

COMMITTEE SUBSTITUTE

FOR

H. B. 4003

(BY DELEGATES MORGAN, STEPHENS, HATFIELD,
HARTMAN, HOUSEHOLDER, STAGGERS AND TALBOTT)

(Originating in the Committee on Government Organization)
[January 19, 2012]

A BILL to amend and reenact §30-1-5 of the Code of West Virginia, 1931, as amended, relating to professional licensing boards; modifying who has the authority to call meetings and administer oaths; clarifying the establishment of quorums; providing that persons who report violations in good faith are not subject to civil damages; requiring boards to maintain a business office open to the public; requiring board offices to be identified with a sign or directory on the building or in the entranceway or lobby of the building; requiring board members

to adhere to ethical standards for appointed officials; and clarifying that boards may issue notices to cease and desist unlawful or unlicensed practice.

Be it enacted by the Legislature of West Virginia:

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

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

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

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

27 (f) Each board shall maintain a business office that is
28 open to the public and identified with a sign or building
29 directory on the front of the building or in the entranceway or

30 lobby of the building. Each board shall provide access to its
31 public records, including the disposition of the complaints
32 which it receives, in accordance with the provisions of
33 chapter twenty-nine-b of this code.

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

37 (h) Each person regulated by a board and each board
38 member shall report to the board, in a timely manner, a
39 violation of the provisions of this chapter which are
40 administered and enforced by that board. Law-enforcement
41 agencies or their personnel and courts shall report in a timely
42 manner to the appropriate board a violation of the provisions
43 of this chapter by an individual. A person who reports or
44 provides information in good faith is not subject to civil
45 damages.

46 (i) When a board obtains information that a person has
47 engaged in, is engaging in or is about to engage in an act
48 which constitutes or will constitute a violation of the

49 provisions of this chapter which are administered and
50 enforced by that board, it may issue a notice to the person to
51 cease and desist and apply to the circuit court of the county
52 in which the violation has occurred, is occurring or is about
53 to occur for an order enjoining the act. Upon a showing that
54 the person has engaged, is engaging or is about to engage in
55 such an act, the court may order an injunction, restraining
56 order or other order as the court considers appropriate.