

1 **H. B. 4477**

2
3 (By Delegates Marshall, Skinner, Pasdon,
4 Caputo and McCuskey)
5

6 [Introduced February 12, 2014; referred to the
7 Committee on Government Organization then the Judiciary.]

**FISCAL
NOTE**

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9
10 A BILL to repeal §30-21-7a, §30-21-7b, §30-21-7c, §30-21-7d,
11 §30-21-7e, §30-21-8a and §30-21-10a, of the Code of West
12 Virginia, 1931, as amended; to amend and reenact §30-21-1,
13 §30-21-2, §30-21-3, §30-21-4, §30-21-5, §30-21-6, §30-21-7,
14 §30-21-8, §30-21-9, §30-21-10, §30-21-11, §30-21-12,
15 §30-21-13, §30-21-14 and §30-21-17 of said code; and to amend
16 said code by adding thereto twelve new sections, designated
17 §30-21-16, §30-21-18, §30-21-19, §30-21-20, §30-21-21,
18 §30-21-22, §30-21-23, §30-21-24, §30-21-25, §30-21-26,
19 §30-21-27 and §30-21-28, all relating to the practice of
20 psychology; prohibiting the practice of psychology without a
21 license; providing other applicable sections; defining terms;
22 continuing and renaming board; providing for board
23 composition, appointments, qualifications, terms of office,
24 filling of vacancies and holding meetings; providing for
25 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20 amended, be repealed; that §30-21-1, §30-21-2, §30-21-3, §30-21-4,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 the provisions of this article, or to advertise or use
9 any title or description tending to convey the impression that the
10 person is a psychologist or psychological practitioner or certified
11 psychological associate unless the person is licensed or permitted
12 under the provisions of this article, and the license or permit has
13 not expired, been 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 the provisions
24 of this article.

1 (d) Nothing in this article permits the administering or
2 prescribing of drugs or as infringes upon the practice of medicine
3 and surgery.

4 **§30-21-2. General provisions.**

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

10 **§30-21-3. Definitions.**

11 As used in this article:

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

20 (2) "Applicant" means a person making application for a
21 license or certificate under the provisions of this article.

22 (3) "ASPPB" means the Association of State and Provincial
23 Psychology Boards.

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

1 (5) "Business entity" means any firm, partnership,
2 association, company, corporation, limited partnership, limited
3 liability company or other entity providing psychological services.

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

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

12 (8) "EPPP" means the Examination for the Professional Practice
13 of Psychology.

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

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

18 (11) "Licensee" means a person holding a license issued under
19 the provisions of this article.

20 (12) "Permit" or "temporary permit" means a temporary permit
21 issued under the provisions of this article.

22 (13) "Permittee" means any person holding a temporary permit
23 issued pursuant to the provisions of this article.

24 (14) "Practice of psychology" means the observation,

1 description, analysis, evaluation, interpretation, prediction and
2 modification of human behavior by the application of psychological
3 principles, methods and procedures, on a client or patient,
4 regardless of whether payment is received for services rendered,
5 and as further described in section ten.

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

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

1 of individuals and groups; and the resolution of interpersonal and
2 social conflicts.

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

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

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

16 **§30-21-4. Board of Psychology.**

17 (a) The Board of Examiners of Psychologists is continued. On
18 July 1, 2014, the West Virginia Board of Examiners of Psychologists
19 is renamed the West Virginia Board of Psychology. The members of
20 the board in office on July 1, 2014, are removed, but are eligible
21 to be reappointed to the board for one additional term.

22 (b) Effective July 1, 2014, the board shall consist of the
23 following seven members, who are appointed to staggered terms by
24 the Governor with the advice and consent of the Senate:

1 (1) Four doctorate psychologists;

2 (2) Two masters psychologist or licensed psychological
3 practitioner;

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

6 (c) Board members shall reflect diversity within the
7 profession.

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

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

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

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

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

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

1 vacancy.

2 (j) The Governor may remove any member from the board for
3 neglect of duty, incompetency or official misconduct.

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

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

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

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

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

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

24 (q) The members of the board when acting in good faith and

1 without malice have immunity from individual civil liability while
2 acting within the scope of their duties as board members.

3 **§30-21-5. Powers and duties of the board.**

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

7 (b) The board shall:

8 (1) Hold meetings;

9 (2) Establish requirements for licenses, certifications and
10 permits;

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

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

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

18 (6) Prepare, conduct and grade, or adopt, written and oral
19 examinations of applicants for a license and determine the
20 satisfactory pass point thereon;

21 (7) Maintain records of the examinations the board or a third
22 party administers, including the number of persons taking the
23 examinations and the passage and failure rate;

24 (8) Maintain an office and hire, discharge, establish the job

1 requirements and fix the compensation of full-time, part-time or
2 contracted professional, clerical or other personnel, which may
3 include an executive director, investigators and contracted
4 employees, necessary to enforce this article;

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

7 (10) Conduct disciplinary hearings of persons regulated by the
8 board;

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

10 (12) Institute appropriate legal action for the enforcement of
11 this article;

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

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

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

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

20 (17) Establish a fee schedule;

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

23 (19) Take all other actions necessary to implement this
24 article.

1 (c) The board may:

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

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

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

8 **§30-21-6. Rule-making.**

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

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

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

16 (3) Educational and experience requirements;

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

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

20 (6) Supervision requirements;

21 (7) A fee schedule;

22 (8) Continuing education requirements;

23 (9) Regulation of telepractice and telepractice supervision;

24 (10) Regulation and supervision of psychometricians;

1 (11) The procedures for denying, suspending, revoking,
2 reinstating or limiting the practice of licensees, certifications
3 and permittees;

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

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

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

10 **§30-21-7. Fees; special revenue account; administrative fines.**

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

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

24 **§30-21-8. License to practice psychology with a doctorate.**

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

3 (1) Submit an application to the board;

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

5 (3) Be of good moral character;

6 (4) Pay the appropriate fee;

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

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

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

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

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

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

23 (11) Not have been convicted of a misdemeanor or felony in any
24 jurisdiction if the offense for which he or she was convicted

1 related to the practice of psychology, which conviction remains
2 unreversed; and

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

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

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

13 **§30-21-9. License to practice psychology with a master's.**

14 (a) To be eligible for a license to practice psychology as a
15 licensed psychologist without a doctoral degree in psychology or
16 its equivalent, the applicant shall:

17 (1) Submit an application to the board;

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

19 (3) Be of good moral character;

20 (4) Pay the appropriate fee;

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

23 (6) Complete five years of supervised work experience by July
24 1, 2020, as prescribed by legislative rule;

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

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

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

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

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

16 (12) Meet other requirements established by legislative rule
17 by the board.

18 (b) A person who is licensed as a psychologist in West
19 Virginia at the time of the effective date of this section shall
20 meet all requirements for licensure under this article and is
21 eligible for renewal of licensure as a licensed psychologist in
22 accordance with the provisions of this article.

23 **§30-21-10. Scope of practice for a licensed psychologist.**

24 A licensed psychologist may:

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

3 (2) Evaluate and assess or facilitate the enhancement of
4 individual, group or organizational effectiveness, including
5 personal effectiveness, adaptive behavior, interpersonal
6 relationships, work and life adjustment, health and individual
7 group or organizational performance;

8 (3) Assist in legal decision-making;

9 (4) Perform psychological test evaluation or assessment of
10 personal characteristics, such as intelligence, personality,
11 cognitive, physical or emotional abilities; skills; interests;
12 aptitudes and neuropsychological functioning;

13 (5) Perform psychoanalysis, counseling psychotherapy,
14 hypnosis, biofeedback, cognitive therapy, family therapy, cognitive
15 behavior therapy, behavior analysis and behavior therapy;

16 (6) Diagnose, treat, and manage mental and emotional disorder
17 or disability, substance use disorders, disorders of habit or
18 conduct, as well as of the psychological aspects of physical
19 illness, accident, injury or disability;

20 (7) Perform psychoeducational evaluation, therapy and
21 remediation;

22 (8) Consult with other psychologists, physicians, other
23 healthcare professionals, client or patients regarding all
24 available treatment options, including medication, with respect to

1 provision of care for a specific client or patient;

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

8 (10) Supervise any people named in this section.

9 **§30-21-11. License to practice as a "Licensed Psychological**
10 **Practitioner".**

11 (a) Effective January 1, 2015, to be eligible for a license to
12 practice psychology as a psychological practitioner, the applicant
13 must:

14 (1) Submit an application to the board;

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

16 (3) Be of good moral character;

17 (4) Pay the appropriate fee;

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

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

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

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

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

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

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

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

15 **§30-21-12. Scope of practice for licensed psychological** _
16 **practitioner.**

17 (a) A licensed psychological practitioner may practice
18 independently. A licensed psychological practitioner's scope of
19 practice for independent practice is determined upon examination
20 for licensure.

21 The board's basic requirements for acceptable education and
22 supervised work experience having been met, the individual shall
23 identify and provide evidence of his or her areas of competence.

24 (b) A licensed psychological practitioner may petition the

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

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

14 **§30-21-13. Certification to practice as a certified psychological**
15 **associate.**

16 An applicant for licensure shall obtain a certification to
17 practice as a certified psychological associate to obtain the
18 required experience for licensure under this article.

19 To be eligible for a certification to practice as a certified
20 psychological associate the applicant must:

- 21 (1) Submit an application to the board;
- 22 (2) Be at least twenty-one years of age;
- 23 (3) Be of good moral character;
- 24 (4) Pay the appropriate fee;

1 (5) Obtain at least a master's or doctorate degree in
2 psychology from an accredited institution of higher learning;

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

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

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

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

18 **30-21-14. Scope of practice for a certified psychological**
19 **associate.**

20 (a) A certified psychological associate may perform certain
21 functions within the practice of psychology under the supervision
22 of a licensed psychologist under conditions established by the
23 board.

24 (b) A certified psychological associate's scope of practice is

1 determined upon examination for licensure. The board's basic
2 requirements for acceptable education and supervised work
3 experience having been met, the individual shall provide evidence
4 of his or her areas of competence under the supervision of a
5 licensed psychologist.

6 **§30-21-16. Exemptions.**

7 The following persons are exempt from licensure and
8 certification:

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

11 (2) A person teaching psychology, conducting psychological
12 research, providing consultation services to organizations or
13 institutions, or providing expert testimony, *Provided, That such*
14 activities do not involve the delivery or supervision of direct
15 psychological services to individuals or groups;

16 (3) A person authorized under any other provision of chapter
17 thirty to render services consistent with the laws regulating his
18 or her professional practice and the ethics of his or her
19 profession.

20 (4) A student, intern or resident in psychology, pursuing a
21 course of study approved by the department of psychology of an
22 educational institution rated acceptable by the board for
23 qualifying training and experience, provided such activities are
24 recognized by transcript as a part of his or her supervised course

1 of study;

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

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

13 (7) A licensed psychologist who has no regular place of
14 practice in this state and who engages in the practice of
15 psychology in this state for a period of not more than ten days in
16 any calendar year; and

17 (8) A person practicing school psychology as school board
18 employee or school board contract employee.

19 **§30-21-17. Renewal of license and certification.**

20 (a) A license to practice psychology is valid for a period of
21 two years from the date issued and may be renewed for a period of
22 two years without examination upon application for renewal on a
23 form prescribed by the board and payment to the board of renewal
24 fees to be set by legislative rule.

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

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

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

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

14 **§30-21-18. Delinquent and expired license requirements.**

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

18 (b) The fee for a person on delinquent status shall increase
19 at a rate, determined by the board, for each month or fraction
20 thereof that the renewal fee is not paid, up to a maximum of
21 thirty-six months.

22 (c) Within thirty-six months of being placed on delinquent
23 status, if a licensee wants to return to active practice, he or she
24 must complete all the continuing education requirements and pay all

1 the applicable fees as set by rule.

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

6 **§30-30-19. Inactive license requirements.**

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

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

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

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

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

21 (a) Upon proper application, the board may issue, until
22 examination at the next available board meeting, a temporary permit
23 to engage in the practice of psychology in this state to an
24 applicant of good moral character who meets the provisions of this

1 article and who holds a valid license to practice psychology in
2 another jurisdiction, if the applicant demonstrates that he or she:

3 (1) Holds a license or other authorization to practice
4 psychology in another state which requirements are substantially
5 equivalent to those required in this state. The board may enter
6 into agreements for reciprocal licensing with other jurisdictions
7 having substantially similar requirements for licensure;

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

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

13 (4) Has paid the applicable fee;

14 (5) Has passed the EPPP or other examination prescribed by the
15 board; and

16 (6) Has fulfilled any other requirement specified by the
17 board.

18 (b) The board shall interview and examine an applicant for
19 licensing under this section. If the permittee fails to pass the
20 examination, the temporary permit expires immediately.

21 (c) An applicant under this section may only be issued one
22 temporary permit. Upon the expiration of a temporary permit, a
23 person may not practice psychology until he or she is licensed
24 under the provisions of this article. In no event may a permittee

1 practice on a temporary permit beyond a period of one hundred
2 eighty consecutive days.

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

4 **§30-21-21. Display of license.**

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

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

11 **§30-21-22. Privileged communications.**

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

16 (1) In the course of formally reporting, conferring or
17 consulting with administrative superiors, colleagues or consultants
18 who share professional responsibility, in which instance all
19 recipients of such information are similarly bound to regard the
20 communication as privileged;

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

23 (3) In case of death or disability, with the written consent
24 of a personal representative, other person authorized to sue, or

1 the beneficiary of an insurance policy on the person's life, health
2 or physical condition;

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

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

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

17 (c) Any person having access to records or anyone who
18 participates in providing services or who, in providing any human
19 services, is supervised by a licensee, is similarly bound to regard
20 all information and communications as privileged in accord with the
21 section.

22 (d) Nothing in this section prohibits a licensee from
23 testifying in court hearings concerning matters of adoption, child
24 abuse, child neglect or other matters pertaining to children,

1 elderly physically and mentally impaired adults, except as
2 prohibited under the applicable state and federal laws.

3 **§30-21-23. Actions to enjoin violations.**

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

12 (b) The circuit courts of this state may issue a temporary
13 injunction pending a decision on the merits and may issue a
14 permanent injunction based on its findings in the case.

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

18 **§30-21-24. Complaints; investigations; due process procedure; _**
19 **grounds for disciplinary action.**

20 (a) The board may, upon its own motion based on credible
21 information, and shall, upon the written complaint of a person,
22 cause an investigation to be made to determine whether grounds
23 exist for disciplinary action under this article or the legislative
24 rules adopted pursuant to this article.

1 (b) Upon initiation or receipt of the complaint, the board
2 shall provide a copy of the complaint to the licensee, certificate
3 holder or permittee.

4 (c) After reviewing any information obtained through an
5 investigation, the board shall determine if probable cause exists
6 that the licensee, certificate holder or permittee has violated
7 subsection (g) of this section or rules adopted pursuant to this
8 article.

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

17 (e) The board president or its administrator may issue
18 subpoenas and subpoenas for production of documentary evidence to
19 obtain testimony and documents to aid in the investigation of
20 allegations against any person regulated by the article.

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

23 (g) The board may, after notice and opportunity for hearing,
24 deny or refuse to renew, suspend, restrict or revoke the license,

1 certification or permit of, or impose probationary conditions upon
2 or take disciplinary action against, any licensee, certificate
3 holder or permittee for any of the following reasons once a
4 violation has been proven by a preponderance of the evidence:

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

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

9 (3) Committing unprofessional conduct which placed the public
10 at risk;

11 (4) Intentional violation of a lawful order or legislative
12 rule of the board;

13 (5) Having had a license or other authorization revoked or
14 suspended, other disciplinary action taken or an application for
15 licensure or other authorization revoked or suspended by the proper
16 authorities of another jurisdiction;

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

18 (7) Engaging in false and deceptive advertising;

19 (8) Aiding or abetting unlicensed practice; or

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

23 (h) For the purposes of subsection (g) of this section,
24 effective July 1, 2014, disciplinary action may include:

- 1 (1) Reprimand;
- 2 (2) Probation;
- 3 (3) Restrictions;
- 4 (4) Administrative fine, not to exceed \$1,000 per day per
5 violation;
- 6 (5) Mandatory attendance at continuing education seminars or
7 other training;
- 8 (6) Practicing under supervision or other restriction; or
- 9 (7) Requiring the licensee, certificate holder or permittee to
10 report to the board for periodic interviews for a specified period
11 of time; or
- 12 (8) Other corrective action deemed necessary and appropriate
13 by the board;
- 14 (i) In addition to any other sanction imposed, the board may
15 require a licensee, certificate holder or permittee to pay the
16 costs of the proceedings.
- 17 (j) The board may temporarily suspend a license, certification
18 or permit without a hearing while instituting proceedings for a
19 hearing under this section if the board possesses evidence that the
20 psychologist's continuation in practice may constitute an immediate
21 danger to the public.
- 22 (k) A licensee or certificate holder may surrender his or her
23 license, certification or permit when such person is charged with
24 unethical conduct and upon receipt of that charge the licensee or

1 certificate holder decides to surrender the license or
2 certification. The surrender and acceptance by the board
3 constitutes acknowledgment by the licensee or certificate holder of
4 guilt as charged and is considered a public and reportable
5 disciplinary action. Such surrender does not rescind the
6 jurisdiction of the board to proceed to formal adjudication of the
7 matter.

8 (1) The board shall suspend or revoke any license,
9 certification or temporary permit if it finds the existence of any
10 grounds that would justify the denial of an application for such
11 license, certification or temporary permit if application were then
12 being made for it.

13 **§30-21-25. Procedures for hearing.**

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

16 (b) The board may conduct the hearing or elect to have an
17 administrative law judge who is a licensed attorney in the State of
18 West Virginia conduct the hearing.

19 (c) If the hearing is conducted by an administrative law
20 judge, at the conclusion of a hearing he or she shall prepare a
21 proposed written order containing findings of fact and conclusions
22 of law. The proposed order may contain proposed disciplinary
23 actions if the board so directs. The board may accept, reject or
24 modify the decision of the administrative law judge.

1 (d) Any member or the administrator of the board has the
2 authority to administer oaths, examine any person under oath and
3 issue subpoenas and subpoenas for production of documentary
4 evidence.

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

10 **§30-21-26. Judicial review; right of appeal.**

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

17 **§30-21-27. Penalties.**

18 (a) When, as a result of an investigation under this article
19 or otherwise, the board has reason to believe that a licensee,
20 certificate holder or permittee has committed a criminal offense
21 under this article, the board shall bring its information to the
22 attention of an appropriate law-enforcement official.

23 (b) A person violating this article is guilty of a misdemeanor
24 and, upon conviction thereof, shall be fined not less than \$100 nor

1 more than \$5,000 or confined in jail not more than six months, or
2 both fined and confined.

3 **§30-21-28. Single act evidence of practice.**

4 In any action brought or in any proceeding initiated under
5 this article, evidence of the commission of a single act prohibited
6 by this article is sufficient to justify a penalty, injunction,
7 restraining order or conviction without evidence of a general
8 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.