

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Originating

Senate Bill 524

BY SENATORS GAUNCH, MAYNARD, FACEMIRE, BOSO,

BALDWIN, MARONEY, SYPOLT, CLEMENTS, TAKUBO,

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[Originating in the Committee on Government

Organization; Reported on February 12, 2018]

1 A BILL to amend and reenact §30-1-5 of the Code of West Virginia, 1931, as amended, relating
2 to disposition of complaint proceedings; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

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

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

12 (c) Every board referred to in this chapter shall investigate and resolve complaints which
13 it receives and shall, within six months of the complaint being filed, send a status report to the
14 party filing the complaint, and the respondent by certified mail with a signed return receipt and
15 within one year of the status report's return receipt date issue a final ruling, unless the party filing
16 the complaint and the board agree in writing to extend the time for the final ruling. The time period
17 for final ruling shall be tolled for any delay requested or caused by the respondent or by counsel
18 for the respondent and in no event shall a complaint proceeding be dismissed for exceeding the

19 time standards in this section when such overage is the result of procedural delay or obstructive
20 action by the ~~accused~~ respondent or his or her counsel or agents.

21 (d) Every board shall provide public access to the record of the disposition of the
22 complaints which it receives in accordance with the provisions of chapter 29B of this code, and
23 shall provide public access on a website to all completed disciplinary actions in which discipline
24 was ordered. If a board is unable to provide access, the Attorney General shall provide a link to
25 this information on the consumer protection division website, together with a link to the website of
26 all other boards subject to this chapter. Every board shall report violations of individual practice
27 acts contained in this chapter to the board by which the individual may be licensed and shall do
28 so in a timely manner upon receiving notice of the violations. Every person licensed or registered
29 by a board shall report to the board which licenses or registers him or her a known or observed
30 violation of the practice act or the board's rules by any other person licensed or registered by the
31 same board and shall do so in a timely manner. Law-enforcement agencies or their personnel
32 and courts shall report in a timely manner to the appropriate board any violations of individual
33 practice acts by any individual.

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

NOTE: The purpose of this bill is to make references to individuals subject to complaints uniform, referring to them as "respondents" rather than "accused".

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.