

HB 2527
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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2527**

(By Delegates Hatfield, Iaquina, Miley,
Swartzmiller, Talbott, Yost, Schoen and Walters)



Passed March 10, 2007

In Effect from Passage

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FOR

H. B. 2527

(BY DELEGATES HATFIELD, IAQUINTA, MILEY,
SWARTZMILLER, TALBOTT, YOST, SCHOEN AND WALTERS)

[Passed March 10, 2007; in effect from passage.]

AN ACT to repeal §30-1A-2a of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-1A-2, §30-1A-3, §30-1A-5 and §30-1A-6 of said code, all relating to sunrise law; requiring applications for substantial revision or expansion of the scope of practice of regulated professions and occupations; modifying the criteria to be considered in the decision to regulate a profession or occupation; requiring certain findings in the sunrise report; requiring re-application if the Joint Standing Committee on Government Organization does not approve the application; and requiring that weight be given to the recommendations of the Joint Standing Committee on Government Organization.

Be it enacted by the Legislature of West Virginia:

That §30-1A-2a of the Code of West Virginia, 1931, as amended, be repealed; and that §30-1A-2, §30-1A-3, §30-1A-5 and §30-1A-6 of said code be amended and reenacted, all to read as follows:

ARTICLE 1A. PROCEDURE FOR REGULATION OF OCCUPATIONS AND PROFESSIONS.

§30-1A-2. Required application for regulation of professional or occupational group; application and reporting dates.

1 (a) Any professional or occupational group or
2 organization, any individual or any other interested party
3 which proposes the regulation of any unregulated
4 professional or occupational group or organization, or who
5 proposes to substantially revise or expand the scope of
6 practice of a regulated profession or occupation, shall submit
7 an application to the Joint Standing Committee on
8 Government Organization, as set out in this article.

9 (b) The Joint Standing Committee on Government
10 Organization may only accept an application for regulation
11 of a professional or occupational group or organization, or
12 substantial revision or expansion of the scope of practice of
13 a regulated profession or occupation, when the party
14 submitting an application files with the committee a
15 statement of support for the proposed regulation which has
16 been signed by at least ten residents or citizens of the State of
17 West Virginia who are members of the professional or
18 occupational group or organization for which regulation is
19 being sought, or for which substantial revision or expansion
20 of the scope of practice of a regulated profession or
21 occupation is being sought.

22 (c) The completed application shall contain:

23 (1) A description of the occupational or professional
24 group or organization for which regulation is proposed, or for

25 which a substantial revision or expansion of the scope of
26 practice of a regulated profession or occupation is proposed,
27 including a list of associations, organizations and other
28 groups currently representing the practitioners in this state,
29 and an estimate of the number of practitioners in each group;

30 (2) A definition of the problem and the reasons why
31 regulation or a substantial revision or expansion of the scope
32 of practice is necessary;

33 (3) The reasons why certification, registration, licensure
34 or other type of regulation is being requested and why that
35 regulatory alternative was chosen;

36 (4) A detailed statement of the proposed funding
37 mechanism to pay the administrative costs of the regulation
38 or the substantial revision or expansion of the scope of
39 practice, or of the fee structure conforming with the statutory
40 requirements of financial autonomy as set out in this chapter;

41 (5) A detailed statement of the location and manner in
42 which the group plans to maintain records which are
43 accessible to the public as set out in this chapter;

44 (6) The benefit to the public that would result from the
45 proposed regulation or substantial revision or expansion of
46 the scope of practice; and

47 (7) The cost of the proposed regulation or substantial
48 revision or expansion of the scope of practice.

§30-1A-3. Analysis and evaluation of application.

1 (a) The Joint Committee on Government Organization
2 shall refer the completed application of the professional or
3 occupational group or organization to the Performance
4 Evaluation and Research Division of the Office of the
5 Legislative Auditor.

6 (b) The Performance Evaluation and Research Division
7 of the Office of the Legislative Auditor shall conduct an
8 analysis and evaluation of the application. The analysis and
9 evaluation shall be based upon the criteria listed in subsection
10 (c) of this section. The Performance Evaluation and
11 Research Division of the Office of the Legislative Auditor
12 shall submit a report, and such supporting materials as may
13 be required, to the Joint Standing Committee on Government
14 Organization, as set out in this section

15 (c) For an application proposing the regulation of an
16 unregulated professional or occupational group or
17 organization, the report shall include evaluation, analysis and
18 findings as to:

19 (1) Whether the unregulated practice of the occupation or
20 profession clearly harms or endangers the health, safety or
21 welfare of the public, and whether the potential for the harm
22 is easily recognizable and not remote or dependent upon
23 tenuous argument;

24 (2) Whether the practice of the profession or occupation
25 requires specialized skill or training which is readily
26 measurable or quantifiable so that examination or training
27 requirements would reasonably assure initial and continuing
28 professional or occupational competence;

29 (3) Whether the public can be adequately protected by
30 other means in a more cost-effective manner; and

31 (4) Whether the professional or occupational group or
32 organization should be regulated as proposed in the
33 application.

34 (d) For an application proposing the substantial revision
35 or expansion of the scope of practice of a regulated
36 profession or occupation, the report shall include the
37 evaluation, analysis and findings as set forth in subsection (c)
38 of this section inasmuch as applicable, and a clear

39 recommendation as to whether the scope of practice should
40 be substantially revised or expanded as proposed in the
41 application.

42 (e) For an application received after the first day of
43 December and on or before the first day of June, the
44 Performance Evaluation and Research Division of the Office
45 of the Legislative Auditor shall present a report to the Joint
46 Committee on Government Organization by the thirty-first
47 day of December of that year.

48 (f) For an application received after the first day of June
49 and on or before the first day of December, the Performance
50 Evaluation and Research Division of the Office of the
51 Legislative Auditor shall present a report to the Joint
52 Committee on Government Organization by the thirtieth day
53 of June of the next year.

§30-1A-5. Reapplication requirements.

1 (a) If the Joint Standing Committee on Government
2 Organization approves an application for regulation of a
3 professional or occupational group or organization, but the
4 legislation incorporating its recommendations does not
5 become law in the year in which it is first introduced, the
6 applicants for regulation may introduce legislation during
7 each of the two successive regular sessions without having to
8 make reapplication.

9 (b) If the Joint Standing Committee on Government
10 Organization does not approve an application for regulation,
11 revision or expansion of the scope of practice of a
12 professional or occupational group or organization, any party
13 who continues to propose the regulation, revision or
14 expansion must reapply in accordance with the provisions of
15 this article.

§30-1A-6. Article construction.

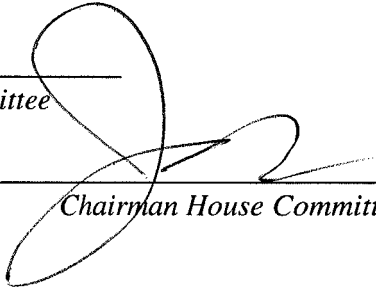
1 (a) Nothing in this article shall be construed as limiting
2 or interfering with the right of any member of the Legislature
3 to introduce or of the Legislature to consider any bill that
4 would create a new state governmental department or agency
5 or amend the law with respect to an existing one.

6 (b) Notwithstanding the provisions of subsection (a) of
7 this section, the recommendations of the Joint Standing
8 Committee on Government Organization are to be given
9 considerable weight in determining if a profession or
10 occupation should be regulated, or if the scope of practice of
11 a regulated profession or occupation should be revised or
12 expanded.

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



Chairman Senate Committee



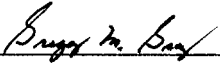
Chairman House Committee

Originating in the House.

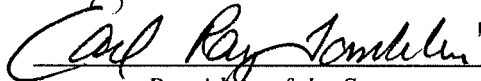
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates

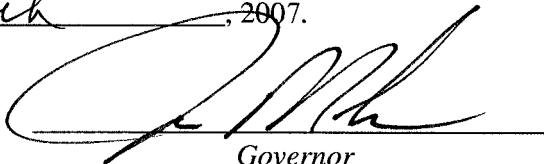


President of the Senate



Speaker of the House of Delegates

The within is approved this the 23rd
day of March, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2007

Time

4:00 pm