WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

House Bill No. 4062
(By Delegates Douglas, Varner, Kuhn, Perdue, Caputo, Modesitt and Willison)

Passed February 15, 2000

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections two-a, eight and twelve, article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the duties of professional licensing boards; orientation session; requiring legislative rules for complaint procedures; and filing of annual reports.

Be it enacted by the Legislature of West Virginia:

That sections two-a, eight and twelve, article one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

§30-1-2a. Required orientation session.

(a) After the first day of April and not later than the first day of December of each year, the auditor shall provide at least one orientation session on relevant state law and rules governing state boards and commissions. All state agencies shall cooperate with and assist in providing the orientation session if the auditor requests.
(b) After the effective date of this section, all chairs or chief financial officers of state boards and commissions newly created by the Legislature shall attend an orientation session designed to inform the state boards and commissions of the duties and requirements imposed on state boards and commissions by state law and rules. The chair or chief financial officer of the newly created board or commission shall attend an orientation session at the earliest possible date following the creation of the board or commission.

(c) The orientation session shall include a minimum of thirty minutes of instructional time dedicated to the statutory duty of boards to investigate and resolve complaints, including procedures for investigations, administrative hearings and remedies, due process protections, and the duty to provide public access to records of the disposition of complaints, as set forth in section five of this article.

(d) Topics for the orientation session may include, but are not limited to: The official conduct of members, state budgeting and financial procedures, purchasing requirements, open meetings requirements, ethics, rule-making procedures, records management, annual reports and any other topics the auditor determines to be essential in the fulfillment of the duties of the members of state boards and commissions.

(e) The orientation session shall be open to any member of new or existing boards and commissions and each board or commission may approve expense reimbursement for the attendance of one or more of its members. The chair or chief financial officer of each existing board or commission shall attend an orientation session within two years following the effective date of this section.

(f) No later than the thirty-first day of December of each year, the auditor shall provide to the chairs of the joint standing committee on government operations a list of the names of
board or commission members attending, together with the
names of the boards and commissions represented, the orienta-
tion session or sessions offered by the auditor during the
previous year.

(g) The auditor may charge a registration fee for the
orientation session to cover the cost of providing the orientation
session. The fee may be paid from funds available to a board or
commission.

(h) Notwithstanding the member’s normal rate of compen-
sation for serving on a board, a member attending the orienta-
tion session may be reimbursed for necessary and actual
expenses, as long as the member attends the complete orienta-
tion session.

(i) Ex officio members who are elected or appointed state
officers or employees, and members of boards or commissions
that have purely advisory functions with respect to a department
or agency of the state, are exempt from the requirements of this
section.

§30-1-8. Denial, suspension or revocation of a license or registra-
tion; probation; proceedings; effect of suspension or
revocation; transcript; report; judicial review.

(a) Every board referred to in this chapter is authorized to
suspend or revoke the license of any person who has been
convicted of a felony or who has been found to have engaged
in conduct, practices or acts constituting professional negli-
gence or a willful departure from accepted standards of
professional conduct. Where any person has been so convicted
of a felony or has been found to have engaged in such conduct,
practices or acts, every board referred to in this chapter is
further authorized to enter into consent decrees, to reprimand,
to enter into probation orders, to levy fines not to exceed one
thousand dollars per day per violation, or any of these, singly or
in combination. Each board is also authorized to assess admin-
istrative costs. Any costs which are assessed shall be placed in
the special account of the board, and any fine which is levied
shall be deposited in the state treasury’s general revenue fund.

For purposes of this section, the word “felony” means a felony
or crime punishable as a felony under the laws of this state, any
other state, or the United States. Every board referred to in this
chapter is authorized to promulgate rules in accordance with the
provisions of chapter twenty-nine-a of this code to delineate
conduct, practices or acts which, in the judgment of the board,
constitute professional negligence, a willful departure from
accepted standards of professional conduct or which may render
an individual unqualified or unfit for licensure, registration or
other authorization to practice.

(b) Notwithstanding any other provision of law to the
contrary, no certificate, license, registration or authority issued
under the provisions of this chapter may be suspended or
revoked without a prior hearing before the board or court which
issued the certificate, license, registration or authority. How-
ever, this does not apply in cases where a board is authorized to
suspend or revoke a certificate, license, registration or authority
prior to a hearing if the individual’s continuation in practice
constitutes an immediate danger to the public.

(c) In all proceedings before a board or court for the
suspension or revocation of any certificate, license, registration
or authority issued under the provisions of this chapter, a
statement of the charges against the holder thereof and a notice
of the time and place of hearing shall be served upon the person
as a notice is served under section one, article two, chapter
fifty-six of this code, at least thirty days prior to the hearing,
and he or she may appear with witnesses and be heard in
person, by counsel, or both. The board may take oral or written
proof, for or against the accused, as it may deem advisable. If
upon hearing the board finds that the charges are true, it may
suspend or revoke the certificate, license, registration or
authority, and suspension or revocation shall take from the
person all rights and privileges acquired thereby.

(d) Pursuant to the provisions of section one, article five,
chapter twenty-nine-a of this code, informal disposition may
also be made by the board of any contested case by stipulation,
agreed settlement, consent order or default. Further, the board
may suspend its decision and place a licensee found by the
board to be in violation of the applicable practice on probation.

(e) Any person denied a license, certificate, registration or
authority who believes the denial was in violation of this article
or the article under which the license, certificate, registration or
authority is authorized shall be entitled to a hearing on the
action denying the license, certificate, registration or authority.
Hearings under this subsection shall be in accordance with the
provisions for hearings which are set forth in this section.

(f) A stenographic report of each proceeding on the denial,
suspension or revocation of a certificate, license, registration or
authority shall be made at the expense of the board and a
transcript thereof retained in its files. The board shall make a
written report of its findings, which shall constitute part of the
record.

(g) All proceedings under the provisions of this section are
subject to review by the supreme court of appeals.

(h) On or before the first day of July, two thousand, every
board referred to in this chapter shall propose rules for legisla-
tive approval in accordance with the provisions of article three,
chapter twenty-nine-a of this code, which shall specify a
procedure for the investigation and resolution of all complaints
against persons licensed under this chapter.
§30-1-12. Record of proceedings; register of applicants; certified copies of records prima facie evidence; report to governor and Legislature; public access.

(a) The secretary of every board shall keep a record of its proceedings and a register of all applicants for license or registration, showing for each the date of his or her application, his or her name, age, educational and other qualifications, place of residence, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration, if required, and any suspension or revocation thereof. The books and register of the board shall be open to public inspection at all reasonable times, and the books and register, or a copy of any part thereof, certified by the secretary and attested by the seal of the board, shall be prima facie evidence of all matters recorded therein.

(b) On or before the first day of January of each year in which the Legislature meets in regular session, the board shall submit to the governor and to the Legislature a report of its transactions for the preceding two years, an itemized statement of its receipts and disbursements for that period, a full list of the names of all persons licensed or registered by it during that period, statistical reports by county of practice, by specialty if appropriate to the particular profession, and a list of any complaints which were filed against persons licensed by the board, including any action taken by the board regarding those complaints. The report shall be certified by the president and the secretary of the board, and a copy of the report shall be filed with the secretary of state and with the legislative librarian.

(c) To promote public access, the secretary of every board shall ensure that the address and telephone number of the board are included every year in the state government listings of the
Charleston area telephone directory. Every board shall regularly evaluate the feasibility of adopting additional methods of providing public access, including, but not limited to, listings in additional telephone directories, toll-free telephone numbers, facsimile and computer-based communications.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 23rd day of January, 2000.

Governor