

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 247

BY SENATOR WOODRUM

[Originating in the Committee on Judiciary; reported
on February 02, 2023]

1 A BILL to amend and reenact §30-1-9 of the Code of West Virginia, 1931, as amended, relating
2 to making administrative appeals and judicial review of board action subject to provisions
3 of the Administrative Procedures Act.

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.**

**§30-1-9. ~~Review by circuit court and supreme court of board's refusal to issue; suspension
or revocation of license or registration~~ Administrative appeal of board action;
judicial review.**

1 (a) A person, not an applicant for or holder of a license to practice law, who has been
2 ~~refused~~ denied a license or registration; ~~for any cause other than failure to pass the examination~~
3 ~~given by the board, or whose certificate, license, registration, or authority has been suspended or~~
4 ~~revoked; or against whom disciplinary action has been otherwise imposed~~ may within 30 days
5 after the decision of the board, present his petition, in writing to the circuit court of the county in
6 which such person resides, or to the judge of such court in vacation praying for the review and
7 reversal of such decision. ~~Before presenting his petition to the court or judge, the petitioner shall~~
8 ~~mail copies thereof to the president and secretary, respectively, of the board. Upon receipt of such~~
9 ~~copy the secretary shall forthwith transmit to the clerk of such court the record of the proceeding~~
10 ~~before the board. The court or judge shall fix a time for the review of said proceeding at his earliest~~
11 ~~convenience. Notice in writing of the time and place of such hearing shall be given to the president~~
12 ~~and secretary of the board at least ten days before the date set therefor. The court or judge shall,~~
13 ~~without a jury, hear and determine the case upon the record of the proceedings before the board.~~
14 ~~The court or judge may enter an order affirming, revising or reversing the decision of the board if~~
15 ~~it appears that the decision was clearly wrong. Prior to the entry of such order, no order shall be~~
16 ~~made or entered by the court to stay or supersede any suspension, revocation or cancellation of~~

17 ~~any such certificate, license, registration or authority. The judgment of the circuit court may be~~
18 ~~reviewed upon appeal in the Supreme Court of Appeals~~ appeal the final decision of the board.

19 (b) All proceedings in the appeal of the board's action, and any judicial review thereof,
20 shall be conducted in accordance with the provisions of §29A-5-1 et seq. of this code and any
21 procedural rules adopted by the board pursuant thereto.