

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 570

(By Senators Browning, Laird, Williams,
Palumbo, Foster and Plymale)

[Originating in the Committee on Government Organization;
reported March 1, 2011.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-29-1, §29-29-2, §29-29-3, §29-29-4, §29-29-5, §29-29-6, §29-29-7 and §29-29-8, all relating to creating an exemption from licensing for nonprofit youth volunteers; exempting certain volunteers for nonprofit youth organizations from licensing, certification and permitting; stating purpose; defining terms; exempting certain medical service professionals; exempting certain law-enforcement officers; exempting certain emergency medical service professionals; stating duties of the nonprofit youth organization; providing for the revocation of permits;

defining liability of the volunteers and the nonprofit youth organizations; and declaring the sections of said article severable.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §29-29-1, §29-29-2, §29-29-3, §29-29-4, §29-29-5, §29-29-6, §29-29-7 and §29-29-8, all to read as follows:

ARTICLE 29. VOLUNTEER FOR NONPROFIT YOUTH ORGANIZATIONS ACT.

§29-29-1. Short title.

1 This article shall be known as and may be cited to as the
2 “Volunteer for Nonprofit Youth Organizations Act”.

§29-29-2. Legislative purpose.

1 The Legislature finds that:
2 (1) Adventure and recreational activities attractive to
3 nonprofit youth organizations interested in training and
4 inspiring young people from other parts of the United States
5 and throughout the world will contribute significantly to the
6 economy of West Virginia, and enhance the state’s reputation
7 as a place to visit and transact business; and

8 (2) Nonprofit youth organizations must rely on volunteers
9 to staff and support their events and programs and that some
10 of the volunteers are medical, nursing, emergency medical
11 service and law-enforcement professionals authorized to
12 practice in other states. Because of the large number of
13 volunteers required to support those events and programs,
14 the benefits these events and programs provide to youth, the
15 multicounty areas those events and programs may cover and
16 the number of agencies potentially involved in granting
17 authorizations to practice for those volunteers to provide
18 those services in this state, it is in the state's best interest to
19 provide a streamlined system to permit those volunteers to
20 practice for the periods of time they engage in volunteer
21 work at those events and programs.

§29-29-3. Definitions.

1 As used in this article:

2 (a) "Applicant" means any emergency medical service
3 applicant, law-enforcement applicant or medical services
4 applicant, that is registered as a volunteer of the nonprofit
5 organization, making application for a nonprofit volunteer
6 permit under the provisions of this article.

7 (b) “Appropriate licensing agency” means the board,
8 department, division or other agency in each jurisdiction
9 charged with the licensing, certification or permitting of
10 persons performing services of the nature and kind described
11 or duties provided for in this article.

12 (c) “Emergency medical service applicant” means a person
13 authorized to provide emergency medical services in West
14 Virginia, or in another state who but for this article would be
15 required to obtain a certification from the Commissioner of
16 the Bureau for Public Health pursuant to article eight,
17 chapter sixteen of this code to perform emergency medical
18 services in this state.

19 (d) “Law-enforcement applicant” means a person autho-
20 rized to work as a law-enforcement officer in West Virginia,
21 or in another state who but for this article would be required
22 to obtain authorization pursuant to article twenty-nine,
23 chapter thirty of this code to work as a law-enforcement
24 officer in this state: *Provided*, That any person authorized to
25 work as a law-enforcement officer in another state shall have
26 completed a training program approved by the governing
27 authority of a political subdivision in order to work as a law-
28 enforcement officer in that state.

29 (e) “Medical services applicant” means a person authorized
30 to provide medical services in West Virginia, or in another
31 state who but for this article would be required to obtain
32 authorization to practice in this state, and who is a:

33 (1) Practitioner of medicine or surgery as defined in article
34 three, chapter thirty of this code;

35 (2) Physician assistant as defined in section three, article
36 three, chapter thirty of this code;

37 (3) Dentist or dental assistant as defined in article four,
38 chapter thirty of this code;

39 (4) Nurse as defined in article seven or seven-a, chapter
40 thirty of this code;

41 (5) Osteopathic physician or surgeon as defined in article
42 fourteen, chapter thirty of this code;

43 (6) Osteopathic physician assistant as defined in article
44 fourteen-a, chapter thirty of this code; and

45 (7) Physical therapist as defined in article twenty, chapter
46 thirty of this code;

47 (f) “Nonprofit volunteer permit” or “permit” means a
48 permit issued to an applicant pursuant to the provisions of
49 this article.

50 (g) “Nonprofit volunteer permittee” or “permittee” means
51 a person holding a nonprofit volunteer permit issued under
52 the provisions of this article.

53 (h) “Nonprofit youth organization” or “organization”
54 means any nonprofit organization, including any subsidiary,
55 affiliated or other related entity within its corporate or
56 business structure, that has been chartered by the United
57 States Congress to help train young people to do things for
58 themselves and others, and that has established an area of at
59 least six thousand contiguous acres within West Virginia in
60 which to provide adventure or recreational activities for
61 these young people and others.

62 (i) “Nonprofit volunteer organization medical director”
63 means an individual licensed in West Virginia as a practitio-
64 ner of medicine or surgery pursuant to article three, chapter
65 thirty of this code, or an individual licensed in West Virginia
66 as a osteopathic physician or surgeon pursuant to article
67 fourteen, chapter thirty of this code, that has been desig-
68 nated by the nonprofit volunteer organization to serve as the
69 medical director for an event or program offered by the
70 organization.

§29-29-4. Exemption from professional licensure.

1 (a) Notwithstanding any other provision of this code, any
2 individual rendering services in this state in connection with
3 any event or program offered by the nonprofit youth organi-
4 zation is exempt from obtaining an authorization to practice
5 from the appropriate licensing agency of this state while
6 providing services within the limits of his or her authoriza-
7 tion to practice, but is required to obtain a nonprofit volun-
8 teer permit.

9 (b) The nonprofit youth organization may issue a nonprofit
10 volunteer permit to an applicant, who is a registered volun-
11 teer of the nonprofit youth organization serving as a volun-
12 teer, without compensation, in connection with any event or
13 program offered by the organization, if:

14 (1) All authorizations held by the medical services appli-
15 cant are valid, unrestricted without limitation or condition
16 and in good standing: *Provided*, That any medical services
17 applicant issued a permit pursuant to this article shall:

18 (A) Not have prescriptive authority;

19 (B) Not dispense a Schedule III controlled substance, but
20 may dispense pharmaceutical drugs in a manner consistent
21 with the applicant's training and experience; and

22 (C) At all times be subject to the direction of nonprofit
23 volunteer organization medical director.

24 (2) All authorizations held by the law-enforcement appli-
25 cant are valid, unrestricted without limitation or condition
26 and in good standing and the applicant is deputized by the
27 Superintendent of the West Virginia State Police prior to
28 rendering any law-enforcement services: *Provided*, That:

29 (A) Any permit issued pursuant to this article shall not
30 supersede the authority or duty of a law-enforcement officer
31 certified pursuant to article twenty-nine, chapter thirty of
32 this code to preserve law and order on the premises;

33 (B) The Superintendent of the West Virginia State Police
34 has sole discretion in determining whether to deputize any
35 law-enforcement applicant; and

36 (C) The jurisdiction for a law-enforcement applicant issued
37 a permit pursuant to the provisions of this article shall be
38 limited to:

39 (i) The property owned by the nonprofit youth organiza-
40 tion;

41 (ii) Any street, road or thoroughfare, except controlled
42 access and open country highways, immediately adjacent to

43 or passing through the property owned by the nonprofit
44 youth organization; and

45 (iii) Areas of operations in support of an event sponsored
46 by the nonprofit youth organization.

47 (D) A law-enforcement applicant issued a permit pursuant
48 to the provisions of this article shall at all times be subject to
49 the direction of the Superintendent of the West Virginia
50 State Police.

51 (3) All authorizations held by the emergency medical
52 service applicant are valid, unrestricted without limitation
53 or condition and in good standing: *Provided*, That any
54 emergency medical service applicant issued a permit pursu-
55 ant to this article shall:

56 (A) Not have prescriptive authority;

57 (B) Not dispense a Schedule III controlled substance, but
58 may dispense pharmaceutical drugs in a manner consistent
59 with the applicant's training and experience; and

60 (C) At all times be subject to the direction of nonprofit
61 volunteer organization medical director.

62 (c) Any services rendered by a permittee shall at all times
63 be performed under the guidelines and instructions of the
64 nonprofit volunteer organization.

65 (d) A nonprofit volunteer permit issued pursuant to the
66 provisions of this article may only be valid for a period not
67 to exceed ninety days in a calendar year.

§29-29-5. Powers and duties of nonprofit youth organization.

1 (a) Before the nonprofit youth organization may issue a
2 nonprofit volunteer permit to an applicant, the organization
3 shall:

4 (1) Gather and maintain the following information for each
5 applicant:

6 (A) The applicant's name, position, address and phone
7 number;

8 (B) A copy of the applicant's authorization to practice from
9 all jurisdictions in which the applicant is authorized to
10 practice;

11 (2) Require documentation that the applicant has received
12 at least two hours of instruction provided by the nonprofit
13 youth organization, which may be accomplished by webinar,
14 video conference or other remote means of instruction;

15 (3) No more than one hundred twenty days prior to any
16 volunteer services being performed, require documentation
17 from all jurisdictions in which the applicant authorized to
18 practice stating that the applicant's authorization to practice

19 is valid, in good standing and unrestricted and without
20 limitation or condition; and

21 (4) Require a written acknowledgment signed by the
22 applicant that the rules, regulations and procedures estab-
23 lished by the nonprofit youth organization have been
24 received and reviewed.

25 (b) All information and documentation maintained and
26 gathered pursuant to this section shall be maintained in a
27 safe and secure manner, which may be electronically, by the
28 nonprofit youth organization for a period of ten years from
29 the date a permit is issued to the applicant.

30 (c) The nonprofit youth organization providing emergency
31 medical services shall have a license to operate an emergency
32 medical services agency pursuant to section six-a, article
33 four-c, chapter sixteen of this code and the Commissioner of
34 the Bureau of Public Health may make such adjustments to
35 the licensing standards to reflect the nature of the services
36 provided by the permittees and the size, scope and interests
37 being served by any event or program of such organization.

§29-29-6. Revocation of nonprofit volunteer permit.

1 (a) The nonprofit volunteer permit may be revoked at any
2 time by the nonprofit volunteer organization.

3 (b) The nonprofit volunteer organization shall revoke a
4 nonprofit volunteer permit and shall report the revocation to
5 the appropriate licensing agency in every jurisdiction where
6 the individual holds an authorization to practice for the
7 following reasons:

- 8 (1) Professional incompetence;
- 9 (2) Professional misconduct; or
- 10 (3) Criminal activity.

**§29-29-7. Liability of permittees and the nonprofit volunteer
organization for volunteer services.**

1 (a) Any claim arising out of the services provided by a
2 permittee or the nonprofit volunteer organization pursuant
3 to this article shall be determined in the same manner and by
4 the same standards as if the permittee was authorized to
5 practice in this state.

6 (b) The nonprofit youth organization shall carry liability
7 insurance in limits of no less than \$1 million per person, and
8 \$1 million per occurrence and \$50,000 for property damage
9 and this insurance shall extend to the acts of any nonprofit
10 volunteer permittees providing services under this article
11 and shall be primary to any other available insurance.

12 (c) The liability of nonprofit volunteer permittees shall be
13 limited to the amount of liability insurance available to them
14 under subsection (b) of this section.

15 (d) The West Virginia appropriate licensing agency shall
16 not be liable for any harm or claim arising solely out of the
17 actions of any permittee exempt from obtaining authoriza-
18 tion to practice in this state pursuant to this article.

§29-29-8. Severability.

1 If any provision of this article or the application thereof to
2 any person or circumstance is held unconstitutional or
3 invalid, the unconstitutionality or invalidity may not affect
4 other provisions or applications of this article or chapter,
5 and to this end the provisions of this article and chapter are
6 declared to be severable.