WEST VIRGINIA CODE CHAPTER 30 ARTICLE 2

WV Legislature

§30-2-1. Certificate of good moral character; examination of applicants for license; licenses.

Any person desiring to obtain a license to practice law in the courts of this state shall appear before the circuit court of the county in which he has resided for the last preceding year and prove to the satisfaction of the court, or to the satisfaction of a committee of three attorneys practicing before the court, appointed by the court, that he is a person of good moral character, that he is eighteen years of age, and that he has resided in such county for one year next preceding the date of his appearance; and upon the presentation of such proof, the court shall enter an order on its record accordingly. The Supreme Court of Appeals shall prescribe and publish rules and regulations for the examination of all applicants for admission to practice law, which shall include the period of study and degree of preparation required of applicants previous to being admitted, as well as the method of examinations, whether by the court or otherwise. And the Supreme Court of Appeals may, upon the production of a duly certified copy of the order of the circuit court, hereinbefore mentioned, and upon being satisfied that the applicant has shown, upon an examination conducted in accordance with such rules and regulations, that he is qualified to practice law in the courts of this state, and upon being further satisfied that such rules and regulations have been complied with in all respects, grant such applicant a license to practice law in the courts of this state, and such license shall show upon its face that all the provisions of this section and of the said rules have been complied with: Provided, That any person who shall produce a duly certified copy of such order of the circuit court, and also a diploma of graduation from the college of law of West Virginia University reflecting a date of graduation prior to July 1, 1983, shall, upon presentation thereof in any of the courts of this state, be entitled to practice in any and all courts of this state, and the order so admitting him shall state the facts pertaining to the same.

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§30-2-2. Attorneys from other jurisdictions.

Any person duly authorized to practice as an attorney at law in any jurisdiction other than this state may be admitted to practice as such in the courts of this state, as a visiting attorney, or as a resident attorney, upon first complying with the rules and regulations applicable thereto prescribed by the Supreme Court of Appeals of West Virginia, without being required to take the bar examinations of this state, if the other jurisdiction in which such person is already authorized to practice allows attorneys of this state to be admitted to the bar or to practice law in such jurisdiction without making it one of the necessary requirements that attorneys of this state take the bar examinations of such jurisdiction. The Supreme Court of Appeals of West Virginia shall prescribe specific rules and regulations dealing with the admission of such person from another jurisdiction to practice law in this state either as a visiting attorney or as a resident attorney; and no person from another jurisdiction shall be permitted to practice in the courts of this state in either classification until he has complied with the rules and regulations pertaining to such classification established by the Supreme Court of Appeals. Nothing herein contained shall affect the right or status of attorneys admitted to practice in this state prior to the enactment of this section.

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§30-2-3. Oath.

Every attorney at law shall take the following oath before each court in which he proposes to practice, that is to say: If he be a resident of this state, an oath that he will support the Constitution of the United States and the Constitution of the State of West Virginia, honestly demean himself in the practice of the law, and to the best of his ability execute his office of attorney at law; if he be not a resident of this state, an oath that he will support the Constitution of the United States, honestly demean himself in the practice of the law, and to the best of his ability execute his office of attorney at law.

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§30-2-4. Practice without license or oath; penalty; qualification after institution of suits.

(a) It is unlawful for any person to practice or appear as an attorney-at-law for another in a court in this state or to make it a business to solicit employment for any attorney, or to hold himself or herself out to the public or any member thereof as being entitled to practice law, or in any other manner to assume, use or advertise the title of lawyer, attorney and counselor-at-law, attorney and counselor or equivalent terms in any language, in such manner as to convey the impression that he or she is a legal practitioner of law, or in any manner to advertise that he or she, either alone or together with other persons, has, owns, conducts or maintains a law office, without first having been duly and regularly licensed and admitted to practice law in the courts of this state, and without having subscribed and taken the oath required by the provisions of section three of this article.

(b) Any person violating the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or confined in jail not more than ninety days, or both fined and confined, and on any subsequent offense, is guilty of a misdemeanor and shall be fined not more than $10,000, or confined in jail not more than one year, or both fined and confined: Provided, That nothing herein prohibits a lawyer from advertising services or hiring a person to assist in advertising services as permitted by the Rules of Professional Conduct.

WV Legislature

§30-2-5. Practice by corporations or voluntary associations; penalties; limitations of section.

Except as provided by section five-a of this article, it shall be unlawful for any corporation or voluntary association to practice or appear as an attorney at law for any person in any court of this state or before any judicial body, or to hold itself out to the public as being entitled to practice law, or to render or furnish legal services or advice, or to furnish an attorney or counsel to render legal services of any kind in actions or proceedings of any nature, or in any other manner to assume to be entitled to practice law, or assume, use or advertise the title of lawyer in such manner as to convey the impression that it is entitled to practice law or to furnish legal advice, services or counsel, or to advertise that, either alone or together with or by or through any person, whether a duly and regularly admitted attorney at law or not, it has, owns, conducts or maintains a law office for the practice of law, or for furnishing legal advice, services or counsel. It shall be unlawful further for any corporation or voluntary association to solicit, itself or by or through its officers, agents or employees, any claim or demand for the purpose of bringing an action thereon, or of settling the estate of any insolvent debtor, or of representing as attorney at law, or of furnishing legal advice, services or counsel to, a person sued or about to be sued in any action or proceeding, or against whom an action or proceeding has been or is about to be brought, or who may be affected by any action or proceeding which has or may be instituted in any court or before any judicial body, or for the purpose of so representing any person in the pursuit of any civil or criminal remedy. Any corporation or voluntary association violating the provisions of this section, or any officer, trustee, director, agent or employee of such corporation or voluntary association who directly or indirectly engages in any of the acts herein prohibited, or assists such corporation or voluntary association to do such prohibited acts, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000. The fact that any such officer, trustee, director, agent or employee shall be a duly and regularly admitted attorney at law shall not be held to permit or allow any such corporation or voluntary association to do the acts prohibited herein, nor shall such fact be a defense upon the trial of any of the persons mentioned herein for a violation of the provisions of this section.

This section shall not apply to a partnership composed of licensed attorneys, or to a corporation or voluntary association lawfully engaged in examining and insuring the titles to real property, nor shall it prohibit a corporation or voluntary association from employing an attorney or attorneys in and about its own immediate affairs or in any litigation to which it is or may be a party, nor shall it apply to organizations organized for benevolent or charitable purposes, or for the purpose of assisting persons without means in the pursuit of any civil remedy.

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§30-2-5a. Legal corporations.

(a) One or more individuals, each of whom is licensed to practice law within this state, may organize and become a shareholder or shareholders of a legal corporation. Individuals who may be practicing law as an organization created otherwise than pursuant to the provisions of this section may incorporate under and pursuant to this section. This section is not intended to amend the statutory or common law as it relates to associations or partnerships, except to allow partnerships of lawyers to organize as a legal corporation.

(b) A legal corporation may render professional service only through officers, employees and agents who are themselves duly licensed to render legal service within this state. The term "employee" or "agent" as used in this section does not include secretaries, clerks, typists, paralegal personnel or other individuals who are not usually and ordinarily considered by custom and practice to be rendering legal services for which a license is required.

(c) This section does not modify the law as it relates to the relationship between a person furnishing legal services and his client, nor does it modify the law as it relates to liability arising out of such a professional service relationship. Except for permitting legal corporations, this section is not intended to modify any legal requirement or court rule relating to ethical standards of conduct required of persons providing legal service.

(d) A legal corporation may issue its capital stock only to persons who are duly licensed attorneys.

(e) When not inconsistent with this section, the organization and procedures of legal corporations shall conform to the requirements of article one, chapter thirty-one of this code.

(f) The West Virginia State Bar may require that lawyers under its licensing authority must obtain its prior authorization before beginning to act as a legal corporation and may require a fee of not more than $50 for each application for authorization to form a legal corporation. The State Bar may adopt rules: (1) To set reasonable standards for granting or refusing prior approval; (2) to require appropriate information therefor from a legal corporation applicant; and (3) to notify the Secretary of State that certain persons have been given authorization by the state Bar to form a legal corporation.

(g) Upon notification by the West Virginia State Bar of its approval, the Secretary of State, upon compliance by the incorporators with this section and the applicable provisions of chapter thirty-one of this code, may issue to the incorporators a certificate of incorporation for the legal corporation which then may engage in practice through duly licensed or otherwise legally authorized stockholders, employees and agents.

(h) A shareholder of a legal corporation may sell or transfer his or her shares of stock in such corporation only to another individual who is duly licensed to practice law in this state or back to the corporation. However, a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during the administration of

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the estate.

(i) The corporate name of a legal corporation shall contain the last name or names of one or more of its shareholders. If the rules of the state Bar so permit, the corporate name may contain or include the name or names of former shareholders or of persons who were associated with a predecessor partnership or other organization. The corporate name shall also contain the words "legal corporation" or the abbreviation "L.C." The use of the word "company", "corporation" or "incorporated" or any other words or abbreviations in the name of a corporation organized under this article which indicates that such corporation is a corporation, other than the words "legal corporation" or the abbreviation "L.C.", is specifically prohibited.

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§30-2-6. Annulment or suspension of license for conviction of felony or crime involving moral turpitude.

Any court before which any attorney has been qualified, on proof being made to it that he has been convicted of any felony, or any other crime involving moral turpitude, shall annul his license to practice therein or suspend the same for such time as the court may prescribe.

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§30-2-7. Suspension or annulment of license for malpractice; appeal.

If the Supreme Court of Appeals or any court of record of this state, except the county court, observe any malpractice therein by any attorney, or if complaint, verified by affidavit, be made to any such court of malpractice by any attorney therein, such court shall order the attorney to be summoned to show cause why his license shall not be suspended or annulled. A summons shall thereupon be issued by the clerk of such court containing a copy of the charges and requiring the attorney to appear and answer the same on a day to be named therein, which summons may be served in the same manner as a summons commencing an action may be served, and the service shall be made at least five days before the return day thereof. Upon the return of the summons executed, if the attorney appear and deny the charge of malpractice, the court shall, without a jury, try the same. If the attorney be found guilty by the court, or if he fail to appear and deny the charge, the court may either suspend or annul the license of such attorney as in its judgment shall seem right.

Whenever a judgment or decree shall be standing or rendered in any of said courts against an attorney for money collected by him as such, it shall be the duty of such court to suspend the license of such attorney until such judgment or decree shall be satisfied.

An appeal shall lie from any court of record of limited jurisdiction established under the provisions of section 19 of article VIII of the Constitution of this state, to the circuit court of the county, and from any circuit court to the Supreme Court of Appeals of the state, from any order suspending or annulling the license of any attorney proceeded against under the provisions of this section.

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§30-2-8. Security for good behavior; contempt.

Nothing in the preceding section shall affect the right of any court to require from an attorney therein security for his good behavior, or to fine him for a contempt of the court.

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§30-2-9. Revocation, annulment or suspension of license effective throughout state.

Any revocation, annulment or suspension of a license to practice law shall operate and be effective throughout the state.

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§30-2-10. Clerk and sheriff or their deputies not to act as attorneys.

If any clerk, sheriff, or any deputy of either, or any person interested in the profits of any such office, shall act as attorney at law in any case in any court of which such clerk or sheriff is an officer, he shall forfeit $30.

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§30-2-11. Liability of attorney to client for neglect of duty.

Every attorney at law shall be liable to his client for any damages sustained by the client by the neglect of his duty as such attorney.

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§30-2-12. Liability of attorney or agent for loss of debt or money.

If any attorney at law or agent shall, by his negligence or improper conduct, lose any debt or other money of his client, he shall be charged with the principal of what is so lost, and interest thereon, in like manner as if he had received such principal, and it may be recovered from him by suit or motion.

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§30-2-13. Liability of attorney for failure to pay over moneys collected; penalty.

If any attorney receive money for his client as such attorney and fail to pay the same on demand, or within six months after receipt thereof, without good and sufficient reason for such failure, it may be recovered from him by suit or motion; and damages in lieu of interest, not exceeding fifteen percent per annum until paid, may be awarded against him and he shall be deemed guilty of a misdemeanor and, be fined not less than twenty nor more than $500.

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§30-2-14. Disbarment for offense under §30-2-13.

Any attorney convicted under the next preceding section shall, in addition to the punishment therein prescribed, be disbarred from practicing as an attorney in any of the courts of this state, and the same shall be entered by the court as part of its judgment.

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§30-2-15. Compensation.

An attorney shall be entitled for his services as such to such sums as he may contract for with the party for whom the service is rendered; and, in the absence of such contract, he may recover of such party what his services were reasonably worth.

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§30-2-16. Solicitation of employment by or for attorney in cases of personal injury or death; limitation of section; penalty.

It shall be unlawful for any attorney at law, either himself or by or through an agent, employee or other person acting on his behalf, to solicit in this state another person to employ, or procure or bring about the employment of, said attorney at law or any other attorney at law for the purpose of presenting, making, collecting, enforcing or prosecuting a claim, suit or action for damages for personal injury or death. It shall be unlawful for any person, as agent or employee or otherwise acting on behalf of an attorney at law, to solicit in this state another person to employ, or procure or bring about the employment of, said attorney at law or any other attorney at law for the purpose of presenting, making, collecting, enforcing or prosecuting such a claim, suit or action for damages. The solicitation by any person of another person to employ, or procure or bring about the employment of, any attorney at law for the purpose of presenting, making, collecting, enforcing or prosecuting such a claim, suit or action for damages, if followed by the employment of said attorney for such purposes, shall, in any prosecution of such person so soliciting, be prima facie evidence that such person so soliciting was an agent, employee or acting on behalf of said attorney at law.

Nothing in this section shall be construed to prohibit any person from employing or furnishing any attorney at law for the purpose of presenting, making, collecting, enforcing, prosecuting or defending against a claim, suit or action to which such person is or may be a party, or on it or by reason of which such person is or may be directly or indirectly liable to pay or respond in money, or to prohibit any attorney at law so employed or furnished from presenting, making, collecting, enforcing, prosecuting or defending against said claim, suit or action. Nothing in this section shall be construed to prohibit any benevolent or charitable organization from assisting persons without means in the pursuit of any civil remedy. Nothing in this section shall impair or affect the disciplinary powers of the courts over attorneys at law and counsel appearing or practicing therein. In the construction of this section the words "attorney at law" shall be applied to and include any attorney at law, whether admitted or licensed to practice, or practicing, law in this state or in any other place or in any court thereof.

Any person violating any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000 or confined in the county jail not more than six months, or both.

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