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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

—●—
ENROLLED

Committee Substitute for
SENATE BILL NO. 382

(By Senator Chafin)

—●—
PASSED

March 9. 1991

In Effect

July 1, 1991 [REDACTED]

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 382

(SENATOR CHAFIN, *original sponsor*)

[Passed March 9, 1991; to take effect July 1, 1991.]

AN ACT to amend and reenact sections two, six, nine, ten, fourteen, fourteen-a and sixteen, article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section fourteen-b, all relating to the board of pharmacy; adding new members to the board and stating their qualifications; registration and licensing of pharmacists; increasing and adding new fees; providing for use of funds; and creating a pharmacist in charge.

Be it enacted by the Legislature of West Virginia:

That sections two, six, nine, ten, fourteen, fourteen-a and sixteen, article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section fourteen-b, all to read as follows:

**ARTICLE 5. PHARMACISTS, ASSISTANT PHARMACISTS AND
DRUGSTORES.**

**§30-5-2. Board of pharmacy; appointment, qualifications and
terms of members; powers and duties
generally.**

1 There shall be a state board of pharmacy, known as
2 the "West Virginia board of pharmacy", which shall
3 consist of five practicing pharmacists and two public
4 members, who shall be appointed by the governor by
5 and with the advice and consent of the Senate. Each
6 pharmacist member of the board, at the time of his
7 appointment, shall be a citizen and registered pharma-
8 cist of this state. The public members shall be resi-
9 dents of this state who have attained the age of
10 majority and may not be a past or present member of
11 the profession of pharmacy, the spouse of a member of
12 the profession of pharmacy, a person who has ever
13 had any material financial interest in the providing of
14 pharmacy service or who has engaged in any activity
15 directly related to the practice of pharmacy. Each
16 member of the board shall receive one hundred fifty
17 dollars for each day spent in attending to the duties of
18 the board or of its committees, and shall be reim-
19 bursed for all actual and necessary expenses incurred
20 in carrying out his duties.

21 The members of the board in office on the date this
22 code takes effect shall, unless sooner removed, con-
23 tinue to serve until their respective terms expire and
24 until their successors have been appointed and have
25 qualified. On or before the first day of July, one
26 thousand nine hundred thirty-one, and on or before
27 the first day of July of each year thereafter, the
28 governor shall appoint one member to serve for a
29 term of five years, commencing on said first day of
30 July, and any member shall be eligible for
31 reappointment.

32 The board, in addition to the authority, powers and
33 duties granted to the board by this chapter and
34 chapter sixteen of the code, shall have the authority
35 to: (a) Regulate the practice of the profession of

36 pharmacy; (b) regulate the employment of apprentices
37 and interns in pharmacy; (c) appoint, within the limit
38 of appropriations, inspectors who shall be registered
39 pharmacists, and investigators, both intended to act as
40 agents of the board within the provisions of this
41 chapter and chapter sixteen of the code and such rules
42 and regulations as the board shall promulgate; and (d)
43 adopt rules of professional conduct appropriate to the
44 establishment and maintenance of high standards of
45 integrity and dignity in a profession.

§30-5-6. Registration of pharmacists from other states.

1 The board of pharmacy may register and admit to
2 practice as pharmacists in this state, such persons as
3 have been legally registered or licensed as pharmacists
4 in other states: *Provided*, That the applicant for such
5 registration shall appear personally before the board,
6 at a regular meeting, and shall present satisfactory
7 evidence of qualification equal to that required of
8 applicants for registration in this state, and that he
9 was registered or licensed by examination in such
10 other state, and that the standard of competence
11 required in such other state is not lower than that
12 required in this state: *Provided, however*, That the
13 board is satisfied that such other state accords similar
14 recognition to registered pharmacists of this state.
15 Applicants for registration under this section shall,
16 with their application, forward to the secretary of the
17 board of pharmacy a fee of two hundred fifty dollars,
18 unless the applicant desires to be examined other than
19 at a regular meeting of the board. In that case, there
20 will be an additional fee of one hundred fifty dollars.

§30-5-9. Fees.

1 The board of pharmacy shall be entitled to charge
2 and collect the following fees, in addition to those
3 provided in article one of this chapter and in sections
4 five, fourteen and sixteen of this article: For renewing
5 the registration of a pharmacist, thirty dollars; to
6 register an intern pharmacist, ten dollars plus five
7 dollars for each of the remaining periods of his
8 internship; and to register a consultant pharmacist,

9 twenty dollars for the initial application and ten
10 dollars for each additional application.

§30-5-10. Annual renewal of registration license.

1 Every registered pharmacist who desires to continue
2 in the practice of pharmacy, shall on or before the first
3 day of July, one thousand nine hundred ninety-one,
4 and annually thereafter apply to the state board of
5 pharmacy for a renewal of his license, and shall
6 transmit with his application the fee prescribed in the
7 preceding section of this article. Notification of the
8 annual renewal shall be given by the board at least
9 thirty days prior to said first day of July. If any
10 pharmacist fails for a period of thirty days after said
11 first day of July to apply to the board for a renewal
12 of his license, his name shall be erased from the
13 register of registered pharmacists and such person, in
14 order to again become licensed, shall be required to
15 appear personally before the board, or an authorized
16 committee of the board, to show cause for permitting
17 the license to lapse. If such person submits to the
18 board satisfactory reasons for allowing the license to
19 lapse and satisfies the board as to his qualifications to
20 practice the profession, such person shall be reinstated
21 upon payment of a reinstatement fee of two hundred
22 hundred fifty dollars plus the renewal fee of thirty
23 dollars.

**§30-5-14. Pharmacies or drugstores to be registered; permit
to operate; fees; registered pharmacist to
conduct business.**

1 The board of pharmacy shall require and provide for
2 the annual registration of every pharmacy or drug-
3 store, as defined, doing business in this state. Any
4 person, firm, corporation or partnership desiring to
5 operate, maintain, open or establish a pharmacy or
6 drugstore, as defined, in this state, shall apply to the
7 board of pharmacy for a permit to do so. The applica-
8 tion for such permit or license shall be made on a
9 form prescribed and furnished by the board of phar-
10 macy, which when properly executed, shall indicate
11 the owner, manager, trustee, lessee, receiver, or other

12 person or persons desiring such permit, as well as the
13 location of such pharmacy or drugstore, including
14 street and number, and such other information as the
15 board of pharmacy may require. If it is desired to
16 operate, maintain, open or establish more than one
17 pharmacy or drugstore, separate application shall be
18 made and separate permits or licenses shall be issued
19 for each. Every initial application for a permit shall be
20 accompanied by the required fee of one hundred fifty
21 dollars. The fee for renewal of such permit or license
22 shall be seventy-five dollars annually. If an application
23 is found satisfactory, the secretary of the board of
24 pharmacy shall issue to the applicant a permit or
25 license for each pharmacy or drugstore for which
26 application is made. Permits or licenses issued under
27 this section shall not be transferable and shall expire
28 on the thirtieth day of June of each calendar year, and
29 if application for renewal of permit or license is not
30 made on or before that date, or a new one granted on
31 or before the first day of August, following, the old
32 permit or license shall lapse and become null and void
33 and shall require an inspection of the pharmacy and a
34 fee of one hundred fifty dollars plus one hundred fifty
35 dollars for the inspection. Every such place of business
36 so registered shall be in direct charge of a registered
37 pharmacist and operate in compliance with the gen-
38 eral provisions governing the practice of pharmacy
39 and the operation of a drugstore or pharmacy.

40 The provisions of this section shall have no applica-
41 tion to the sale of patent or proprietary medicines
42 which are not poisonous, deleterious or habit-forming
43 nor to such ordinary drugs in original retail packages
44 when such are not poisonous, deleterious or habit-
45 forming nor to flavoring extracts or dyestuffs as are
46 usually sold in a country store.

§30-5-14a. Pharmacist-in-charge.

1 Every pharmacy or drugstore, at all times, shall be
2 under the jurisdiction of a licensed pharmacist who
3 shall be designated as the pharmacist-in-charge.

4 The pharmacist-in-charge is responsible for the

5 pharmacy's compliance with state and federal phar-
6 macy laws and regulations.

7 The pharmacist-in-charge is responsible for main-
8 taining records and inventory.

9 It is a violation of this section if the owner of a
10 pharmacy fails to designate a pharmacist-in-charge or
11 permit the practice of pharmacy without having
12 designated a pharmacist-in-charge, or fails to notify
13 the board of pharmacy if the designated pharmacist-
14 in-charge leaves.

15 Before a permit is issued to operate a pharmacy, or
16 renewed, the application must designate the
17 pharmacist-in-charge. The designated pharmacist-in-
18 charge must be present when a new store is to be
19 inspected.

20 A pharmacist-in-charge cannot hold the designated
21 position at more than one pharmacy, whether within
22 or without the state of West Virginia. The board of
23 pharmacy shall promulgate rules relative to pharma-
24 cies which are operated over forty hours a week.

25 An interim pharmacist-in-charge may be designated
26 for a period not to exceed sixty days. The request for
27 an interim pharmacist-in-charge shall detail the
28 circumstances which warrant such a change.

29 The board of pharmacy shall furnish the form which
30 designates a change of the pharmacist-in-charge and
31 every such application shall be subject to a fee of ten
32 dollars.

§30-5-14b. Use of funds resulting from increased fees.

1 The increased funds resulting from the increased
2 fees under sections five, nine and fourteen of this
3 article shall be used only (a) for the employment of an
4 investigator or investigators pursuant to section two of
5 this article, (b) for the reimbursement of necessary
6 expenses of such investigator or investigators upon the
7 submittal of proper vouchers therefor, (c) for the
8 payment of additional expenses necessitated by the
9 conduct of the office of such investigator or investiga-

10 tors, and (d) upon payment of the total expenses,
 11 including salaries of such investigator or investigators,
 12 any remaining funds shall be used for the conduct of
 13 the office of the West Virginia board of pharmacy.

**§30-5-16. Permit for manufacture, packaging, etc., of drugs,
 medicines, cosmetics, distribution of legend
 drugs, etc.; regulations as to sanitation and
 equipment; penalties; revocation of permit;
 for permits, including permit to handle
 controlled substances.**

1 No drugs or medicines, or toilet articles, dentifrices,
 2 or cosmetics, shall be manufactured, made, produced,
 3 packed, packaged or prepared within the state, except
 4 under the personal and immediate supervision of a
 5 registered pharmacist or such other person as may be
 6 approved by the board of pharmacy, after an investi-
 7 gation and determination by said board that they are
 8 qualified by scientific or technical training and/or
 9 experience to perform such duties of supervision as
 10 may be necessary to protect the public health and
 11 safety; and no person shall manufacture, make, pro-
 12 duce, pack, package or prepare any such articles
 13 without first obtaining a permit to do so from the
 14 board of pharmacy. Such permit shall be subject to
 15 such rules and regulations, with respect to sanitation
 16 and/or equipment, as the board of pharmacy may
 17 from time to time adopt for the protection of the
 18 public health and safety.

19 Any person, firm, corporation, partnership, com-
 20 pany, cooperative society or organization who offers
 21 for sale, sells, offers or exposes for sale through the
 22 method of distribution any legend drugs shall be
 23 subject to this article.

24 The application for such permits shall be made on a
 25 form to be prescribed and furnished by the board of
 26 pharmacy and shall be accompanied by the following
 27 fees: For a distributor, one hundred fifty dollars, for a
 28 manufacturer, five hundred dollars, which amounts
 29 shall also be paid as the fees for each annual renewal
 30 of such permits. Separate applications shall be made

31 and separate permits issued for each separate place of
32 manufacture, distribution, making, producing, packing,
33 packaging or preparation.

34 The following fees shall be charged for a permit to
35 handle controlled substances: For a hospital or clinic,
36 fifty dollars; for extended care facilities, twenty-five
37 dollars; for a nursing home, twenty-five dollars; for a
38 teaching institution, twenty-five dollars; for a
39 researcher, twenty-five dollars; and for a medical
40 examiner, twenty-five dollars; and for a pharmacy or
41 drug store, fifteen dollars, which amounts shall also be
42 paid for each annual renewal of such permits.

43 Permits issued under the provisions of this section
44 shall be posted in a conspicuous place in the factory or
45 place for which issued; such permits shall not be
46 transferable, and shall expire on the thirtieth day of
47 June following the day of issue and shall be renewed
48 annually. Nothing in this section shall be construed to
49 apply to those operating registered pharmacies or
50 drugstores.

51 Any person, firm, corporation, partnership, com-
52 pany, cooperative society or organization violating any
53 of the provisions of this section and any permittee
54 hereunder who shall violate any of the conditions of
55 this permit or any of the rules and regulations adopted
56 by the board of pharmacy in pursuance of the power
57 hereby conferred, shall, upon conviction, be deemed
58 guilty of a misdemeanor and fined not more than fifty
59 dollars for each offense, and each and every day such
60 violation continues shall constitute a separate and
61 distinct offense, and upon conviction of a permittee,
62 his permit shall also forthwith be revoked and become
63 null and void.

64 Any person, firm, corporation, partnership, com-
65 pany, cooperative society or organization or any
66 permittee hereunder who shall have been convicted of
67 two or more successive violations of the provisions of
68 this section or of the rules and regulations adopted by
69 the board of pharmacy in pursuance of the powers
70 hereby conferred, shall at the discretion of the board

71 of pharmacy have such permit permanently revoked,
72 and the board of pharmacy is hereby authorized to
73 refuse the issuance of further permits to such person,
74 firm, corporation, partnership, company, cooperative
75 society or organization or permittee.

The Joint Committee on Enrolled Bills hereby certifies
that the foregoing bill is correctly enrolled.

Homer Neck

.....
Chairman Senate Committee

Ernest C Moore

.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1991.

Nassir Eddine

.....
Clerk of the Senate

Donald L Kay

.....
Clerk of the House of Delegates

Kirk Bundtelle

.....
President of the Senate

Robert C. ...

.....
Speaker House of Delegates

The within *is approved* this the *2nd*.....
day of *April*....., 1991.

Gaston Caperton

.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/91

Time 10:35 am