WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 4

BY SENATORS GAUNCH, TRUMP, BOSO, BLAIR, RUCKER,

JEFFRIES, STOLLINGS, WOELFEL AND SYPOLT

[Introduced February 8, 2017; referred
to the Committee on Health and Human Resources; and
then to the Committee on the Judiciary]
A BILL to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing licensed professionals to donate time to the care of indigent and needy in a clinical setting; and allowing for some of donated time to be counted against continuing education required hours.

Be it enacted by the Legislature of West Virginia:

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

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of medicine who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof,
and shall be renewable annually. The board shall develop application forms for the special license
provided for in this subsection which shall contain the physician’s acknowledgment that: (1) The
physician’s practice under the special volunteer medical license will be exclusively and totally
devoted to providing medical care to needy and indigent persons in West Virginia; (2) the
physician will not receive any payment or compensation, either direct or indirect, or have the
expectation of any payment or compensation, but may donate to the clinic the proceeds of any
reimbursement for any medical services rendered under the special volunteer medical license;
(3) the physician will supply any supporting documentation that the board may reasonably require;
and (4) the physician agrees to continue to participate in continuing medical education as required
of physicians in active practice.

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

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

(d) Any physician who renders medical service to indigent and needy patients under a special volunteer medical license authorized under subsection (a) of this section or under an arrangement with a clinic as authorized under subsection (b) of this section may fulfill one hour of continuing education by the performance of one hour of volunteer services to eligible indigent or needy patients as provided in this section, up to a maximum of ten credits per licensure period.

When submitting continuing education hours to the West Virginia Board of Medicine, the physician shall include a signed letter from the clinic certifying that the physician rendered volunteer services for the hours claimed.

(e) (e) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge shall be relieved from imputed liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic under a special volunteer medical license authorized under subsection (a) of this section or under an arrangement with a clinic as authorized under subsection (b) of this section.

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

(g) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.
(f) (h) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license or who renders such care and treatment under an arrangement with a clinic as authorized under subsection (b) of this section: Provided, That this subsection shall not apply to a terminated policy, terminated contract of liability insurance or extended reporting endorsement attached thereto that provides "tail insurance" as defined by section two, article twenty-d, chapter thirty-three of this code: Provided, however, That nothing within this subsection shall be construed to extend coverage under a terminated policy or terminated contract of liability insurance or any extended reporting endorsement attached thereto to: (1) Alter or amend the effective policy period of any policy, contract of liability insurance or extended reporting endorsement; or (2) cover the treatment of indigent and needy patients by a physician who holds a special volunteer medical license or who renders such care and treatment 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The registered professional nurse’s practice under the special volunteer registered professional nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

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

3. The registered professional nurse will supply any supporting documentation that the board may reasonably require; and

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

(b) Any person engaged in the active practice of nursing in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered under an arrangement may be performed in either the office of the registered professional nurse or the clinic setting.
Any registered professional nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer registered professional nurse license authorized under subsection (a) of this section or under an arrangement with a clinic as authorized under subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the registered professional nurse’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the registered professional nurse and the clinic pursuant to which the registered professional nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the registered professional nurse at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

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

Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a registered professional nurse rendering voluntary
nursing services at or for the clinic under a special volunteer registered professional nurse license authorized under subsection (a) of this section or who renders such care and treatment under an arrangement with a clinic as authorized under subsection (b) of this section.

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

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

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

ARTICLE 8. OPTOMETRISTS.

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

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

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

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

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

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

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

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

(d) Any person engaged in the active practice of optometry in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered under an arrangement may be performed in either the office of the optometrist or the clinic setting.
Any optometrist who renders any optometrical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer license authorized under this section or under an arrangement with a clinic as authorized under subsection (d) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the optometrical service at the clinic unless the act or omission was the result of the optometrist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, before the rendering of any services by the optometrist at the clinic, there must be a written agreement between the optometrist and the clinic stating that the optometrist will provide voluntary uncompensated optometrical services under the control of the clinic to patients of the clinic before the rendering of any services by the optometrist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

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

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

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

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

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

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of osteopathy who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Osteopathic Medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without
the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician’s acknowledgment that: (1) The physician’s practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any medical services rendered under the special volunteer medical license; (3) the physician will supply any supporting documentation that the board may reasonably require; and (4) the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

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

(c) Any physician who renders any medical service to indigent and needy patients of clinics organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section or under an arrangement with a clinic as authorized under subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the physician and the clinic pursuant to which the physician will provide voluntary noncompensated medical services under the control of the clinic to patients of
the clinic before the rendering of any services by the physician at the clinic: Provided, That any clinic entering into such written agreement shall be required to maintain liability coverage of not less than $1 million per occurrence.

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

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

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

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

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

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

(1) The applicant's practice under the special volunteer license will be exclusively devoted to providing physical therapy care to needy and indigent persons in West Virginia;
(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any physical therapy services rendered under the special volunteer license;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) (c) Any psychologist who renders any psychological service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer psychologist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation, is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the psychological service at the clinic unless the act or omission was the result of the psychologist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the psychologist and the clinic pursuant to which the psychologist will provide voluntary uncompensated psychological services under the control of the clinic to patients of the clinic before the rendering of any services by the psychologists at the clinic: Provided, That any clinic
(d) Any psychologist who renders psychology services to indigent and needy patients under a special volunteer license authorized under subsection (a) of this section or under an arrangement with a clinic as authorized under subsection (b) of this section may fulfill one hour of continuing education by the performance of one hour of volunteer services to eligible indigent or needy patients as provided in this section, up to a maximum of four credits per licensure period. When submitting continuing education hours to the West Virginia Board of Examiners of Psychologists, the psychologist shall include a signed letter from the clinic certifying that the psychologist rendered volunteer services for the hours claimed.

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

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

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

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

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

**(1)** The occupational therapist's practice under the special volunteer occupational therapist license will be exclusively devoted to providing occupational therapy care to needy and indigent persons in West Virginia;
(2) The occupational therapist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any occupational therapy services rendered under the special volunteer occupational therapist license;

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to allow certain licensed professionals to donate their time to the care of the indigent and the needy and to allow them to gain credit for their time against continuing education requirements needed to maintain their license.

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