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
ENROLLED

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.

There shall be a state board of pharmacy, known as the “West Virginia board of pharmacy,” which shall consist of five practicing pharmacists and two public members, who shall be appointed by the governor by and with the advice and consent of the Senate. Each pharmacist member of the board, at the time of his appointment, shall be a citizen and registered pharmacist of this state. The public members shall be residents of this state who have attained the age of majority and may not be a past or present member of the profession of pharmacy, the spouse of a member of the profession of pharmacy, a person who has ever had any material financial interest in the providing of pharmacy service or who has engaged in any activity directly related to the practice of pharmacy. Each member of the board shall receive one hundred fifty dollars for each day spent in attending to the duties of the board or of its committees, and shall be reimbursed for all actual and necessary expenses incurred in carrying out his duties.

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

The board, in addition to the authority, powers and duties granted to the board by this chapter and chapter sixteen of the code, shall have the authority to: (a) Regulate the practice of the profession of
pharmacy; (b) regulate the employment of apprentices and interns in pharmacy; (c) appoint, within the limit of appropriations, inspectors who shall be registered pharmacists, and investigators, both intended to act as agents of the board within the provisions of this chapter and chapter sixteen of the code and such rules and regulations as the board shall promulgate; and (d) adopt rules of professional conduct appropriate to the establishment and maintenance of high standards of 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 practice as pharmacists in this state, such persons as have been legally registered or licensed as pharmacists in other states: Provided, That the applicant for such registration shall appear personally before the board, at a regular meeting, and shall present satisfactory evidence of qualification equal to that required of applicants for registration in this state, and that he was registered or licensed by examination in such other state, and that the standard of competence required in such other state is not lower than that required in this state: Provided, however, That the board is satisfied that such other state accords similar recognition to registered pharmacists of this state. Applicants for registration under this section shall, with their application, forward to the secretary of the board of pharmacy a fee of two hundred fifty dollars, unless the applicant desires to be examined other than at a regular meeting of the board. In that case, there will be an additional fee of one hundred fifty dollars.

§30-5-9. Fees.

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

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

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

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

The board of pharmacy shall require and provide for the annual registration of every pharmacy or drugstore, as defined, doing business in this state. Any person, firm, corporation or partnership desiring to operate, maintain, open or establish a pharmacy or drugstore, as defined, in this state, shall apply to the board of pharmacy for a permit to do so. The application for such permit or license shall be made on a form prescribed and furnished by the board of pharmacy, which when properly executed, shall indicate the owner, manager, trustee, lessee, receiver, or other
person or persons desiring such permit, as well as the location of such pharmacy or drugstore, including street and number, and such other information as the board of pharmacy may require. If it is desired to operate, maintain, open or establish more than one pharmacy or drugstore, separate application shall be made and separate permits or licenses shall be issued for each. Every initial application for a permit shall be accompanied by the required fee of one hundred fifty dollars. The fee for renewal of such permit or license shall be seventy-five dollars annually. If an application is found satisfactory, the secretary of the board of pharmacy shall issue to the applicant a permit or license for each pharmacy or drugstore for which application is made. Permits or licenses issued under this section shall not be transferable and shall expire on the thirtieth day of June of each calendar year, and if application for renewal of permit or license is not made on or before that date, or a new one granted on or before the first day of August, following, the old permit or license shall lapse and become null and void and shall require an inspection of the pharmacy and a fee of one hundred fifty dollars plus one hundred fifty dollars for the inspection. Every such place of business so registered shall be in direct charge of a registered pharmacist and operate in compliance with the general provisions governing the practice of pharmacy and the operation of a drugstore or pharmacy.

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


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

The pharmacist-in-charge is responsible for the
pharmacy's compliance with state and federal pharmacy laws and regulations.

The pharmacist-in-charge is responsible for maintaining records and inventory.

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

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

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

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

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

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

The increased funds resulting from the increased fees under sections five, nine and fourteen of this article shall be used only (a) for the employment of an investigator or investigators pursuant to section two of this article, (b) for the reimbursement of necessary expenses of such investigator or investigators upon the submittal of proper vouchers therefor, (c) for the payment of additional expenses necessitated by the conduct of the office of such investigator or investiga-
tors, and (d) upon payment of the total expenses, including salaries of such investigator or investigators, any remaining funds shall be used for the conduct of 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.

No drugs or medicines, or toilet articles, dentifrices, or cosmetics, shall be manufactured, made, produced, packed, packaged or prepared within the state, except under the personal and immediate supervision of a registered pharmacist or such other person as may be approved by the board of pharmacy, after an investigation and determination by said board that they are qualified by scientific or technical training and/or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture, make, produce, pack, package or prepare any such articles without first obtaining a permit to do so from the board of pharmacy. Such permit shall be subject to such rules and regulations, with respect to sanitation and/or equipment, as the board of pharmacy may from time to time adopt for the protection of the public health and safety.

Any person, firm, corporation, partnership, company, cooperative society or organization who offers for sale, sells, offers or exposes for sale through the method of distribution any legend drugs shall be subject to this article.

The application for such permits shall be made on a form to be prescribed and furnished by the board of pharmacy and shall be accompanied by the following fees: For a distributor, one hundred fifty dollars, for a manufacturer, five hundred dollars, which amounts shall also be paid as the fees for each annual renewal of such permits. Separate applications shall be made
and separate permits issued for each separate place of manufacture, distribution, making, producing, packing, packaging or preparation.

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

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

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

Any person, firm, corporation, partnership, company, cooperative society or organization or any permittee hereunder who shall have been convicted of two or more successive violations of the provisions of this section or of the rules and regulations adopted by the board of pharmacy in pursuance of the powers hereby conferred, shall at the discretion of the board
of pharmacy have such permit permanently revoked, and the board of pharmacy is hereby authorized to refuse the issuance of further permits to such person, firm, corporation, partnership, company, cooperative society or organization or permittee.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1991.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is hereby the day of , 1991.

Governor