

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4685**

(BY DELEGATES IHLE, MOFFATT, HAMRICK, R. SMITH,

AND ATKINSON)

[Introduced February 23, 2016;

referred to the Committee on

Government Organization.]



1 A BILL to amend and reenact §30-1-4a of the Code of West Virginia, 1931, as amended, and to  
2 amend said code by adding thereto four new sections, designated §30-1-21, §30-1-22,  
3 §30-1-23 and §30-1-24, all relating to professional and occupational board members;  
4 providing for the disqualification of lay members who become licensees; indemnification  
5 of board members; prohibiting impersonation of a board licensee; requiring boards use  
6 the sunrise process to expand their scope of practice; and requiring boards to submit  
7 names of qualified individuals to the Governor for possible appointment.

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

1 That §30-1-4a of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; and that said code be amended by adding thereto four new sections, designated §30-  
3 1-21, §30-1-22, §30-1-23 and §30-1-24, all to read as follows:

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

**§30-1-4a. Lay members of professional boards.**

1 (a) Notwithstanding any provisions of this code to the contrary, the Governor shall appoint  
2 at least one lay person to represent the interests of the public on every health professional  
3 licensing board which is referred to in this chapter. If the total number of members on any of these  
4 boards after the appointment of one lay person is an even number, one additional lay person shall  
5 be appointed. Lay members shall serve in addition to any other members otherwise provided for  
6 by law or rule. Lay members shall be at least eighteen years of age, shall be of good moral  
7 character, and shall be competent to represent and safeguard the interests of the public. Each  
8 lay member is empowered to participate in and vote on all transactions and business of the board,  
9 committee or group to which he or she is appointed.

10 (b) Any person whose addition to a board as a lay member under the provisions of this  
11 section results in the addition of an odd number of lay additions to the board shall serve for a term

12 ending in an odd-numbered year on the date in that year on which terms of the professional  
13 members expire. Of the members first appointed, each shall serve for a term ending in the year  
14 1979, and the successor to each of the first members shall serve for a term equal in length to the  
15 terms of the other professional members of the board.

16 (c) Any person whose addition to a board as a lay member under the provisions of this  
17 section results in the addition of an even number of lay additions to the board shall serve for a  
18 term ending in an even-numbered year on the date in that year on which terms of the professional  
19 members expire. Of the members first appointed, each shall serve for a term ending in the year  
20 1978, and the successor to each of the first members shall serve for a term equal in length to the  
21 terms of the other professional members of the board.

22 (d) Any person added to a board under the provisions of this chapter as a lay member  
23 immediately and automatically forfeits his or her membership on the board if he or she obtains a  
24 license under the provisions of the article governing that board, or obtains a similar license from  
25 another jurisdiction.

26 (e) Any lay member of a board under the provisions of this chapter that is no longer  
27 qualified for his or her position shall immediately notify the board and the Governor's office that  
28 he is she is no longer qualified and is forfeiting his or her membership.

**§30-1-21. Indemnification of members of professional boards.**

1 A member of a state board of examination or registration under the provisions of this  
2 chapter may not be found to be personally liable for any action taken in his or her official capacity  
3 as a member of a professional or occupational licensing board while acting pursuant to that article.  
4 The state shall indemnify any member of any state board acting in his or her official capacity from  
5 personal liability.

**§30-1-22. Prohibition against impersonating a licensee.**

1 Any person who falsely represents himself or herself to be a licensee, permittee, or  
2 registrant of any board under this chapter, or any person not licensed, permitted, or registered

3 who shall wear the uniform prescribed for such persons, or the badge or other insignia adopted  
4 for use by such persons with the intent to deceive another person, is guilty of a misdemeanor,  
5 and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000.

**§30-1-23. Limitation on expanded scope of practice.**

1 A state board of examination or registration under this chapter may not regulate any  
2 activity not already within its scope of practice as of July 1, 2016, specifically provided for by this  
3 code or legislative rule, unless and until it applies to increase its scope of practice through the  
4 sunrise process pursuant to provisions of article one-a of this chapter.

**§30-1-24. Boards required to submit names for appointment.**

1 At least thirty days prior to a known vacancy or expiration of term, or as soon thereafter  
2 as practical in advance of the expiration or vacancy, all boards regulated under this chapter shall  
3 submit three names of qualified individuals to the Governor for each member where a vacancy is  
4 anticipated or where a member is currently serving on an expired term. This section does not  
5 prohibit the Governor from appointing a qualified individual not submitted by the board.

NOTE: The purpose of this bill is to prohibit lay members from having a license from the board upon which they serve; indemnify board members from personal liability; prohibiting impersonation of board licensees; requiring boards to apply to use the sunrise process to expand their scopes of practice; and requiring boards to submit names of qualified individuals to the Governor for possible appointment.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.