WEST VIRGINIA CODE: §33-64-2

§33-64-2. Wellness reimbursement program, arrangement, or benefit plan administrator to be licensed.

(a) No wellness reimbursement program, arrangement, or benefit plan administrator may sell, offer, market, promote, or operate a wellness reimbursement program, arrangement, or benefit plan as that term is defined in this article without first being licensed by the commissioner.

(b) Application for a license shall be on forms prescribed by the commissioner and shall be accompanied by an initial license fee of $5,000, annual financial statements or reports for the two preceding calendar years, and any other documents that the commissioner may require to ensure that the wellness reimbursement program, arrangement, or benefit plan administrator meets the requirements for licensure set forth in this article. Thereafter, an application fee for a renewal offering shall be $500. These fees shall be retained by the commissioner to offset the costs of administering this article.

(c) In addition to the documents required under subsection (b) of this section, a wellness reimbursement program, arrangement, or benefit plan administrator shall comply with federal ERISA requirements or submit a letter or document from the Internal Revenue Service or the U.S. Department of Labor approving of the specific wellness reimbursement program, arrangement, or benefit plan in question.

(d) A wellness reimbursement program, arrangement, or benefit plan administrator shall make and keep a full and correct record of its business and affairs, and the commissioner shall inspect these records at least every three years. The information from these records shall be furnished to the commissioner on demand, and the original books or records shall be open to examination by the commissioner when demanded. The cost of the examination shall be borne by the wellness reimbursement program, arrangement, or benefit plan administrator.

(e) A wellness reimbursement program, arrangement, or benefit plan administrator shall file and maintain with the commissioner a surety bond in favor of the state executed by a surety company authorized to transact business in this state. The commissioner may set the requirements of the surety bond as necessary.

(f) Before granting any license, the commissioner or his designee shall be satisfied that the wellness reimbursement program, arrangement, or benefit plan administrator is competent, trustworthy, financially responsible, has a good personal and business reputation, has not had an insurance license revoked, suspended, or denied in any jurisdiction within the preceding five years, and has not been convicted of a crime that bears a rational nexus to the activities licensed under this article in any jurisdiction. For purposes of this section, "convicted" includes a plea of guilty or a plea of nolo contendere.

(g) The commissioner may revoke or suspend any license issued to a wellness reimbursement program, arrangement, or benefit plan administrator when he or she finds that any condition exists which would have prohibited issuance of the original license, that the wellness reimbursement program, arrangement, or benefit plan administrator has violated any provision of this article, or that the wellness reimbursement program, arrangement, or benefit plan administrator has deceived or dealt unjustly with the citizens of this state. In lieu of revocation or suspension of license, the commissioner may impose a civil penalty not to exceed $1,000 for each offense.

(h) Any wellness reimbursement program, arrangement, or benefit plan administrator who fails to obtain a license is subject to the penalties under §33-64-5 of this code and is subject to revocation of any licenses issued by the commissioner.

(i) Any proprietary information required by this article to be provided to, filed with, or available for review by the commissioner is confidential and is not subject to public disclosure, including disclosure pursuant to §29B-1-1 *et seq.* of this code.