

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2103**

4 (By Delegates Howell, Hamrick, Householder, Statler,
5 Walters, Arvon, Blair, Border, Zatezalo and Weld)
6

7 (Originating in the House Committee on Finance)

8 [February 23, 2015]
9

10 A BILL to amend and reenact §30-1-5, of the Code of West Virginia, 1931, as amended; to amend
11 and reenact §30-3-10 of said code; to amend and reenact §30-3E-4 of said code; to amend
12 and reenact §30-4-8 of said code; to amend and reenact §30-5-9 of said code; to amend and
13 reenact §30-7-6 of said code; to amend and reenact §30-7A-3 of said code; to amend and
14 reenact §30-8-8 of said code; to amend and reenact §30-10-8 of said code; to amend and
15 reenact §30-14-4 of said code; and to amend and reenact §30-21-7 of said code, all relating
16 generally to boards of examination for licensure; requiring information regarding complaints
17 against licensees to be posted on a website; requiring certain boards regulating professions
18 to require national criminal background checks on applicants for a new license; amending
19 licesure requirements for applicants; providing rulemaking authority; and providing
20 exceptions.

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

22 That §30-1-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted;
23 that §30-3-10 of said code be amended and reenacted; that §30-3E-4 of said code be amended and
24 reenacted; that §30-4-8 of said code be amended and reenacted; that §30-5-9 of said code be
25 amended and reenacted; that §30-7-6 of said code be amended and reenacted; that §30-7A-3 of said
26 code be amended and reenacted; that §30-8-8 of said code be amended and reenacted; that §30-10-8
27 of said code be amended and reenacted; that §30-14-4 of said code be amended and reenacted; and
28 that §30-21-7 of said code be amended and reenacted, all to read as follows:

1 **ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF**
2 **EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

3 **§30-1-5. Meetings; quorum; investigatory powers; duties.**

4 (a) Every board referred to in this chapter shall hold at least one meeting each year, at such
5 time and place as it may prescribe by rule, for the examination of applicants who desire to practice
6 their respective professions or occupations in this state and to transact any other business which may
7 legally come before it. The board may hold additional meetings as may be necessary, which shall
8 be called by the secretary at the direction of the president or upon the written request of any three
9 members. A majority of the members of the board constitutes a quorum for the transaction of its
10 business.

11 (b) The board ~~is authorized to~~ may compel the attendance of witnesses, ~~to~~ issue subpoenas,
12 ~~to~~ conduct investigations and hire an investigator and ~~to~~ take testimony and other evidence
13 concerning any matter within its jurisdiction. The president and secretary of the board ~~are authorized~~
14 ~~to~~ may administer oaths for these purposes.

15 (c) Every board referred to in this chapter ~~has a duty to~~ shall investigate and resolve
16 complaints which it receives and shall, within six months of the complaint being filed, send a status
17 report to the party filing the complaint by certified mail with a signed return receipt and within one
18 year of the status report's return receipt date issue a final ruling, unless the party filing the complaint
19 and the board agree in writing to extend the time for the final ruling.

20 (d) Every board shall provide public access to the record of the disposition of the complaints
21 which it receives in accordance with the provisions of chapter twenty-nine-b of this code, and shall
22 provide public access on a website to all disciplinary action taken. If a board is unable to provide
23 such access, the Attorney General shall provide a link to this information on the consumer protection
24 division website, together with a link to the website of all other boards subject to this chapter. Every
25 board ~~has a duty to~~ shall report violations of individual practice acts contained in this chapter to the
26 board by which the individual may be licensed and shall do so in a timely manner upon receiving
27 notice of such violations. Every person licensed or registered by a board ~~has a duty to~~ shall report

1 to the board which licenses or registers him or her a known or observed violation of the practice act
2 or the board's rules by any other person licensed or registered by the same board and shall do so in
3 a timely manner. Law-enforcement agencies or their personnel and courts shall report in a timely
4 manner to the appropriate board any violations of individual practice acts by any individual.

5 (e) Whenever a board referred to in this chapter obtains information that a person subject to
6 its authority has engaged in, is engaging in or is about to engage in any act which constitutes or will
7 constitute a violation of the provisions of this chapter which are administered and enforced by that
8 board, it may apply to the circuit court for an order enjoining the act. Upon a showing that the
9 person has engaged, is engaging or is about to engage in any such act, the court shall order an
10 injunction, restraining order or other order as the court may deem appropriate.

11 **ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

12 **§30-3-10. Licenses to practice medicine and surgery or podiatry.**

13 (a) The board shall issue a license to practice medicine and surgery or to practice podiatry
14 to any individual who is qualified to do so in accordance with the provisions of this article.

15 (b) For an individual to be licensed to practice medicine and surgery in this state, he or she
16 must meet the following requirements:

17 (1) He or she shall submit an application to the board on a form provided by the board and
18 remit to the board a reasonable fee, the amount of the reasonable fee to be set by the board. The
19 application must, as a minimum, require a sworn and notarized statement that the applicant is of
20 good moral character and that he or she is physically and mentally capable of engaging in the
21 practice of medicine and surgery;

22 (2) He or she must provide evidence of graduation and receipt of the degree of doctor of
23 medicine or its equivalent from a school of medicine, which is approved by the liaison committee
24 on medical education or by the board;

25 (3) He or she must submit evidence to the board of having successfully completed a
26 minimum of one year of graduate clinical training in a program approved by the Accreditation
27 Council for Graduate Medical Education; and

1 (4) He or she must pass an examination approved by the board, which examination can be
2 related to a national standard. The examination shall be in the English language and be designed to
3 ascertain an applicant's fitness to practice medicine and surgery. The board shall before the date of
4 examination determine what will constitute a passing score: *Provided*, That the board, or a majority
5 of it, may accept in lieu of an examination of applicants the certificate of the National Board of
6 Medical Examiners: *Provided, however*, That an applicant is required to attain a passing score on
7 all components or steps of the examination within a period of ten consecutive years. The board need
8 not reject a candidate for a nonmaterial technical or administrative error or omission in the
9 application process that is unrelated to the candidate's professional qualifications as long as there
10 is sufficient information available to the board to determine the eligibility of the candidate for
11 licensure.

12 (c) In addition to the requirements of subsection (b) of this section, any individual who has
13 received the degree of doctor of medicine or its equivalent from a school of medicine located outside
14 of the United States, the Commonwealth of Puerto Rico and Canada to be licensed to practice
15 medicine in this state must also meet the following additional requirements and limitations:

16 (1) He or she must be able to demonstrate to the satisfaction of the board his or her ability
17 to communicate in the English language;

18 (2) Before taking a licensure examination, he or she must have fulfilled the requirements of
19 the Educational Commission for Foreign Medical Graduates for certification or he or she must
20 provide evidence of receipt of a passing score on the examination of the Educational Commission
21 for Foreign Medical Graduates: *Provided*, That an applicant who: (i) Is currently fully licensed,
22 excluding any temporary, conditional or restricted license or permit, under the laws of another state,
23 the District of Columbia, Canada or the Commonwealth of Puerto Rico; (ii) has been engaged on
24 a full-time professional basis in the practice of medicine within the state or jurisdiction where the
25 applicant is fully licensed for a period of at least five years; and (iii) is not the subject of any pending
26 disciplinary action by a medical licensing board and has not been the subject of professional
27 discipline by a medical licensing board in any jurisdiction is not required to have a certificate from

1 the Educational Commission for Foreign Medical Graduates;

2 (3) He or she must submit evidence to the board of either: (i) Having successfully completed
3 a minimum of two years of graduate clinical training in a program approved by the Accreditation
4 Council for Graduate Medical Education; or (ii) current certification by a member board of the
5 American Board of Medical Specialties.

6 (d) For an individual to be licensed to practice podiatry in this state, he or she must meet the
7 following requirements:

8 (1) He or she shall submit an application to the board on a form provided by the board and
9 remit to the board a reasonable fee, the amount of the reasonable fee to be set by the board. The
10 application must, as a minimum, require a sworn and notarized statement that the applicant is of
11 good moral character and that he or she is physically and mentally capable of engaging in the
12 practice of podiatric medicine;

13 (2) He or she must provide evidence of graduation and receipt of the degree of doctor of
14 podiatric medicine or its equivalent from a school of podiatric medicine which is approved by the
15 Council of Podiatry Education or by the board;

16 (3) He or she must pass an examination approved by the board, which examination can be
17 related to a national standard. The examination shall be in the English language and be designed to
18 ascertain an applicant's fitness to practice podiatric medicine. The board shall before the date of
19 examination determine what will constitute a passing score: *Provided*, That an applicant is required
20 to attain a passing score on all components or steps of the examination within a period of ten
21 consecutive years; and

22 (4) He or she must submit evidence to the board of having successfully completed a
23 minimum of one year of graduate clinical training in a program approved by the Council on Podiatric
24 Medical Education or the Colleges of Podiatric Medicine. The board may consider a minimum of
25 two years of graduate podiatric clinical training in the U. S. armed forces or three years' private
26 podiatric clinical experience in lieu of this requirement.

27 (e) He or she must submit to a state and national criminal history record check, as set forth

1 in this subsection: *Provided*, That an applicant for a license who is an attorney at law may submit
2 a letter of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu
3 of submitting to a state and national criminal history record check.

4 (1) This requirement is found not to be against public policy.

5 (2) The criminal history record check shall be based on fingerprints submitted to the West
6 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

7 (3) The applicant shall meet all requirements necessary to accomplish the state and national
8 criminal history record check, including:

9 (A) Submitting fingerprints for the purposes set forth in this subsection; and

10 (B) Authorizing the board, the West Virginia State Police and the Federal Bureau of
11 Investigation to use all records submitted and produced for the purpose of screening the applicant
12 for a license.

13 (4) The results of the state and national criminal history record check may not be released to
14 or by a private entity except:

15 (A) To the individual who is the subject of the criminal history record check;

16 (B) With the written authorization of the individual who is the subject of the criminal history
17 record check; or

18 (C) Pursuant to a court order.

19 (5) The criminal history record check and related records are not public records for the
20 purposes of chapter twenty-nine-b of this code.

21 (6) The applicant shall pay the actual costs of the fingerprinting and criminal history record
22 check.

23 (7) Before implementing the provisions of this subsection, the board shall propose rules for
24 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
25 shall set forth the requirements and procedures for the criminal history check and must be consistent
26 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
27 and Privacy Compact as authorized by 42 U. S. C. A. §14611, *et seq.*

1 ~~(e)~~ (f) Notwithstanding any of the provisions of this article, the board may issue a restricted
2 license to an applicant in extraordinary circumstances under the following conditions:

3 (1) Upon a finding by the board that based on the applicant's exceptional education, training
4 and practice credentials, the applicant's practice in the state would be beneficial to the public
5 welfare;

6 (2) Upon a finding by the board that the applicant's education, training and practice
7 credentials are substantially equivalent to the requirements of licensure established in this article;

8 (3) Upon a finding by the board that the applicant received his or her post-graduate medical
9 training outside of the United States and its territories;

10 (4) That the restricted license issued under extraordinary circumstances is approved by a vote
11 of three fourths of the members of the board;

12 (5) That orders denying applications for a restricted license under this subsection are not
13 appealable; and

14 (6) That the board report to the President of the Senate and the Speaker of the House of
15 Delegates all decisions made pursuant to this subsection and the reasons for those decisions.

16 ~~(f)~~ (g) The board shall propose rules for legislative approval in accordance with the
17 provisions of article three, chapter twenty-nine-a of this code, that establish and regulate the
18 restricted license issued to an applicant in extraordinary circumstances pursuant to the provisions of
19 this section.

20 ~~(g)~~ (h) Personal interviews by board members of all applicants are not required. An applicant
21 for a license may be required by the board, in its discretion, to appear for a personal interview and
22 may be required to produce original documents for review by the board.

23 ~~(h)~~ (i) All licenses to practice medicine and surgery granted prior to July 1, 2008, and valid
24 on that date shall continue in full effect for the term and under the conditions provided by law at the
25 time of the granting of the license: *Provided*, That the provisions of subsection (d) of this section do
26 not apply to any person legally entitled to practice chiropody or podiatry in this state prior to June
27 11, 1965: *Provided, however*, That all persons licensed to practice chiropody prior to June 11, 1965,

1 shall be permitted to use the term "chiroprody-podiatry" and shall have the rights, privileges and
2 responsibilities of a podiatrist set out in this article.

3 (i) (j) The board may not issue a license to a person not previously licensed in West Virginia
4 whose license has been revoked or suspended in another state until reinstatement of his or her license
5 in that state.

6 **ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.**

7 **§30-3E-4. License to practice as a physician assistant.**

8 (a) A person seeking licensure as a physician assistant shall apply to the Board of Medicine
9 or to the Board of Osteopathic Medicine. The appropriate board shall issue a license to practice as
10 a physician assistant under the supervision of that board's licensed physicians or podiatrists.

11 (b) A license may be granted to a person who:

12 (1) Files a complete application;

13 (2) Pays the applicable fees;

14 (3) Demonstrates to the board's satisfaction that he or she:

15 (A) Obtained a baccalaureate or master's degree from an accredited program of instruction
16 for physician assistants;

17 (B) Prior to July 1, 1994, graduated from an approved program of instruction in primary
18 health care or surgery; or

19 (C) Prior to July 1, 1983, was certified by the Board of Medicine as a physician assistant then
20 classified as "Type B";

21 (4) Has passed the Physician Assistant National Certifying Examination administered by the
22 National Commission on Certification of Physician Assistants;

23 (5) Has a current certification from the National Commission on Certification of Physician
24 Assistants;

25 (6) Is mentally and physically able to engage safely in practice as a physician assistant;

26 (7) Has not had a physician assistant license, certification or registration in any jurisdiction
27 suspended or revoked;

1 (8) Is not currently subject to any limitation, restriction, suspension, revocation or discipline
2 concerning a physician assistant license, certification or registration in any jurisdiction: *Provided,*
3 That if a board is made aware of any problems with a physician assistant license, certification or
4 registration and agrees to issue a license, certification or registration notwithstanding the provisions
5 of this subdivision or subdivision (7) of this subsection;

6 (9) Has submitted to a state and national criminal history record check, as set forth in this
7 subsection: *Provided,* That an applicant for a license who is an attorney at law may submit a letter
8 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
9 submitting to a state and national criminal history record check.

10 (A) This requirement is found not to be against public policy.

11 (B) The criminal history record check shall be based on fingerprints submitted to the West
12 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

13 (C) The applicant shall meet all requirements necessary to accomplish the state and national
14 criminal history record check, including:

15 (i) Submitting fingerprints for the purposes set forth in this subsection; and

16 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
17 Investigation to use all records submitted and produced for the purpose of screening the applicant
18 for a license.

19 (D) The results of the state and national criminal history record check may not be released
20 to or by a private entity except:

21 (i) To the individual who is the subject of the criminal history record check;

22 (ii) With the written authorization of the individual who is the subject of the criminal history
23 record check; or

24 (iii) Pursuant to a court order.

25 (E) The criminal history record check and related records are not public records for the
26 purposes of chapter twenty-nine-b of this code.

27 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record

1 check.

2 (G) Before implementing the provisions of this subsection, the board shall propose rules for
3 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
4 shall set forth the requirements and procedures for the criminal history check and must be consistent
5 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
6 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.;

7 ~~(9)~~ (10) Is of good moral character; and

8 ~~(10)~~ (11) Has fulfilled any other requirement specified by the appropriate board.

9 (c) A board may deny an application for a physician assistant license to any applicant
10 determined to be unqualified by the board.

11 **ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.**

12 **§30-4-8. License to practice dentistry.**

13 (a) The board shall issue a license to practice dentistry to an applicant who meets the
14 following requirements:

15 (1) Is at least eighteen years of age;

16 (2) Is of good moral character;

17 (3) Is a graduate of and has a diploma from a school accredited by the Commission on Dental
18 Accreditation or equivalently approved dental college, school or dental department of a university
19 as determined by the board;

20 (4) Has passed the National Board examination as given by the Joint Commission on
21 National Dental Examinations and a clinical examination as specified by the board by rule;

22 (5) Has not been found guilty of cheating, deception or fraud in the examination or any part
23 of the application;

24 (6) Has submitted to a state and national criminal history record check, as set forth in this
25 subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter
26 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
27 submitting to a state and national criminal history record check.

1 (A) This requirement is found not to be against public policy.

2 (B) The criminal history record check shall be based on fingerprints submitted to the West
3 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

4 (C) The applicant shall meet all requirements necessary to accomplish the state and national
5 criminal history record check, including:

6 (i) Submitting fingerprints for the purposes set forth in this subsection; and

7 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
8 Investigation to use all records submitted and produced for the purpose of screening the applicant
9 for a license.

10 (D) The results of the state and national criminal history record check may not be released
11 to or by a private entity except:

12 (i) To the individual who is the subject of the criminal history record check;

13 (ii) With the written authorization of the individual who is the subject of the criminal history
14 record check; or

15 (iii) Pursuant to a court order.

16 (E) The criminal history record check and related records are not public records for the
17 purposes of chapter twenty-nine-b of this code.

18 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record
19 check.

20 (G) Before implementing the provisions of this subsection, the board shall propose rules for
21 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
22 shall set forth the requirements and procedures for the criminal history check and must be consistent
23 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
24 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.

25 ~~(6)~~ (7) Has paid the application fee specified by rule; and

26 ~~(7)~~ (8) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article
27 one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process,

1 which may, in the discretion of the board, be evidenced by participation in a twelve-step program
2 or other similar group or process, may be considered.

3 (b) A dentist may not represent to the public that he or she is a specialist in any branch of
4 dentistry or limit his or her practice to any branch of dentistry unless first issued a certificate of
5 qualification in that branch of dentistry by the board.

6 (c) A license to practice dentistry issued by the board shall for all purposes be considered a
7 license issued under this section: *Provided*, That a person holding a license shall renew the license.

8 **ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS**
9 **AND PHARMACIES.**

10 **§30-5-9. Qualifications for licensure as pharmacist.**

11 (a) To be eligible for a license to practice pharmacist care under the provisions of this article,
12 the applicant shall:

13 (1) Submit a written application to the board;

14 (2) Be eighteen years of age or older;

15 (3) Pay all applicable fees;

16 (4) Graduate from an accredited school of pharmacy;

17 (5) Complete at least fifteen hundred hours of internship in a pharmacy under the instruction
18 and supervision of a pharmacist;

19 (6) Pass an examination or examinations approved by the board;

20 (7) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article
21 one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process,
22 which may, in the discretion of the board, be evidenced by participation in a twelve-step program
23 or other similar group or process, may be considered;

24 (8) Present to the board satisfactory evidence that he or she is a person of good moral
25 character, has not been convicted of a felony involving the sale or distribution of controlled
26 substances ~~or violent crime~~;

27 (9) Not been convicted in any jurisdiction of a felony or any crime which bears a rational

1 nexus to the individual's ability to practice pharmacist care, Provided, That an applicant with a
2 felony conviction other than the felony conviction specified in subdivision eight of this section may
3 apply to the board for licensure no sooner than five years after the date of the conviction. The board
4 shall evaluate each applicant on a case by case basis; and

5 (10) Has submitted to a state and national criminal history record check, as set forth in this
6 subsection: *Provided, That an applicant for a license who is an attorney at law may submit a letter*
7 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
8 submitting to a state and national criminal history record check.

9 (A) This requirement is found not to be against public policy.

10 (B) The criminal history record check shall be based on fingerprints submitted to the West
11 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

12 (C) The applicant shall meet all requirements necessary to accomplish the state and national
13 criminal history record check, including:

14 (i) Submitting fingerprints for the purposes set forth in this subsection; and

15 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
16 Investigation to use all records submitted and produced for the purpose of screening the applicant
17 for a license.

18 (D) The results of the state and national criminal history record check may not be released
19 to or by a private entity except:

20 (i) To the individual who is the subject of the criminal history record check;

21 (ii) With the written authorization of the individual who is the subject of the criminal history
22 record check; or

23 (iii) Pursuant to a court order.

24 (E) The criminal history record check and related records are not public records for the
25 purposes of chapter twenty-nine-b of this code.

26 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record
27 check.

1 (G) Before implementing the provisions of this subsection, the board shall propose rules for
2 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
3 shall set forth the requirements and procedures for the criminal history check and must be consistent
4 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
5 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.; and

6 (10) Has fulfilled any other requirement specified by the board in rule.

7 (b) An applicant from another jurisdiction shall comply with all the requirements of this
8 article.

9 **ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

10 **§30-7-6. Qualifications; licensure; fees; temporary permits.**

11 (a) To obtain a license to practice registered professional nursing, an applicant for such
12 license shall submit to the board written evidence, verified by oath, that he or she:

13 ~~(a)~~ (1) Is of good moral character;

14 ~~(b)~~ (2) Has completed an approved four-year high school course of study or the equivalent
15 thereof, as determined by the appropriate educational agency; and

16 ~~(c)~~ (3) Has completed an accredited program of registered professional nursing education and
17 holds a diploma of a school accredited by the board.

18 (b) The applicant shall also be required to pass a written examination in such subjects as the
19 board may determine. Each written examination may be supplemented by an oral examination.
20 Upon successfully passing such examination or examinations, the board shall issue to the applicant
21 a license to practice registered professional nursing. The board shall determine the times and places
22 for examinations. In the event an applicant shall have failed to pass examinations on two occasions,
23 the applicant shall, in addition to the other requirements of this section, present to the board such
24 other evidence of his or her qualifications as the board may prescribe.

25 (c) The applicant shall complete to a state and national criminal history record check, as set
26 forth in this subsection: *Provided*, That an applicant for a license who is an attorney at law may
27 submit a letter of good standing from the Clerk of the Supreme Court of Appeals of West Virginia

1 in lieu of submitting to a state and national criminal history record check.

2 (1) This requirement is found not to be against public policy.

3 (2) The criminal history record check shall be based on fingerprints submitted to the West
4 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

5 (3) The applicant shall meet all requirements necessary to accomplish the state and national
6 criminal history record check, including:

7 (A) Submitting fingerprints for the purposes set forth in this subsection; and

8 (B) Authorizing the board, the West Virginia State Police and the Federal Bureau of
9 Investigation to use all records submitted and produced for the purpose of screening the applicant
10 for a license.

11 (4) The results of the state and national criminal history record check may not be released to
12 or by a private entity except:

13 (A) To the individual who is the subject of the criminal history record check;

14 (B) With the written authorization of the individual who is the subject of the criminal history
15 record check; or

16 (C) Pursuant to a court order.

17 (5) The criminal history record check and related records are not public records for the
18 purposes of chapter twenty-nine-b of this code.

19 (6) The applicant shall pay the actual costs of the fingerprinting and criminal history record
20 check.

21 (7) Before implementing the provisions of this subsection, the board shall propose rules for
22 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
23 shall set forth the requirements and procedures for the criminal history check and must be consistent
24 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
25 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.

26 (d) The board may, upon application, issue a license to practice registered professional
27 nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse

1 under the laws of another state, territory or foreign country if in the opinion of the board the
2 applicant meets the qualifications required of registered professional nurses at the time of graduation.

3 (e) The board may, upon application and proper identification determined by the board, issue
4 a temporary permit to practice registered professional nursing by endorsement to an applicant who
5 has been duly licensed as a registered professional nurse under the laws of another state, territory or
6 foreign country. Such temporary permit authorizes the holder to practice registered professional
7 nursing in this state while the temporary permit is effective. A temporary permit shall be effective
8 for ninety days, unless the board revokes such permit prior to its expiration, and such permit may
9 not be renewed. Any person applying for a temporary license under the provisions of this paragraph
10 shall, with his or her application, pay to the board a nonrefundable fee of \$10.

11 (f) Any person holding a valid license designated as a "waiver license" may submit an
12 application to the board for a license containing no reference to the fact that such person has
13 theretofore been issued such "waiver license." The provisions of this section relating to examination
14 and fees and the provisions of all other sections of this article shall apply to any application
15 submitted to the board pursuant to the provisions of this paragraph.

16 (g) Any person applying for a license to practice registered professional nursing under the
17 provisions of this article shall, with his or her application, pay to the board a fee of \$40: *Provided,*
18 That the fee to be paid for the year commencing July 1, 1982, shall be \$70: *Provided, however,* That
19 the board in its discretion may, by rule or regulation, decrease either or both said license fees. In the
20 event it shall be necessary for the board to reexamine any applicant for a license, an additional fee
21 shall be paid to the board by the applicant for reexamination: *Provided further,* That the total of such
22 additional fees shall in no case exceed \$100 for any one examination.

23 (h) Any person holding a license heretofore issued by the West Virginia state board of
24 examiners for registered nurses and which license is valid on the date this article becomes effective
25 shall be deemed to be duly licensed under the provisions of this article for the remainder of the
26 period of any such license heretofore issued. Any such license heretofore issued shall also, for all
27 purposes, be deemed to be a license issued under this article and to be subject to the provisions

1 hereof.

2 (i) The board shall, upon receipt of a duly executed application for licensure and of the
3 accompanying fee of \$70, issue a temporary permit to practice registered professional nursing to any
4 applicant who has received a diploma from a school of nursing approved by the board pursuant to
5 this article after the date the board last scheduled a written examination for persons eligible for
6 licensure: *Provided*, That no such temporary permit shall be renewable nor shall any such permit
7 be valid for any purpose subsequent to the date the board has announced the results of the first
8 written examination given by the board following the issuance of such permit.

9 **ARTICLE 7A. PRACTICAL NURSES.**

10 **§30-7A-3. Qualifications of applicants for license.**

11 (a) Except as otherwise provided in section six of this article, any person desiring to obtain
12 a license to practice practical nursing shall submit to the board satisfactory evidence that he or she:

13 (a) (1) Is of good moral character;

14 (b) (2) Has acquired at least a tenth grade education or its equivalent;

15 (c) (3) Has completed a course of study in an accredited school for practical nurses as defined
16 by the board and holds a diploma therefrom; ~~and~~

17 (d) (4) Has completed such other general educational requirements as may be prescribed by
18 the board; and

19 (5) Has submitted to a state and national criminal history record check, as set forth in this
20 subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter
21 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
22 submitting to a state and national criminal history record check.

23 (A) This requirement is found not to be against public policy.

24 (B) The criminal history record check shall be based on fingerprints submitted to the West
25 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

26 (C) The applicant shall meet all requirements necessary to accomplish the state and national
27 criminal history record check, including:

1 (i) Submitting fingerprints for the purposes set forth in this subsection; and

2 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
3 Investigation to use all records submitted and produced for the purpose of screening the applicant
4 for a license.

5 (D) The results of the state and national criminal history record check may not be released
6 to or by a private entity except:

7 (i) To the individual who is the subject of the criminal history record check;

8 (ii) With the written authorization of the individual who is the subject of the criminal history
9 record check; or

10 (iii) Pursuant to a court order.

11 (E) The criminal history record check and related records are not public records for the
12 purposes of chapter twenty-nine-b of this code.

13 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record
14 check.

15 (G) Before implementing the provisions of this subsection, the board shall propose rules for
16 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
17 shall set forth the requirements and procedures for the criminal history check and must be consistent
18 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
19 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.

20 **ARTICLE 8. OPTOMETRISTS.**

21 **§30-8-8. License to practice optometry.**

22 (a) To be eligible for a license to engage in the practice of optometry, the applicant must:

23 (1) Be at least twenty-one years of age;

24 (2) Be of good moral character;

25 (3) Graduate from a school approved by the Accreditation Council on Optometric Education
26 or successor organization;

27 (4) Pass an examination prescribed by the board;

1 (5) Complete an interview with the board;

2 (6) Not be addicted to the use of alcohol, drugs or other controlled substances;

3 (7) Complete a state and national criminal history record check, as set forth in this
4 subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter
5 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
6 submitting to a state and national criminal history record check.

7 (A) This requirement is found not to be against public policy.

8 (B) The criminal history record check shall be based on fingerprints submitted to the West
9 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

10 (C) The applicant shall meet all requirements necessary to accomplish the state and national
11 criminal history record check, including:

12 (i) Submitting fingerprints for the purposes set forth in this subsection; and

13 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
14 Investigation to use all records submitted and produced for the purpose of screening the applicant
15 for a license.

16 (D) The results of the state and national criminal history record check may not be released
17 to or by a private entity except:

18 (i) To the individual who is the subject of the criminal history record check;

19 (ii) With the written authorization of the individual who is the subject of the criminal history
20 record check; or

21 (iii) Pursuant to a court order.

22 (E) The criminal history record check and related records are not public records for the
23 purposes of chapter twenty-nine-b of this code.

24 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record
25 check.

26 (G) Before implementing the provisions of this subsection, the board shall propose rules for
27 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules

1 shall set forth the requirements and procedures for the criminal history check and must be consistent
2 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
3 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.

4 ~~(7)~~ (8) Not have been convicted of a felony in any jurisdiction within ten years preceding the
5 date of application for license, which conviction has not been reversed; and

6 ~~(8)~~ (9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
7 for which he or she was convicted related to the practice of optometry, which conviction has not
8 been reversed.

9 (b) A registration to practice issued by the board prior to July 1, 2010, shall for all purposes
10 be considered a license issued under this article: *Provided*, That a person holding a registration
11 issued prior to July 1, 2010, must renew pursuant to the provisions of this article.

12 **ARTICLE 10. VETERINARIANS.**

13 **§30-10-8. Requirements for Veterinary License.**

14 (a) To be eligible for a license to practice veterinary medicine under the provisions of this
15 article, the applicant must:

16 (1) Be of good moral character;

17 (2) (A) Be a graduate of an accredited school approved by the board; or

18 (B) Be a graduate of a foreign veterinary school and hold a certificate of competence issued
19 by a foreign veterinary graduate educational organization as approved by the board;

20 (3) Have passed the examinations required by the board;

21 (4) Be at least eighteen years of age;

22 (5) Be a citizen of the United States or be eligible for employment in the United States;

23 (6) Not have been convicted of a crime involving moral turpitude;

24 (7) Complete a state and national criminal history record check, as set forth in this
25 subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter
26 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
27 submitting to a state and national criminal history record check.

1 (A) This requirement is found not to be against public policy.

2 (B) The criminal history record check shall be based on fingerprints submitted to the West
3 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

4 (C) The applicant shall meet all requirements necessary to accomplish the state and national
5 criminal history record check, including:

6 (i) Submitting fingerprints for the purposes set forth in this subsection; and

7 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
8 Investigation to use all records submitted and produced for the purpose of screening the applicant
9 for a license.

10 (D) The results of the state and national criminal history record check may not be released
11 to or by a private entity except:

12 (i) To the individual who is the subject of the criminal history record check;

13 (ii) With the written authorization of the individual who is the subject of the criminal history
14 record check; or

15 (iii) Pursuant to a court order.

16 (E) The criminal history record check and related records are not public records for the
17 purposes of chapter twenty-nine-b of this code.

18 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record
19 check.

20 (G) Before implementing the provisions of this subsection, the board shall propose rules for
21 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
22 shall set forth the requirements and procedures for the criminal history check and must be consistent
23 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
24 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.

25 ~~(7)~~ (8) Not have been convicted of a felony under the laws of any jurisdiction within five
26 years preceding the date of application for licensure which conviction remains unreversed; and

27 ~~(8)~~ (9) Not have been convicted of a misdemeanor or a felony under the laws of any

1 jurisdiction at any time if the offense for which the applicant was convicted related to the practice
2 of veterinary medicine or animal abuse or neglect.

3 (b) A person seeking a license under the provisions of this article shall submit an application
4 on a form prescribed by the board and pay all applicable fees.

5 (c) An applicant from another jurisdiction shall comply with all the requirements of this
6 article.

7 (d) A license to practice veterinary medicine issued by the board prior to July 1, 2010, shall
8 for all purposes be considered a license issued under this article and may be renewed under this
9 article.

10 (e) An application for a license to practice veterinary medicine submitted to the board prior
11 to July 1, 2010, shall be considered in conformity with the licensing provisions of this article and the
12 rules promulgated thereunder in effect at the time of the submission of the application.

13 **ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.**

14 **§30-14-4. Application for license or educational permit.**

15 (a) Each applicant for examination by the board, with the exception of assistants to
16 osteopathic physicians and surgeons, as hereinafter provided, shall submit an application therefor
17 on forms prepared and furnished by the board.

18 (b) Each applicant for a license shall furnish evidence, verified by oath and satisfactory to
19 the board, establishing that the applicant has satisfied the following requirements:

20 (1) The applicant is eighteen years of age or over;

21 (2) The applicant is of good moral character;

22 (3) The applicant has graduated from an accredited osteopathic college;

23 (4) The applicant has successfully completed either of the following:

24 (A) A minimum of one year of post-doctoral, clinical training in a program approved by the
25 American Osteopathic Association; or

26 (B) A minimum of one year of post-doctoral, clinical training in a program approved by the
27 Accreditation Council for Graduate Medical Education and forty hours of continuing medical

1 education in osteopathic manipulative medicine and osteopathic manipulative treatment in courses
2 approved, and classified as Category 1A, by the American Osteopathic Association.

3 (c) Each applicant for an educational permit shall furnish evidence, verified by oath and
4 satisfactory to the board, establishing that the applicant has satisfied the following requirements:

5 (1) The applicant is eighteen years of age or over;

6 (2) The applicant is of good moral character;

7 (3) The applicant has graduated from an accredited osteopathic college; ~~and~~

8 (4) Has submitted to a state and national criminal history record check, as set forth in this
9 subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter
10 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
11 submitting to a state and national criminal history record check.

12 (A) This requirement is found not to be against public policy.

13 (B) The criminal history record check shall be based on fingerprints submitted to the West
14 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

15 (C) The applicant shall meet all requirements necessary to accomplish the state and national
16 criminal history record check, including:

17 (i) Submitting fingerprints for the purposes set forth in this subsection; and

18 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
19 Investigation to use all records submitted and produced for the purpose of screening the applicant
20 for a license.

21 (D) The results of the state and national criminal history record check may not be released
22 to or by a private entity except:

23 (i) To the individual who is the subject of the criminal history record check;

24 (ii) With the written authorization of the individual who is the subject of the criminal history
25 record check; or

26 (iii) Pursuant to a court order.

27 (E) The criminal history record check and related records are not public records for the

1 purposes of chapter twenty-nine-b of this code.

2 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record
3 check.

4 (G) Before implementing the provisions of this subsection, the board shall propose rules for
5 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
6 shall set forth the requirements and procedures for the criminal history check and must be consistent
7 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
8 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.; and

9 ~~(4)~~ (5) The applicant is under contract as an intern or resident in an approved program of
10 post-graduate clinical training.

11 (d) The board may not issue a license or permit to any person until the applicant has paid the
12 application fee established by legislative rule of the board.

13 (e) In order to give timely effect to the amendments to this section and section ten of this
14 article, the board is authorized to propose a legislative rule consistent with these amendments as an
15 emergency rule under the provisions of section fifteen, article three, chapter twenty-nine-a of this
16 code.

17 **ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.**

18 **§30-21-7. Qualifications of applicants; exceptions; applications; fee.**

19 (a) To be eligible for a license to engage in the practice of psychology, the applicant must:

20 (1) Be at least eighteen years of age;

21 (2) Be of good moral character;

22 (3) Be a holder of a doctor of philosophy degree or its equivalent or a master's degree in
23 psychology from an accredited institution of higher learning, with adequate course study at such
24 institution in psychology, the adequacy of any such course study to be determined by the board;

25 (4) When the degree held is a doctor of philosophy degree or its equivalent, have at least one
26 year's experience subsequent to receiving said degree in the performance of any of the psychological
27 services described in subdivision (e), section two of this article, including those activities excluded

1 from the definition of the term "practice of psychology" in said subdivision (e), and, when the degree
2 held is a master's degree, have at least five years' experience subsequent to receiving said degree in
3 the performance of any of the psychological services described in said subdivision (e), including
4 those activities excluded from the definition of the term "practice of psychology" in said subdivision
5 (e);

6 (5) Have passed the examination prescribed by the board, which examination shall cover the
7 basic subject matter of psychology and psychological skills and techniques;

8 (6) Have completed a state and national criminal history record check, as set forth in this
9 subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter
10 of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of
11 submitting to a state and national criminal history record check.

12 (A) This requirement is found not to be against public policy.

13 (B) The criminal history record check shall be based on fingerprints submitted to the West
14 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

15 (C) The applicant shall meet all requirements necessary to accomplish the state and national
16 criminal history record check, including:

17 (i) Submitting fingerprints for the purposes set forth in this subsection; and

18 (ii) Authorizing the board, the West Virginia State Police and the Federal Bureau of
19 Investigation to use all records submitted and produced for the purpose of screening the applicant
20 for a license.

21 (D) The results of the state and national criminal history record check may not be released
22 to or by a private entity except:

23 (i) To the individual who is the subject of the criminal history record check;

24 (ii) With the written authorization of the individual who is the subject of the criminal history
25 record check; or

26 (iii) Pursuant to a court order.

27 (E) The criminal history record check and related records are not public records for the

1 purposes of chapter twenty-nine-b of this code.

2 (F) The applicant shall pay the actual costs of the fingerprinting and criminal history record
3 check.

4 (G) Before implementing the provisions of this subsection, the board shall propose rules for
5 legislative approval in accordance with article three, chapter twenty-nine-a of this code. The rules
6 shall set forth the requirements and procedures for the criminal history check and must be consistent
7 with standards established by the Federal Bureau of Investigation and the National Crime Prevention
8 and Privacy Compact as authorized by 42 U. S. C. A. §14611, et seq.; and

9 ~~(6)~~ (7) Not have been convicted of a felony or crime involving moral turpitude; and

10 ~~(7)~~ (8) Not, within the next preceding six months, have taken and failed to pass the
11 examination required by subdivision (5), subsection (a) of this section.

12 (b) The following persons shall be eligible for a license to engage in the practice of
13 psychology without examination:

14 (1) Any applicant who holds a doctor of philosophy degree or its equivalent from an
15 institution of higher learning, with adequate course study at such institution in psychology and who
16 is a diplomate of the "American Board of Examiners in Professional Psychology"; and

17 (2) Any person who holds a license or certificate to engage in the practice of psychology
18 issued by any other state, the requirements for which license or certificate are found by the board to
19 be at least as great as those provided in this article.

20 (c) Any person who is engaged in the practice of psychology in this state, or is engaged in
21 any of the activities described in subdivision (e), (1), (2) or (3), section two of this article, in this
22 state, on the effective date of this article and has been so engaged for a period of two consecutive
23 years immediately prior thereto shall be eligible for a license to engage in the practice of psychology
24 without examination and without meeting the requirements of subdivision (4), subsection (a) of this
25 section, if application for such license is made within six months after the effective date of this
26 article and if such person meets the requirements of subdivisions (1), (2), (3) and (6), subsection (a)
27 of this section: *Provided*, That an equivalent of a master's degree in psychology may be considered

1 by the board, only for the purpose of this subsection (c), as meeting the requirements of subdivision
2 (3), subsection (a) of this section.

3 (d) Any applicant for any such license shall submit an application therefor at such time
4 (subject to the time limitation set forth in subsection (c) of this section), in such manner, on such
5 forms and containing such information as the board may from time to time by reasonable rule and
6 regulation prescribe, and pay to the board an application fee.

7