WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4129

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]

Passed March 8, 2008

In Effect from Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-18; to amend and reenact §30-3-10a of said code; to amend said code by adding thereto a new section, designated §30-3-16a; to amend said code by adding thereto two new sections, designated §30-4-8a and §30-4-10a; to amend said code by adding thereto a new section, designated §30-5-10a; to amend said code by adding thereto a new section, designated §30-7-6a; to amend said code by adding thereto a new section, designated §30-8-5a; to amend said code by adding thereto a new section, designated §30-14A-5; to amend said code by adding thereto a new section, designated §30-20-8a; to amend said code by adding thereto a new section, designated §30-21-16; and to amend said code by adding thereto a new section, designated §30-28-8a, all relating to the establishment of special, retired, volunteer and inactive licenses for certain professions and occupations; special volunteer medical license;
exception as to terminated policy with "tail insurance"; no extended coverage for certain circumstances; providing legislative rulemaking authority to the respective boards to set licensure criteria and continuing education; providing for special volunteer licenses for certain health care providers providing volunteer services; waiving certain licensing fees; and providing civil immunity for special volunteer licenses for certain health care providers.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-1-18; that §30-3-10a of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-3-16a; that said code be amended by adding thereto two new sections, designated §30-4-8a and §30-4-10a; that said code be amended by adding thereto a new section, designated §30-5-10a; that said code be amended by adding thereto a new section, designated §30-7-6a; that said code be amended by adding thereto a new section, designated §30-8-5a; that said code be amended by adding thereto a new section, designated §30-14A-5; that said code be amended by adding thereto a new section, designated §30-20-8a; that said code be amended by adding thereto a new section, designated §30-21-16; and that said code be amended by adding thereto a new section, designated §30-28-8a, all to read as follows:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO STATE BOARDS.

§30-1-18. Retired, volunteer and inactive status licenses.

(a) Every board referred to in this chapter may propose rules for legislative approval in accordance with the
provisions of article three, chapter twenty-nine-a of this code, to establish licensure criteria and continuing education requirements for retired, volunteer and inactive licenses.

(b) If a board which establishes licensure criteria as authorized in this section does not establish specific continuing education requirements, the retired, volunteer or inactive licensees shall comply with the same continuing education requirements as established by the respective boards for an active license.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-10a. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of medicine who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia board of medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician's acknowledgment that: (1) The physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2) the physician will not receive any payment or compensation, either direct or indirect, or have the
expectation of any payment or compensation, for any medical
services rendered under the special volunteer medical license;
(3) the physician will supply any supporting documentation
that the board may reasonably require; and (4) the physician
agrees to continue to participate in continuing medical
education as required of physicians in active practice.

(b) Any physician who renders any medical service to
indigent and needy patients of a clinic organized, in whole or
in part, for the delivery of health care services without charge
under a special volunteer medical license authorized under
subsection (a) of this section without payment or
compensation or the expectation or promise of payment or
compensation is immune from liability for any civil action
arising out of any act or omission resulting from the
rendering of the medical service at the clinic unless the act or
omission was the result of the physician's gross negligence or
willful misconduct. In order for the immunity under this
subsection to apply, there must be a written agreement
between the physician and the clinic pursuant to which the
physician will provide voluntary noncompensated medical
services under the control of the clinic to patients of the clinic
before the rendering of any services by the physician at the
clinic: Provided, That any clinic entering into such written
agreement shall be required to maintain liability coverage of
not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (a) of
this section, a clinic organized, in whole or in part, for the
delivery of health care services without charge shall not be
relieved from imputed liability for the negligent acts of a
physician rendering voluntary medical services at or for the
clinic under a special volunteer medical license authorized
under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for
licensure" means the satisfaction of all the requirements for
licensure as listed in section ten of this article and in the legislative rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said section and of the legislative rule promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license: Provided, That this subsection shall not apply to a terminated policy, terminated contract of liability insurance or extended reporting endorsement attached thereto that provides “tail insurance” as defined by section two, article twenty-d, chapter thirty-three of this code: Provided further, That nothing within this subsection shall be construed to extend coverage under a terminated policy or terminated contract of liability insurance or any extended reporting endorsement attached thereto to (1)
alter or amend the effective policy period of any policy, contract of liability insurance or extended reporting endorsement or (2) cover the treatment of indigent and needy patients by a physician who holds a special volunteer medical license.

§30-3-16a. Special volunteer physician assistant license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer physician assistant license for physician assistants retired or retiring from the active practice of medicine who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer physician assistant license shall be issued by the West Virginia Board of Medicine to physician assistants licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licencing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the physician assistant’s acknowledgment that:

(1) The physician assistant’s practice under the special volunteer physician assistant license will be exclusively devoted to providing medical care to needy and indigent persons in West Virginia;

(2) The physician assistant will not receive any payment or compensation, either direct or indirect, or have the
expectation of any payment or compensation, for any medical
services rendered under the special volunteer physician
assistant license;

(3) The physician assistant will supply any supporting
documentation that the board may reasonably require; and

(4) The physician assistant agrees to continue to
participate in continuing education as required by the board
for the special volunteer physician assistant license.

(b) Any physician assistant who renders any medical
service to indigent and needy patients of a clinic organized,
in whole or in part, for the delivery of health care services
without charge under a special volunteer physician assistant
license authorized under subsection (a) of this section without
payment or compensation or the expectation or promise of
payment or compensation, is immune from liability for any
civil action arising out of any act or omission resulting from
the rendering of the medical service at the clinic unless the
act or omission was the result of the physician assistant’s
gross negligence or willful misconduct. In order for the
immunity under this subsection to apply, there must be a
written agreement between the physician assistant and the
clinic pursuant to which the physician assistant will provide
voluntary uncompensated medical services under the control
of the clinic to patients of the clinic before the rendering of
any services by the physician assistant at the clinic:
Provided. That any clinic entering into such written
agreement is required to maintain liability coverage of not
less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of
this section, a clinic organized, in whole or in part, for the
delivery of health care services without charge is not relieved
from imputed liability for the negligent acts of a physician
assistant rendering voluntary medical services at or for the
clinic under a special volunteer physician assistant license
authorized under subsection (a) of this section.

(d) For purposes of this section, “otherwise eligible for
licensure” means the satisfaction of all the requirements for
licensure as listed in section sixteen of this article and in the
legislative rules promulgated thereunder, except the fee
requirements of subsection (n) of that section and of the
legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring
the board to issue a special volunteer physician assistant
license to any physician assistant whose license is or has been
subject to any disciplinary action or to any physician assistant
who has surrendered a physician assistant license or caused
such license to lapse, expire and become invalid in lieu of
having a complaint initiated or other action taken against his
or her license, or who has elected to place a physician
assistant license in inactive status in lieu of having a
complaint initiated or other action taken against his or her
license, or who has been denied a physician assistant license.

(f) Any policy or contract of liability insurance providing
coverage for liability sold, issued or delivered in this state to
any physician assistant covered under the provisions of this
article, shall be read so as to contain a provision or
endorsement whereby the company issuing such policy
waives or agrees not to assert as a defense on behalf of the
policyholder or any beneficiary thereof, to any claim covered
by the terms of such policy within the policy limits, the
immunity from liability of the insured by reason of the care
and treatment of needy and indigent patients by a physician
assistant who holds a special volunteer physician assistant
license.
ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-8a. Special volunteer dental license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer dental license for dentists retired or retiring from the active practice of dentistry who wish to donate their expertise for the dental care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer dental license shall be issued by the West Virginia board of dental examiners to dentists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of a application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licencing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the dentist’s acknowledgment that:

(1) The dentist’s practice under the special volunteer dental license will be exclusively devoted to providing dental care to needy and indigent persons in West Virginia;

(2) The dentist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any dental services rendered under the special volunteer dental license;

(3) The dentist will supply any supporting documentation that the board may reasonably require; and

(4) The dentist agrees to continue to participate in continuing dental education as required by the board for a special volunteer dental license.
(b) Any dentist who renders any dental service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer dental license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the dental service at the clinic unless the act or omission was the result of the dentist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the dentist and the clinic pursuant to which the dentist will provide voluntary uncompensated dental services under the control of the clinic to patients of the clinic before the rendering of any services by the dentist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a dentist rendering voluntary dental services at or for the clinic under a special volunteer dental license authorized under subsection (a) of this section.

(d) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, except the fee requirements of subdivision six of that section and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer dental license to any
dentist whose dental license is or has been subject to any
disciplinary action or to any dentist who has surrendered a
dental license or caused such license to lapse, expire and
become invalid in lieu of having a complaint initiated or
other action taken against his or her dental license, or who
has elected to place a dental license in inactive status in lieu
of having a complaint initiated or other action taken against
his or her dental license, or who has been denied a dental
license.

(f) Any policy or contract of liability insurance providing
coverage for liability sold, issued or delivered in this state to
any dentist covered under the provisions of this article shall
be read so as to contain a provision or endorsement whereby
the company issuing such policy waives or agrees not to
assert as a defense on behalf of the policyholder or any
beneficiary thereof, to any claim covered by the terms of
such policy within the policy limits, the immunity from
liability of the insured by reason of the care and treatment of
needy and indigent patients by a dentist who holds a special
volunteer dental license.

§30-4-10a. Special volunteer dental hygienist license; civil
immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer dental
hygienist license for dental hygienists retired or retiring from
the active practice of dental hygiene who wish to donate their
expertise for the care and treatment of indigent and needy
patients in the clinic setting of clinics organized, in whole or
in part, for the delivery of health care services without
charge. The special volunteer dental hygienist license shall
be issued by the West Virginia board of dental examiners to
dental hygienists licensed or otherwise eligible for licensure
under this article and the legislative rules promulgated
hereunder without the payment of an application fee, license
fee or renewal fee, shall be issued for the remainder of the
licensing period, and renewed consistent with the boards
other licensing requirements. The board shall develop
application forms for the special license provided in this
subsection which shall contain the dental hygienist’s
acknowledgment that:

(1) The dental hygienist’s practice under the special
volunteer dental hygienist license will be exclusively devoted
to providing dental hygiene care to needy and indigent
persons in West Virginia;

(2) The dental hygienist will not receive any payment or
compensation, either direct or indirect, or have the
expectation of any payment or compensation, for any dental
hygiene services rendered under the special volunteer dental
hygienist license;

(3) The dental hygienist will supply any supporting
documentation that the board may reasonably require; and

(4) The dental hygienist agrees to continue to participate
in continuing professional education as required by the board
for the special volunteer dental hygienist.

(b) Any dental hygienist who renders any dental hygiene
service to indigent and needy patients of a clinic organized,
in whole or in part, for the delivery of health care services
without charge under a special volunteer dental hygienist
license authorized under subsection (a) of this section without
payment or compensation or the expectation or promise of
payment or compensation is immune from liability for any
civil action arising out of any act or omission resulting from
the rendering of the dental hygiene service at the clinic unless
the act or omission was the result of the dental hygienist’s
gross negligence or willful misconduct. In order for the
immunity under this subsection to apply, there must be a
written agreement between the dental hygienist and the clinic
pursuant to which the dental hygienist will provide voluntary
uncompensated dental hygiene services under the control of
the clinic to patients of the clinic before the rendering of any
services by the dental hygienist at the clinic: Provided, That
any clinic entering into such written agreement is required to
maintain liability coverage of not less than one million
dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of
this section, a clinic organized, in whole or in part, for the
delivery of health care services without charge is not relieved
from imputed liability for the negligent acts of a dental
hygienist rendering voluntary dental hygiene services at or
for the clinic under a special volunteer dental hygienist
license authorized under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for
licensure" means the satisfaction of all the requirements for
licensure as listed in section ten of this article and in the
legislative rules promulgated thereunder, except the fee
requirements of subdivision six of that section and of the
legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring
the board to issue a special volunteer dental hygienist license
to any dental hygienist whose license is or has been subject
to any disciplinary action or to any dental hygienist who has
surrendered a license or caused such license to lapse, expire
and become invalid in lieu of having a complaint initiated or
other action taken against his or her dental hygienist license,
or who has elected to place a dental hygienist license in
inactive status in lieu of having a complaint initiated or other
action taken against his or her license, or who has been
denied a dental hygienist license.
(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any dental hygienist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a dental hygienist who holds a special volunteer dental hygienist license.

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.

§30-5-10a. Special volunteer pharmacist license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer pharmacist license for pharmacists retired or retiring from the active practice of pharmaceutical care who wish to donate their expertise for the pharmaceutical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer pharmacist license shall be issued by the West Virginia Board of Pharmacy to pharmacists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licencing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the pharmacist’s acknowledgment that:
(1) The pharmacist's practice under the special volunteer pharmacist license will be exclusively devoted to providing pharmaceutical care to needy and indigent persons in West Virginia;

(2) The pharmacist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any pharmaceutical services rendered under the special volunteer pharmacist license;

(3) The pharmacist will supply any supporting documentation that the board may reasonably require; and

(4) The pharmacist agrees to continue to participate in continuing professional education as required by the board for the special volunteer pharmacist license.

(b) Any pharmacist who renders any pharmaceutical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer pharmacist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the pharmaceutical service at the clinic unless the act or omission was the result of the pharmacist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the pharmacist and the clinic pursuant to which the pharmacist will provide voluntary uncompensated pharmaceutical services under the control of the clinic to patients of the clinic before the rendering of any services by the pharmacist at the clinic: Provided, That any clinic entering into such written agreement is required to
maintain liability coverage of not less than one million
dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of
this section, a clinic organized, in whole or in part, for the
delivery of health care services without charge is not relieved
from imputed liability for the negligent acts of a pharmacist
rendering voluntary pharmaceutical services at or for the
clinic under a special volunteer pharmacist license authorized
under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for
licensure" means the satisfaction of all the requirements for
licensure as listed in section five of this article and in the
legislative rules promulgated thereunder, except the fee
requirements of subsection (b) of that section and of the
legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring
the board to issue a special volunteer pharmacist license to
any pharmacist whose license is or has been subject to any
disciplinary action or to any pharmacist who has surrendered
a license or caused such license to lapse, expire and become
invalid in lieu of having a complaint initiated or other action
taken against his or her license, or who has elected to place
a pharmacist license in inactive status in lieu of having a
complaint initiated or other action taken against his or her
license, or who has been denied a pharmacist license.

(f) Any policy or contract of liability insurance providing
coverage for liability sold, issued or delivered in this state to
any pharmacist covered under the provisions of this article
shall be read so as to contain a provision or endorsement
whereby the company issuing such policy waives or agrees
not to assert as a defense on behalf of the policyholder or any
beneficiary thereof, to any claim covered by the terms of
such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a pharmacist who holds a special volunteer pharmacist license.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-6a. Special volunteer registered professional nurse license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for registered professional nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer registered professional nurse license shall be issued by the West Virginia board of examiners for registered professional nurses licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licencing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the registered professional nurse’s acknowledgment that:

(1) The registered professional nurse’s practice under the special volunteer registered professional nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The registered professional nurse will not receive any payment or compensation, either direct or indirect, or have
the expectation of any payment or compensation, for any
nursing services rendered under the special volunteer
registered professional nurse license;

(3) The registered professional nurse will supply any
supporting documentation that the board may reasonably
require; and

(4) The registered professional nurse agrees to continue
to participate in continuing education as required by the
board for the special volunteer registered professional nurse
license.

(b) Any registered professional nurse who renders
nursing service to indigent and needy patients of a clinic
organized, in whole or in part, for the delivery of health care
services without charge under a special volunteer registered
professional nurse license authorized under subsection (a) of
this section without payment or compensation or the
expectation or promise of payment or compensation is
immune from liability for any civil action arising out of any
act or omission resulting from the rendering of the nursing
service at the clinic unless the act or omission was the result
of the registered professional nurse’s gross negligence or
willful misconduct. In order for the immunity under this
subsection to apply, there must be a written agreement
between the registered professional nurse and the clinic
pursuant to which the registered professional nurse will
provide voluntary uncompensated nursing services under the
control of the clinic to patients of the clinic before the
rendering of any services by the registered professional nurse
at the clinic: Provided, That any clinic entering into such
written agreement is required to maintain liability coverage
of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of
this section, a clinic organized, in whole or in part, for the
delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a registered professional nurse rendering voluntary nursing services at or for the clinic under a special volunteer registered professional nurse license authorized under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section six of this article and in the legislative rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer registered professional nurse license to any registered professional nurse whose license is or has been subject to any disciplinary action or to any registered professional nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a registered professional nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a registered professional nurse license.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any registered professional nurse covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a

91 registered professional nurse who holds a special volunteer
92 registered professional nurse license.

ARTICLE 8. OPTOMETRISTS.

§30-8-5a. Special volunteer certificate of registration; civil
immunity for voluntary services rendered to
indigents.

(a) There is established a special volunteer certificate of
registration for optometrists retired or retiring from the active
practice of optometry who wish to donate their expertise for
the care and treatment of indigent and needy patients in the
clinic setting of clinics organized, in whole or in part, for the
delivery of health care services without charge. The special
volunteer certificate of registration shall be issued by the
West Virginia board of optometry to optometrists registered
or otherwise eligible for registration under this article and the
legislative rules promulgated hereunder without the payment
of an application fee, license fee or renewal fee, and shall be
issued for the remainder of the licensing period, and renewed
consistent with the boards other licencing requirements. The
board shall develop application forms for the special
certificate of registration provided in this subsection which
shall contain the optometrist’s acknowledgment that:

(1) The optometrist’s practice under the special volunteer
certificate of registration will be exclusively devoted to
providing optometrical care to needy and indigent persons in
West Virginia;

(2) The optometrist will not receive any payment or
compensation, either direct or indirect, or have the
expectation of any payment or compensation, for any
optometrical services rendered under the special volunteer
certificate of registration;
(3) The optometrist will supply any supporting documentation that the board may reasonably require; and

(4) The optometrist agrees to continue to participate in continuing education as required by the board for a special volunteer optometrist license.

(b) Any optometrist who renders any optometrical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer certificate of registration authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the optometrical service at the clinic unless the act or omission was the result of the optometrist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the optometrist and the clinic pursuant to which the optometrist will provide voluntary uncompensated optometrical services under the control of the clinic to patients of the clinic before the rendering of any services by the optometrist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an optometrist rendering voluntary optometrical services at or for the clinic under a special volunteer certificate of registration authorized under subsection (a) of this section.
(d) For purposes of this section, "otherwise eligible for registration" means the satisfaction of all the requirements for registration as listed in section five of this article and in the legislative rules promulgated thereunder, except the fee requirements of section seven of this article and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer certificate of registration to any optometrist whose certificate of registration is or has been subject to any disciplinary action or to any optometrist who has surrendered a certificate of registration or caused such registration to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her registration, or who has elected to place a certificate of registration in inactive status in lieu of having a complaint initiated or other action taken against his or her registration, or who has been denied a certificate of registration.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any optometrist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an optometrist who holds a special volunteer certificate of registration.

ARTICLE 14A. ASSISTANTS TO OSTEOPATHIC PHYSICIANS AND SURGEONS.
§30-14A-5. Special volunteer osteopathic physician assistant certification; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer osteopathic physician assistant certificate for osteopathic physician assistants retired or retiring from the active practice of osteopathy who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer osteopathic physician assistant certificate shall be issued by the West Virginia Board of Osteopathy to osteopathic physician assistants certified or otherwise eligible for certification under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for and the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special certificate provided in this subsection which shall contain the osteopathic physician assistant's acknowledgment that:

1. The osteopathic physician assistant’s practice under the special volunteer osteopathic physician assistant certificate will be exclusively devoted to providing osteopathic care to needy and indigent persons in West Virginia;

2. The osteopathic physician assistant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any osteopathic services rendered under the special volunteer osteopathic physician assistant certificate;
(3) The osteopathic physician assistant will supply any supporting documentation that the board may reasonably require; and

(4) The osteopathic physician assistant agrees to continue to participate in continuing education as required by the board for a special volunteer osteopathic physician assistant license.

(b) Any osteopathic physician assistant who renders any osteopathic service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer osteopathic physician assistant certificate authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation, is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the osteopathic service at the clinic unless the act or omission was the result of the osteopathic physician assistant's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the osteopathic physician assistant and the clinic pursuant to which the osteopathic physician assistant will provide voluntary uncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the osteopathic physician assistant at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved
from imputed liability for the negligent acts of an osteopathic
physician assistant rendering voluntary medical services at or
for the clinic under a special volunteer osteopathic physician
assistant certificate authorized under subsection (a) of this
section.

(d) For purposes of this section, "otherwise eligible for
certification" means the satisfaction of all the requirements
for certification as listed in section one of this article and in
the legislative rules promulgated thereunder. The term does
not include the fee requirement of section three of this article
or of legislative rules promulgated by the board relating to
fees.

(e) Nothing in this section may be construed as requiring
the board to issue a special volunteer osteopathic physician
assistant certificate to any osteopathic physician assistant
whose certificate is or has been subject to any disciplinary
action or to any osteopathic physician assistant who has
surrendered an osteopathic physician assistant certificate or
caused such certificate to lapse, expire and become invalid in
lieu of having a complaint initiated or other action taken
against his or her certificate, or who has elected to place an
osteopathic physician assistant certificate in inactive status in
lieu of having a complaint initiated or other action taken
against his or her certificate, or who has been denied an
osteopathic physician assistant certificate.

(f) Any policy or contract of liability insurance providing
coverage for liability sold, issued or delivered in this state to
any osteopathic physician assistant covered under the
provisions of this article, shall be read so as to contain a
provision or endorsement whereby the company issuing such
policy waives or agrees not to assert as a defense on behalf of
the policyholder or any beneficiary thereof, to any claim
covered by the terms of such policy within the policy limits,
the immunity from liability of the insured by reason of the
care and treatment of needy and indigent patients by an
osteopathic physician assistant who holds a special volunteer
osteopathic physician assistant certificate.

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-8a. Special volunteer physical therapist license, physical
therapist assistant license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for
physical therapists or physical therapy assistants, as the case
may be, retired or retiring from active practice who wish to
donate their expertise for the care and treatment of indigent
and needy patients in the clinic setting of clinics organized,
in whole or in part, for the delivery of health care services
without charge. The special volunteer license provided by
this section shall be issued by the West Virginia board of
physical therapy to physical therapists or physical therapist
assistants licensed or otherwise eligible for licensure under
this article and the legislative rules promulgated hereunder
without the payment of an application fee, license fee or
renewal fee, and the initial license shall be issued for the
remainder of the licensing period, and renewed consistent
with the boards other licencing requirements. The board
shall develop application forms for the special license
provided in this subsection which shall contain the
applicant’s acknowledgment that:

1. The applicant’s practice under the special volunteer
license will be exclusively devoted to providing physical
therapy care to needy and indigent persons in West Virginia;
(2) The applicant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any physical therapy services rendered under the special volunteer license;

(3) The applicant will supply any supporting documentation that the board may reasonably require; and

(4) The applicant agrees to continue to participate in continuing education as required of by the board for a special volunteer physical therapists or physical therapist assistants license, as the case may be.

(b) Any physical therapist or physical therapist assistant who renders any physical therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the physical therapy service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the physical therapist or physical therapist assistant. In order for the immunity under this subsection to apply, there must be a written agreement between the physical therapist or physical therapist assistant and the clinic pursuant to which the physical therapist or physical therapist assistant will provide voluntary uncompensated physical therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the physical therapist or physical therapist assistant at the clinic: Provided, That any clinic entering into such written agreement is required to
maintain liability coverage of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physical therapist or physical therapist assistant rendering voluntary physical therapy services at or for the clinic under a special volunteer license authorized under subsection (a) of this section.

(d) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure for a physical therapist or physical therapist assistant, as the case may be, as listed in section six of this article and in the legislative rules promulgated thereunder, except the fee requirements of subsection (e) of that section and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any physical therapist or physical therapist assistant whose license is or has been subject to any disciplinary action or to any physical therapist or physical therapist assistant who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a license.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to
any physical therapist or physical therapist assistant covered
under the provisions of this article shall be read so as to
contain a provision or endorsement whereby the company
issuing such policy waives or agrees not to assert as a defense
on behalf of the policyholder or any beneficiary thereof, to
any claim covered by the terms of such policy within the
policy limits, the immunity from liability of the insured by
reason of the care and treatment of needy and indigent
patients by a physical therapist or physical therapist assistant
who holds a special volunteer license.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-16. Special volunteer psychologists license; civil
immunity for voluntary services rendered to
indigents.

(a) There is established a special volunteer psychologists
license for psychologists retired or retiring from the active
practice of psychology who wish to donate their expertise for
the psychological care and treatment of indigent and needy
patients in the clinic setting of clinics organized, in whole or
in part, for the delivery of health care services without
charge. The special volunteer psychologist license shall be
issued by the West Virginia Board of Examiners of
Psychologists to psychologists licensed or otherwise eligible
for licensure under this article and the legislative rules
promulgated hereunder without the payment of an application
fee, license fee or renewal fee, and the initial license shall be
issued for the remainder of the licensing period, and renewed
consistent with the boards other licencing requirements. The
board shall develop application forms for the special license
provided in this subsection which shall contain the
psychologist’s acknowledgment that:
(1) The psychologist’s practice under the special volunteer psychologists license will be exclusively devoted to providing psychological care to needy and indigent persons in West Virginia;

(2) The psychologist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any psychological services rendered under the special volunteer psychological license;

(3) The psychologist will supply any supporting documentation that the board may reasonably require; and

(4) The psychologist agrees to continue to participate in continuing education as required by the board for a special volunteer psychologists license.

(b) Any psychologist who renders any psychological service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer psychologist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation, is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the psychological service at the clinic unless the act or omission was the result of the psychologist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the psychologist and the clinic pursuant to which the psychologist will provide voluntary uncompensated psychological services under the control of the clinic to patients of the clinic before the rendering of any services by the psychologists at the clinic: Provided, That
any clinic entering into such written agreement is required to maintain liability coverage of not less than one million dollars per occurrence.

(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a psychologist rendering voluntary psychological services at or for the clinic under a special volunteer psychological license authorized under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section seven of this article and in the legislative rules promulgated thereunder, except the fee requirements of subsection (d) of that section and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer psychologist license to any psychologist whose license is or has been subject to any disciplinary action or to any psychologist who has surrendered a psychologist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a psychologist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a psychologist license.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any psychologist covered under the provisions of this article, shall be read so as to contain a provision or endorsement
whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a psychologist who holds a special volunteer psychologist license.

ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.

§30-28-8a. Special volunteer occupational therapist license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer occupational therapist license for occupational therapists retired or retiring from the active practice of occupational therapy who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer occupational therapist license shall be issued by the West Virginia board of occupational therapy to occupational therapists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licencing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the occupational therapist’s acknowledgment that:

(1) The occupational therapist’s practice under the special volunteer occupational therapist license will be exclusively...
devoted to providing occupational therapy care to needy and indigent persons in West Virginia;

(2) The occupational therapist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any occupational therapy services rendered under the special volunteer occupational therapist license;

(3) The occupational therapist will supply any supporting documentation that the board may reasonably require; and

(4) The occupational therapist agrees to continue to participate in continuing education as required by the board for a special volunteer occupational therapists license.

(b) Any occupational therapist who renders any occupational therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer occupational therapist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the occupational therapy service at the clinic unless the act or omission was the result of the occupational therapist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the occupational therapist and the clinic pursuant to which the occupational therapist will provide voluntary uncompensated occupational therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the occupational therapist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than one million dollars per occurrence.
(c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an occupational therapist rendering voluntary occupational therapy services at or for the clinic under a special volunteer occupational therapist license authorized under subsection (a) of this section.

(d) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, excepting the fee requirements of subsection (a), section eleven of this article and of the legislative rules promulgated by the board relating to fees.

(e) Nothing in this section may be construed as requiring the board to issue a special volunteer occupational therapist license to any occupational therapist whose occupational therapist license is or has been subject to any disciplinary action or to any occupational therapist who has surrendered an occupational therapist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has elected to place an occupational therapist license in inactive status in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has been denied an occupational therapist license.

(f) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any occupational therapist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the
policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an occupational therapist who holds a special volunteer occupational therapist license.
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 31st day of __________, 2008.

Governor
PRESENTED TO:
GOVERNOR

MAR 25 2008

Time 10:20 AM