

**H. B. 3027**

(By Delegates Pasdon, Fragale, Caputo,  
Marshall and Raines)

[Introduced March 21, 2013; referred to the  
Committee on the Judiciary.]

A BILL to repeal §30-21-7a, §30-21-7b, §30-21-7c, §30-21-7d,  
§30-21-7e, §30-21-8a and §30-21-10a of the Code of West  
Virginia, 1931, as amended; to amend and reenact §30-21-1,  
§30-21-2, §30-21-3, §30-21-4, §30-21-5, §30-21-6, §30-21-7,  
§30-21-8, §30-21-9, §30-21-10, §30-21-11, §30-21-12,  
§30-21-13, §30-21-14 and §30-21-17 of said code; and to amend  
said code by adding thereto twelve new sections, designated  
§30-21-16, §30-21-18, §30-21-19, §30-21-20, §30-21-21,  
§30-21-22, §30-21-23, §30-21-24, §30-21-25, §30-21-26,  
§30-21-27 and §30-21-28, all relating to the practice of  
psychology; prohibiting the practice of psychology without a  
license; providing other applicable sections; defining terms;  
continuing and renaming board; providing for board  
composition, appointments, qualifications, terms of office,  
filling of vacancies and holding meetings; providing for  
compensation and reimbursement for board members; setting

1       forth the powers and duties of the board; clarifying  
2       rule-making authority; continuing a special revenue account;  
3       establishing license and certification requirements; setting  
4       forth scopes of practices; providing for licensure for persons  
5       licensed in another state; establishing renewal requirements;  
6       establishing delinquent, expired and inactive license  
7       requirements; providing temporary permit requirements;  
8       requiring license to be displayed; providing for privileged  
9       communications and exceptions; providing the board may issue  
10      notices to cease and desist; providing that circuit courts may  
11      issue injunctions; setting forth grounds for disciplinary  
12      actions; allowing for specific disciplinary actions; providing  
13      procedures for the investigation of complaints; providing for  
14      judicial review and appeals of decisions; setting forth  
15      hearing and notice requirements; providing for civil causes of  
16      action; and providing for criminal penalties.

17 *Be it enacted by the Legislature of West Virginia:*

18       That §30-21-7a, §30-21-7b, §30-21-7c, §30-21-7d, §30-21-7e,  
19 §30-21-8a and §30-21-10a of the Code of West Virginia, 1931, as  
20 amended, be repealed; that §30-21-1, §30-21-2, §30-21-3, §30-21-4,  
21 §30-21-5, §30-21-6, §30-21-7, §30-21-8, §30-21-9, §30-21-10,  
22 §30-21-11, §30-21-12, §30-21-13, §30-21-14 and §30-21-17 of said  
23 code be amended and reenacted; and that said code be amended by  
24 adding thereto twelve new sections, designated §30-21-16,

1 §30-21-18, §30-21-19, §30-21-20, §30-21-21, §30-21-22, §30-21-23,  
2 §30-21-24, §30-21-25, §30-21-26, §30-21-27 and §30-21-28, all to  
3 read as follows:

4 **ARTICLE 21. PSYCHOLOGISTS.**

5 **§30-21-1. Unlawful acts.**

6 (a) It is unlawful for a person to practice or offer to  
7 practice psychology in this state without a license or permit  
8 issued under this article, or to advertise or use any title or  
9 description tending to convey the impression that the person is a  
10 psychologist or psychological practitioner or certified  
11 psychological associate unless the person is licensed or permitted  
12 under this article, and the license or permit has not expired, been  
13 suspended or revoked.

14 (b) It is unlawful for a certified psychological associate to  
15 represent himself or herself as a licensed psychologist or as a  
16 licensed psychological practitioner. A certified psychological  
17 associate may not employ or supervise certified psychologists,  
18 licensed psychological practitioners, or certified psychological  
19 associates.

20 (c) No business entity, except through a licensee or  
21 certificate holder, may render any service or engage in any  
22 activity that if rendered or engaged in by an individual, would  
23 constitute the practices licensed or certified under this article.

24 (d) Nothing in this article permits the administering or

1 prescribing of drugs or infringes upon the practice of medicine  
2 and surgery.

3 **§30-21-2. General provisions.**

4 The practice of psychology licensed and certified under this  
5 article and the West Virginia Board of Psychology are subject to  
6 this article, article one of this chapter and any rules promulgated  
7 hereunder.

8 **§30-21-3. Definitions.**

9 As used in this article:

10 (1) "Accredited institute of higher learning" means colleges  
11 or universities that are accredited by one of the six nationally  
12 recognized regional accrediting agencies, i.e., North Central  
13 Association of Colleges and Schools, Western Association of Schools  
14 and Colleges, Southern Association of Colleges and Schools, New  
15 England Association of Schools and Colleges, Northwest Association  
16 of Schools and Colleges, Middle States Association of Schools and  
17 Colleges, or their successor associations.

18 (2) "Applicant" means a person making application for a  
19 license or certificate under this article.

20 (3) "ASPPB" means the Association of State and Provincial  
21 Psychology Boards.

22 (4) "Board" means the West Virginia Board of Psychology.

23 (5) "Business entity" means any firm, partnership,  
24 association, company, corporation, limited partnership, limited

1 liability company or other entity providing psychological services.

2 (6) "Certified psychological associate" means a person  
3 certified to practice psychology under the supervision of a  
4 licensed psychologist.

5 (7) "Client" or "patient" means a direct recipient of  
6 psychological services within the context of a professional  
7 relationship including a child, adolescent, adult couple, family  
8 group, organization, community or other populations or other  
9 entities receiving psychological services.

10 (8) "EPPP" means the Examination for the Professional Practice  
11 of Psychology.

12 (9) "Licensed psychologist" means a person licensed to practice  
13 psychology under this article.

14 (10) "Licensed psychological practitioner" means a person  
15 licensed to practice psychology under this article.

16 (11) "Licensee" means a person holding a license issued under  
17 this article.

18 (12) "Permit" or "temporary permit" means a temporary permit  
19 issued under this article.

20 (13) "Permittee" means any person holding a temporary permit  
21 issued pursuant to this article.

22 (14) "Practice of psychology" means the observation,  
23 description, analysis, evaluation, interpretation, prediction, and  
24 modification of human behavior by the application of psychological

1 principles, methods, and procedures, on a client or patient,  
2 regardless of whether payment is received for services rendered,  
3 and as further described in section eight of this article.

4 (15) "Practice of school psychology" means the rendering or  
5 offering to render to an individual or to the public, regardless of  
6 whether payment is received for services rendered, school  
7 psychological services whether rendered to individuals, families,  
8 groups, systems or organizations.

9 (16) "Psychology" means: The science involving the principles,  
10 methods and procedures of understanding, predicting and influencing  
11 behavior; the principles pertaining to learning, perception,  
12 motivation, thinking, emotions and interpersonal relationships; the  
13 methods and procedures of interviewing and counseling; the methods  
14 and procedures of psychotherapy, meaning the use of learning,  
15 conditioning methods and emotional reactions, in a professional  
16 relationship, to assist a person or persons to modify feelings,  
17 attitudes and behavior, which are intellectually, socially,  
18 physically or emotionally maladjustive or ineffectual; the  
19 constructing, administering and interpreting of tests of  
20 intelligence, special abilities, aptitudes, interests, attitudes,  
21 personality characteristics, emotions and motivation; the  
22 psychological evaluation, prevention and improvements of problems  
23 of individuals and groups; and the resolution of interpersonal and  
24 social conflicts.

1       (17) "School board" means a county school board, the West  
2 Virginia Department of Education, or a Regional Educational Service  
3 Agency.

4       (18) "School board employee" means a person who provides  
5 services for the school board and is reimbursed via a salary and  
6 benefits and who has met the educational requirements under the  
7 state law and regulations of the West Virginia Board of Education  
8 to be certified or otherwise empowered by the State Superintendent  
9 of Schools to provide school psychological services for school  
10 boards.

11       (19) "School board contractee" means a person who provides  
12 services for one or more school boards and is reimbursed on a per  
13 evaluation, per unit of service or some other contract basis.

14 **§30-21-4. Board of Psychology.**

15       (a) The Board of Examiners of Psychologists is continued. On  
16 July 1, 2013, the West Virginia Board of Examiners of Psychologists  
17 is renamed the West Virginia Board of Psychology. The members of  
18 the board in office on July 1, 2013, are removed, but are eligible  
19 to be reappointed to the board for one additional term.

20       (b) Effective July 1, 2013, the board shall consist of the  
21 following seven members, who are appointed to staggered terms by  
22 the Governor with the advice and consent of the Senate:

23       (1) Four doctorate psychologists;

24       (2) Two masters psychologists or licensed psychological

1 practitioners;

2 (3) One citizen, who may not be associated with the practice  
3 of psychology.

4 (c) Board members shall reflect diversity within the  
5 profession.

6 (d) Licensed board members shall have a valid license to  
7 practice in West Virginia of at least five years duration at the  
8 time of his or her appointment.

9 (e) The term shall be for five years.

10 (f) Members of the board must be a U.S. citizen and a resident  
11 of this state for at least five years immediately preceding, his or  
12 her appointment.

13 (g) Members may not have a history of suspended, revoked, or  
14 sanctioned license or reprimand by this or any other board.

15 (h) A member may not serve more than two consecutive full  
16 terms. A member having served two consecutive full terms may not  
17 be appointed for one year after completion of his or her second  
18 full term. A member may continue to serve until a successor has  
19 been appointed and has qualified.

20 (i) A vacancy on the board shall be filled by appointment by  
21 the Governor for the unexpired term of the member whose office is  
22 vacant and the appointment shall be made within sixty days of the  
23 vacancy.

24 (j) The Governor may remove any member from the board for

1 neglect of duty, incompetency or official misconduct.

2 (k) Any member of the board immediately and automatically  
3 forfeits his or her membership if his or her license to practice is  
4 suspended or revoked by the board, he or she is convicted of a  
5 felony under the laws of any jurisdiction, or he or she becomes a  
6 nonresident of this state.

7 (l) The board annually shall elect from its membership a  
8 president and secretary who shall serve at the will and pleasure of  
9 the board.

10 (m) Each member of the board is entitled to compensation and  
11 expense reimbursement in accordance with article one of this  
12 chapter.

13 (n) A simple majority of the membership serving on the board  
14 at a given time is a quorum for the transaction of business.

15 (o) The board shall hold at least two meetings annually. Other  
16 meetings may be held at the call of the president or upon the  
17 written request of four members, at the time and place as  
18 designated in the call or request.

19 (p) Prior to commencing his or her duties as a member of the  
20 board, each member shall take and subscribe to the oath required by  
21 section five, article four of the Constitution of this state.

22 (q) The members of the board when acting in good faith and  
23 without malice shall enjoy immunity from individual civil liability  
24 while acting within the scope of their duties as board members.

1 **§30-21-5. Powers and duties of the board.**

2 (a) The board has all the powers and duties set forth in this  
3 article, by rule, in article one of this chapter and elsewhere in  
4 law.

5 (b) The board shall:

6 (1) Hold meetings;

7 (2) Establish requirements for licenses, certifications and  
8 permits;

9 (3) Establish procedures for submitting, approving and  
10 rejecting applications for licenses, certifications and permits;

11 (4) Determine the qualifications of an applicant for licenses,  
12 certifications and permits;

13 (5) Examine applicants and determine their eligibility for a  
14 license, certifications or permit to engage in the practice of  
15 psychology;

16 (6) Prepare, conduct and grade, or adopt, written and oral  
17 examinations of applicants for a license and determine the  
18 satisfactory pass points;

19 (7) Maintain records of the examinations the board or a third  
20 party administers, including the number of persons taking the  
21 examinations and the pass and fail rate;

22 (8) Maintain an office, and hire, discharge, establish the job  
23 requirements and fix the compensation of full-time, part-time or  
24 contracted professional, clerical or other personnel, which may

1 include an executive director, investigators and contracted  
2 employees, necessary to enforce this article;

3 (9) Investigate alleged violations of this article,  
4 legislative rules, orders and final decisions of the board;

5 (10) Conduct disciplinary hearings of persons regulated by the  
6 board;

7 (11) Determine and take disciplinary action and issue orders;

8 (12) Institute appropriate legal action for the enforcement of  
9 this article;

10 (13) Maintain an accurate registry of names and addresses of  
11 all persons regulated by the board;

12 (14) Keep accurate and complete records of its proceedings,  
13 and certify the same as may be necessary and appropriate;

14 (15) Establish the continuing education requirements for all  
15 persons regulated by the board;

16 (16) Issue, renew, combine, deny, suspend, place on probation,  
17 revoke or reinstate licenses and permits;

18 (17) Establish a fee schedule;

19 (18) Propose rules in for legislative approval accordance with  
20 article three, chapter twenty-nine-a of this code to implement this  
21 article; and

22 (19) Take all other actions necessary and proper to implement  
23 this article.

24 (c) The board may:

1       (1) Contract with third parties to administer the examinations  
2 required under this article;

3       (2) Sue and be sued in its official name as an agency of this  
4 state; and

5       (3) Confer with the Attorney General or his or her assistant  
6 in connection with legal matters and questions.

7 **§30-21-6. Rulemaking.**

8       (a) The board shall propose rules for legislative approval, in  
9 accordance with article three, chapter twenty-nine-a of this code,  
10 to implement this article, including:

11       (1) Standards and requirements for licenses, certifications  
12 and permits;

13       (2) Requirements for third parties to prepare and/or  
14 administer examinations and reexaminations;

15       (3) Educational and experience requirements;

16       (4) Standards for approval of courses and curriculum;

17       (5) Procedures for the issuance and renewal of licenses,  
18 certifications and permits;

19       (6) Supervision requirements;

20       (7) A fee schedule;

21       (8) Continuing education requirements;

22       (9) Regulation of telepractice and telepractice supervision;

23       (10) Regulation and supervision of psychometricians;

24       (11) The procedures for denying, suspending, revoking,

1 reinstating or limiting the practice of licensees, certifications  
2 and permittees;

3 (12) Requirements for inactive or revoked licenses,  
4 certifications and permits; and

5 (13) Any other rules necessary to implement this article.

6 (b) All of the board's rules in effect and not in conflict  
7 with these provisions, shall remain in effect until they are  
8 amended or rescinded.

9 **§30-21-7. Fees; special revenue account; administrative fines.**

10 (a) All fees and other moneys, except administrative fines,  
11 received by the board shall be deposited in a separate special  
12 revenue fund in the State Treasury designated, The Board of  
13 Examiners of Psychologists Fund, which is continued and renamed  
14 "The Board of Psychology Fund." The fund shall be used by the board  
15 for the administration of this article. Except as may be provided  
16 in article one of this chapter, the board retains the amount in the  
17 special revenue account from year to year. No compensation or  
18 expense incurred under this article is a charge against the General  
19 Revenue Fund.

20 (b) Any amounts received as fines pursuant to this article  
21 shall be deposited into the General Revenue Fund of the State  
22 Treasury.

23 **§30-21-8. License to practice psychology.**

24 (a) To be eligible for a license to practice psychology as a

1 licensed psychologist, the applicant must:

2 (1) Submit an application to the board;

3 (2) Be at least twenty-one years of age;

4 (3) Be of good moral character;

5 (4) Pay the appropriate fee;

6 (5) Obtain a doctoral degree in psychology or its equivalent,  
7 as determined by the board, from an accredited institution of  
8 higher learning;

9 (6) Complete two years of supervised work experience, as  
10 prescribed by legislative rule;

11 (7) Have passed the national EPPP examination at the doctoral  
12 level;

13 (8) Have passed the examinations prescribed by the board;

14 (9) Not be an alcohol or drug abuser, as these terms are  
15 defined in section eleven, article one-a, chapter twenty-seven of  
16 this code: *Provided*, That an applicant in an active recovery  
17 process, which may, in the discretion of the board, be evidenced by  
18 participation in an acknowledged substance abuse treatment and/or  
19 recovery program may be considered;

20 (10) Not have been convicted of a felony or crime involving  
21 moral turpitude in this or any jurisdiction;

22 (11) Not have been convicted of a misdemeanor or felony in any  
23 jurisdiction if the offense for which he or she was convicted  
24 related to the practice of psychology, which conviction remains

1 unreversed; and

2 (12) Meet other requirements established by legislative rule  
3 by the board.

4 (b) A person who is licensed as a psychologist in West  
5 Virginia at the time of the effective date of this section shall be  
6 determined to have met all requirements for licensure under this  
7 article and shall be eligible for renewal of licensure as a  
8 licensed psychologist in accordance with this article.

9 (c) A person who is licensed to practice psychology in another  
10 jurisdiction for five years, who has not been disciplined, nor has  
11 a complaint filed against them, shall be approved for licensure.

12 **§30-21-9. License to practice psychology.**

13 (a) To be eligible for a license to practice psychology as a  
14 licensed psychologist, the applicant must:

15 (1) Submit an application to the board;

16 (2) Be at least twenty-one years of age;

17 (3) Be of good moral character;

18 (4) Pay the appropriate fee;

19 (5) Obtain a master's degree in psychology from an accredited  
20 institution of higher learning, before July 1, 2015;

21 (6) Complete five years of supervised work experience, by July  
22 1, 2020, as prescribed by legislative rule;

23 (7) Have passed the national EPPP examination at the ASPPB  
24 level for independent practice;

1 (8)Have passed the examinations prescribed by the board;

2 (9) Not be an alcohol or drug abuser, as these terms are  
3 defined in section eleven, article one-a, chapter twenty-seven of  
4 this code: *Provided*, That an applicant in an active recovery  
5 process, which may, in the discretion of the board, be evidenced by  
6 participation in an acknowledged substance abuse treatment and/or  
7 recovery program may be considered;

8 (10) Not have been convicted of a felony or crime involving  
9 moral turpitude in this or any jurisdiction;

10 (11) Not have been convicted of a misdemeanor or felony in any  
11 jurisdiction if the offense for which he or she was convicted  
12 related to the practice of psychology, which conviction remains  
13 unreversed; and

14 (12) Meet other requirements established by legislative rule  
15 by the board.

16 (b) A person who is licensed as a psychologist in West  
17 Virginia at the time of the effective date of this section shall be  
18 determined to have met all requirements for licensure under this  
19 article and is eligible for renewal of licensure as a licensed  
20 psychologist in accordance with this article.

21 (c) This section expires July, 2015; *Provided*, That a person  
22 who is licensed as a psychologist in West Virginia under this  
23 section shall be determined to have met all requirements for  
24 licensure under this article and shall remain eligible for renewal

1 of licensure as a licensed psychologist in accordance with this  
2 article.

3 **§30-21-10. Scope of practice for a licensed psychologist.**

4 A licensed psychologist may:

5 (1) Prevent, eliminate, evaluate, assess or predict  
6 symptomatic, maladaptive, or undesired behavior;

7 (2) Evaluate and assess or facilitate the enhancement of  
8 individual, group or organizational effectiveness, including  
9 personal effectiveness, adaptive behavior, interpersonal  
10 relationships, work and life adjustment, health, and individual,  
11 group or organizational performance;

12 (3) Assist in legal decision making;

13 (4) Perform psychological test evaluation or assessment of  
14 personal characteristics, such as intelligence, personality,  
15 cognitive, physical, or emotional abilities; skills; interests;  
16 aptitudes; and neuropsychological functioning;

17 (5) Perform psychoanalysis, counseling psychotherapy,  
18 hypnosis, biofeedback, cognitive therapy, family therapy, cognitive  
19 behavior therapy, behavior analysis and behavior therapy;

20 (6) Diagnosis, treat, and manage a mental and emotional  
21 disorder or disability, substance use disorders, disorders of habit  
22 or conduct, as well as of the psychological aspects of physical  
23 illness, accident, injury, or disability;

24 (7) Perform psychoeducational evaluation, therapy, and

1 remediation;

2 (8) Consult with other psychologists, physicians, other  
3 healthcare professionals, client or patients regarding all  
4 available treatment options, including medication, with respect to  
5 provision of care for a specific client or patient;

6 (9) Provide direct services to individuals or groups for the  
7 purpose of enhancing individual and thereby organizational  
8 effectiveness, using psychological principles, methods or  
9 procedures to assess and evaluate individuals on personal  
10 characteristics for individual development or behavior change or  
11 for making decisions about the individual, such as selection; and

12 (10) Supervise any person or activity identified in  
13 subdivisions (1) through (9) of this section.

14 **§30-21-11. License to practice as a Licensed Psychological**  
15 **Practitioner.**

16 (a) Effective January 1, 2015, to be eligible for a license to  
17 practice psychology as a psychological practitioner, the applicant  
18 must:

19 (1) Submit an application to the board;

20 (2) Be at least twenty-one years of age;

21 (3) Be of good moral character;

22 (4) Pay the appropriate fee;

23 (5) Obtain a master's degree in psychology from an accredited  
24 institution of higher learning;

1       (6) Complete three years of supervised work experience, as  
2 prescribed by legislative rule;

3       (7) Have passed the national EPPP examination at the ASPPB  
4 level for independent practice;

5       (8) Have passed the examinations prescribed by the board;

6       (9) Not be an alcohol or drug abuser, as these terms are  
7 defined in section eleven, article one-a, chapter twenty-seven of  
8 this code: *Provided*, That an applicant in an active recovery  
9 process, which may, in the discretion of the board, be evidenced by  
10 participation in an acknowledged substance abuse treatment and/or  
11 recovery program may be considered;

12       (10) Not have been convicted of a felony or crime involving  
13 moral turpitude in this or any jurisdiction;

14       (11) Not have been convicted of a misdemeanor or felony in any  
15 jurisdiction if the offense for which he or she was convicted  
16 related to the practice of psychology, which conviction remains  
17 unreversed; and

18       (12) Meet other requirements established by legislative rule  
19 by the board.

20 **§30-21-12. Scope of practice for licensed psychological**  
21 **practitioner.**

22       (a) A licensed psychological practitioner may practice  
23 independently. A licensed psychological practitioner's scope of  
24 practice for independent practice shall be determined upon

1 examination for licensure. The board's basic requirements for  
2 acceptable education and supervised work experience having been  
3 met, the individual shall identify and prove evidence in his or her  
4 areas of competence.

5 (b) A licensed psychological practitioner may petition the  
6 board to seek additional scope of practice enhancements.  
7 Specialized work in psychology is limited to the practice of those  
8 with formal training in these fields, and any licensed  
9 psychological practitioner intending to include specialized work in  
10 their scope of practice must demonstrate to the board that their  
11 education, training and supervised experience has adequately  
12 prepared them for this specialized work. In no instance will the  
13 board approve inclusion in the scope of practice of LPPs any area  
14 of professional practice that is generally recognized to require  
15 specialized doctoral or post-doctoral training.

16 (c) An amendment to the Medicaid state plan shall be proposed  
17 before January 1, 2015 to include the title "licensed psychological  
18 practitioner" as an accepted provider.

19 **§30-21-13. Certification to practice as a certified psychological**  
20 **associate.**

21 An applicant for licensure shall obtain a certification to  
22 practice as a certified psychological associate to obtain the  
23 required experience for licensure under this article. To be  
24 eligible for a certification to practice as a certified

1 psychological associate the applicant must:

2 (1) Submit an application to the board;

3 (2) Be at least twenty-one years of age;

4 (3) Be of good moral character;

5 (4) Pay the appropriate fee;

6 (5) Obtain at least a masters or doctorate degree in  
7 psychology from an accredited institution of higher learning;

8 (6) Not be an alcohol or drug abuser, as these terms are  
9 defined in section eleven, article one-a, chapter twenty-seven of  
10 this code: *Provided*, That an applicant in an active recovery  
11 process, which may, in the discretion of the board, be evidenced by  
12 participation in an acknowledged substance abuse treatment and/or  
13 recovery program may be considered;

14 (7) Not have been convicted of a felony or crime involving  
15 moral turpitude in this or any jurisdiction;

16 (8) Not have been convicted of a misdemeanor or felony in any  
17 jurisdiction if the offense for which he or she was convicted  
18 related to the practice of psychology, which conviction remains  
19 unreversed; and

20 (9) Pass the national EPPP examination at the level  
21 established by ASPPB for supervised practice and meet other  
22 requirements established by legislative rule by the board.

23 **§30-21-14. Scope of practice for a certified psychological**  
24 **associate.**

1       (a) A certified psychological associate may perform certain  
2 functions within the practice of psychology under the supervision  
3 of a licensed psychologist under conditions established by the  
4 board.

5       (b) A certified psychological associate's scope of practice  
6 shall be determined upon examination for licensure. The board's  
7 basic requirements for acceptable education and supervised work  
8 experience having been met, the individual shall identify and  
9 provide evidence of his or her areas of competence under the  
10 supervision of a licensed psychologist.

11 **§30-21-16. Exemptions.**

12       The following persons are exempt from licensure and  
13 certification:

14       (1) The activities, services, and use of title on the part of  
15 a person in the employ of the federal government;

16       (2) A person teaching psychology, conducting psychological  
17 research, providing consultation services to organizations or  
18 institutions, or providing expert testimony: *Provided*, That such  
19 activities do not involve the delivery or supervision of direct  
20 psychological services to individuals or groups;

21       (3) A person authorized under any other provision of chapter  
22 thirty from rendering services consistent with the laws regulating  
23 his or her professional practice and the ethics of their  
24 profession.

1       (4) A student, intern, or resident in psychology, pursuing a  
2 course of study approved by the department of psychology of an  
3 educational institution rated acceptable by the board for  
4 qualifying training and experience, provided such activities are  
5 recognized by transcript as a part of his or her supervised course  
6 of study;

7       (5) The recognized educational activities of teachers in  
8 accredited public and private schools, the authorized duties of  
9 guidance counselors who are certified by the State Board of  
10 Education, or the activities of persons using psychological  
11 techniques in business and industrial organizations for employment  
12 placement, promotion, or job adjustment of their own officers and  
13 employees;

14       (6) Clergy carrying out his or her responsibilities while  
15 functioning in a ministerial capacity within a recognized religious  
16 organization serving the spiritual needs of its constituency, if he  
17 or she does not hold himself or herself out as a psychologist; and

18       (7) A licensed psychologist who has no regular place of  
19 practice in this state and who engages in the practice of  
20 psychology in this state for a period of not more than ten days in  
21 any calendar year.

22       (8) A person practicing school psychology as school board  
23 employee or school board contract employee.

24 **§30-21-17. Renewal of license and certification.**

1       (a) A license to practice psychology is valid for a period of  
2 two years from the date issued and may be renewed for a period of  
3 two years without examination upon application for renewal on a  
4 form prescribed by the board and payment to the board of renewal  
5 fees to be set by the board by legislative rule.

6       (b) A certification to practice psychology is valid for a  
7 period of three years from the date issued and may be renewed for  
8 a period of three years without examination upon application for  
9 renewal on a form prescribed by the board and payment to the board  
10 of a renewal fees to be set by the board by legislative rule.

11       (c) The board shall charge a fee for each renewal of a license  
12 and certification and may charge a late fee for any renewal not  
13 paid by the due date.

14       (d) The board shall require as a condition of renewal that  
15 each licensee or certificate holder complete continuing education.

16       (e) The board may deny an application for renewal for any  
17 reason which would justify the denial of an original application  
18 for a license or certification.

19 **§30-21-18. Delinquent and expired license requirements.**

20       (a) If a license is not renewed when due, then the board shall  
21 automatically place the licensee on delinquent status. A licensee  
22 on delinquent status may not practice in this state.

23       (b) The fee for a person on delinquent status shall increase  
24 at a rate, determined by the board, for each month or fraction

1 thereof that the renewal fee is not paid, up to a maximum of  
2 thirty-six months.

3 (c) Within thirty-six months of being placed on delinquent  
4 status, if a licensee wants to return to active practice, he or she  
5 must complete all the continuing education requirements and pay all  
6 the applicable fees as set by rule.

7 (d) After thirty-six months of being placed on delinquent  
8 status, a license is automatically placed on expired status and  
9 cannot be renewed. A person whose license has expired must reapply  
10 for a new license.

11 **§30-21-19. Inactive license requirements.**

12 (a) A licensee who does not want to continue an active  
13 practice shall submit an application and any applicable fee to the  
14 board to be granted inactive status.

15 (b) Once granted inactive status, a person is not subject to  
16 the payment of any fee and may not practice in this state.

17 (c) When the person wants to return to practice, the person  
18 shall submit an application for renewal along with all applicable  
19 fees as set by rule.

20 (d) When inactive status has been of more than five years  
21 duration, during which time the individual has not been practicing  
22 as a licensed psychologist in any board recognized jurisdiction, an  
23 oral examination shall be required prior to reactivation of the  
24 license.

1 **§30-21-20. Temporary permit to practice psychology.**

2 (a) Upon proper application, the board may issue until  
3 examination at the next available board meeting a temporary permit  
4 to engage in the practice of psychology in this state to an  
5 applicant of good moral character who meets this article and who  
6 holds a valid license to practice psychology in another  
7 jurisdiction, if the applicant demonstrates that he or she:

8 (1) Holds a license or other authorization to practice  
9 psychology in another state which requirements are substantially  
10 equivalent to those required in this state. The board may enter  
11 into agreements for reciprocal licensing with other jurisdictions  
12 having substantially similar requirements for licensure;

13 (2) Does not have charges pending against his or her license  
14 or other authorization to practice, and has never had a license or  
15 other authorization to practice revoked or otherwise sanctioned;

16 (3) Has not previously failed an examination for professional  
17 licensure in this state;

18 (4) Has paid the applicable fee;

19 (5) Has passed the EPPP or other examination prescribed by the  
20 board; and

21 (6) Has fulfilled any other requirement specified by the  
22 board.

23 (b) The board shall interview and examine an applicant for  
24 licensing under this section. If the permittee fails to pass the

1 examination, the temporary permit expires immediately.

2 (c) An applicant under this section may only be issued one  
3 temporary permit. Upon the expiration of a temporary permit, a  
4 person may not practice psychology until he or she is licensed  
5 under this article. In no event may a permittee practice on a  
6 temporary permit beyond a period of one hundred eighty consecutive  
7 days.

8 (d) This section does not apply to a licensed psychologist.

9 **§30-21-21. Display of license.**

10 (a) The board shall prescribe the form for a license,  
11 certification and permit, and may issue a duplicate license,  
12 certification or permit upon payment of a fee.

13 (b) Any person regulated by the article shall conspicuously  
14 display his or her license, certification or permit at his or her  
15 principal place of practice.

16 **§30-21-22. Privileged communications.**

17 (a) A licensee may not disclose any information provided by a  
18 client or from persons consulting the licensee in a professional  
19 capacity, except that which may be voluntarily disclosed under the  
20 following circumstances:

21 (1) In the course of formally reporting, conferring or  
22 consulting with administrative superiors, colleagues or consultants  
23 who share professional responsibility, in which instance all  
24 recipients of such information are similarly bound to regard the

1 communication as privileged;

2 (2) With the written consent of the person who provided the  
3 information;

4 (3) In case of death or disability, with the written consent  
5 of a personal representative, other person authorized to sue, or  
6 the beneficiary of an insurance policy on the person's life, health  
7 or physical condition;

8 (4) When a communication reveals the intended commission of a  
9 crime or harmful act and such disclosure is judged necessary by the  
10 psychologist to protect any person from a clear, imminent risk of  
11 serious mental or physical harm or injury, or to forestall a  
12 serious threat to the public safety; or

13 (5) When the person waives the privilege by bringing any  
14 public charges against the licensee.

15 (b) When the person is a minor and the information acquired by  
16 the licensee indicates the minor was the victim of or witness to a  
17 crime, the licensee may be required to testify in any judicial  
18 proceedings in which the commission of that crime is the subject of  
19 inquiry and when the court determines that the interests of the  
20 minor in having the information held privileged are outweighed by  
21 the requirements of justice.

22 (c) Any person having access to records or anyone who  
23 participates in providing services or who, in providing any human  
24 services, is supervised by a licensee, is similarly bound to regard

1 all information and communications as privileged in accord with the  
2 section.

3 (d) Nothing prohibits a licensee from testifying in court  
4 hearings concerning matters of adoption, child abuse, child neglect  
5 or other matters pertaining to children, elderly, and physically  
6 and mentally impaired adults, except as prohibited under the  
7 applicable state and federal laws.

8 **§30-21-23. Actions to enjoin violations.**

9 (a) If the board obtains information that a person has engaged  
10 in, is engaging in or is about to engage in any act which  
11 constitutes or will constitute a violation of this article, the  
12 rules promulgated pursuant to this article, or a final order or  
13 decision of the board, it may issue a notice to the person to cease  
14 and desist in engaging in the act or apply to the circuit court in  
15 the county of the alleged violation for an order enjoining the act,  
16 or both issue and apply.

17 (b) The circuit courts of this state may issue a temporary  
18 injunction pending a decision on the merits, and may issue a  
19 permanent injunction based on its findings in the case.

20 (c) The judgment of the circuit court on an application  
21 permitted by this section is final unless reversed, vacated or  
22 modified on appeal to the West Virginia Supreme Court of Appeals.

23 **§30-21-24. Complaints; investigations; due process procedure;**  
24 **grounds for disciplinary action.**

1       (a) The board may upon its own motion based on credible  
2 information, and shall upon the written complaint of a person,  
3 cause an investigation to be made to determine whether grounds  
4 exist for disciplinary action under this article or the legislative  
5 rules promulgated pursuant to this article.

6       (b) Upon initiation or receipt of the complaint, the board  
7 shall provide a copy of the complaint to the licensee, certificate  
8 holder or permittee.

9       (c) After reviewing any information obtained through an  
10 investigation, the board shall determine if probable cause exists  
11 that the licensee, certificate holder or permittee has violated  
12 subsection (g) of this section or rules promulgated pursuant to  
13 this article.

14       (d) Upon a finding that probable cause exists that the  
15 licensee, certificate holder or permittee has violated subsection  
16 (g) of this section or rules promulgated pursuant to this article,  
17 the board may enter into a consent decree or hold a hearing for the  
18 suspension or revocation of the license, certificate holder or  
19 permit or the imposition of sanctions against the licensee,  
20 certificate holder or permittee. Any hearing shall be held in  
21 accordance with this article.

22       (e) The board president or its administrator may issue  
23 subpoenas and subpoenas duces tecum to obtain testimony and  
24 documents to aid in the investigation of allegations against any

1 person regulated by the article.

2 (f) The board president or its administrator may sign a  
3 consent decree or other legal document on behalf of the board.

4 (g) The board may, after notice and opportunity for hearing,  
5 deny or refuse to renew, suspend, restrict or revoke the license,  
6 certification or permit of, or impose probationary conditions upon  
7 or take disciplinary action against, any licensee, certificate  
8 holder, or permittee for any of the following reasons once a  
9 violation has been proven by a preponderance of the evidence:

10 (1) Obtaining a license, certification or permit by fraud,  
11 misrepresentation or concealment of material facts;

12 (2) Being convicted of a felony or other crime involving moral  
13 turpitude in this or any jurisdiction;

14 (3) Committing unprofessional conduct which placed the public  
15 at risk;

16 (4) Intentional violation of a lawful order or legislative  
17 rule of the board;

18 (5) Having had a license or other authorization revoked or  
19 suspended, other disciplinary action taken, or an application for  
20 licensure or other authorization revoked or suspended by the proper  
21 authorities of another jurisdiction;

22 (6) Exceeding their scope of practice of psychology;

23 (7) Engaging in false and deceptive advertising;

24 (8) Aiding or abetting unlicensed practice; or

1       (9) Engaging in an act while acting in a professional capacity  
2 which has endangered or is likely to endanger the health, welfare  
3 or safety of the public.

4       (h) For the purposes of subsection (g) of this section,  
5 effective July 1, 2013, disciplinary action may include:

6       (1) Reprimand;

7       (2) Probation;

8       (3) Restrictions;

9       (4) Administrative fine, not to exceed \$1,000 per day per  
10 violation;

11       (5) Mandatory attendance at continuing education seminars or  
12 other training;

13       (6) Practicing under supervision or other restriction; or

14       (7) Requiring the licensee, certificate holder or permittee to  
15 report to the board for periodic interviews for a specified period  
16 of time; or

17       (8) Other corrective action deemed necessary and appropriate  
18 by the board;

19       (i) In addition to any other sanction imposed, the board may  
20 require a licensee, certificate holder or permittee to pay the  
21 costs of the proceedings.

22       (j) The board may temporarily suspend a license, certification  
23 or permit without a hearing while instituting proceedings for a  
24 hearing under this section if the board possesses evidence that the

1 psychologist's continuation in practice may constitute an immediate  
2 danger to the public.

3       (k) A licensee or certificate holder may surrender his or her  
4 license or certification or permit when such person is charged with  
5 unethical conduct and upon receipt of that charge the licensee or  
6 certificate holder decides to surrender the license or  
7 certification. The surrender and acceptance by the board shall  
8 constitute acknowledgment by the licensee or certificate holder of  
9 guilt as charged and is considered a public and reportable  
10 disciplinary action. Such surrender does not rescind the  
11 jurisdiction of the board to proceed to formal adjudication of the  
12 matter.

13       (l) The board shall also suspend or revoke any license,  
14 certification or temporary permit if it finds the existence of any  
15 grounds that would justify the denial of an application for such  
16 license, certification or temporary permit if application were then  
17 being made for it.

18 **§30-21-25. Procedures for hearing.**

19       (a) Hearings are governed by section eight, article one of  
20 this chapter.

21       (b) The board may conduct the hearing or elect to have an  
22 administrative law judge who is a licensed attorney in the state of  
23 West Virginia conduct the hearing.

24       (c) If the hearing is conducted by an administrative law

1 judge, at the conclusion of a hearing he or she shall prepare a  
2 proposed written order containing findings of fact and conclusions  
3 of law. The proposed order may contain proposed disciplinary  
4 actions if the board so directs. The board may accept, reject or  
5 modify the decision of the administrative law judge.

6 (d) Any member or the administrator of the board has the  
7 authority to administer oaths, examine any person under oath and  
8 issue subpoenas and subpoenas duces tecum.

9 (e) If, after a hearing, the board determines the licensee,  
10 certificate holder or permittee has violated this article or the  
11 board's rules, a formal written decision shall be prepared which  
12 contains findings of fact, conclusions of law and a specific  
13 description of the disciplinary actions imposed.

14 **§30-21-26. Judicial review; right of appeal.**

15 A licensee, certificate holder or permittee adversely affected  
16 by a decision of the board entered after a hearing may obtain  
17 judicial review of the decision in accordance with section four,  
18 article five, chapter twenty-nine-a of this code, and may appeal  
19 any ruling resulting from judicial review in accordance with  
20 article six, chapter twenty-nine-a of this code.

21 **§30-21-27. Penalties.**

22 (a) When, as a result of an investigation under this article  
23 or otherwise, the board has reason to believe that a licensee,  
24 certificate holder or permittee has committed a criminal offense

1 under this article, the board shall bring its information to the  
2 attention of an appropriate law-enforcement official.

3 (b) A person violating this article is guilty of a misdemeanor  
4 and, upon conviction thereof, shall be fined not less than \$100 nor  
5 more than \$5,000 or confined in jail not more than six months, or  
6 both fined and confined.

7 **§30-21-28. Single act to justify penalty.**

8 In any action brought or in any proceeding initiated under  
9 this article, evidence of the commission of a single act prohibited  
10 by this article is sufficient to justify a penalty, injunction,  
11 restraining order or conviction without evidence of a general  
course of conduct.

NOTE: The purpose of this bill is to rewrite the article concerning the practice of psychology. The bill prohibits the practice of psychology without a license. The bill provides other applicable sections. The bill defines terms. The bill continues and renames the board. The bill provides for board composition, appointments, qualifications, terms of office, filling of vacancies and holding meetings. The bill provides for compensation and reimbursement for board members. The bill sets forth the powers and duties of the board. The bill clarifies rule-making authority. The bill continues a special revenue account. The bill establishes license and certification requirements. The bill sets forth scopes of practices. The bill provides for licensure for persons licensed in another state. The bill establishes renewal requirements. The bill establishes delinquent, expired and inactive license requirements. The bill provides temporary permit requirements. The bill requires license to be displayed. The bill provides for privileged communications and exceptions. The bill provides the board may issue notices to cease and desist. The bill provides that circuit courts may issue injunctions. The bill sets forth grounds for disciplinary actions. The bill allows for specific disciplinary actions. The bill provides procedures for the investigation of complaints. The bill provides for judicial review and appeals of

decisions. The bill sets forth hearing and notice requirements. The bill provides for civil causes of action, and the bill provides for criminal penalties.

§30-21-1, §30-21-2, §30-21-3, §30-21-4, §30-21-5, §30-21-6, §30-21-7, §30-21-8, §30-21-9, §30-21-10, §30-21-11, §30-21-12, §30-21-13, §30-21-14 and §30-21-17 have been completely rewritten; therefore, they have been completely underscored.

§30-21-16, §30-21-18, §30-21-19, §30-21-20, §30-21-21, §30-21-22, §30-21-23, §30-21-24, §30-21-25, §30-21-26, §30-21-27 and §30-21-28 are new; therefore, they have been completely underscored.