# WEST VIRGINIA CODE: §30-1A-1A

**§30-1A-1a. Definitions.**

For the purposes of this chapter, the words defined in this section have the meaning given.

“Government certification” means a voluntary, government-granted, and nontransferable recognition to an individual who meets personal qualifications related to a lawful occupation. Upon the government’s initial and continuing approval, the individual may use “government certified” or “state certified” as a title. A noncertified individual also may perform the lawful occupation for compensation but may not use the title “government certified” or “state certified”. In this chapter, the term “government certification” is not synonymous with “occupational license”. It also is not intended to include credentials, such as those used for medical-board certification or held by a certified public accountant, that are prerequisites to working lawfully in an occupation.

“Government registration” means a requirement to give notice to the government that may include the individual’s name and address, the individual’s agent for service of process, the location of the activity to be performed, and a description of the service the individual provides. “Government registration” does not include personal qualifications and is not transferable but it may require a bond or insurance. Upon the government’s receipt of notice, the individual may use “government registered” as a title. A nonregistered individual may not perform the occupation for compensation or use “government registered” as a title. In this chapter, “government registration” is not intended to be synonymous with “occupational license”. It also is not intended to include credentials, such as those held by a registered nurse, which are prerequisites to working lawfully in an occupation.

“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 regulation.

“Least restrictive regulation” means, from least to most restrictive:

(1) Market competition;

(2) Third-party or consumer-created ratings and reviews;

(3) Private certification;

(4) Voluntary bonding or insurance;

(5) Specific private civil cause of action to remedy consumer harm;

(6) Deceptive trade practice act;

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(7) Mandatory disclosure of attributes of the specific good or service;

(8) Regulation of the process of providing the specific good or service;

(9) Regulation of the facility where the specific good or service is sold;

(10) Inspection;

(11) Bonding;

(12) Insurance;

(13) Government registration;

(14) Government certification;

(15) Specialty occupational certification solely for medical reimbursement; and

(16) Occupational license.

“Occupational license” is a nontransferable authorization in law for an individual to perform exclusively a lawful occupation for compensation 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 the occupation for compensation.

“Occupational regulation” means a statute, rule, practice, policy, or other state law that allows an individual to use an occupational title or work in a lawful occupation. It includes government registration, government certification, and occupational license. It excludes a business license, facility license, building permit, or zoning and land use regulation except to the extent those state laws regulate an individual’s personal qualifications to perform a lawful occupation.

“Personal qualifications” are criteria related to an individual’s personal background and characteristics. They may include one or more of the following: Completion of an approved educational program, satisfactory performance on an examination, work experience, apprenticeship, other evidence of attainment of requisite knowledge and skills, passing a review of the individual’s criminal record, and completion of continuing education.

“Private certification” is a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization. The individual may use a designated title of “certified” or other title conferred by the private organization.

“Specialty occupational certification solely for medical reimbursement” means a non-

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transferable authorization in law for an individual to qualify for payment or reimbursement from a government agency for the nonexclusive provision of new or niche medical services based on meeting personal qualifications established by the Legislature. A private health insurance company or other private company may recognize this credential. Notwithstanding this specialty certification, it is legal for a person regulated under another occupational regulation to provide similar services as defined in that statute for compensation and reimbursement. It is also legal for an individual who does not possess this specialty certification to provide the identified medical services for compensation, but the noncertified individual will not qualify for payment or reimbursement from a government agency.

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