WEST VIRGINIA CODE CHAPTER 30 ARTICLE 1

WV Legislature

§30-1-1. Application of article.

Unless otherwise specifically provided, every board of examination or registration referred to in this chapter shall conform to the requirements prescribed in the following sections of this article.

WV Legislature

§30-1-1a. Legislative findings and declaration.

The Legislature hereby finds and declares that as a matter of public policy the practice of the professions referred to in this chapter is a privilege and is not a natural right of individuals. The fundamental purpose of licensure and registration is to protect the public, and any license, registration, certificate or other authorization to practice issued pursuant to this chapter is a revocable privilege.

WV Legislature

§30-1-2. Oath.

Every person appointed as a member of any board referred to in this article, before proceeding to exercise the authority or discharge the duties of the office, shall take the oath prescribed by section 5 of article IV of the state Constitution, and shall file the certificate thereof with the Secretary of State.

WV Legislature

§30-1-2a. Required orientation session.

(a) The Auditor shall provide at least one seminar each year for state licensing boards to inform the boards of the duties and requirements imposed by state law and rules. All state agencies shall cooperate with and assist in providing the seminar if the Auditor requests.

(b) The seminar may include the following topics:

(1) Powers and duties of the boards and board members;

(2) The financial procedures for boards;

(3) Purchasing requirements;

(4) Open meeting requirements;

(5) Ethics;

(6) Rule-making procedures;

(7) Procedures for the handling of complaints, investigations and administrative hearings;

(8) Disciplinary actions available to boards;

(9) Records management procedures;

(10) Annual reports; and

(11) Any other topics the Auditor determines necessary or informative.

(c) (1) The board members and the executive director or the chief financial officer of a board newly created under the provisions of this chapter shall attend a seminar provided under this section within one year of the creation of the board.

(2) The chairperson, the executive director or the chief financial officer of the board shall annually attend a seminar provided under this section.

(3) Each board member shall attend at least one seminar provided under this section during each term of office.

(d) The Auditor may charge a registration fee for the seminar to cover the cost of providing the seminar. The fee may be paid from funds available to a board and a board may approve an expense reimbursement for the attendance of its members, executive director and the chief financial officer of the board.

(e) Prior to January 1 of each year, the Auditor shall provide to the chairs of the Joint Standing Committee on Government Organization a list of:

WV Legislature

(1) The names and titles of the persons who attended the seminar;

(2) The boards represented; and

(3) The number and dates of the seminars offered by the Auditor during the previous year.

(f) Ex officio members who are elected or appointed state officers or employees and members of boards that have purely advisory functions with respect to a department or agency of the state are exempt from the requirements of this section.

WV Legislature

§30-1-3. Officers.

(a) Every board referred to in this chapter shall elect annually from its members a president and a secretary who shall hold their offices for one year, but shall continue to hold their offices until their successors are elected. However, the state board of law examiners, the state board of examiners for nurses and the state board of dental examiners may each elect a secretary from outside their membership.

(b) The officers of the boards referred to in this chapter shall register annually with the Governor, the secretary of administration, the Legislative Auditor and the Secretary of State.

WV Legislature

§30-1-4. Official seal; rules and regulations.

Every such board shall adopt an official seal which shall be affixed to all licenses or certificates of registration issued by it, and shall make such rules and regulations, not inconsistent with law, as are necessary to regulate its proceedings and to carry out the purposes and enforce the provisions of this chapter applicable to such board.

WV Legislature

§30-1-4a. Lay members of professional boards.

(a) Notwithstanding any provisions of this code to the contrary, the Governor shall appoint at least one lay person to represent the interests of the public on every health professional licensing board which is referred to in this chapter. If the total number of members on any of these boards after the appointment of one lay person is an even number, one additional lay person shall be appointed. Lay members shall serve in addition to any other members otherwise provided for by law or rule. Lay members shall be at least eighteen years of age, shall be of good moral character, and shall be competent to represent and safeguard the interests of the public. Each lay member is empowered to participate in and vote on all transactions and business of the board, committee or group to which he or she is appointed.

(b) Any person whose addition to a board as a lay member under the provisions of this section results in the addition of an odd number of lay additions to the board shall serve for a term ending in an odd-numbered year on the date in that year on which terms of the professional members expire. Of the members first appointed, each shall serve for a term ending in the year one thousand nine hundred seventy-nine, and the successor to each of the first members shall serve for a term equal in length to the terms of the other professional members of the board.

(c) Any person whose addition to a board as a lay member under the provisions of this section results in the addition of an even number of lay additions to the board shall serve for a term ending in an even-numbered year on the date in that year on which terms of the professional members expire. Of the members first appointed, each shall serve for a term ending in the year one thousand nine hundred seventy-eight, and the successor to each of the first members shall serve for a term equal in length to the terms of the other professional members of the board.

WV Legislature

§30-1-5. Meetings; quorum; investigatory powers; duties.

(a) Every board referred to in this chapter shall hold at least one meeting each year, at such time and place as it may prescribe by rule, for the examination of applicants who desire to practice their respective professions or occupations in this state and to transact any other business which may legally come before it. The board may hold additional meetings as may be necessary, which shall be called by the secretary at the direction of the president or upon the written request of any three members. A majority of the members of the board constitutes a quorum for the transaction of its business.

(b) The board may compel the attendance of witnesses, to issue subpoenas, to conduct investigations and hire an investigator and to take testimony and other evidence concerning any matter within its jurisdiction. The president and secretary of the board may administer oaths for these purposes.

(c) Every board referred to in this chapter shall investigate and resolve complaints which it receives and shall, within six months of the complaint being filed, send a status report to the party filing the complaint and the respondent by certified mail with a signed return receipt and within one year of the status report's return receipt date issue a final ruling, unless the party filing the complaint and the board agree in writing to extend the time for the final ruling. The time period for final ruling shall be tolled for any delay requested or caused by the respondent or by counsel for the respondent and in no event shall a complaint proceeding be dismissed for exceeding the time standards in this section when such overage is the result of procedural delay or obstructive action by the accused or his or her counsel or agents.

(d) Every board shall provide public access to the record of the disposition of the complaints which it receives in accordance with the provisions of chapter twenty-nine-b of this code, and shall provide public access on a website to all completed disciplinary actions in which discipline was ordered. If a board is unable to provide access, the Attorney General shall provide a link to this information on the consumer protection division website, together with a link to the website of all other boards subject to this chapter. Every board shall report violations of individual practice acts contained in this chapter to the board by which the individual may be licensed and shall do so in a timely manner upon receiving notice of the violations. Every person licensed or registered by a board shall report to the board which licenses or registers him or her a known or observed violation of the practice act or the board's rules by any other person licensed or registered by the same board and shall do so in a timely manner. Law-enforcement agencies or their personnel and courts shall report in a timely manner to the appropriate board any violations of individual practice acts by any individual.

(e) Whenever a board referred to in this chapter obtains information that a person subject to its authority has engaged in, is engaging in or is about to engage in any act which constitutes or will constitute a violation of the provisions of this chapter which are administered and enforced by that board, it may apply to the circuit court for an order

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enjoining the act. Upon a showing that the person has engaged, is engaging or is about to engage in any such act, the court shall order an injunction, restraining order or other order as the court may deem appropriate.

WV Legislature

§30-1-5a. Reporting of fraud and misappropriation of funds.

(a) Whenever a board referred to in this chapter obtains information that an employee, officer or member of the board may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the board shall timely report such information or allegation in writing to the commission on special investigations, established in article five, chapter four of this code.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

WV Legislature

§30-1-6. Application for license or registration; examination fee; establishment of application deadline and fees by legislative rule; prohibiting discrimination.

(a) An applicant for an authorization to practice under the provisions of this chapter shall apply in writing to the proper board and submit the applicable fees.

(b) Each board may establish, by legislative rule, a deadline for an application for an examination.

(c) Notwithstanding the specific fees set forth in this chapter, each board may set fees by legislative rule that are sufficient to enable the board to effectively carry out its duties and responsibilities. At least thirty days prior to proposing a rule on fees, the board shall notify its membership of the proposed rule by:

(1) Mailing a copy of the proposed rule to its membership; or

(2) Posting the proposed rule on its website and notifying its membership of the website posting by:

(A) Mailing a postcard;

(B) Emailing a notice; or

(C) Placing a notice in its newsletter.

(d) In addition to any other information required by the board, an applicant's social security number shall be recorded on an application: Provided, That the board shall redact the social security number on any copies provided to the public.

(e) A board may not discriminate against an applicant because of political or religious opinion or affiliation, marital status, race, color, gender, creed, age, national origin, disability or other protected group status.

(f) A board may deny an applicant an authorization to practice in this state if an applicant's authorization to practice in another jurisdiction has been revoked. The denial may be made by the board without a hearing unless the applicant requests a hearing within thirty days of the denial. A hearing must be conducted pursuant to the provisions of this article or the provisions contained in the rules of the board.

WV Legislature

§30-1-6a.

Repealed.

Acts, 2014 Reg. Sess., Ch. 140.

WV Legislature

§30-1-6b.

Repealed.

Acts, 2014 Reg. Sess., Ch. 140.

WV Legislature

§30-1-7. Contents of license or certificate of registration.

Every license or certificate of registration issued by each board shall bear a serial or license number, the full name of the applicant, the date of issuance, and the seal of the board: Provided, That licenses or certificates of registration issued or renewed on or after July 1, 2003, will indicate both the date of issuance and the date of expiration. The licenses or certificates of registration shall be signed by the board's president and secretary or executive secretary. No license or certificate of registration granted or issued under the provisions of this chapter may be assigned.

WV Legislature

§30-1-7a. Continuing education.

(a) A board referred to in this chapter shall establish continuing education requirements as a prerequisite to license renewal. A board shall develop continuing education criteria appropriate to its discipline, which shall include, but not be limited to, course content, course approval, hours required, and reporting periods.

(b) Notwithstanding any other provision of this code, a person issued an initial license to practice medicine and surgery, a license to practice podiatry or licensed as a physician assistant by the West Virginia Board of Medicine; a person issued a license to practice dentistry by the West Virginia Board of Dental Examiners; a person issued a license to practice optometry by the West Virginia Board of Optometry, a person licensed as a pharmacist by the West Virginia Board of Pharmacy; a person licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses; a person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses; and a person licensed to practice medicine and surgery as an osteopathic physician and surgeon, or licensed or certified as an osteopathic as physician assistant by the West Virginia Board of Osteopathy shall complete drug diversion training, best-practice prescribing of controlled substances training, and training on prescribing and administering an opioid antagonist if that person prescribes, administers, or dispenses a controlled substance as that term is defined in §60A-1-101 of this code.

A person who receives his or her initial license or certificate from any of the boards set forth in this section shall complete the continuing education requirements set forth in this section within one year of receiving his or her initial license from that board.

WV Legislature

§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.

(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

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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 Court of Appeals.

WV Legislature

(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.

WV Legislature

§30-1-8a. Reinstatement of license.

(a) Every board referred to in this chapter is authorized to consider the reinstatement of any license or registration that has been suspended, revoked or not renewed, upon a showing that the applicant can resume practicing with reasonable skill and safety.

(b) Each board may adopt a procedural rule in accordance with the provisions of article three, chapter twenty-nine-a of this code, specifying forms and procedures for application for reinstatement.

WV Legislature

§30-1-8b. Mediation of complaints.

(a) Any board referred to in this chapter may, on its own motion or by stipulation of the parties, refer any complaints against persons licensed under this chapter to mediation.

(b) Any board may maintain a list of mediators with expertise in professional disciplinary matters or may obtain a list from the West Virginia center for dispute resolution or the West Virginia State Bar's mediator referral service. The board shall designate a mediator from the list by neutral rotation.

(c) The mediation is not considered a proceeding open to the public and any reports and records introduced at the mediation are not part of the public record. The mediator and all participants in the mediation shall maintain and preserve the confidentiality of all proceedings and records. The mediator may not be subpoenaed or called to testify or otherwise be subject to process requiring disclosure of confidential information in any proceeding relating to or arising out of the disciplinary or licensure matter mediated: Provided, That any confidentiality agreement and any written agreement made and signed by the parties as a result of mediation may be used in any proceedings subsequently instituted to enforce the written agreement. The agreements may be used in other proceedings if the parties agree to the use in writing.

(d) The mediation may not be used to delay any disciplinary proceeding.

WV Legislature

§30-1-9. Administrative appeal of board action; judicial review.

(a) A person, not an applicant for or holder of a license to practice law, who has been denied a license or registration; whose certificate, license, registration, or authority has been suspended or revoked; or against whom disciplinary action has been otherwise imposed may appeal the final decision of the board.

(b) All proceedings in the appeal of the board's action, and any judicial review thereof, shall be conducted in accordance with the provisions of §29A-5-1 *et seq*. of this code and any procedural rules adopted by the board pursuant thereto.

WV Legislature

§30-1-10. Disposition of money fines; legislative audit; review of board's fee structure.

(a) The secretary of every board referred to in this chapter shall receive and account for all money which it derives pursuant to the provisions of this chapter which are applicable to it. With the exception of money received as fines, each board shall pay all money which is collected into a separate special fund of the State Treasury which has been established for each board. This money shall be used exclusively by each board for purposes of administration and enforcement of its duties pursuant to this chapter. Any money received as fines shall be deposited into the General Revenue Fund of the State Treasury. When the special fund of any board accumulates to an amount which exceeds twice the annual budget of the board or $10,000, whichever is greater, the State Treasurer shall:

(1) Transfer the excess amount to the state General Revenue Fund; and

(2) Notify the Legislative Auditor that the transfer has been made.

(b) (1) Every licensing board which is authorized by the provisions of this chapter shall be subject to audit by the office of the Legislative Auditor.

(2) Within a reasonable time after the State Treasurer notifies the Legislative Auditor of a transfer required to be made under this section, the Legislative Auditor shall conduct a review of the fee structure of the applicable board to determine if the amount of the board's fees generate excessive revenue, when compared to the board's normal expenses. If the Legislative Auditor finds that excess revenue is generated, he or she shall report his or her findings to the Legislature's Joint Standing Committee on Government Organization, along with recommendations on how the fees can be adjusted to generate only the amount the board reasonably needs to operate under this chapter.

WV Legislature

§30-1-11. Compensation of members; expenses.

(a) Each member of every board in this chapter is entitled to receive compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law. A board member may not receive compensation for travel days that are not on the same day as the official meeting or official duties.

(b) The limitations contained in this section do not apply if they conflict with provisions of this chapter relating to a particular board and enacted after January 1, 1995.

(c) A board may reimburse actual and necessary expenses incurred for each day or portion of a day engaged in the discharge of official duties in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.

(d) No member of any board in this chapter may receive compensation as an employee of the board.

WV Legislature

§30-1-12. Record of proceedings; register of applicants; certified copies of records prima facie evidence; report to Governor and Legislature; public access.

(a) The secretary of every board shall keep a record of its proceedings and a register of all applicants for license or registration, showing for each the date of his or her application, his or her name, age, educational and other qualifications, mailing address, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration, if required, and any suspension or revocation thereof. The books and register, or a copy of any part thereof, certified by the secretary and attested by the seal of the board, shall be prima facie evidence of all matters recorded therein.

(b) The record of the board's proceedings shall be open to public inspection at all reasonable times and copies provided upon oral or written request after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

(c) The register of applicants shall be made available upon written request on a form prescribed by the board. The form shall require the requester to provide at least the following information:

(1) Legal identity;

(2) Purpose for which the register is sought;

(3) A telephone number where the requester may be contacted by the board; and

(4) Whether copies of the register are requested.

If requested, copies of the register shall be provided after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

The board may deny a request that the register, or copies thereof, be made available or provided if it determines, in its discretion, that the request is made for an improper purpose.

(d) On or before January 1 of each year in which the Legislature meets in regular session, the board shall submit to the Governor and to the Legislature a report of its activities for the preceding two years, containing the following information for that period:

(1) The total receipts and disbursements for each year;

(2) A list of amounts received in each year for the following categories of receipts:

(A) License applications, registrations, and renewals;

(B) Examination fees, if applicable;

WV Legislature

(C) Other fees, including late fees, copying charges, and fees for printed certificates;

(D) Fines or penalties;

(E) Expense reimbursements from disciplinary actions; and

(F) Grants, special appropriations, or other sources of revenue not from fees;

(3) A list of amounts spent in each year for the following categories of expenditures:

(A) Personal services;

(B) Board member per diem compensation;

(C) Travel expenses and automobile mileage;

(D) Professional contracts;

(E) Rent;

(F) Office supplies;

(G) Postage;

(H) Entertainment and hosting;

(I) Insurance; and

(J) Bank costs;

(4) A complete list of the names of all persons newly licensed or registered;

(5) A table or list showing numbers of licensees or registrants by West Virginia county of practice or, for out-of-state licensees or registrants, by state of residence, and by specialty, if appropriate to the particular profession;

(6) Complaints filed and investigations opened by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time requirements of §30-1-5(c) of this code, and the disposition, if any;

(7) In addition to complaints reported under the preceding subdivision, complaints resolved and investigations closed by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time requirements of §30-1-5(c) of this code, and the disposition, if any; and

(8) Copies of the agendas for, and minutes of, board and committee or subcommittee meetings.

WV Legislature

The report shall be certified by the president and the secretary of the board, and a copy of the report shall be filed with the Secretary of State and with the legislative librarian.

(e) To promote public access, the secretary of every board shall ensure that the address and telephone number of the board are included every year in the state government listings of the Charleston area telephone directory. Every board shall maintain a website that provides at least the following information:

(1) Name of each board member;

(2) Names of all board staff;

(3) Contact information for each staff member, including office telephone number, office location, and office mailing address;

(4) A secure electronic means of contacting each staff member;

(5) The roster of licensed or registered practitioners;

(6) Copies of approved meeting minutes for meeting held during the preceding year;

(7) A schedule of regular meeting days for each calendar year; and

(8) Notice of each upcoming board meeting.

WV Legislature

§30-1-12a. Prohibition against disclosure of personally identifiable information; exceptions.

(a) Definitions. —

"Personally identifiable information" or "PII" means any information that identifies, or can be used to identify, locate, contact, or impersonate a particular individual.

"Sensitive PII" means those elements of PII that must receive heightened protection due to legal or policy requirements, including, but not limited to:

(1) Social Security numbers;

(2) Credit card numbers;

(3) Health and medical data;

(4) Driver's License numbers; and

(5) Individual financial account numbers.

(b) A board may not disclose sensitive PII of applicants, licensees, registrants, or other individuals except as necessary to comply with West Virginia or federal law, court order, or subpoena.

(c) Nothing in §30-1-12 or §30-1-12a of this code shall prohibit a board from providing information related to the qualifications and practice of licensees and registrants on the board's website, including but not limited to educational and training qualifications, specialties, and practice addresses.

WV Legislature

§30-1-13. Roster of licensed or registered practitioners.

The secretary of every board shall prepare and maintain a complete roster of the names of all persons licensed, or registered, and practicing in this state the profession or occupation to which such board relates, arranged alphabetically by name. Each board shall make the roster available upon request to any member of the public and shall also place and maintain the roster on its website.

WV Legislature

§30-1-14. Remission of certain fees.

Every board of examination or registration referred to in this chapter is hereby authorized, under such rules and regulations as may be adopted by each board, to remit all annual license or annual registration fees required to be paid by any licensee or registrant under its supervision during such time as such licensee or registrant is serving with the Armed Forces of the United States of America, and to retain the name of such licensee or registrant in good standing on the roster of said board during said time.

WV Legislature

§30-1-15. Office of executive secretary of the health profession licensing boards; appointment of executive secretary; duties.

The office of the executive secretary of the health professional licensing boards is hereby created. The health profession licensing boards shall include those boards provided for in articles two-a, four, five, six, seven, seven-a, eight, ten, fourteen, sixteen, seventeen, twenty, twenty-one, twenty-five and twenty-six of chapter thirty of this code. Notwithstanding any other provision of this code to the contrary the office space personnel, records and like business affairs of the health profession licensing boards shall be within the office of the executive secretary of the health profession licensing boards. The secretaries of each of the health profession licensing boards shall coordinate purchasing, record keeping, personnel, use of reporters and like matters under the executive secretary in order to achieve the most efficient and economical fulfillment of their functions. The executive secretary shall be appointed by the director of health and shall report to the director. The executive secretary shall keep the fiscal records and accounts of each of the boards. The executive secretary shall keep the director informed as to the needs of each of the boards. The executive secretary shall coordinate the activities and efforts of the boards with the activities of the health resources advisory council and shall see that the needs for health manpower perceived by the boards are communicated to the health resources advisory council. The executive secretary shall keep any statistics and information on health professions, collected by or for the boards and shall make such statistics and information available to the health resources advisory council to aid it in carrying out its responsibilities.

WV Legislature

§30-1-16. Liability limitations of peer review committees and professional standards review committees.

No member of a peer review committee or a professional standards review committee of a state or local professional organization, including, but not limited to, committees established to review the practices of doctors of chiropractic, doctors of veterinary medicine, doctors of medicine, doctors of dentistry, attorneys at law, real estate brokers, architects, professional engineers, certified public accountants, public accountants or registered nurses shall be deemed liable to any person for any action taken or recommendation made within the scope of the functions of the committee, if the committee member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts of the matter as to which such action is taken or recommendation is made.

WV Legislature

§30-1-17. Annual reports.

(a) A licensing board, organized under the provisions of this chapter, may submit its annual report on electronic media to be filed in the same manner as a printed annual report, or transmitted electronically via the Internet. Any report filed in an electronic format shall be considered as having satisfied the filing requirements.

(b) If a board chooses to submit its annual report electronically, it shall transmit an electronic copy to the legislative manager.

WV Legislature

§30-1-18. Retired, volunteer and inactive status licenses.

(a) Every board referred to in this chapter may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to establish licensure criteria and continuing education requirements for retired, volunteer and inactive licenses.

(b) If a board which establishes licensure criteria as authorized in this section does not establish specific continuing education requirements, the retired, volunteer or inactive licensees shall comply with the same continuing education requirements as established by the respective boards for an active license.

WV Legislature

§30-1-19. Combining board staff functions.

(a) Any board referred to in this chapter may combine administrative staff functions with any other board or boards referred to in this chapter, pursuant to the provisions of subsection (b) of this section, to carry out the administrative duties of the boards as set forth in this article, the practice acts of each board set forth in this chapter and the legislative rules of each board: Provided, That each board retains responsibility for fulfilling its statutory duties.

(b) Before combining administrative staff functions pursuant to subsection (a) of this section, the boards shall, in consultation with the office of the Attorney General, enter into a memorandum of understanding with the following provisions:

(1) The names of the boards combining administrative staff functions;

(2) The administrative staff functions being combined, including the staffs' titles and duties relative to each board;

(3) The prorata share of expenses that each board will be responsible for paying, including salaries, office rent, office supplies, telephone, fax and computer services, travel expenses and any other expenses anticipated by the boards;

(4) A description of how decisions will be made by the boards, including employment of staff, the staff's functions and duties, and any other necessary decisions;

(5) A description of how modifications may be made to the terms of the agreement; and

(6) Any other provisions necessary to set forth the agreement of the boards.

(c) The boards that combine administrative staff functions pursuant to this section, may promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code, to make any necessary changes to facilitate the combining of administrative staff functions. The boards may also promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code, to correct any conflicts with a board's current rules.

WV Legislature

§30-1-20. Certain boards to regulating health care professions to gather retirement information and include in annual reports.

(a) The health related professional licensing boards referred to in subsection (c) of this section shall request that their licensees provide the boards with their anticipated retirement dates, age, gender, percentage of time working direct services, percentage of time working administration and county of practice, in order to facilitate planning for future workforce needs for health care professionals.

(b) The boards shall redact personal identifiers and include only aggregate data in the annual reports required by the provisions of section twelve of this article, beginning with the annual report due on or before January 1, 2016.

(c) The provisions of this section apply to:

(1) The West Virginia Board of Medicine, established pursuant to the provisions of article three of this chapter;

(2) The West Virginia Board of Examiners for Registered Professional Nurses, established pursuant to the provisions of article seven of this chapter;

(3) The West Virginia Board of Examiners for Licensed Practical Nurses, established pursuant to the provisions of article seven-a of this chapter;

(4) The West Virginia Board of Pharmacy, established pursuant to the provisions of article five of this chapter;

(5) The West Virginia Board of Dentistry, established pursuant to the provisions of article four of this chapter; and

(6) The West Virginia Board of Osteopathy, established pursuant to the provisions of article fourteen of this chapter.

WV Legislature

§30-1-21. Exemption from licensure for professional practice for a charitable function.

(a) A person holding an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to practice a profession or occupation licensed under this chapter may serve as a volunteer without compensation for a charitable function for a period not to exceed ten days, subject to the approval process described in this section: *Provided,* That a person who has received any completed disciplinary actions in which discipline was ordered in any of the three most recent years, or is the subject of any pending disciplinary actions is not eligible for this charitable exemption from licensure.

(b) The person shall notify the board of the nature of the volunteer charitable practice, the specific dates the person will participate in the charitable practice, and shall provide to the board a list of all professional and occupational licenses, registrations, permits or certificates held in each state or jurisdiction for the previous three years.

(c) Upon a review of the information required by this section, the board shall provide a temporary authorization to a qualified volunteer to participate in the volunteer activity for the duration not to exceed ten days. Each board shall keep a record of each authorization issued pursuant to his section.

(d) The board may not charge a fee to authorize this charitable practice.

WV Legislature

§30-1-22. Lobbying.

No board may employ or contract with any person whose job functions or obligations include lobbying on behalf of the board: Provided, That the director, board counsel and appointed board members may lobby on behalf of the board.

WV Legislature

§30-1-23. Waiver of initial licensing fees for certain individuals; definitions.

(a) As used in this section:

(1) "Initial" means obtaining a license in West Virginia for the occupation sought for the first time;

(2) "Low-income individuals" means individuals in the local labor market as defined in §21-1C-2 of this code whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a state or federal public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program, Medicaid, or the Supplemental Nutrition Assistance Program; and

(3) "Military families" means any person who serves as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U.S.C. §101, honorably discharged veterans of those forces, and their spouses. This term also includes surviving spouses of deceased service members who have not remarried.

(b) Each board or licensing authority referred to in this chapter shall waive all initial occupational licensing fees for the following classes of individuals:

(1) Low-income individuals; and

(2) Military families.

(c) Individuals seeking a waiver of initial occupational licensing fees must apply to the appropriate board or licensing authority in a format prescribed by the board or licensing authority. The board or licensing authority shall process the application within 30 days of receiving it from the applicant.

(d) The board or licensing authority may propose rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code to implement the provisions of this section.

WV Legislature

§30-1-24. Use of criminal records as disqualification from authorization to practice.

(a) Definitions. — For the purposes of this section:

(1) "Board" means the board, authority, or other agency authorized by the provisions of this chapter to issue licenses, certifications, registrations, or other authorizations to engage in a particular profession or occupation.

(2) "License" or "licensure" means the official authorization to engage in a profession or occupation issued by a board, pursuant to the requirements of this chapter.

(3) "Unreversed", as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged.

(b) Notwithstanding any provision of this chapter to the contrary, except for the professions and occupations regulated by §30-2-1 et seq., §30-3-1 et seq., §30-3E-1 et seq., §30-14-1 et seq., §30-18-1 et seq., and §30-29-1 et seq. of this code, and where not in conflict with an existing compact or model act:

(1) Boards subject to the requirements of this section may not disqualify an applicant from initial licensure to engage in a profession or occupation because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession or occupation requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the board shall consider at a minimum:

(A) The nature and seriousness of the crime for which the individual was convicted;

(B) The passage of time since the commission of the crime;

(C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(D) Any evidence of rehabilitation or treatment undertaken by the individual.

(2) Because the term "moral turpitude" is vague and subject to inconsistent applications, boards subject to the requirements of this section may not rely upon the description of a crime for which an applicant has been convicted as one of "moral turpitude" as a basis for denying licensure: Provided, That if the prior conviction for the underlying crime bears a rational nexus to the profession or occupation requiring licensure, the board may consider the conviction according to the requirements of subdivision (1) of this subsection.

(3) Notwithstanding any other provision of this chapter to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, a board shall permit the applicant to apply for initial licensure if:

WV Legislature

(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(C) The conviction was not for an offense of a violent or sexual nature: Provided, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the individual board.

(4) An individual with a criminal record who has not previously applied for licensure may petition the appropriate board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The board shall provide the determination within 60 days of receiving the petition from the applicant. The board may charge a fee to recoup its costs for each petition.

(5) The requirements of this section do not apply to the criteria that boards may consider when making determinations regarding relicensure or discipline of licensees.

(c) Every board subject to the provisions of this section shall propose rules or amendments to existing rules for legislative approval to comply with the provisions of this section. These rules or amendments to rules shall be proposed pursuant to the provisions of §29A-3-1 et seq. of this code within the applicable time limit to be considered by the Legislature during its regular session in the year 2020.

WV Legislature

§30-1-25. Primacy of state regulation of occupational practice.

The power to regulate occupations for the protection of the public is exclusively a function of the Legislature. A public body or political subdivision may only propose and administer the regulation of a trade, occupation, or profession – including, but not limited to, the issuance of a license, requirement of registration, or recognition of a certification – to the extent expressly authorized to do so under this code.

WV Legislature

§30-1-26. Telehealth practice.

(a) For the purposes of this section:

"Abortifacient" means any chemical or drug prescribed or dispensed with the intent of causing an abortion.

"Established patient" means a patient who has received professional services, face-to-face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.

"Gender altering medication" means the prescribing or administering of the following for the purpose of assisting an individual with a gender transition:

(1) Gonadotropin-releasing hormone (GnRH) analogues or other puberty blocking medication to stop or delay normal puberty; and

(2) Supraphysiologic doses of testosterone, estrogen, or other androgens than would normally be produced endogenously in a healthy individual of the same age and sex.

“Health care practitioner” means a person authorized to practice under §30-3-1 *et seq.*, §30-3E-1 *et seq.*, §30-4-1 *et seq.*, §30-5-1 *et seq.*, §30-7-1 *et seq.*, §30-7A-1 *et seq.*, §30-8-1 *et seq.*, §30-10-1 *et seq.*, §30-14-1 *et seq.*, §30-16-1 *et seq.*, §30-20-1 *et seq.*, §30-20A-1 *et seq.*, §30-21-1 *et seq.*, §30-23-1 *et seq.*, §30-26-1 *et seq.*, §30-28-1 *et seq.*, §30-30-1 *et seq.*, §30-31-1 *et seq.*, §30-32-1 *et seq.*, §30-34-1 *et seq.*, §30-35-1 *et seq.*, §30-36-1 *et seq.*, §30-37-1 *et seq.* and any other person licensed under this chapter that provides health care services.

“Interstate telehealth services” means the provision of telehealth services to a patient located in West Virginia by a health care practitioner located in any other state or commonwealth of the United States.

“Registration” means an authorization to practice a health profession regulated by §30-1-1 *et seq.* of this code for the limited purpose of providing interstate telehealth services within the registrant’s scope of practice.

“Telehealth services” means the use of synchronous or asynchronous telecommunications technology or audio only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include internet questionnaires, e-mail messages, or facsimile transmissions.

(b) Unless provided for by statute or legislative rule, a health care board, referred to in §30-1-1 *et seq.* of this code, shall propose an emergency rule for legislative approval in

WV Legislature

accordance with the provisions of §29A-3-15 *et seq*. of this code to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following:

(1) The practice of the health care service occurs where the patient is located at the time the telehealth services are provided;

(2) The health care practitioner who practices telehealth shall be:

(A) Licensed in good standing in all states in which he or she is licensed and not currently under investigation or subject to an administrative complaint; and

(B) Registered as an interstate telehealth practitioner with the appropriate board in West Virginia;

(3) When the health care practitioner-patient relationship is established;

(4) The standard of care for the provision of telehealth services. The standard of care shall require that with respect to the established patient, the patient shall visit an in-person health care practitioner within 12 months of using the initial telemedicine service or the telemedicine service shall no longer be available to the patient until an in-person visit is obtained. This requirement may be suspended, in the discretion of the health care practitioner, on a case-by-case basis, and it does not apply to the following services: Acute inpatient care, post-operative follow-up checks, behavioral medicine, addiction medicine, or palliative care;

(5) A prohibition of prescribing any controlled substance listed in Schedule II of the Uniform Controlled Substance Act, unless authorized by another section: *Provided*, That the prescribing limitations contained in this section do not apply to a physician or a member of the same group practice with an established patient;

(6) Establish the conduct of a registrant for which discipline may be imposed by the board of registration;

(7) Establish a fee, not to exceed the amount to be paid by a licensee, to be paid by the interstate telehealth practitioner registered in the state;

(8) A reference to the board’s discipline process;

(9) A prohibition of prescribing or dispensing an abortifacient; and

(10) A prohibition of prescribing or dispensing gender altering medication to a person who is under 18 years of age.

(c) A registration issued pursuant to the provisions of or the requirements of this section does not authorize a health care professional to practice from a physical location within this state without first obtaining appropriate licensure.

WV Legislature

(d) By registering to provide interstate telehealth services to patients in this state, a health care practitioner is subject to:

(1) The laws regarding the profession in this state, including the state judicial system and all professional conduct rules and standards incorporated into the health care practitioner's practice act and the legislative rules of registering board; and

(2) The jurisdiction of the board with which he or she registers to provide interstate telehealth services, including such board's complaint, investigation, and hearing process.

(e) A health care professional who registers to provide interstate telehealth services pursuant to the provisions of or the requirements of this section shall immediately notify the board where he or she is registered in West Virginia and of any restrictions placed on the individual's license to practice in any state or jurisdiction.

(f) A person currently licensed in this state is not subject to registration but shall practice telehealth in accordance with the provisions of this section and the rules promulgated thereunder.

WV Legislature

§30-1-27. Universal Professional and Occupational Licensing Act of 2025.

(a) Notwithstanding any other provision of this code to the contrary, every board of examination or registration in this chapter shall issue an occupational or professional license, registration, or certificate without examination in the discipline applied for and at the same practice level as determined by the board of examination or registration, to a person who either:

(1) Establishes residence in this state; or

(2) Is married to an active-duty member of the armed forces of the United States and has accompanied the member to an official permanent change of station to a military installation located in this state.

(b) To qualify for a license under this section, a person listed in subdivision (1) or (2), subsection (a) of this section must apply to a board of examination or registration in this chapter for a license in a particular discipline and meet all of the following criteria:

(1) The person is currently licensed, registered, or certified in at least one other state in the discipline applied for and at the same practice level as determined by the board of examination or registration in this chapter;

(2) The person's license, registration, or certification is in good standing in all states in which the person holds a license, registration, or certification;

(3) The person has been licensed, registered, or certified by another state: *Provided*, That for professions regulated by §30-3-1 *et seq*. or §30-14-1 *et seq*. of this code, the person has been licensed to practice medicine, podiatric medicine, or osteopathic medicine without clinical supervision after successfully completing a graduate medical education program approved by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or the Council on Podiatric Medical Education or Colleges of Podiatric Medicine: *Provided further*, That for professions regulated by §30-4-1 *et seq*. of this code, the person shall have completed a clinical hand-skills exam;

(4) The person was licensed, registered, or certified by another state where there were minimum education requirements and, if applicable, work experience and clinical supervision requirements in effect and the other state verifies that the person met those requirements in order to be licensed, registered, or certified in that state;

(5) The person previously passed any examinations, written or clinical, required for the license, registration, or certification if required by the other state;

(6) The person has not had a license, registration, or certificate revoked or has not voluntarily surrendered a license, registration, or certificate in any other state or country while under investigation for unprofessional conduct;

WV Legislature

(7) The person has not had any other form of discipline imposed by any other regulating entity: *Provided*, That if another state's regulating entity has taken disciplinary action against the person, a board of examination or registration in this state may issue the person a license, registration, or certificate if it determines the cause of action in the other state was corrected and the matter fully resolved. If the matter has not been resolved in the other state, the board of examination or registration in this state may not issue or deny a license until the matter is resolved;

(8) The person pays all applicable fees in this state; and

(9) The person does not have a disqualifying criminal history as determined by the board of examination or registration in this state.

(c) This section does not prevent a board of examination or registration in this chapter from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the armed forces of the United States, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.

(d) Notwithstanding subsection (a) of this section, a board of examination or registration in this chapter that administers an examination on laws of this state as part of its license, registration, or certificate process may require a person who applies for a license, registration, or certification under this section to take and pass an examination specific to the laws of this state.

(e) A person who is licensed pursuant to this section is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the board of examination or registration who issued the license, registration, or certification under this section.

(f) This section does not apply to:

(1) Any license authorizing a person to practice law in this state;

(2) Any state board of examination or registration that is subject to direct oversight by a federal agency and has requirements for licensure or certification that are less restrictive than those outlined in this section; or

(3) Any requirement for a state or national criminal history record check that a board may require pursuant to any provision of this chapter.

(g) A license or certificate issued pursuant to this section is valid only in this state and does not grant the person compact privilege under an interstate compact. A board of examination or registration in this chapter may determine eligibility for a person to be licensed or certified under this section if the person is not part of an interstate compact.

WV Legislature

(h) All boards of examination or registration in this chapter shall prominently print the following notice on all license, registration, and certificate applications and websites:

Pursuant to W. Va. Code §30-1-27, a person shall be granted an occupational or professional license, registration, or certificate if the person has been licensed or certified in another state, the license, registration, or certificate is in the same discipline and at the same practice level as the license, registration, or certificate for which the person is applying in this state and the person meets other conditions prescribed by W. Va. Code §30-1-27.

(i) Beginning July 1, 2025, all boards of examination or registration that are required to issue occupational or professional licenses, registrations, or certificates pursuant to this section shall track information about applications received and submit and report that information to the Secretary of the Department of Commerce and the Senate and House Committees on Government Organization on or before the fifteenth day following the end of each quarter.

WV Legislature