

COMMITTEE SUBSTITUTE

for

H. B. 2103

(BY DELEGATE(S) HOWELL, HAMRICK,
HOUSEHOLDER, STATLER, WALTERS, ARVON, BLAIR,
BORDER, ZATEZALO AND WELD)

(Originating in the House Committee on Finance)
[February 23, 2015]

A BILL to amend and reenact §30-1-5, of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3-10 of said code; to amend and reenact §30-3E-4 of said code; to amend and reenact §30-4-8 of said code; to amend and reenact §30-5-9 of said code; to amend and reenact §30-7-6 of said code; to amend and reenact §30-7A-3 of said code; to amend and reenact §30-8-8 of said code; to amend and reenact §30-10-8 of said code; to amend and reenact §30-14-4 of said code; and to amend and reenact §30-21-7 of said code, all relating generally to boards of examination for licensure;

requiring information regarding complaints against licensees to be posted on a website; requiring certain boards regulating professions to require national criminal background checks on applicants for a new license; amending licesure requirements for applicants; providing rulemaking authority; and providing exceptions.

Be it enacted by the Legislature of West Virginia:

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

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

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

- 1 (a) Every board referred to in this chapter shall hold at least
- 2 one meeting each year, at such time and place as it may prescribe
- 3 by rule, for the examination of applicants who desire to practice

4 their respective professions or occupations in this state and to
5 transact any other business which may legally come before it.
6 The board may hold additional meetings as may be necessary,
7 which shall be called by the secretary at the direction of the
8 president or upon the written request of any three members. A
9 majority of the members of the board constitutes a quorum for
10 the transaction of its business.

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

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

25 (d) Every board shall provide public access to the record of
26 the disposition of the complaints which it receives in accordance

27 with the provisions of chapter twenty-nine-b of this code, and
28 shall provide public access on a website to all disciplinary action
29 taken. If a board is unable to provide such access, the Attorney
30 General shall provide a link to this information on the consumer
31 protection division website, together with a link to the website
32 of all other boards subject to this chapter. Every board ~~has a duty~~
33 ~~to~~ shall report violations of individual practice acts contained in
34 this chapter to the board by which the individual may be licensed
35 and shall do so in a timely manner upon receiving notice of such
36 violations. Every person licensed or registered by a board ~~has a~~
37 ~~duty to~~ shall report to the board which licenses or registers him
38 or her a known or observed violation of the practice act or the
39 board's rules by any other person licensed or registered by the
40 same board and shall do so in a timely manner. Law-
41 enforcement agencies or their personnel and courts shall report
42 in a timely manner to the appropriate board any violations of
43 individual practice acts by any individual.

44 (e) Whenever a board referred to in this chapter obtains
45 information that a person subject to its authority has engaged in,
46 is engaging in or is about to engage in any act which constitutes
47 or will constitute a violation of the provisions of this chapter
48 which are administered and enforced by that board, it may apply
49 to the circuit court for an order enjoining the act. Upon a

50 showing that the person has engaged, is engaging or is about to
51 engage in any such act, the court shall order an injunction,
52 restraining order or other order as the court may deem
53 appropriate.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

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

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

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

7 (1) He or she shall submit an application to the board on a
8 form provided by the board and remit to the board a reasonable
9 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
11 statement that the applicant is of good moral character and that
12 he or she is physically and mentally capable of engaging in the
13 practice of medicine and surgery;

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

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

22 (4) He or she must pass an examination approved by the
23 board, which examination can be related to a national standard.
24 The examination shall be in the English language and be
25 designed to ascertain an applicant's fitness to practice medicine
26 and surgery. The board shall before the date of examination
27 determine what will constitute a passing score: *Provided*, That
28 the board, or a majority of it, may accept in lieu of an
29 examination of applicants the certificate of the National Board
30 of Medical Examiners: *Provided, however*, That an applicant is
31 required to attain a passing score on all components or steps of
32 the examination within a period of ten consecutive years. The
33 board need not reject a candidate for a nonmaterial technical or
34 administrative error or omission in the application process that
35 is unrelated to the candidate's professional qualifications as long
36 as there is sufficient information available to the board to
37 determine the eligibility of the candidate for licensure.

38 (c) In addition to the requirements of subsection (b) of this
39 section, any individual who has received the degree of doctor of
40 medicine or its equivalent from a school of medicine located

41 outside of the United States, the Commonwealth of Puerto Rico
42 and Canada to be licensed to practice medicine in this state must
43 also meet the following additional requirements and limitations:

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

47 (2) Before taking a licensure examination, he or she must
48 have fulfilled the requirements of the Educational Commission
49 for Foreign Medical Graduates for certification or he or she must
50 provide evidence of receipt of a passing score on the
51 examination of the Educational Commission for Foreign Medical
52 Graduates: *Provided*, That an applicant who: (i) Is currently fully
53 licensed, excluding any temporary, conditional or restricted
54 license or permit, under the laws of another state, the District of
55 Columbia, Canada or the Commonwealth of Puerto Rico; (ii) has
56 been engaged on a full-time professional basis in the practice of
57 medicine within the state or jurisdiction where the applicant is
58 fully licensed for a period of at least five years; and (iii) is not
59 the subject of any pending disciplinary action by a medical
60 licensing board and has not been the subject of professional
61 discipline by a medical licensing board in any jurisdiction is not
62 required to have a certificate from the Educational Commission
63 for Foreign Medical Graduates;

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

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

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

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

83 (3) He or she must pass an examination approved by the
84 board, which examination can be related to a national standard.
85 The examination shall be in the English language and be
86 designed to ascertain an applicant's fitness to practice podiatric

87 medicine. The board shall before the date of examination
88 determine what will constitute a passing score: *Provided*, That
89 an applicant is required to attain a passing score on all
90 components or steps of the examination within a period of ten
91 consecutive years; and

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

100 (e) He or she must submit to a state and national criminal
101 history record check, as set forth in this subsection: *Provided*,
102 That an applicant for a license who is an attorney at law may
103 submit a letter of good standing from the Clerk of the Supreme
104 Court of Appeals of West Virginia in lieu of submitting to a state
105 and national criminal history record check.

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

107 (2) The criminal history record check shall be based on
108 fingerprints submitted to the West Virginia State Police or its

109 assigned agent for forwarding to the Federal Bureau of
110 Investigation.

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

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

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

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

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

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

126 (C) Pursuant to a court order.

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

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

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

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

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

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

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

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

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

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

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

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

172 ~~(h)~~ (i) All licenses to practice medicine and surgery granted
173 prior to July 1, 2008, and valid on that date shall continue in full
174 effect for the term and under the conditions provided by law at
175 the time of the granting of the license: *Provided*, That the
176 provisions of subsection (d) of this section do not apply to any

177 person legally entitled to practice chiropody or podiatry in this
178 state prior to June 11, 1965: *Provided, however,* That all persons
179 licensed to practice chiropody prior to June 11, 1965, shall be
180 permitted to use the term “chiropody-podiatry” and shall have
181 the rights, privileges and responsibilities of a podiatrist set out in
182 this article.

183 (†) (j) The board may not issue a license to a person not
184 previously licensed in West Virginia whose license has been
185 revoked or suspended in another state until reinstatement of his
186 or her license in that state.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

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

1 (a) A person seeking licensure as a physician assistant shall
2 apply to the Board of Medicine or to the Board of Osteopathic
3 Medicine. The appropriate board shall issue a license to practice
4 as a physician assistant under the supervision of that board’s
5 licensed physicians or podiatrists.

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

- 7 (1) Files a complete application;
- 8 (2) Pays the applicable fees;
- 9 (3) Demonstrates to the board’s satisfaction that he or she:
- 10 (A) Obtained a baccalaureate or master’s degree from an
11 accredited program of instruction for physician assistants;

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

14 (C) Prior to July 1, 1983, was certified by the Board of
15 Medicine as a physician assistant then classified as “Type B”;

16 (4) Has passed the Physician Assistant National Certifying
17 Examination administered by the National Commission on
18 Certification of Physician Assistants;

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

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

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

25 (8) Is not currently subject to any limitation, restriction,
26 suspension, revocation or discipline concerning a physician
27 assistant license, certification or registration in any jurisdiction:

28 *Provided*, That if a board is made aware of any problems with a
29 physician assistant license, certification or registration and
30 agrees to issue a license, certification or registration
31 notwithstanding the provisions of this subdivision or subdivision
32 (7) of this subsection;

33 (9) Has submitted to a state and national criminal history
34 record check, as set forth in this subsection: *Provided*, That an

35 applicant for a license who is an attorney at law may submit a
36 letter of good standing from the Clerk of the Supreme Court of
37 Appeals of West Virginia in lieu of submitting to a state and
38 national criminal history record check.

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

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

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

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

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

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

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

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

60 (iii) Pursuant to a court order.

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

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

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

74 ~~(9)~~ (10) Is of good moral character; and

75 ~~(10)~~ (11) Has fulfilled any other requirement specified by
76 the appropriate board.

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

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

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

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

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

4 (2) Is of good moral character;

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

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

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

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

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

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

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

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

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

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

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

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

41 (iii) Pursuant to a court order.

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

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

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

55 ~~(6)~~ (7) Has paid the application fee specified by rule; and

56 ~~(7)~~ (8) Not be an alcohol or drug abuser, as these terms are
57 defined in section eleven, article one-a, chapter twenty-seven of
58 this code: *Provided*, That an applicant in an active recovery
59 process, which may, in the discretion of the board, be evidenced
60 by participation in a twelve-step program or other similar group
61 or process, may be considered.

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

66 (c) A license to practice dentistry issued by the board shall
67 for all purposes be considered a license issued under this section:

68 *Provided*, That a person holding a license shall renew the
69 license.

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

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

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

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

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

5 (3) Pay all applicable fees;

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

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

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

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

18 (8) Present to the board satisfactory evidence that he or she
19 is a person of good moral character, has not been convicted of a

20 felony involving the sale or distribution of controlled substances
21 or violent crime;

22 (9) Not been convicted in any jurisdiction of a felony or any
23 crime which bears a rational nexus to the individual's ability to
24 practice pharmacist care, *Provided, That an applicant with a*
25 felony conviction other than the felony conviction specified in
26 subdivision eight of this section may apply to the board for
27 licensure no sooner than five years after the date of the
28 conviction. The board shall evaluate each applicant on a case by
29 case basis; and

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

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

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

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

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

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

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

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

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

57 (iii) Pursuant to a court order.

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

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

63 (G) Before implementing the provisions of this subsection,
64 the board shall propose rules for legislative approval in

65 accordance with article three, chapter twenty-nine-a of this code.
66 The rules shall set forth the requirements and procedures for the
67 criminal history check and must be consistent with standards
68 established by the Federal Bureau of Investigation and the
69 National Crime Prevention and Privacy Compact as authorized
70 by 42 U. S. C. A. §14611, et seq.; and

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

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

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

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

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

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

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

8 (c) (3) Has completed an accredited program of registered
9 professional nursing education and holds a diploma of a school
10 accredited by the board.

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

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

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

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

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

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

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

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

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

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

48 (C) Pursuant to a court order.

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

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

54 (7) Before implementing the provisions of this subsection,
55 the board shall propose rules for legislative approval in

56 accordance with article three, chapter twenty-nine-a of this code.
57 The rules shall set forth the requirements and procedures for the
58 criminal history check and must be consistent with standards
59 established by the Federal Bureau of Investigation and the
60 National Crime Prevention and Privacy Compact as authorized
61 by 42 U. S. C. A. §14611, et seq.

62 (d) The board may, upon application, issue a license to
63 practice registered professional nursing by endorsement to an
64 applicant who has been duly licensed as a registered professional
65 nurse under the laws of another state, territory or foreign country
66 if in the opinion of the board the applicant meets the
67 qualifications required of registered professional nurses at the
68 time of graduation.

69 (e) The board may, upon application and proper
70 identification determined by the board, issue a temporary permit
71 to practice registered professional nursing by endorsement to an
72 applicant who has been duly licensed as a registered professional
73 nurse under the laws of another state, territory or foreign
74 country. Such temporary permit authorizes the holder to practice
75 registered professional nursing in this state while the temporary
76 permit is effective. A temporary permit shall be effective for
77 ninety days, unless the board revokes such permit prior to its
78 expiration, and such permit may not be renewed. Any person

79 applying for a temporary license under the provisions of this
80 paragraph shall, with his or her application, pay to the board a
81 nonrefundable fee of \$10.

82 (f) Any person holding a valid license designated as a
83 “waiver license” may submit an application to the board for a
84 license containing no reference to the fact that such person has
85 theretofore been issued such “waiver license.” The provisions of
86 this section relating to examination and fees and the provisions
87 of all other sections of this article shall apply to any application
88 submitted to the board pursuant to the provisions of this
89 paragraph.

90 (g) Any person applying for a license to practice registered
91 professional nursing under the provisions of this article shall,
92 with his or her application, pay to the board a fee of \$40:
93 *Provided*, That the fee to be paid for the year commencing July
94 1, 1982, shall be \$70: *Provided, however*, That the board in its
95 discretion may, by rule or regulation, decrease either or both said
96 license fees. In the event it shall be necessary for the board to
97 reexamine any applicant for a license, an additional fee shall be
98 paid to the board by the applicant for reexamination: *Provided*
99 *further*, That the total of such additional fees shall in no case
100 exceed \$100 for any one examination.

101 (h) Any person holding a license heretofore issued by the
102 West Virginia state board of examiners for registered nurses and
103 which license is valid on the date this article becomes effective
104 shall be deemed to be duly licensed under the provisions of this
105 article for the remainder of the period of any such license
106 heretofore issued. Any such license heretofore issued shall also,
107 for all purposes, be deemed to be a license issued under this
108 article and to be subject to the provisions hereof.

109 (i) The board shall, upon receipt of a duly executed
110 application for licensure and of the accompanying fee of \$70,
111 issue a temporary permit to practice registered professional
112 nursing to any applicant who has received a diploma from a
113 school of nursing approved by the board pursuant to this article
114 after the date the board last scheduled a written examination for
115 persons eligible for licensure: *Provided*, That no such temporary
116 permit shall be renewable nor shall any such permit be valid for
117 any purpose subsequent to the date the board has announced the
118 results of the first written examination given by the board
119 following the issuance of such permit.

ARTICLE 7A. PRACTICAL NURSES.

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

1 (a) Except as otherwise provided in section six of this article,
2 any person desiring to obtain a license to practice practical

3 nursing shall submit to the board satisfactory evidence that he or
4 she:

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (iii) Pursuant to a court order.

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

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

46 (G) Before implementing the provisions of this subsection,
47 the board shall propose rules for legislative approval in

48 accordance with article three, chapter twenty-nine-a of this code.
49 The rules shall set forth the requirements and procedures for the
50 criminal history check and must be consistent with standards
51 established by the Federal Bureau of Investigation and the
52 National Crime Prevention and Privacy Compact as authorized
53 by 42 U. S. C. A. §14611, et seq.

ARTICLE 8. OPTOMETRISTS.

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

- 1 (a) To be eligible for a license to engage in the practice of
- 2 optometry, the applicant must:
 - 3 (1) Be at least twenty-one years of age;
 - 4 (2) Be of good moral character;
 - 5 (3) Graduate from a school approved by the Accreditation
 - 6 Council on Optometric Education or successor organization;
 - 7 (4) Pass an examination prescribed by the board;
 - 8 (5) Complete an interview with the board;
 - 9 (6) Not be addicted to the use of alcohol, drugs or other
 - 10 controlled substances;
 - 11 (7) Complete a state and national criminal history record
 - 12 check, as set forth in this subsection: *Provided*, That an applicant
 - 13 for a license who is an attorney at law may submit a letter of
 - 14 good standing from the Clerk of the Supreme Court of Appeals

15 of West Virginia in lieu of submitting to a state and national
16 criminal history record check.

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

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

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

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

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

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

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

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

38 (iii) Pursuant to a court order.

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

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

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

52 ~~(7)~~ (8) Not have been convicted of a felony in any
53 jurisdiction within ten years preceding the date of application for
54 license, which conviction has not been reversed; and

55 ~~(8)~~ (9) Not have been convicted of a misdemeanor or felony
56 in any jurisdiction if the offense for which he or she was
57 convicted related to the practice of optometry, which conviction
58 has not been reversed.

59 (b) A registration to practice issued by the board prior to
60 July 1, 2010, shall for all purposes be considered a license issued

61 under this article: *Provided*, That a person holding a registration
62 issued prior to July 1, 2010, must renew pursuant to the
63 provisions of this article.

ARTICLE 10. VETERINARIANS.

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

- 1 (a) To be eligible for a license to practice veterinary
2 medicine under the provisions of this article, the applicant must:
 - 3 (1) Be of good moral character;
 - 4 (2) (A) Be a graduate of an accredited school approved by
5 the board; or
6 (B) Be a graduate of a foreign veterinary school and hold a
7 certificate of competence issued by a foreign veterinary graduate
8 educational organization as approved by the board;
 - 9 (3) Have passed the examinations required by the board;
 - 10 (4) Be at least eighteen years of age;
 - 11 (5) Be a citizen of the United States or be eligible for
12 employment in the United States;
 - 13 (6) Not have been convicted of a crime involving moral
14 turpitude;
 - 15 (7) Complete a state and national criminal history record
16 check, as set forth in this subsection: *Provided*, That an applicant
17 for a license who is an attorney at law may submit a letter of
18 good standing from the Clerk of the Supreme Court of Appeals

19 of West Virginia in lieu of submitting to a state and national
20 criminal history record check.

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

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

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

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

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

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

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

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

42 (iii) Pursuant to a court order.

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

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

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

56 ~~(7)~~ (8) Not have been convicted of a felony under the laws
57 of any jurisdiction within five years preceding the date of
58 application for licensure which conviction remains unreversed;
59 and

60 ~~(8)~~ (9) Not have been convicted of a misdemeanor or a
61 felony under the laws of any jurisdiction at any time if the
62 offense for which the applicant was convicted related to the
63 practice of veterinary medicine or animal abuse or neglect.

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

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

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

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

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

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

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

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

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

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

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

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

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

17 (B) A minimum of one year of post-doctoral, clinical
18 training in a program approved by the Accreditation Council for
19 Graduate Medical Education and forty hours of continuing
20 medical education in osteopathic manipulative medicine and
21 osteopathic manipulative treatment in courses approved, and
22 classified as Category 1A, by the American Osteopathic
23 Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

59 (iii) Pursuant to a court order.

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

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

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

68 The rules shall set forth the requirements and procedures for the
69 criminal history check and must be consistent with standards
70 established by the Federal Bureau of Investigation and the
71 National Crime Prevention and Privacy Compact as authorized
72 by 42 U. S. C. A. §14611, et seq.; and

73 ~~(4)~~ (5) The applicant is under contract as an intern or
74 resident in an approved program of post-graduate clinical
75 training.

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

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

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

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

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

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

4 (2) Be of good moral character;

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

10 (4) When the degree held is a doctor of philosophy degree or
11 its equivalent, have at least one year's experience subsequent to
12 receiving said degree in the performance of any of the

13 psychological services described in subdivision (e), section two
14 of this article, including those activities excluded from the
15 definition of the term “practice of psychology” in said
16 subdivision (e), and, when the degree held is a master’s degree,
17 have at least five years’ experience subsequent to receiving said
18 degree in the performance of any of the psychological services
19 described in said subdivision (e), including those activities
20 excluded from the definition of the term “practice of
21 psychology” in said subdivision (e);

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

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

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

33 (B) The criminal history record check shall be based on
34 fingerprints submitted to the West Virginia State Police or its

35 assigned agent for forwarding to the Federal Bureau of
36 Investigation.

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

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

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

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

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

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

52 (iii) Pursuant to a court order.

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

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

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

66 ~~(6)~~ (7) Not have been convicted of a felony or crime
67 involving moral turpitude; and

68 ~~(7)~~ (8) Not, within the next preceding six months, have taken
69 and failed to pass the examination required by subdivision (5),
70 subsection (a) of this section.

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

73 (1) Any applicant who holds a doctor of philosophy degree
74 or its equivalent from an institution of higher learning, with
75 adequate course study at such institution in psychology and who
76 is a diplomate of the “American Board of Examiners in
77 Professional Psychology”; and

78 (2) Any person who holds a license or certificate to engage
79 in the practice of psychology issued by any other state, the

80 requirements for which license or certificate are found by the
81 board to be at least as great as those provided in this article.

82 (c) Any person who is engaged in the practice of psychology
83 in this state, or is engaged in any of the activities described in
84 subdivision (e), (1), (2) or (3), section two of this article, in this
85 state, on the effective date of this article and has been so engaged
86 for a period of two consecutive years immediately prior thereto
87 shall be eligible for a license to engage in the practice of
88 psychology without examination and without meeting the
89 requirements of subdivision (4), subsection (a) of this section, if
90 application for such license is made within six months after the
91 effective date of this article and if such person meets the
92 requirements of subdivisions (1), (2), (3) and (6), subsection (a)
93 of this section: *Provided*, That an equivalent of a master's degree
94 in psychology may be considered by the board, only for the
95 purpose of this subsection (c), as meeting the requirements of
96 subdivision (3), subsection (a) of this section.

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

