

Senate Bill No. 126

(By Senator Beach)

[Introduced January 14, 2014; referred to the Committee on Health and Human Resources; and
then to the Committee on Government Organization.]

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

1 persons licensed in another state; establishing renewal requirements; establishing delinquent,
 2 expired and inactive license requirements; providing temporary permit requirements;
 3 requiring license to be displayed; providing for privileged communications and exceptions;
 4 providing board may issue notices to cease and desist; providing that circuit courts may issue
 5 injunctions; setting forth grounds for disciplinary actions; allowing for specific disciplinary
 6 actions; providing procedures for investigation of complaints; providing for judicial review
 7 and appeals of decisions; setting forth hearing and notice requirements; providing for civil
 8 causes of action; and providing for criminal penalties.

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

10 That §30-21-7a, §30-21-7b, §30-21-7c, §30-21-7d, §30-21-7e, §30-21-8a and §30-21-10a
 11 of the Code of West Virginia, 1931, as amended, be repealed; that §30-21-1, §30-21-2, §30-21-3,
 12 §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,
 13 §30-21-13, §30-21-14 and §30-21-17 of said code be amended and reenacted; and that said code be
 14 amended by adding thereto twelve new sections, designated §30-21-16, §30-21-18, §30-21-19,
 15 §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
 16 §30-21-28, all to read as follows:

17 **ARTICLE 21. PSYCHOLOGISTS.**

18 **§30-21-1. Unlawful acts.**

19 (a) It is unlawful for a person to practice or offer to practice psychology in this state without
 20 a license or permit issued under the provisions of this article, or to advertise or use any title or
 21 description tending to convey the impression that the person is a psychologist or psychological
 22 practitioner or certified psychological associate unless the person is licensed or permitted under the

1 provisions of this article, and the license or permit has not expired, been suspended or revoked.

2 (b) It is unlawful for a certified psychological associate to represent himself or herself as a
3 licensed psychologist or as a licensed psychological practitioner. A certified psychological associate
4 may not employ or supervise certified psychologists, licensed psychological practitioners, or certified
5 psychological associates.

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

9 (d) Nothing in this article permits the administering or prescribing of drugs or infringes upon
10 the practice of medicine and surgery.

11 **§30-21-2. General provisions.**

12 The practice of psychology licensed and certified under the provisions of this article and the
13 West Virginia Board of Psychology are subject to the provisions of article one of this chapter, the
14 provisions of this article, and any rules promulgated hereunder.

15 **§30-21-3. Definitions.**

16 As used in this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **§30-21-4. Board of Psychology.**

4 (a) The Board of Examiners of Psychologists is continued. On July 1, 2015, the West
5 Virginia Board of Examiners of Psychologists is renamed the West Virginia Board of Psychology.
6 The members of the board in office on July 1, 2015, are removed, but are eligible to be reappointed
7 to the board for one additional term.

8 (b) Effective July 1, 2015, the board shall consist of the following seven members, who are
9 appointed to staggered terms by the Governor with the advice and consent of the Senate:

10 (1) Four doctorate psychologists;

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

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

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

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

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

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

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

21 (h) A member may not serve more than two consecutive full terms. A member having served
22 two consecutive full terms may not be appointed for one year after completion of his or her second

1 full term. A member may continue to serve until a successor has been appointed and has qualified.

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

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

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

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

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

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

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

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

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

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

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

4 (b) The board shall:

5 (1) Hold meetings;

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

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

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

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

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

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

16 (8) Maintain an office and hire, discharge, establish the job requirements and fix the
17 compensation of full-time, part-time or contracted professional, clerical or other personnel, which
18 may include an executive director, investigators and contracted employees, necessary to enforce this
19 article;

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

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

- 1 (11) Determine and take disciplinary action and issue orders;
 - 2 (12) Institute appropriate legal action for the enforcement of this article;
 - 3 (13) Maintain an accurate registry of names and addresses of all persons regulated by the
 - 4 board;
 - 5 (14) Keep accurate and complete records of its proceedings, and certify the same as may be
 - 6 necessary and appropriate;
 - 7 (15) Establish the continuing education requirements for all persons regulated by the board;
 - 8 (16) Issue, renew, combine, deny, suspend, place on probation, revoke or reinstate licenses
 - 9 and permits;
 - 10 (17) Establish a fee schedule;
 - 11 (18) Propose rules in accordance with article three, chapter twenty-nine-a of this code to
 - 12 implement this article; and
 - 13 (19) Take all other actions necessary to implement this article.
- 14 (c) The board may:
- 15 (1) Contract with third parties to administer the examinations required under this article;
 - 16 (2) Sue and be sued in its official name as an agency of this state; and
 - 17 (3) Confer with the Attorney General or his or her assistant in connection with legal matters
 - 18 and questions.

19 **§30-21-6. Rule-making.**

- 20 (a) The board shall propose rules for legislative approval, in accordance with article three,
- 21 chapter twenty-nine-a of this code, to implement this article, including:
- 22 (1) Standards and requirements for licenses, certifications and permits;

- 1 (2) Requirements for third parties to prepare and/or administer examinations and
2 reexaminations;
- 3 (3) Educational and experience requirements;
- 4 (4) Standards for approval of courses and curriculum;
- 5 (5) Procedures for the issuance and renewal of licenses, certifications and permits;
- 6 (6) Supervision requirements;
- 7 (7) A fee schedule;
- 8 (8) Continuing education requirements;
- 9 (9) Regulation of telepractice and telepractice supervision;
- 10 (10) Regulation and supervision of psychometricians;
- 11 (11) The procedures for denying, suspending, revoking, reinstating or limiting the practice
12 of licensees, certifications and permittees;
- 13 (12) Requirements for inactive or revoked licenses, certifications and permits; and
- 14 (13) Any other rules necessary to implement this article.
- 15 (b) All of the board's rules in effect and not in conflict with these provisions, remain in effect
16 until they are amended or rescinded.

17 **§30-21-7. Fees; special revenue account; administrative fines.**

- 18 (a) All fees and other moneys, except administrative fines, received by the board shall be
19 deposited in a separate special revenue fund in the State Treasury designated, "the Board of
20 Examiners of Psychologists Fund", which is continued and renamed "the Board of Psychology
21 Fund." The fund is used by the board for the administration of this article. Except as may be provided
22 in article one of this chapter, the board retains the amount in the special revenue account from year

1 to year. No compensation or expense incurred under this article is a charge against the General
2 Revenue Fund.

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

5 **§30-21-8. License to practice psychology with a doctorate.**

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

8 (1) Submit an application to the board;

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

10 (3) Be of good moral character;

11 (4) Pay the appropriate fee;

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

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

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

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

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

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

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

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

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

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

10 **§30-21-9. License to practice psychology with a master's.**

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

13 (1) Submit an application to the board;

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

15 (3) Be of good moral character;

16 (4) Pay the appropriate fee;

17 (5) Obtain a master's degree in psychology from an accredited institution of higher learning
18 before July 1, 2016;

19 (6) Complete five years of supervised work experience by July 1, 2021, as prescribed by
20 legislative rule;

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

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

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

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

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

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

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

14 **§30-21-10. Scope of practice for a licensed psychologist.**

15 A licensed psychologist may:

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

18 (2) Evaluate and assess or facilitate the enhancement of individual, group or organizational
19 effectiveness, including personal effectiveness, adaptive behavior, interpersonal relationships, work
20 and life adjustment, health and individual group or organizational performance;

21 (3) Assist in legal decision-making;

22 (4) Perform psychological test evaluation or assessment of personal characteristics, such as

1 intelligence, personality, cognitive, physical or emotional abilities; skills; interests; aptitudes and
2 neuropsychological functioning;

3 (5) Perform psychoanalysis, counseling psychotherapy, hypnosis, biofeedback, cognitive
4 therapy, family therapy, cognitive behavior therapy, behavior analysis and behavior therapy;

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

8 (7) Perform psychoeducational evaluation, therapy and remediation;

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

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

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

17 **§30-21-11. License to practice as a "Licensed Psychological Practitioner".**

18 (a) Effective January 1, 2016, to be eligible for a license to practice psychology as a
19 psychological practitioner, the applicant must:

20 (1) Submit an application to the board;

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

22 (3) Be of good moral character;

- 1 (4) Pay the appropriate fee;
- 2 (5) Obtain a master's degree in psychology from an accredited institution of higher learning;
- 3 (6) Complete three years of supervised work experience, as prescribed by legislative rule;
- 4 (7) Have passed the national EPPP examination at the ASPPB level for independent practice;
- 5 (8) Have passed the examinations prescribed by the board;
- 6 (9) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article
- 7 one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process,
- 8 which may, in the discretion of the board, be evidenced by participation in an acknowledged
- 9 substance abuse treatment and/or recovery program may be considered;
- 10 (10) Not have been convicted of a felony or crime involving moral turpitude in this or any
- 11 jurisdiction;
- 12 (11) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
- 13 for which he or she was convicted related to the practice of psychology, which conviction remains
- 14 unreversed; and
- 15 (12) Meet other requirements established by legislative rule by the board.

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

17 (a) A licensed psychological practitioner may practice independently. A licensed

18 psychological practitioner's scope of practice for independent practice is determined upon

19 examination for licensure.

20 The board's basic requirements for acceptable education and supervised work experience

21 having been met, the individual shall identify and provide evidence of his or her areas of

22 competence.

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

8 (c) An amendment to the Medicaid state plan shall be proposed before January 1, 2016, to
 9 include the title "licensed psychological practitioner" as an accepted provider.

10 **§30-21-13. Certification to practice as a certified psychological associate.**

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

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

15 (1) Submit an application to the board;

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

17 (3) Be of good moral character;

18 (4) Pay the appropriate fee;

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

21 (6) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article
 22 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 an acknowledged
2 substance abuse treatment and/or recovery program may be considered;

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

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

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

10 **§30-21-14. Scope of practice for a certified psychological associate.**

11 (a) A certified psychological associate may perform certain functions within the practice of
12 psychology under the supervision of a licensed psychologist under conditions established by the
13 board.

14 (b) A certified psychological associate's scope of practice is determined upon examination
15 for licensure. The board's basic requirements for acceptable education and supervised work
16 experience having been met, the individual shall provide evidence of his or her areas of competence
17 under the supervision of a licensed psychologist.

18 **§30-21-16. Exemptions.**

19 The following persons are exempt from licensure and certification:

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

22 (2) A person teaching psychology, conducting psychological research, providing consultation

1 services to organizations or institutions, or providing expert testimony: *Provided*, That such activities
2 do not involve the delivery or supervision of direct psychological services to individuals or groups;

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

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

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

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

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

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

1 **§30-21-17. Renewal of license and certification.**

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

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

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

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

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

15 **§30-21-18. Delinquent and expired license requirements.**

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

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

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

1 applicable fees as set by rule.

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

5 **§30-21-19. Inactive license requirements.**

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

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

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

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

15 **§30-21-20. Temporary permit to practice psychology.**

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

20 (1) Holds a license or other authorization to practice psychology in another state which
21 requirements are substantially equivalent to those required in this state. The board may enter into
22 agreements for reciprocal licensing with other jurisdictions having substantially similar requirements

1 for licensure;

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

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

6 (4) Has paid the applicable fee;

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

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

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

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

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

16 **§30-21-21. Display of license.**

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

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

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

22 (a) A licensee may not disclose any information provided by a client or from persons

1 consulting the licensee in a professional capacity, except that which may be voluntarily disclosed
2 under the following circumstances:

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

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

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

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

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

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

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

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

5 **§30-21-23. Actions to enjoin violations.**

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

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

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

15 **§30-21-24. Complaints; investigations; due process procedure; grounds for disciplinary action.**

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

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

21 (c) After reviewing any information obtained through an investigation, the board shall
22 determine if probable cause exists that the licensee, certificate holder or permittee has violated

1 subsection (g) of this section or rules adopted pursuant to this article.

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

7 (e) The board president or its administrator may issue subpoenas and subpoenas duces tecum
8 for production of documentary evidence to obtain testimony and documents to aid in the
9 investigation of allegations against any person regulated by the article.

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

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

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

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

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

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

22 (5) Having had a license or other authorization revoked or suspended, other disciplinary

1 action taken or an application for licensure or other authorization revoked or suspended by the proper
2 authorities of another jurisdiction;

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

4 (7) Engaging in false and deceptive advertising;

5 (8) Aiding or abetting unlicensed practice; or

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

8 (h) For the purposes of subsection (g) of this section, effective July 1, 2015, disciplinary
9 action may include:

10 (1) Reprimand;

11 (2) Probation;

12 (3) Restrictions;

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

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

15 (6) Practicing under supervision or other restriction;

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

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

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

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

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

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

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

11 **§30-21-25. Procedures for hearing.**

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

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

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

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

22 (e) If, after a hearing, the board determines the licensee, certificate holder or permittee has

1 violated this article or the board's rules, a formal written decision shall be prepared which contains
2 findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

3 **§30-21-26. Judicial review; right of appeal.**

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

8 **§30-21-27. Penalties.**

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

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

16 **§30-21-28. Single act evidence of practice.**

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

NOTE: The purpose of this bill is to rewrite the article concerning the practice of psychology. The bill prohibits the practice of psychology without a license. The bill provides other applicable sections. The bill defines terms. The bill continues and renames the board. The bill provides for

board composition, appointments, qualifications, terms of office, filling of vacancies and holding meetings. The bill provides for compensation and reimbursement for board members. The bill sets forth the powers and duties of the board. The bill clarifies rule-making authority. The bill continues a special revenue account. The bill establishes license and certification requirements. The bill sets forth scopes of practices. The bill provides for licensure for persons licensed in another state. The bill establishes renewal requirements. The bill establishes delinquent, expired and inactive license requirements. The bill provides temporary permit requirements. The bill requires license to be displayed. The bill provides for privileged communications and exceptions. The bill provides the board may issue notices to cease and desist. The bill provides that circuit courts may issue injunctions. The bill sets forth grounds for disciplinary actions. The bill allows for specific disciplinary actions. The bill provides procedures for the investigation of complaints. The bill provides for judicial review and appeals of decisions. The bill sets forth hearing and notice requirements. The bill provides for civil causes of action, and the bill provides for criminal penalties.

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

§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, underscoring has been omitted.