WEST VIRGINIA CODE: §30-1-8

§30-1-8. Denial, suspension or revocation of a license or registration; probation; proceedings; effect of suspension or revocation; transcript; report; judicial review.

(a) Every board referred to in this chapter may suspend or revoke the license of any person who has been convicted of a felony or who has been found to have engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct. Where any person has been convicted of a felony or has been found to have engaged in such conduct, practices or acts, every board referred to in this chapter may enter into consent decrees, to reprimand, to enter into probation orders, to levy fines not to exceed $1,000 per day per violation, or any of these, singly or in combination. Each board may also assess administrative costs. Any costs which are assessed shall be placed in the special account of the board and any fine which is levied shall be deposited in the state Treasury's General Revenue Fund.

(b) For purposes of this section, the word "felony" means a felony or crime punishable as a felony under the laws of this state, any other state or the United States.

(c) (1) Every board may not take disciplinary action against a caregiver, as defined in §21-18-1, solely because the caregiver voluntarily seeks or participates in:

(A) Peer support;

(B) Counseling: or

(C) Therapy.

(2) Every board may not require disclosure of participation in peer support or mental health services unless otherwise required by federal law or necessary to determine current fitness to practice.

(3) Nothing in this section shall prohibit a board from requiring a licensee to participate in attending a board designated professional health program.

(d) Every board referred to in this chapter may promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to delineate conduct, practices or acts which, in the judgment of the board, constitute professional negligence, a willful departure from accepted standards of professional conduct or which may render an individual unqualified or unfit for licensure, registration or other authorization to practice.

(e) Every board referred to in this chapter may revoke the license or registration of an individual licensed or otherwise lawfully practicing within this state whose license or registration in any other state, territory, jurisdiction or foreign nation has been revoked by the licensing authority thereof.

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(f) Notwithstanding any other provision of law to the contrary, no certificate, license, registration or authority issued under the provisions of this chapter may be suspended or revoked without a prior hearing before the board or court which issued the certificate, license, registration or authority, except:

(1) A board is authorized to suspend or revoke a certificate, license, registration or authority prior to a hearing if the person's continuation in practice constitutes an immediate danger to the public; or

(2) After due diligence, if a board cannot locate a person licensed under the provisions of this chapter within 60 days of a complaint being filed against the licensee, then the board may suspend the license, certificate, registration or authority of the person without holding a hearing. After due diligence, if a Board still cannot locate the person licensed under the provisions of this chapter thirty days after the suspension of the person's license, certificate, registration or authority, then the board may revoke the license, certificate, registration or authority of the person without holding a hearing.

(g) In all proceedings before a board or court for the suspension or revocation of any certificate, license, registration or authority issued under the provisions of this chapter, a statement of the charges against the holder of the certificate, license, registration or authority and a notice of the time and place of hearing shall be served upon the person as a notice is served under §56-2-1 of this code at least 30 days prior to the hearing and he or she may appear with witnesses and be heard in person, by counsel, or both. The board may take oral or written proof, for or against the accused, as it may consider advisable. If upon hearing the board finds that the charges are true, it may suspend or revoke the certificate, license, registration or authority and suspension or revocation shall take from the person all rights and privileges acquired thereby.

(h) Pursuant to the provisions of §29A-5-1 of this code, informal disposition may also be made by the board of any contested case by stipulation, agreed settlement, consent order or default. Further, the board may suspend its decision and place a licensee found by the board to be in violation of the applicable practice on probation.

(i) Any person denied a license, certificate, registration or authority who believes the denial was in violation of this article or the article under which the license, certificate, registration or authority is authorized shall be entitled to a hearing on the action denying the license, certificate, registration or authority. Hearings under this subsection are in accordance with the provisions for hearings which are set forth in this section.

(j) A stenographic report of each proceeding on the denial, suspension or revocation of a certificate, license, registration or authority shall be made at the expense of the board and a transcript of the hearing retained in its files. The board shall make a written report of its findings, which shall constitute part of the record.

(k) All proceedings under the provisions of this section are subject to review by the Supreme

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Court of Appeals.

(l) Every board referred to in this chapter shall adopt procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code, which shall specify a procedure for the investigation and resolution of all complaints against persons licensed under this chapter. The proposed legislative rules relating only to complaint procedures or contested case hearing procedures required by the prior enactment of this subsection shall be redesignated as procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code. Each board shall file the procedural rules required by this subsection by January 31, 2001. The public hearing or public comment period conducted for the proposed legislative rules shall serve as the public hearing or public comment period required by §29A-3-5 of this code.

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