

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Senate Bill 658

BY SENATORS GAUNCH, CARMICHAEL, STOLLINGS,

FERNS, TAKUBO, PREZIOSO, PLYMALE, UNGER,

LEONHARDT AND ROMANO

[Passed March 7, 2016;

in effect 90 days from passage]

1 AN ACT to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code;
3 to amend and reenact §30-7-6a of said code; to amend and reenact §30-8-16 of said code;
4 to amend and reenact §30-14-12b of said code; to amend and reenact §30-20-13 of said
5 code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-
6 8a of said code, all relating to allowing licensed professionals to donate time to the care
7 of indigent and needy in a clinical setting; and allowing for some of donated time to be
8 counted against continuing education required hours.

Be it enacted by the Legislature of West Virginia:

1 That §30-3-10a of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; that §30-4-15 of said code be amended and reenacted; that §30-5-17 of said code be
3 amended and reenacted; that §30-7-6a of said code be amended and reenacted; that §30-8-16
4 of said code be amended and reenacted; that §30-14-12b of said code be amended and
5 reenacted; that §30-20-13 of said code be amended and reenacted; that §30-21-17 of said code
6 be amended and reenacted; and that §30-28-8a of said code be amended and reenacted, all to
7 read as follows:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-10a. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

1 (a) There is hereby established a special volunteer medical license for physicians retired
2 or retiring from the active practice of medicine who wish to donate their expertise for the medical
3 care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole
4 or in part, for the delivery of health care services without charge. The special volunteer medical
5 license shall be issued by the West Virginia Board of Medicine to physicians licensed or otherwise
6 eligible for licensure under this article and the rules promulgated hereunder without the payment
7 of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof,

8 and shall be renewable annually. The board shall develop application forms for the special license
9 provided for in this subsection which shall contain the physician's acknowledgment that: (1) The
10 physician's practice under the special volunteer medical license will be exclusively and totally
11 devoted to providing medical care to needy and indigent persons in West Virginia; (2) the
12 physician will not receive any payment or compensation, either direct or indirect, or have the
13 expectation of any payment or compensation, but may donate to the clinic the proceeds of any
14 reimbursement for any medical services rendered under the special volunteer medical license;
15 (3) the physician will supply any supporting documentation that the board may reasonably require;
16 and (4) the physician agrees to continue to participate in continuing medical education as required
17 of physicians in active practice.

18 (b) Any person engaged in the active practice of medicine in this state whose license is in
19 good standing may donate their expertise for the medical care and treatment of indigent and
20 needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery
21 of health care services without charge to the patient. Services rendered under an arrangement
22 may be performed in either the physician's office or the clinic setting.

23)(c) Any physician who renders any medical service to indigent and needy patients of a
24 clinic organized, in whole or in part, for the delivery of health care services without charge under
25 a special volunteer medical license authorized under subsection (a) of this section or under an
26 arrangement with a clinic as authorized under subsection (b) of this section without payment or
27 compensation or the expectation or promise of payment or compensation is immune from liability
28 for any civil action arising out of any act or omission resulting from the rendering of the medical
29 service at the clinic unless the act or omission was the result of the physician's gross negligence
30 or willful misconduct. In order for the immunity under this subsection to apply, there must be a
31 written agreement between the physician and the clinic pursuant to which the physician will
32 provide voluntary noncompensated medical services under the control of the clinic to patients of
33 the clinic before the rendering of any services by the physician at the clinic: *Provided*, That any

34 clinic entering into such written agreement shall be required to maintain liability coverage of not
35 less than \$1 million per occurrence.

36 (d) Any physician who renders medical service to indigent and needy patients under a
37 special volunteer medical license authorized under subsection (a) of this section or under an
38 arrangement with a clinic as authorized under subsection (b) of this section may fulfill one hour of
39 continuing education by the performance of one hour of volunteer services to eligible indigent or
40 needy patients as provided in this section, up to a maximum of ten credits per licensure period.
41 When submitting continuing education hours to the West Virginia Board of Medicine, the physician
42 shall include a signed letter from the clinic certifying that the physician rendered volunteer services
43 for the hours claimed.

44 (e) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in
45 whole or in part, for the delivery of health care services without charge is not relieved from imputed
46 liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic
47 under a special volunteer medical license authorized under subsection (a) of this section or under
48 an arrangement with a clinic as authorized under subsection (b) of this section.

49 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
50 of all the requirements for licensure as listed in section ten of this article and in the legislative
51 rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said
52 section and of the legislative rule promulgated by the board relating to fees.

53 (g) Nothing in this section may be construed as requiring the board to issue a special
54 volunteer medical license to any physician whose medical license is or has been subject to any
55 disciplinary action or to any physician who has surrendered a medical license or caused such
56 license to lapse, expire and become invalid in lieu of having a complaint initiated or other action
57 taken against his or her medical license, or who has elected to place a medical license in inactive
58 status in lieu of having a complaint initiated or other action taken against his or her medical
59 license, or who have been denied a medical license.

60 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
61 or delivered in this state to any physician covered under the provisions of this article shall be read
62 so as to contain a provision or endorsement whereby the company issuing such policy waives or
63 agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any
64 claim covered by the terms of such policy within the policy limits, the immunity from liability of the
65 insured by reason of the care and treatment of needy and indigent patients by a physician who
66 holds a special volunteer medical license or who renders such care and treatment under an
67 arrangement with a clinic as authorized under subsection (b) of this section: *Provided*, That this
68 subsection shall not apply to a terminated policy, terminated contract of liability insurance or
69 extended reporting endorsement attached thereto that provides "tail insurance" as defined by
70 section two, article twenty-d, chapter thirty-three of this code: *Provided, however*, That nothing
71 within this subsection shall be construed to extend coverage under a terminated policy or
72 terminated contract of liability insurance or any extended reporting endorsement attached thereto
73 to: (1) Alter or amend the effective policy period of any policy, contract of liability insurance or
74 extended reporting endorsement; or (2) cover the treatment of indigent and needy patients by a
75 physician who holds a special volunteer medical license or who renders such care and treatment
76 under an arrangement with a clinic as authorized under subsection (b) of this section.

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-15. Special volunteer dentist or dental hygienist license; civil immunity for voluntary services rendered to indigents.

1 (a) There is continued a special volunteer dentist and dental hygienist license for dentist
2 and dental hygienists retired or retiring from the active practice of dentistry and dental hygiene
3 who wish to donate their expertise for the care and treatment of indigent and needy patients in
4 the clinic setting of clinics organized, in whole or in part, for the delivery of health care services
5 without charge. The special volunteer dentist or dental hygienist license shall be issued by the
6 board to dentist or dental hygienists licensed or otherwise eligible for licensure under this article

7 and the legislative rules promulgated hereunder without the payment of an application fee, license
8 fee or renewal fee, shall be issued for the remainder of the licensing period and renewed
9 consistent with the boards other licensing requirements. The board shall develop application
10 forms for the special license provided in this subsection which shall contain the dental hygienist's
11 acknowledgment that:

12 (1) The dentist or dental hygienist's practice under the special volunteer dentist or dental
13 hygienist license will be exclusively devoted to providing dentistry or dental hygiene care to needy
14 and indigent persons in West Virginia;

15 (2) The dentist or dental hygienist will not receive any payment or compensation, either
16 direct or indirect, or have the expectation of any payment or compensation but may donate to the
17 clinic the proceeds of any reimbursement, for any dentistry or dental hygiene services rendered
18 under the special volunteer dentist or dental hygienist license;

19 (3) The dentist or dental hygienist will supply any supporting documentation that the board
20 may reasonably require; and

21 (4) The dentist or dental hygienist agrees to continue to participate in continuing
22 professional education as required by the board for the special volunteer dentist or dental
23 hygienist.

24 (b) Any person engaged in the active practice of dentistry and dental hygiene in this state
25 whose license is in good standing may donate their expertise for the care and treatment of indigent
26 and needy patients under an arrangement with a clinic organized, in whole or in part, for the
27 delivery of health care services without charge to the patient. Services rendered under an
28 arrangement may be performed in either the office of the dentist or dental hygienist or the clinic
29 setting.

30 (c) Any dentist or dental hygienist who renders any dentistry or dental hygiene service to
31 indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health
32 care services without charge under a special volunteer dentist or dental hygienist license

33 authorized under subsection (a) of this section or under an arrangement with a clinic as authorized
34 under subsection (b) of this section without payment or compensation or the expectation or
35 promise of payment or compensation is immune from liability for any civil action arising out of any
36 act or omission resulting from the rendering of the dental hygiene service at the clinic unless the
37 act or omission was the result of the dentist's or dental hygienist's gross negligence or willful
38 misconduct. In order for the immunity under this subsection to apply, there shall be a written
39 agreement between the dentist or dental hygienist and the clinic pursuant to which the dentist or
40 dental hygienist will provide voluntary uncompensated dental hygiene services under the control
41 of the clinic to patients of the clinic before the rendering of any services by the dentist or dental
42 hygienist at the clinic: *Provided*, That any clinic entering into such written agreement is required
43 to maintain liability coverage of not less than \$1 million per occurrence.

44 (d) Any dentist or dental hygienist who renders dentistry or dental hygiene service to
45 indigent and needy patients under a special volunteer dentist or dental hygienist license
46 authorized under subsection (a) of this section or under an arrangement with a clinic as authorized
47 under subsection (b) of this section may fulfill one hour of continuing education by the
48 performance of one hour of volunteer services to eligible indigent or needy patients as provided
49 in this section.

50 (1) A dentist may earn up to eight hours of continuing education credits per biennial period
51 for care provided to eligible indigent or needy patients as provided in this section.

52 (2) A dental hygienist may earn up to five hours of continuing education credits per biennial
53 period for care provided to eligible indigent or needy patients as provided in this section.

54 (3) When submitting continuing education hours to the West Virginia Board of Dentistry,
55 the dentist or dental hygienist shall include a signed letter from the clinic certifying that the dentist
56 or dental hygienist rendered volunteer services for the hours claimed.

57 (e) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
58 whole or in part, for the delivery of health care services without charge is not relieved from imputed

59 liability for the negligent acts of a dentist or dental hygienist rendering voluntary dental hygiene
60 services at or for the clinic under a special volunteer dentist or dental hygienist license authorized
61 under subsection (a) of this section or who renders such care and treatment under an
62 arrangement with a clinic as authorized under subsection (b) of this section.

63 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
64 of all the requirements for licensure as listed in section eight of this article and in the legislative
65 rules promulgated thereunder, except the fee requirements of subdivision (6) of said section and
66 of the legislative rules promulgated by the board relating to fees.

67 (g) Nothing in this section may be construed as requiring the board to issue a special
68 volunteer dentist or dental hygienist license to any dental hygienist whose license is or has been
69 subject to any disciplinary action or to any dentist or dental hygienist who has surrendered a
70 license or caused such license to lapse, expire and become invalid in lieu of having a complaint
71 initiated or other action taken against his or her dentist or dental hygienist license, or who has
72 elected to place a dentist or dental hygienist license in inactive status in lieu of having a complaint
73 initiated or other action taken against his or her license, or who has been denied a dentist or
74 dental hygienist license.

75 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
76 or delivered in this state to any dentist or dental hygienist covered under the provisions of this
77 article shall be read so as to contain a provision or endorsement whereby the company issuing
78 such policy waives or agrees not to assert as a defense on behalf of the policyholder or any
79 beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the
80 immunity from liability of the insured by reason of the care and treatment of needy and indigent
81 patients by a dentist or dental hygienist who holds a special volunteer dentist or dental hygienist
82 license or who renders such care and treatment under an arrangement with a clinic as authorized
83 under subsection (b) of this section.

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS

AND PHARMACIES.

§30-5-17. Special volunteer pharmacist license; civil immunity for voluntary services rendered to indigents.

1 (a) There is a special volunteer pharmacist license for pharmacists retired or retiring from
2 the active practice of pharmacist care who wish to donate their expertise for the pharmacist care
3 and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or
4 in part, for the delivery of health care services without charge. The special volunteer pharmacist
5 license shall be issued by the board to pharmacists licensed or otherwise eligible for licensure
6 under this article and the legislative rules promulgated hereunder without the payment of an
7 application fee, license fee or renewal fee, and the initial license shall be issued for the remainder
8 of the licensing period, and renewed consistent with the boards other licensing requirements. The
9 board shall develop application forms for the special license provided in this subsection which
10 shall contain the pharmacist's acknowledgment that:

11 (1) The pharmacist's practice under the special volunteer pharmacist license shall be
12 exclusively devoted to providing pharmacist care to needy and indigent persons in West Virginia;

13 (2) The pharmacist may not receive any payment or compensation, either direct or indirect,
14 or have the expectation of any payment or compensation, but may donate to the clinic the
15 proceeds of any reimbursement for any pharmacist care rendered under the special volunteer
16 pharmacist license;

17 (3) The pharmacist will supply any supporting documentation that the board may
18 reasonably require; and

19 (4) The pharmacist agrees to continue to participate in continuing professional education
20 as required by the board for the special volunteer pharmacist license.

21 (b) Any person engaged in the active practice of pharmacist care in this state whose
22 license is in good standing may donate their expertise for the care and treatment of indigent and
23 needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery

24 of health care services without charge to the patient. Services rendered under an arrangement
25 may be performed in either the pharmacist's office or the clinic setting.

26 (c) Any pharmacist who renders any pharmacist care to indigent and needy patients of a
27 clinic organized, in whole or in part, for the delivery of health care services without charge under
28 a special volunteer pharmacist license authorized under subsection (a) of this section or under an
29 arrangement with a clinic as authorized under subsection (b) of this section without payment or
30 compensation or the expectation or promise of payment or compensation is immune from liability
31 for any civil action arising out of any act or omission resulting from the rendering of the pharmacist
32 care at the clinic unless the act or omission was the result of the pharmacist's gross negligence
33 or willful misconduct. In order for the immunity under this subsection to apply, there shall be a
34 written agreement between the pharmacist and the clinic pursuant to which the pharmacist
35 provides voluntary uncompensated pharmacist care under the control of the clinic to patients of
36 the clinic before the rendering of any services by the pharmacist at the clinic: *Provided*, That any
37 clinic entering into such written agreement is required to maintain liability coverage of not less
38 than \$1 million per occurrence.

39 (d) Any pharmacist who renders service to indigent and needy patients under a special
40 volunteer license authorized under subsection (a) of this section or under an arrangement with a
41 clinic as authorized under subsection (b) of this section may fulfill one hour of continuing education
42 by the performance of one hour of volunteer services to eligible indigent or needy patients as
43 provided in this section, up to a maximum of six credits per licensure period. When submitting
44 continuing education hours to the West Virginia Board of Pharmacy, the pharmacist shall include
45 a signed letter from the clinic certifying that the pharmacist rendered volunteer services for the
46 hours claimed.

47 (e) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
48 whole or in part, for the delivery of health care services without charge is not relieved from imputed
49 liability for the negligent acts of a pharmacist rendering voluntary pharmacist care at or for the

50 clinic under a special volunteer pharmacist license authorized under subsection (a) of this section
51 or who renders such care and treatment under an arrangement with a clinic as authorized under
52 subsection (b) of this section.

53 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
54 of all the requirements for licensure as listed in section nine of this article and in the legislative
55 rules promulgated thereunder, except the fee requirements of that section and of the legislative
56 rules promulgated by the board relating to fees.

57 (g) Nothing in this section may be construed as requiring the board to issue a special
58 volunteer pharmacist license to any pharmacist whose license is or has been subject to any
59 disciplinary action or to any pharmacist who has surrendered a license or caused such license to
60 lapse, expire and become invalid in lieu of having a complaint initiated or other action taken
61 against his or her license, or who has elected to place a pharmacist license in inactive status in
62 lieu of having a complaint initiated or other action taken against his or her license, or who has
63 been denied a pharmacist license.

64 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
65 or delivered in this state to any pharmacist covered under the provisions of this article shall be
66 read so as to contain a provision or endorsement whereby the company issuing such policy
67 waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary
68 thereof, to any claim covered by the terms of such policy within the policy limits, the immunity
69 from liability of the insured by reason of the care and treatment of needy and indigent patients by
70 a pharmacist who holds a special volunteer pharmacist license or who renders such care and
71 treatment under an arrangement with a clinic as authorized under subsection (b) of this section.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

**§30-7-6a. Special volunteer registered professional nurse license; civil immunity for
voluntary services rendered to indigents.**

1 (a) There is established a special volunteer license for registered professional nurses

2 retired or retiring from the active practice of nursing who wish to donate their expertise for the
3 care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole
4 or in part, for the delivery of health care services without charge. The special volunteer registered
5 professional nurse license shall be issued by the West Virginia Board of Examiners for registered
6 professional nurses to registered professional nurses licensed or otherwise eligible for licensure
7 under this article and the legislative rules promulgated hereunder without the payment of an
8 application fee, license fee or renewal fee, shall be issued for the remainder of the licensing
9 period, and renewed consistent with the boards other licensing requirements. The board shall
10 develop application forms for the special license provided in this subsection which shall contain
11 the registered professional nurse's acknowledgment that:

12 (1) The registered professional nurse's practice under the special volunteer registered
13 professional nurse license will be exclusively devoted to providing nursing care to needy and
14 indigent persons in West Virginia;

15 (2) The registered professional nurse will not receive any payment or compensation, either
16 direct or indirect, or have the expectation of any payment or compensation but may donate to the
17 clinic the proceeds of any reimbursement, for any nursing services rendered under the special
18 volunteer registered professional nurse license;

19 (3) The registered professional nurse will supply any supporting documentation that the
20 board may reasonably require; and

21 (4) The registered professional nurse agrees to continue to participate in continuing
22 education as required by the board for the special volunteer registered professional nurse license.

23 (b) Any person engaged in the active practice of nursing in this state whose license is in
24 good standing may donate their expertise for the care and treatment of indigent and needy
25 patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health
26 care services without charge to the patient. Services rendered under an arrangement may be
27 performed in either the office of the registered professional nurse or the clinic setting.

28 (c) Any registered professional nurse who renders nursing service to indigent and needy
29 patients of a clinic organized, in whole or in part, for the delivery of health care services without
30 charge under a special volunteer registered professional nurse license authorized under
31 subsection (a) of this section or under an arrangement with a clinic as authorized under subsection
32 (b) of this section without payment or compensation or the expectation or promise of payment or
33 compensation is immune from liability for any civil action arising out of any act or omission
34 resulting from the rendering of the nursing service at the clinic unless the act or omission was the
35 result of the registered professional nurse's gross negligence or willful misconduct. In order for
36 the immunity under this subsection to apply, there must be a written agreement between the
37 registered professional nurse and the clinic pursuant to which the registered professional nurse
38 will provide voluntary uncompensated nursing services under the control of the clinic to patients
39 of the clinic before the rendering of any services by the registered professional nurse at the clinic:
40 *Provided, That any clinic entering into such written agreement is required to maintain liability*
41 *coverage of not less than \$1 million per occurrence.*

42 (d) Any registered professional nurse who renders service to indigent and needy patients
43 under a special volunteer license authorized under subsection (a) of this section or under an
44 arrangement with a clinic as authorized under subsection (b) of this section may fulfill one hour of
45 continuing education by the performance of one hour of volunteer services to eligible indigent or
46 needy patients as provided in this section, up to a maximum of three credits per licensure period.
47 When submitting continuing education hours to the West Virginia Board of Examiners for
48 Registered Professional Nurses, the registered professional nurse shall include a signed letter
49 from the clinic certifying that the registered professional nurse rendered volunteer services for the
50 hours claimed.

51 (e) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
52 whole or in part, for the delivery of health care services without charge is not relieved from imputed
53 liability for the negligent acts of a registered professional nurse rendering voluntary nursing

54 services at or for the clinic under a special volunteer registered professional nurse license
55 authorized under subsection (a) of this section or who renders such care and treatment under an
56 arrangement with a clinic as authorized under subsection (b) of this section.

57 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
58 of all the requirements for licensure as listed in section six of this article and in the legislative rules
59 promulgated thereunder, except the fee requirements of that section and of the legislative rules
60 promulgated by the board relating to fees.

61 (g) Nothing in this section may be construed as requiring the board to issue a special
62 volunteer registered professional nurse license to any registered professional nurse whose
63 license is or has been subject to any disciplinary action or to any registered professional nurse
64 who has surrendered his or her license or caused such license to lapse, expire and become
65 invalid in lieu of having a complaint initiated or other action taken against his or her license, or
66 who has elected to place a registered professional nurse license in inactive status in lieu of having
67 a complaint initiated or other action taken against his or her license, or who has been denied a
68 registered professional nurse license.

69 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
70 or delivered in this state to any registered professional nurse covered under the provisions of this
71 article shall be read so as to contain a provision or endorsement whereby the company issuing
72 such policy waives or agrees not to assert as a defense on behalf of the policyholder or any
73 beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the
74 immunity from liability of the insured by reason of the care and treatment of needy and indigent
75 patients by a registered professional nurse who holds a special volunteer registered professional
76 nurse license or who renders such care and treatment under an arrangement with a clinic as
77 authorized under subsection (b) of this section.

ARTICLE 8. OPTOMETRISTS.

§30-8-16. Special volunteer license; civil immunity for voluntary services rendered to

indigents.

1 (a) There is established a special volunteer license for optometrists who are retired or are
2 retiring from the active practice of optometry and wish to donate their expertise for the care and
3 treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in
4 part, for the delivery of health care services without charge.

5 (b) The special volunteer license shall be issued by the board to optometrists licensed or
6 otherwise eligible for licensure under this article without the payment of an application fee, license
7 fee or renewal fee, and shall be issued for the remainder of the licensing period, and renewed
8 consistent with the boards other licensing requirements.

9 (c) The board shall develop application forms for the special volunteer license provided in
10 this section which shall contain the optometrist's acknowledgment that:

11 (1) The optometrist's practice under the special volunteer license will be exclusively
12 devoted to providing optometrical care to needy and indigent persons in West Virginia;

13 (2) The optometrist will not receive any payment or compensation, either direct or indirect,
14 or have the expectation of any payment or compensation but may donate to the clinic the
15 proceeds of any reimbursement, for any optometrical services rendered under the special
16 volunteer license;

17 (3) The optometrist will supply any supporting documentation that the board may
18 reasonably require; and

19 (4) The optometrist agrees to continue to participate in continuing education as required
20 by the board for a special volunteer license.

21 (d) Any person engaged in the active practice of optometry in this state whose license is
22 in good standing may donate their expertise for the care and treatment of indigent and needy
23 patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health
24 care services without charge to the patient. Services rendered under an arrangement may be
25 performed in either the office of the optometrist or the clinic setting.

26 (e) Any optometrist who renders any optometrical service to indigent and needy patients
27 of a clinic organized, in whole or in part, for the delivery of health care services without charge,
28 under a special volunteer license authorized under this section or under an arrangement with a
29 clinic as authorized under subsection (d) of this section without payment or compensation or the
30 expectation or promise of payment or compensation is immune from liability for any civil action
31 arising out of any act or omission resulting from the rendering of the optometrical service at the
32 clinic unless the act or omission was the result of the optometrist's gross negligence or willful
33 misconduct. In order for the immunity under this subsection to apply, before the rendering of any
34 services by the optometrist at the clinic, there must be a written agreement between the
35 optometrist and the clinic stating that the optometrist will provide voluntary uncompensated
36 optometrical services under the control of the clinic to patients of the clinic before the rendering
37 of any services by the optometrist at the clinic: *Provided*, That any clinic entering into such written
38 agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

39 (f) Any optometrist who renders service to indigent and needy patients under a special
40 volunteer license authorized under subsection (a) of this section or under an arrangement with a
41 clinic as authorized under subsection (d) of this section may fulfill one hour of continuing education
42 by the performance of one hour of volunteer services to eligible indigent or needy patients as
43 provided in this section, up to a maximum of nine credits per biennial period. When submitting
44 continuing education hours to the West Virginia Board of Optometry, the optometrist shall include
45 a signed letter from the clinic certifying that the optometrist rendered volunteer services for the
46 hours claimed.

47 (g) Notwithstanding the provisions of subsection (d) of this section, a clinic organized, in
48 whole or in part, for the delivery of health care services without charge is not relieved from imputed
49 liability for the negligent acts of an optometrist rendering voluntary optometrical services at or for
50 the clinic under a special volunteer license under this section or who renders such care and
51 treatment under an arrangement with a clinic as authorized under subsection (d) of this section.

52 (h) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
53 of all the requirements for licensure in this article except the fee requirements.

54 (i) Nothing in this section may be construed as requiring the board to issue a special
55 volunteer license to any optometrist whose license is or has been subject to any disciplinary action
56 or to any optometrist who has surrendered a license or caused such license to lapse, expire and
57 become invalid in lieu of having a complaint initiated or other action taken against his or her
58 license, or who has elected to place a license in inactive status in lieu of having a complaint
59 initiated or other action taken against his or her license, or who has been denied a license.

60 (j) Any policy or contract of liability insurance providing coverage for liability sold, issued
61 or delivered in this state to any optometrist covered under the provisions of this article shall be
62 read so as to contain a provision or endorsement whereby the company issuing such policy
63 waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary
64 thereof, to any claim covered by the terms of such policy within the policy limits, the immunity
65 from liability of the insured by reason of the care and treatment of needy and indigent patients by
66 an optometrist who holds a special volunteer license or who renders such care and treatment
67 under an arrangement with a clinic as authorized under subsection (d) of this section.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12b. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

1 (a) There is hereby established a special volunteer medical license for physicians retired
2 or retiring from the active practice of osteopathy who wish to donate their expertise for the medical
3 care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole
4 or in part, for the delivery of health care services without charge. The special volunteer medical
5 license shall be issued by the West Virginia Board of Osteopathic Medicine to physicians licensed
6 or otherwise eligible for licensure under this article and the rules promulgated hereunder without
7 the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or

8 part thereof, and shall be renewable annually. The board shall develop application forms for the
9 special license provided for in this subsection which shall contain the physician's acknowledgment
10 that: (1) The physician's practice under the special volunteer medical license will be exclusively
11 and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2)
12 the physician will not receive any payment or compensation, either direct or indirect, or have the
13 expectation of any payment or compensation but may donate to the clinic the proceeds of any
14 reimbursement, for any medical services rendered under the special volunteer medical license;
15 (3) the physician will supply any supporting documentation that the board may reasonably require;
16 and (4) the physician agrees to continue to participate in continuing medical education as required
17 of physicians in active practice.

18 (b) Any person engaged in the active practice of osteopathy in this state whose license is
19 in good standing may donate their expertise for the medical care and treatment of indigent and
20 needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery
21 of health care services without charge to the patient. Services rendered under an arrangement
22 may be performed in either the physician's office or the clinic setting.

23 (c) Any physician who renders any medical service to indigent and needy patients of
24 clinics organized, in whole or in part, for the delivery of health care services without charge under
25 a special volunteer medical license authorized under subsection (a) of this section or under an
26 arrangement with a clinic as authorized under subsection (b) of this section without payment or
27 compensation or the expectation or promise of payment or compensation is immune from liability
28 for any civil action arising out of any act or omission resulting from the rendering of the medical
29 service at the clinic unless the act or omission was the result of the physician's gross negligence
30 or willful misconduct. In order for the immunity under this subsection to apply, there must be a
31 written agreement between the physician and the clinic pursuant to which the physician will
32 provide voluntary noncompensated medical services under the control of the clinic to patients of
33 the clinic before the rendering of any services by the physician at the clinic: *Provided*, That any

34 clinic entering into such written agreement shall be required to maintain liability coverage of not
35 less than \$1 million per occurrence.

36 (d) Any physician who renders medical service to indigent and needy patients under a
37 special volunteer medical license authorized under subsection (a) of this section or under an
38 arrangement with a clinic as authorized under subsection (b) of this section may fulfill one hour of
39 continuing education by the performance of one hour of volunteer services to eligible indigent or
40 needy patients as provided in this section, up to a maximum of seven credits per licensure period.
41 When submitting continuing education hours to the West Virginia Board of Osteopathic Medicine,
42 the physician shall include a signed letter from the clinic certifying that the physician rendered
43 volunteer services for the hours claimed.

44 (e) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in
45 whole or in part, for the delivery of health care services without charge shall not be relieved from
46 imputed liability for the negligent acts of a physician rendering voluntary medical services at or for
47 the clinic under a special volunteer medical license authorized under subsection (a) of this section
48 or who renders such services under an arrangement with a clinic as authorized under subsection
49 (b) of this section.

50 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
51 of all the requirements for licensure as listed in section ten of this article and in the legislative
52 rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said
53 section and of the legislative rule promulgated by the board relating to fees.

54 (g) Nothing in this section may be construed as requiring the board to issue a special
55 volunteer medical license to any physician whose medical license is or has been subject to any
56 disciplinary action or to any physician who has surrendered a medical license or caused such
57 license to lapse, expire and become invalid in lieu of having a complaint initiated or other action
58 taken against his or her medical license, or who has elected to place a medical license in inactive
59 status in lieu of having a complaint initiated or other action taken against his or her medical

60 license, or who have been denied a medical license.

61 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
62 or delivered in this state to any physician covered under the provisions of this article shall be read
63 so as to contain a provision or endorsement whereby the company issuing such policy waives or
64 agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any
65 claim covered by the terms of such policy within the policy limits, the immunity from liability of the
66 insured by reason of the care and treatment of needy and indigent patients by a physician who
67 holds a special volunteer medical license or who renders such care and treatment under an
68 arrangement with a clinic as authorized under subsection (b) of this section.

ARTICLE 20. PHYSICAL THERAPISTS.

**§30-20-13. Special volunteer physical therapist license, physical therapist assistant
license; civil immunity for voluntary services rendered to indigents.**

1 (a) There is established a special volunteer license for physical therapists or physical
2 therapist assistants, as the case may be, retired or retiring from active practice who wish to donate
3 their expertise for the care and treatment of indigent and needy patients in the clinical setting of
4 clinics organized, in whole or in part, for the delivery of health care services without charge. The
5 special volunteer license provided by this section shall be issued by the West Virginia Board of
6 Physical Therapy to physical therapists or physical therapist assistants licensed or otherwise
7 eligible for licensure under this article and the legislative rules promulgated hereunder without the
8 payment of an application fee, license fee or renewal fee, and the initial license shall be issued
9 for the remainder of the licensing period, and renewed consistent with the boards other licensing
10 requirements. The board shall develop application forms for the special volunteer license provided
11 in this section which shall contain the applicant's acknowledgment that:

12 (1) The applicant's practice under the special volunteer license will be exclusively devoted
13 to providing physical therapy care to needy and indigent persons in West Virginia;

14 (2) The applicant may not receive any payment or compensation, either direct or indirect,

15 or have the expectation of any payment or compensation but may donate to the clinic the
16 proceeds of any reimbursement for any physical therapy services rendered under the special
17 volunteer license;

18 (3) The applicant shall supply any supporting documentation that the board may
19 reasonably require; and

20 (4) The applicant shall continue to participate in continuing education as required by the
21 board for special volunteer physical therapists or physical therapist assistants license, as the case
22 may be.

23 (b) Any person engaged in the active practice of physical therapy in this state whose
24 license is in good standing may donate their expertise for the care and treatment of indigent and
25 needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery
26 of health care services without charge to the patient. Services rendered under an arrangement
27 may be performed in either the physical therapist's office or the clinic setting.

28 (c) Any physical therapist or physical therapist assistant who renders any physical therapy
29 service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of
30 health care services without charge under a special volunteer license authorized under subsection
31 (a) of this section or under an arrangement with a clinic as authorized under subsection (b) of this
32 section without payment or compensation or the expectation or promise of payment or
33 compensation is immune from liability for any civil action arising out of any act or omission
34 resulting from the rendering of the physical therapy service at the clinic unless the act or omission
35 was the result of gross negligence or willful misconduct on the part of the physical therapist or
36 physical therapist assistant. In order for the immunity under this subsection to apply, there must
37 be a written agreement between the physical therapist or physical therapist assistant and the
38 clinic stating that the physical therapist or physical therapist assistant will provide voluntary
39 uncompensated physical therapy services under the control of the clinic to patients of the clinic
40 before the rendering of any services by the physical therapist or physical therapist assistant at

41 the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain
42 liability coverage of not less than \$1 million per occurrence.

43 (d) Any physical therapist or physical therapist assistant who renders physical therapy
44 services to indigent and needy patients under a special volunteer license authorized under
45 subsection (a) of this section or under an arrangement with a clinic as authorized under subsection
46 (b) of this section may fulfill one hour of continuing education by the performance of one hour of
47 volunteer services to eligible indigent or needy patients as provided in this section, up to a
48 maximum of five credits per licensure period. When submitting continuing education hours to the
49 West Virginia Board of Physical Therapy, the physical therapist or physical therapist assistant
50 shall include a signed letter from the clinic certifying that the physical therapist or physical therapist
51 assistant rendered volunteer services for the hours claimed.

52 (e) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
53 whole or in part, for the delivery of health care services without charge is not relieved from imputed
54 liability for the negligent acts of a physical therapist or physical therapist assistant rendering
55 voluntary physical therapy services at or for the clinic under a special volunteer license authorized
56 under this section or who renders such care and treatment under an arrangement with a clinic as
57 authorized under subsection (b) of this section.

58 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
59 of all the requirements for licensure for a physical therapist or physical therapist assistant, as the
60 case may be, except the fee requirements.

61 (g) Nothing in this section may be construed as requiring the board to issue a special
62 volunteer license to any physical therapist or physical therapist assistant whose license is or has
63 been subject to any disciplinary action or to any physical therapist or physical therapist assistant
64 who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of
65 having a complaint initiated or other action taken against his or her license, or who has elected to
66 place a license in inactive status in lieu of having a complaint initiated or other action taken against

67 his or her license or who has been denied a license.

68 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
69 or delivered in this state to any physical therapist or physical therapist assistant covered under
70 the provisions of this article shall be read so as to contain a provision or endorsement whereby
71 the company issuing such policy waives or agrees not to assert as a defense on behalf of the
72 policy holder or any beneficiary there of the policy, to any claim covered by the terms of the policy
73 within the policy limits, the immunity from liability of the insured by reason of the care and
74 treatment of needy and indigent patients by a physical therapist or physical therapist assistant
75 who holds a special volunteer license or who renders such care and treatment under an
76 arrangement with a clinic as authorized under subsection (b) of this section.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-17. Special volunteer psychologists license; civil immunity for voluntary services rendered to indigents.

1 (a) There is established a special volunteer psychologists license for psychologists retired
2 or retiring from the active practice of psychology who wish to donate their expertise for the
3 psychological care and treatment of indigent and needy patients in the clinic setting of clinics
4 organized, in whole or in part, for the delivery of health care services without charge. The special
5 volunteer psychologist license shall be issued by the West Virginia Board of Examiners of
6 Psychologists to psychologists licensed or otherwise eligible for licensure under this article and
7 the legislative rules promulgated hereunder without the payment of an application fee, license fee
8 or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and
9 renewed consistent with the boards other licensing requirements. The board shall develop
10 application forms for the special license provided in this subsection which shall contain the
11 psychologist's acknowledgment that:

12 (1) The psychologist's practice under the special volunteer psychologists license will be
13 exclusively devoted to providing psychological care to needy and indigent persons in West

14 Virginia;

15 (2) The psychologist will not receive any payment or compensation, either direct or
16 indirect, or have the expectation of any payment or compensation but may donate to the clinic the
17 proceeds of any reimbursement, for any psychological services rendered under the special
18 volunteer psychological license;

19 (3) The psychologist will supply any supporting documentation that the board may
20 reasonably require; and

21 (4) The psychologist agrees to continue to participate in continuing education as required
22 by the board for a special volunteer psychologists license.

23 (b) Any person engaged in the active practice of psychology in this state whose license is
24 in good standing may donate their expertise for the care and treatment of indigent and needy
25 patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health
26 care services without charge to the patient. Services rendered under an arrangement may be
27 performed in either the psychologist's office or the clinic setting.

28 (c) Any psychologist who renders any psychological service to indigent and needy
29 patients of a clinic organized, in whole or in part, for the delivery of health care services without
30 charge under a special volunteer psychologist license authorized under subsection (a) of this
31 section without payment or compensation or the expectation or promise of payment or
32 compensation, is immune from liability for any civil action arising out of any act or omission
33 resulting from the rendering of the psychological service at the clinic unless the act or omission
34 was the result of the psychologist's gross negligence or willful misconduct. In order for the
35 immunity under this subsection to apply, there must be a written agreement between the
36 psychologist and the clinic pursuant to which the psychologist will provide voluntary
37 uncompensated psychological services under the control of the clinic to patients of the clinic
38 before the rendering of any services by the psychologists at the clinic: *Provided*, That any clinic
39 entering into such written agreement is required to maintain liability coverage of not less than \$1

40 million per occurrence.

41 (d) Any psychologist who renders psychology services to indigent and needy patients
42 under a special volunteer license authorized under subsection (a) of this section or under an
43 arrangement with a clinic as authorized under subsection (b) of this section may fulfill one hour of
44 continuing education by the performance of one hour of volunteer services to eligible indigent or
45 needy patients as provided in this section, up to a maximum of four credits per licensure period.
46 When submitting continuing education hours to the West Virginia Board of Examiners of
47 Psychologists, the psychologist shall include a signed letter from the clinic certifying that the
48 psychologist rendered volunteer services for the hours claimed.

49 (e) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
50 whole or in part, for the delivery of health care services without charge is not relieved from imputed
51 liability for the negligent acts of a psychologist rendering voluntary psychological services at or
52 for the clinic under a special volunteer psychological license authorized under subsection (a) of
53 this section or who renders such care and treatment under an arrangement with a clinic as
54 authorized under subsection (b) of this section.

55 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
56 of all the requirements for licensure as listed in section seven of this article and in the legislative
57 rules promulgated thereunder, except the fee requirements of subsection (d) of that section and
58 of the legislative rules promulgated by the board relating to fees.

59 (g) Nothing in this section may be construed as requiring the board to issue a special
60 volunteer psychologist license to any psychologist whose license is or has been subject to any
61 disciplinary action or to any psychologist who has surrendered a psychologist license or caused
62 such license to lapse, expire and become invalid in lieu of having a complaint initiated or other
63 action taken against his or her license, or who has elected to place a psychologist license in
64 inactive status in lieu of having a complaint initiated or other action taken against his or her license,
65 or who has been denied a psychologist license.

66 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
67 or delivered in this state to any psychologist covered under the provisions of this article, shall be
68 read so as to contain a provision or endorsement whereby the company issuing such policy
69 waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary
70 thereof, to any claim covered by the terms of such policy within the policy limits, the immunity
71 from liability of the insured by reason of the care and treatment of needy and indigent patients by
72 a psychologist who holds a special volunteer psychologist license or who renders such care and
73 treatment under an arrangement with a clinic as authorized under subsection (b) of this section.

ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.

§30-28-8a. Special volunteer occupational therapist license; civil immunity for voluntary services rendered to indigents.

1 (a) There is established a special volunteer occupational therapist license for occupational
2 therapists retired or retiring from the active practice of occupational therapy who wish to donate
3 their expertise for the care and treatment of indigent and needy patients in the clinic setting of
4 clinics organized, in whole or in part, for the delivery of health care services without charge. The
5 special volunteer occupational therapist license shall be issued by the West Virginia Board of
6 Occupational Therapy to occupational therapists licensed or otherwise eligible for licensure under
7 this article and the legislative rules promulgated hereunder without the payment of an application
8 fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the
9 licensing period, and renewed consistent with the boards other licensing requirements. The board
10 shall develop application forms for the special license provided in this subsection which shall
11 contain the occupational therapist's acknowledgment that:

12 (1) The occupational therapist's practice under the special volunteer occupational
13 therapist license will be exclusively devoted to providing occupational therapy care to needy and
14 indigent persons in West Virginia;

15 (2) The occupational therapist will not receive any payment or compensation, either direct

16 or indirect, or have the expectation of any payment or compensation but may donate to the clinic
17 the proceeds of any reimbursement, for any occupational therapy services rendered under the
18 special volunteer occupational therapist license;

19 (3) The occupational therapist will supply any supporting documentation that the board
20 may reasonably require; and

21 (4) The occupational therapist agrees to continue to participate in continuing education as
22 required by the board for a special volunteer occupational therapists license.

23 (b) Any person engaged in the active practice of occupational therapy in this state whose
24 license is in good standing may donate their expertise for the care and treatment of indigent and
25 needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery
26 of health care services without charge to the patient. Services rendered under an arrangement
27 may be performed in either the occupational therapist's office or the clinic setting.

28 (c) Any occupational therapist who renders any occupational therapy service to indigent
29 and needy patients of a clinic organized, in whole or in part, for the delivery of health care services
30 without charge under a special volunteer occupational therapist license authorized under
31 subsection (a) of this section or under an arrangement with a clinic as authorized under subsection
32 (b) of this section without payment or compensation or the expectation or promise of payment or
33 compensation is immune from liability for any civil action arising out of any act or omission
34 resulting from the rendering of the occupational therapy service at the clinic unless the act or
35 omission was the result of the occupational therapist's gross negligence or willful misconduct. In
36 order for the immunity under this subsection to apply, there must be a written agreement between
37 the occupational therapist and the clinic pursuant to which the occupational therapist will provide
38 voluntary uncompensated occupational therapy services under the control of the clinic to patients
39 of the clinic before the rendering of any services by the occupational therapist at the clinic:
40 *Provided*, That any clinic entering into such written agreement is required to maintain liability
41 coverage of not less than \$1 million per occurrence.

42 (d) Any occupational therapist who renders occupational therapy services to indigent and
43 needy patients under a special volunteer license authorized under subsection (a) of this section
44 or under an arrangement with a clinic as authorized under subsection (b) of this section may fulfill
45 one hour of continuing education by the performance of one hour of volunteer services to eligible
46 indigent or needy patients as provided in this section, up to a maximum of five credits per licensure
47 period. When submitting continuing education hours to the West Virginia Board of Occupational
48 Therapy, the occupational therapist shall include a signed letter from the clinic certifying that the
49 occupational therapist rendered volunteer services for the hours claimed.

50 (e) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
51 whole or in part, for the delivery of health care services without charge is not relieved from imputed
52 liability for the negligent acts of an occupational therapist rendering voluntary occupational
53 therapy services at or for the clinic under a special volunteer occupational therapist license
54 authorized under subsection (a) of this section or who renders such care and treatment under an
55 arrangement with a clinic as authorized under subsection (b) of this section.

56 (f) For purposes of this section, "otherwise eligible for licensure" means the satisfaction
57 of all the requirements for licensure as listed in section eight of this article and in the legislative
58 rules promulgated thereunder, excepting the fee requirements of subsection (a), section eleven
59 of this article and of the legislative rules promulgated by the board relating to fees.

60 (g) Nothing in this section may be construed as requiring the board to issue a special
61 volunteer occupational therapist license to any occupational therapist whose occupational
62 therapist license is or has been subject to any disciplinary action or to any occupational therapist
63 who has surrendered an occupational therapist license or caused such license to lapse, expire
64 and become invalid in lieu of having a complaint initiated or other action taken against his or her
65 occupational therapist license, or who has elected to place an occupational therapist license in
66 inactive status in lieu of having a complaint initiated or other action taken against his or her
67 occupational therapist license, or who has been denied an occupational therapist license.

68 (h) Any policy or contract of liability insurance providing coverage for liability sold, issued
69 or delivered in this state to any occupational therapist covered under the provisions of this article
70 shall be read so as to contain a provision or endorsement whereby the company issuing such
71 policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary
72 thereof, to any claim covered by the terms of such policy within the policy limits, the immunity
73 from liability of the insured by reason of the care and treatment of needy and indigent patients by
74 an occupational therapist who holds a special volunteer occupational therapist license or who
75 renders such care and treatment under an arrangement with a clinic as authorized under
76 subsection (b) of this section.