

1 **COMMITTEE SUBSTITUTE**

2 **FOR**

3 **H. B. 4003**

4 (By Delegates Morgan, Stephens, Hatfield,  
5 Hartman, Householder, Staggers and Talbott)

6  
7 [Originating in the Committee on Government Organization.]

8 January 19, 2012

9  
10 A BILL to amend and reenact §30-1-5 of the Code of West Virginia,  
11 1931, as amended, relating to professional licensing boards;  
12 modifying who has the authority to call meetings and  
13 administer oaths; clarifying the establishment of quorums;  
14 providing that persons who report violations in good faith are  
15 not subject to civil damages; requiring boards to maintain a  
16 business office open to the public; requiring board offices to  
17 be identified with a sign or directory on the building or in  
18 the entranceway or lobby of the building; requiring board  
19 members to adhere to ethical standards for appointed  
20 officials; and clarifying that boards may issue notices to  
21 cease and desist unlawful or unlicensed practice.

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

23 That §30-1-5 of the Code of West Virginia, 1931, as amended,  
24 be amended and reenacted to read as follows:

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

27 **§30-1-5. Meetings; quorum; investigatory powers; duties.**

1 (a) Each board is required to hold meetings as set forth in  
2 this chapter, but shall hold at least one meeting annually, at such  
3 time and place as it may prescribe by rule, to transact business  
4 which may legally come before it. A board may hold additional  
5 meetings, upon the call of the chairperson or upon the written  
6 request of two board members.

7 (b) A quorum is:

8 (1) A simple majority of the members; or

9 (2) In the case of a vacancy on the board, a simple majority  
10 of the remaining members.

11 (c) Each board may:

12 (1) Compel the attendance of witnesses;

13 (2) Issue subpoenas and subpoenas duces tecum;

14 (3) Conduct investigations;

15 (4) Hire an investigator; and

16 (5) Take testimony and other evidence concerning any matter  
17 within its jurisdiction.

18 (d) The chairperson of the board may administer oaths.

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

26 (f) Each board shall maintain a business office that is open

1 to the public and identified with a sign or building directory on  
2 the front of the building or in the entranceway or lobby of the  
3 building. Each board shall provide access to its public records,  
4 including the disposition of the complaints which it receives, in  
5 accordance with the provisions of chapter twenty-nine-b of this  
6 code.

7 (g) Each board member shall adhere to the ethical standards  
8 for appointed officials set forth in section five, article two,  
9 chapter six-b of this code.

10 (h) Each person regulated by a board and each board member  
11 shall report to the board, in a timely manner, a violation of the  
12 provisions of this chapter which are administered and enforced by  
13 that board. Law-enforcement agencies or their personnel and courts  
14 shall report in a timely manner to the appropriate board a  
15 violation of the provisions of this chapter by an individual. A  
16 person who reports or provides information in good faith is not  
17 subject to civil damages.

18 (i) When a board obtains information that a person has engaged  
19 in, is engaging in or is about to engage in an act which  
20 constitutes or will constitute a violation of the provisions of  
21 this chapter which are administered and enforced by that board, it  
22 may issue a notice to the person to cease and desist and apply to  
23 the circuit court of the county in which the violation has  
24 occurred, is occurring or is about to occur for an order enjoining  
25 the act. Upon a showing that the person has engaged, is engaging  
26 or is about to engage in such an act, the court may order an

- 1 injunction, restraining order or other order as the court considers
- 2 appropriate.