer of the nonprofit organization, making application for a nonprofit volunteer permit under the provisions of this article.

(b) "Appropriate licensing agency" means the board, department, division or other agency in each jurisdiction charged with the licensing, certification or permitting of persons performing services of the nature and kind described or duties provided for in this article.

(c) "Emergency medical service applicant" means a person authorized to provide emergency medical services in West Virginia, or in another state who but for this article would be required to obtain a certification from the Commissioner of the Bureau for Public Health pursuant to article eight, chapter sixteen of this code to perform emergency medical services in this state.

(d) "Law-enforcement applicant" means a person authorized to work as a law-enforcement officer in West Virginia, or in another state who but for this article would be required to obtain authorization pursuant to article twenty-nine, chapter thirty of this code to work as a law-enforcement officer in this state: Provided, That any person authorized to work as a law-enforcement officer in another state shall have completed a training program approved by the governing authority of a political subdivision in order to work as a law-enforcement officer in that state.

(e) "Medical services applicant" means a person authorized to provide medical services in West Virginia, or in another state who but for this article would be required to obtain authorization to practice in this state, and who is a:

(1) Practitioner of medicine, surgery or podiatry as defined in article three, chapter thirty of this code;

(2) Physician assistant as defined in section three, article three, chapter thirty of this code;

(3) Chiropractor as defined in section three, article sixteen, chapter thirty of this code;

(4) Dentist or dental assistant as defined in article four, chapter thirty of this code;

(5) Nurse as defined in article seven or seven-a, chapter thirty of this code;

(6) Nurse practitioner as defined in section one, article four-b, chapter nine of this code;

(7) Occupational therapist as defined in section three, article twenty-eight, chapter thirty of this code;

WV Legislature

(8) Practitioner of optometry as defined in section three, article eight, chapter thirty of this code;

(9) Osteopathic physician or surgeon as defined in article fourteen, chapter thirty of this code;

(10) Osteopathic physician assistant as defined in article fourteen-a, chapter thirty of this code;

(11) Pharmacist as defined in article five, chapter thirty of this code;

(12) Physical therapist as defined in article twenty, chapter thirty of this code;

(13) Professional counselor as defined in section three, article thirty-one, chapter thirty of this code;

(14) Practitioner of psychology or school psychologist as defined in section two, article twenty-one, chapter thirty of this code;

(15) Radiologic technologist, nuclear medicine technologist or practitioner of medical imaging and radiation therapy technology as defined in section four, article twenty-three, chapter thirty of this code; and

(16) Social worker licensed by the state Board of Social Work Examiners pursuant to article thirty, chapter thirty of this code.

(f) "Nonprofit volunteer permit" or "permit" means a permit issued to an applicant pursuant to the provisions of this article.

(g) "Nonprofit volunteer permittee" or "permittee" means a person holding a nonprofit volunteer permit issued under the provisions of this article.

(h) "Nonprofit youth organization" or "organization" means any nonprofit organization, including any subsidiary, affiliated or other related entity within its corporate or business structure, that has been chartered by the United States Congress to help train young people to do things for themselves and others, and that has established an area of at least six thousand contiguous acres within West Virginia in which to provide adventure or recreational activities for these young people and others.

(i) "Nonprofit volunteer organization medical director" means an individual licensed in West Virginia as a practitioner of medicine or surgery pursuant to article three, chapter thirty of this code, or an individual licensed in West Virginia as an osteopathic physician or surgeon pursuant to article fourteen, chapter thirty of this code, that has been designated by the nonprofit volunteer organization to serve as the medical director for an event or program offered by the organization.

WV Legislature

§29-29-4. Exemption from professional licensure.

(a) Notwithstanding any other provision of this code, any individual rendering services in this state in connection with any event or program offered by the nonprofit youth organization is exempt from obtaining an authorization to practice from the appropriate licensing agency of this state while providing services within the limits of his or her authorization to practice, but is required to obtain a nonprofit volunteer permit.

(b) The nonprofit youth organization may issue a nonprofit volunteer permit to an applicant, who is a registered volunteer of the nonprofit youth organization serving as a volunteer, without compensation, in connection with any event or program offered by the organization, if:

(1) All authorizations held by the medical services applicant are valid, unrestricted without limitation or condition and in good standing: Provided, That any medical services applicant issued a permit pursuant to this article shall:

(A) Not have prescriptive authority;

(B) Not dispense a Schedule II or Schedule III controlled substance, but may dispense pharmaceutical drugs in a manner consistent with the applicant's training and experience; and

(C) At all times be subject to the direction of nonprofit volunteer organization medical director.

(2) All authorizations held by the law-enforcement applicant are valid, unrestricted without limitation or condition and in good standing and the applicant is deputized by the Superintendent of the West Virginia State Police pursuant to subsection (e), section twelve, article two, chapter fifteen of this code prior to rendering any law-enforcement services: Provided, That:

(A) Any permit issued pursuant to this article shall not supersede the authority or duty of a law-enforcement officer certified pursuant to article twenty-nine, chapter thirty of this code to preserve law and order on the premises;

(B) The Superintendent of the West Virginia State Police has sole discretion in determining whether to deputize any law-enforcement applicant; and

(C) The jurisdiction for a law-enforcement applicant issued a permit pursuant to the provisions of this article shall be limited to:

(i) The property owned by the nonprofit youth organization;

(ii) Any street, road or thoroughfare, except controlled access and open country highways, immediately adjacent to or passing through the property owned by the nonprofit youth

wvlegislature

organization; and

(iii) Areas of operations in support of an event sponsored by the nonprofit youth organization.

(D) A law-enforcement applicant issued a permit pursuant to the provisions of this article shall at all times be subject to the direction of the Superintendent of the West Virginia State Police.

(3) All authorizations held by the emergency medical service applicant are valid, unrestricted without limitation or condition and in good standing: Provided, That any emergency medical service applicant issued a permit pursuant to this article shall:

(A) Not have prescriptive authority;

(B) Not dispense a Schedule II or Schedule III controlled substance, but may dispense pharmaceutical drugs in a manner consistent with the applicant's training and experience; and

(C) At all times be subject to the direction of nonprofit volunteer organization medical director.

(c) Any services rendered by a permittee shall at all times be performed under the guidelines and instructions of the nonprofit volunteer organization.

(d) A nonprofit volunteer permit issued pursuant to the provisions of this article may only be valid for a period not to exceed ninety days in a calendar year.

(e) Unless otherwise provided, the nonprofit youth organization shall take final action upon all completed permit applications within thirty days of receipt if the application is uncontested, or within ninety days if the application is contested.

WV Legislature

§29-29-5. Powers and duties of nonprofit youth organization.

(a) Before the nonprofit youth organization may issue a nonprofit volunteer permit to an applicant, the organization shall:

(1) Gather and maintain the following information for each applicant:

(A) The applicant's name, position, address and phone number;

(B) A copy of the applicant's authorization to practice from all jurisdictions in which the applicant is authorized to practice;

(2) Require documentation that the applicant has received at least two hours of instruction provided by the nonprofit youth organization, which may be accomplished by webinar, video conference or other remote means of instruction;

(3) No more than one hundred twenty days prior to any volunteer services being performed, require documentation from all jurisdictions in which the applicant authorized to practice stating that the applicant's authorization to practice is valid, in good standing and unrestricted and without limitation or condition; and

(4) Require a written acknowledgment signed by the applicant that the rules, regulations and procedures established by the nonprofit youth organization have been received and reviewed.

(b) All information and documentation maintained and gathered pursuant to this section shall be maintained in a safe and secure manner, which may be electronically, by the nonprofit youth organization for a period of ten years from the date a permit is issued to the applicant.

(c) The nonprofit youth organization providing emergency medical services shall have a license to operate an emergency medical services agency pursuant to section six-a, article four-c, chapter sixteen of this code and the Commissioner of the Bureau for Public Health may make such adjustments to the licensing standards to reflect the nature of the services provided by the permittees and the size, scope and interests being served by any event or program of such organization.

WV Legislature

§29-29-6. Revocation of nonprofit volunteer permit.

(a) The nonprofit volunteer permit may be revoked at any time by the nonprofit volunteer organization.

(b) The nonprofit volunteer organization shall revoke a nonprofit volunteer permit and shall report the revocation to the appropriate licensing agency in every jurisdiction where the individual holds an authorization to practice for the following reasons:

(1) Professional incompetence;

(2) Professional misconduct; or

(3) Criminal activity.

WV Legislature

§29-29-7. Liability of permittees and the nonprofit volunteer organization for volunteer services.

(a) Any claim arising out of the services provided by a permittee or the nonprofit volunteer organization pursuant to this article shall be determined in the same manner and by the same standards as if the permittee was authorized to practice in this state.

(b) The nonprofit youth organization shall carry liability insurance in limits of no less than $1 million per person, and $3 million per occurrence and $50,000 for property damage and this insurance shall extend to the acts of any nonprofit volunteer permittees providing services under this article and shall be primary to any other available insurance.

(c) The liability of nonprofit volunteer permittees shall be limited to the amount of liability insurance available to them under subsection (b) unless the act or omission giving rise to the permittee's liability was the result of willful misconduct: Provided, That permittees deputized by the Superintendent of the West Virginia State Police pursuant to section four of this article and subsection (e), section twelve, article two, chapter fifteen of the code, shall not be considered an insured under the terms of the liability insurance policy provided West Virginia state agencies through the state Board of Risk and Insurance Management.

(d) The West Virginia appropriate licensing agency shall not be liable for any harm or claim arising solely out of the actions of any permittee exempt from obtaining authorization to practice in this state pursuant to this article.

WV Legislature