WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 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:
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That §30-1A-2a of the Code of West Virginia, 1931, as amended, be repealed; and that §30-1A-2, §30-1A-3, §30-1A-5 and §30-1A-6 of said code be amended and reenacted, all to read as follows: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.

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

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

(c) The completed application shall contain:

(1) A description of the occupational or professional group or organization for which regulation is proposed, or for
which a substantial revision or expansion of the scope of
practice of a regulated profession or occupation is proposed,
including a list of associations, organizations and other
groups currently representing the practitioners in this state,
and an estimate of the number of practitioners in each group;

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

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

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

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

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

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

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

(a) The Joint Committee on Government Organization
shall refer the completed application of the professional or
occupational group or organization to the Performance
Evaluation and Research Division of the Office of the
Legislative Auditor.
(b) The Performance Evaluation and Research Division of the Office of the Legislative Auditor shall conduct an analysis and evaluation of the application. The analysis and evaluation shall be based upon the criteria listed in subsection (c) of this section. The Performance Evaluation and Research Division of the Office of the Legislative Auditor shall submit a report, and such supporting materials as may be required, to the Joint Standing Committee on Government Organization, as set out in this section.

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

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

2. Whether the practice of the profession or occupation requires specialized skill or training which is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational competence;

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

4. Whether the professional or occupational group or organization should be regulated as proposed in the application.

(d) For an application proposing the substantial revision or expansion of the scope of practice of a regulated profession or occupation, the report shall include the evaluation, analysis and findings as set forth in subsection (c) of this section inasmuch as applicable, and a clear
recommendation as to whether the scope of practice should be substantially revised or expanded as proposed in the application.

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

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

§30-1A-5. Reapplication requirements.

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

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

§30-1A-6. Article construction.
(a) Nothing in this article shall be construed as limiting or interfering with the right of any member of the Legislature to introduce or of the Legislature to consider any bill that would create a new state governmental department or agency or amend the law with respect to an existing one.

(b) Notwithstanding the provisions of subsection (a) of this section, the recommendations of the Joint Standing Committee on Government Organization are to be given considerable weight in determining if a profession or occupation should be regulated, or if the scope of practice of a regulated profession or occupation should be revised or 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. 1 & 2007
Time 4:00 pm