WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

ENROLLED

Senate Bill No. 214

(By Senators Snyder, Foster, Browning, Miller, Chafin, Boley, Jenkins, Stollings and Wills)

[Passed March 6, 2012; in effect from passage.]
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AN ACT to amend and reenact §30-1A-2, §30-1A-3, §30-1A-5 and §30-1A-6 of the Code of West Virginia, 1931, as amended, all relating to professions and occupations; revising the sunrise process; deleting the requirement for substantial change; and providing for sunrise application when establishing a scope of practice.

Be it enacted by the Legislature of West Virginia:

That §30-1A-2, §30-1A-3, §30-1A-5 and §30-1A-6 of the Code of West Virginia, 1931, as amended, 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 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 establish, revise or expand the scope of practice of a regu-
lated 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
establishment, 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 state-
ment 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 establishment, revision or expan-
sion 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 establishment, revision or expansion of the scope
of practice of a regulated profession or occupation is pro-
posed, 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 establishment, 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 mecha-
nism to pay the administrative costs of the regulation or the
establishment, revision or expansion of the scope of practice,
or of the fee structure conforming with the statutory require-
ments 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 establishment, revision or expansion of the scope of practice; and

(7) The cost of the proposed regulation or establishment, 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 establishment, 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 established, revised or expanded as proposed in the application.

(e) For an application received after December 1, and on or before June 1, 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 December 31 of that year.

(f) For an application received after June 1 and on or before December 1, 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 June 30 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,
establishment, revision or expansion of the scope of practice
of a professional or occupational group or organization, any
party who continues to propose the regulation, establish-
ment, 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 established,
revised or expanded.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

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 14th

Governor
PRESENTED TO THE GOVERNOR

11-26-2012

Time 11:15 am