

1 **ENROLLED**

2 **Senate Bill No. 214**

3 (BY SENATORS SNYDER, FOSTER, BROWNING, MILLER, CHAFIN, BOLEY, JENKINS,
4 STOLLINGS AND WILLS)

5 _____
6 [Passed March 6, 2012; in effect from passage.]
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10 AN ACT to amend and reenact §30-1A-2, §30-1A-3, §30-1A-5 and §30-
11 1A-6 of the Code of West Virginia, 1931, as amended, all
12 relating to professions and occupations; revising the sunrise
13 process; deleting the requirement for substantial change; and
14 providing for sunrise application when establishing a scope of
15 practice.

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

17 That §30-1A-2, §30-1A-3, §30-1A-5 and §30-1A-6 of the Code of
18 West Virginia, 1931, as amended, be amended and reenacted, all to
19 read as follows:

20 **ARTICLE 1A. PROCEDURE FOR REGULATION OF OCCUPATIONS AND**
21 **PROFESSIONS.**

22 **§30-1A-2. Required application for regulation of professional or**

1 **occupational group; application and reporting dates.**

2 (a) Any professional or occupational group or organization,
3 any individual or any other interested party which proposes the
4 regulation of any unregulated professional or occupational group or
5 organization, or who proposes to establish, revise or expand the
6 scope of practice of a regulated profession or occupation shall
7 submit an application to the Joint Standing Committee on Government
8 Organization, as set out in this article.

9 (b) The Joint Standing Committee on Government Organization
10 may only accept an application for regulation of a professional or
11 occupational group or organization, or establishment, revision or
12 expansion of the scope of practice of a regulated profession or
13 occupation, when the party submitting an application files with the
14 committee a statement of support for the proposed regulation which
15 has been signed by at least ten residents or citizens of the State
16 of West Virginia who are members of the professional or
17 occupational group or organization for which regulation is being
18 sought, or for which establishment, revision or expansion of the
19 scope of practice of a regulated profession or occupation is being
20 sought.

21 (c) The completed application shall contain:

22 (1) A description of the occupational or professional group or
23 organization for which regulation is proposed, or for which

1 establishment, revision or expansion of the scope of practice of a
2 regulated profession or occupation is proposed, including a list of
3 associations, organizations and other groups currently representing
4 the practitioners in this state, and an estimate of the number of
5 practitioners in each group;

6 (2) A definition of the problem and the reasons why regulation
7 or establishment, revision or expansion of the scope of practice is
8 necessary;

9 (3) The reasons why certification, registration, licensure or
10 other type of regulation is being requested and why that regulatory
11 alternative was chosen;

12 (4) A detailed statement of the proposed funding mechanism to
13 pay the administrative costs of the regulation or the
14 establishment, revision or expansion of the scope of practice, or
15 of the fee structure conforming with the statutory requirements of
16 financial autonomy as set out in this chapter;

17 (5) A detailed statement of the location and manner in which
18 the group plans to maintain records which are accessible to the
19 public as set out in this chapter;

20 (6) The benefit to the public that would result from the
21 proposed regulation or establishment, revision or expansion of the
22 scope of practice; and

23 (7) The cost of the proposed regulation or establishment,

1 revision or expansion of the scope of practice.

2 **§30-1A-3. Analysis and evaluation of application.**

3 (a) The Joint Committee on Government Organization shall refer
4 the completed application of the professional or occupational group
5 or organization to the Performance Evaluation and Research Division
6 of the Office of the Legislative Auditor.

7 (b) The Performance Evaluation and Research Division of the
8 Office of the Legislative Auditor shall conduct an analysis and
9 evaluation of the application. The analysis and evaluation shall
10 be based upon the criteria listed in subsection (c) of this
11 section. The Performance Evaluation and Research Division of the
12 Office of the Legislative Auditor shall submit a report, and such
13 supporting materials as may be required, to the Joint Standing
14 Committee on Government Organization, as set out in this section.

15 (c) For an application proposing the regulation of an
16 unregulated professional or occupational group or organization, the
17 report shall include evaluation, analysis and findings as to:

18 (1) Whether the unregulated practice of the occupation or
19 profession clearly harms or endangers the health, safety or welfare
20 of the public, and whether the potential for the harm is easily
21 recognizable and not remote or dependent upon tenuous argument;

22 (2) Whether the practice of the profession or occupation
23 requires specialized skill or training which is readily measurable

1 or quantifiable so that examination or training requirements would
2 reasonably assure initial and continuing professional or
3 occupational competence;

4 (3) Whether the public can be adequately protected by other
5 means in a more cost-effective manner; and

6 (4) Whether the professional or occupational group or
7 organization should be regulated as proposed in the application.

8 (d) For an application proposing the establishment, revision
9 or expansion of the scope of practice of a regulated profession or
10 occupation, the report shall include the evaluation, analysis and
11 findings as set forth in subsection (c) of this section inasmuch as
12 applicable, and a clear recommendation as to whether the scope of
13 practice should be established, revised or expanded as proposed in
14 the application.

15 (e) For an application received after December 1, and on or
16 before June 1, the Performance Evaluation and Research Division of
17 the Office of the Legislative Auditor shall present a report to the
18 Joint Committee on Government Organization by December 31 of that
19 year.

20 (f) For an application received after June 1 and on or before
21 December 1, the Performance Evaluation and Research Division of the
22 Office of the Legislative Auditor shall present a report to the
23 Joint Committee on Government Organization by June 30 of the next

1 year.

2 **§30-1A-5. Reapplication requirements.**

3 (a) If the Joint Standing Committee on Government Organization
4 approves an application for regulation of a professional or
5 occupational group or organization, but the legislation
6 incorporating its recommendations does not become law in the year
7 in which it is first introduced, the applicants for regulation may
8 introduce legislation during each of the two successive regular
9 sessions without having to make reapplication.

10 (b) If the Joint Standing Committee on Government Organization
11 does not approve an application for regulation, establishment,
12 revision or expansion of the scope of practice of a professional or
13 occupational group or organization, any party who continues to
14 propose the regulation, establishment, revision or expansion must
15 reapply in accordance with the provisions of this article.

16 **§30-1A-6. Article construction.**

17 (a) Nothing in this article shall be construed as limiting or
18 interfering with the right of any member of the Legislature to
19 introduce or of the Legislature to consider any bill that would
20 create a new state governmental department or agency or amend the
21 law with respect to an existing one.

22 (b) Notwithstanding the provisions of subsection (a) of this
23 section, the recommendations of the Joint Standing Committee on

1 Government Organization are to be given considerable weight in
2 determining if a profession or occupation should be regulated, or
3 if the scope of practice of a regulated profession or occupation
4 should be established, revised or expanded.