

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Originating

House Bill 3109

BY DELEGATE HOWELL

[Originating in the Committee on Government

Organization; Reported on March 24, 2017]

1 A BILL to repeal §30-7-1, §30-7-1a, §30-7-2, §30-7-3, §30-7-4, §30-7-5, §30-7-6, §30-7-6a,
2 §30-7-7, §30-7-8, §30-7-8a, §30-7-9, §30-7-10, §30-7-11, §30-7-11a, §30-7-12, §30-
3 7-13, §30-7-14, §30-7-15, §30-7-15a, §30-7-15b, §30-7-15c, §30-7-15d, §30-7-15e,
4 §30-7-16, §30-7-18, §30-7-19, and §30-7-20 of the Code of West Virginia, 1931, as
5 amended; to repeal §30-7A-1, §30-7A-2, §30-7A-3, §30-7A-4, §30-7A-5, §30-7A-6, §30-
6 7A-7, §30-7A-7a, §30-7A-8, §30-7A-9, §30-7A-10, and §30-7A-11 of said code; to repeal
7 §30-7B-1, §30-7B-2, §30-7B-3, §30-7B-4, §30-7B-5, §30-7B-6, and §30-7B-7 of said
8 code; to repeal §30-7C-1, §30-7C-2, §30-7C-3, §30-7C-4, §30-7C-5, §30-7C-6, §30-7C-
9 7, §30-7C-8, §30-7C-9, §30 -7C-10, §30-7C-11, §30-7C-12 and §30-7C-13 of said code;
10 to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-
11 7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12 and §30-7D-13 of said code; to repeal
12 §30-7E-1, §30-7E-2 and §30-7E-3 of said code; to repeal §30-23-1, §30-23-2, §30-23-
13 3, §30-23-4, §30-23-5, §30-23-6, §30-23-7, §30-23-8, §30-23-9, §30-23-10, §30-23-
14 11, §30-23-12, §30-23-13, §30-23-14, §30-23-15, §30-23-16, §30-23-17, §30-23-18,
15 §30-23-19, §30-23-20, §30-23-21, §30-23-22, §30-23-23, §30-23-24, §30-23-25, §30-
16 23-26, §30-23-27, §30-23-28, §30-23-29 and §30-23-30 of said code; to repeal §30-25-
17 1, §30-25-2, §30-25-3, §30-25-4, §30-25-5, §30-25-6, §30-25-7, §30-25-8, §30-25-9, §30-
18 25-10, §30-25-11, §30-25-12, §30-25-13, §30-25-14, §30-25-15, §30-25-16, §30-25-17,
19 and §30-25-18 of said code; to amend and reenact §4-10-10 of said code; to amend and
20 reenact §18A-4-8 of said code; to amend and reenact §18C-3-4 of said code; to amend
21 and reenact §30-1-7a and §30-1-20 of said code; to amend and reenact §30-1D-1 of said
22 code; and to amend said code by adding thereto a new article, designated §30-41-1, §30-
23 41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8, §30-41-9, §30-41-10,
24 §30-41-11, §30-41-12, §30-41-13, §30-41-14, §30-41-14a, §30-41-14b, §30-41-14c, §30-
25 41-15, §30-41-16a, §30-41-16b, §30-41-16c, §30-41-16d, §30-41-17, §30-41-17a, §30-
26 41-18, §30-41-19, §30-41-19a, §30-41-19b, §30-41-19c, 30-41-19d, §30-41-19e, §30-41-

27 20, §30-41-20a, §30-41-20b, §30-41-20c, §30-41-20d, §30-41-20e, §30-41-20f, §30-41-
28 20g, §30-41-20h, §30-41-20i, §30-41-20j, §30-41-20k, §30-41-20l, §30-41-20m, §30-41-
29 20n, §30-41-21, §30-41-21a, §30-41-21b, §30-41-21c, §30-41-21d, §30-41-22, §30-41-
30 23, §30-41-24, §30-41-25, §30-41-26, §30-41-27, §30-41-28, §30-41-29, §30-41-29a,
31 §30-41-29b, §30-41-29c, §30-41-29d, §30-41-29e, §30-41-29f, §30-41-29g, §30-41-29h,
32 §30-41-29i, §30-41-29j, §30-41-30, §30-41-31 and §30-41-32, all relating to establishing
33 a Board of Nursing and Health Services; defining terms; transferring the authority of the
34 West Virginia Board of Examiners for Registered Professional Nurses, Board of
35 Examiners for Licensed Practical Nurses, West Virginia Medical Imaging and Radiation
36 Therapy Technology Board of Examiners, and the West Virginia Nursing Home
37 Administrators Licensing Board to the Board of Nursing and Health Services; providing for
38 wind up year activity; transferring authority, assets and funds; providing for rule making;
39 continuing the Center for Nursing; requiring license; providing for the investigation of
40 complaints; providing for disciplinary action; continuing the Medication Assistive Person
41 Advisory Committee; providing for hearings and judicial review; and providing for nurse
42 health programs.

Be it enacted by the Legislature of West Virginia:

43 That §30-7-1, §30-7-1a, §30-7-2, §30-7-3, §30-7-4, §30-7-5, §30-7-6, §30-7-6a, §30-
44 7-7, §30-7-8, §30-7-8a, §30-7-9, §30-7-10, §30-7-11, §30-7-11a, §30-7-12, §30-7-13, §30-7-
45 14, §30-7-15, §30-7-15a, §30-7-15b, §30-7-15c, §30-7-15d, §30-7-15e, §30-7-16, §30-7-18,
46 §30-7-19, and §30-7-20 of the Code of West Virginia, 1931, as amended, be repealed; that §30-
47 7A-1, §30-7A-2, §30-7A-3, §30-7A-4, §30-7A-5, §30-7A-6, §30-7A-7, §30-7A-7a, §30-7A-8, §30-
48 7A-9, §30-7A-10, and §30-7A-11 of said code be repealed; that §30-7B-1, §30-7B-2, §30-7B-3,
49 §30-7B-4, §30-7B-5, §30-7B-6, and §30-7B-7 of said code be repealed; that §30-7C-1, §30-7C-
50 2, §30-7C-3, §30-7C-4, §30-7C-5, §30-7C-6, §30-7C-7, §30-7C-8, §30-7C-9, §30 -7C-10, §30-
51 7C-11, §30-7C-12 and §30-7C-13 of said code be repealed; that §30-7D-1, §30-7D-2, §30-7D-3,

52 §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-
53 12 and §30-7D-13 of said code be repealed; that §30-7E-1, §30-7E-2 and §30-7E-3 of said code
54 be repealed; that §30-23-1, §30-23-2, §30-23-3, §30-23-4, §30-23-5, §30-23-6, §30-23-7,
55 §30-23-8, §30-23-9, §30-23-10, §30-23-11, §30-23-12, §30-23-13, §30-23-14, §30-23-15,
56 §30-23-16, §30-23-17, §30-23-18, §30-23-19, §30-23-20, §30-23-21, §30-23-22, §30-23-23,
57 §30-23-24, §30-23-25, §30-23-26, §30-23-27, §30-23-28, §30-23-29 and §30-23-30 of said
58 code be repealed; that §30-25-1, §30-25-2, §30-25-3, §30-25-4, §30-25-5, §30-25-6, §30-
59 25-7, §30-25-8, §30-25-9, §30-25-10, §30-25-11, §30-25-12, §30-25-13, §30-25-14, §30-25-15,
60 §30-25-16, §30-25-17 and §30-25-18 of said code be repealed; that §4-10-10 of said code be
61 amended and reenacted; that §18A-4-8 of said code be amended and reenacted; that §18C-3-4
62 of said code be amended and reenacted; that §30-1-7a and §30-1-20 of said code be amended
63 and reenacted; that §30-1D-1 of said code be amended and reenacted; and that said code be to
64 amended by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4,
65 §30-41-5, §30-41-6, §30-41-7, §30-41-8, §30-41-9, §30-41-10, §30-41-11, §30-41-12, §30-41-13,
66 §30-41-14, §30-41-14a, §30-41-14b, §30-41-14c, §30-41-15, §30-41-16a, §30-41-16b, §30-41-
67 16c, §30-41-16d, §30-41-17, §30-41-17a, §30-41-18, §30-41-19, §30-41-19a, §30-41-19b, §30-
68 41-19c, §30-41-19d, §30-41-19e, §30-41-20, §30-41-20a, §30-41-20b, §30-41-20c, §30-41-20d,
69 §30-41-20e, §30-41-20f, §30-41-20g, §30-41-20h, §30-41-20i, §30-41-20j, §30-41-20k, §30-41-
70 20l, §30-41-20m, §30-41-20n, §30-41-21, §30-41-21a, §30-41-21b, §30-41-21c, §30-41-21d,
71 §30-41-22, §30-41-23, §30-41-24, §30-41-25, §30-41-26, §30-41-27, §30-41-28, §30-41-29, §30-
72 41-29a, §30-41-29b, §30-41-29c, §30-41-29d, §30-41-29e, §30-41-29f, §30-41-29g, §30-41-29h,
73 §30-41-29i, §30-41-29j, §30-41-30, §30-41-31 and §30-41-32, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 10. PERFORMANCE REVIEW ACT.

§4-10-10. Regulatory board review schedule.

1 (a) A regulatory board review is required for all regulatory boards.

2 (b) A regulatory board review shall be performed on each regulatory board at least once
3 every twelve years, commencing as follows:

4 ~~(1) Two thousand eight: Board of Acupuncture; Board of Barbers and Cosmetologists; and~~
5 ~~Board of Examiners in Counseling.~~

6 ~~(2) Two thousand nine: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and~~
7 ~~Nursing Home Administrators Board.~~

8 ~~(3) Two thousand ten: Board of Dental Examiners; Board of Medicine; and Board of~~
9 ~~Pharmacy.~~

10 ~~(4) Two thousand eleven: Board of Chiropractic Examiners; Board of Osteopathy; and~~
11 ~~Board of Physical Therapy.~~

12 ~~(5) Two thousand twelve: Board of Occupational Therapy; Board of Examiners for Speech-~~
13 ~~Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of~~
14 ~~Examiners.~~

15 ~~(6) Two thousand thirteen: Board of Professional Surveyors; Board of Registration for~~
16 ~~Foresters; and Board of Registration for Professional Engineers.~~

17 ~~(7) Two thousand fourteen: Board of Examiners for Licensed Practical Nurses; Board of~~
18 ~~Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.~~

19 ~~(8) Two thousand fifteen: Board of Architects; Board of Embalmers and Funeral Directors;~~
20 ~~and Board of Landscape Architects.~~

21 ~~(9) Two thousand sixteen: Board of Registration for Sanitarians; Real Estate Appraiser~~
22 ~~Licensure and Certification Board; and Real Estate Commission.~~

23 ~~(10) (1) Two thousand seventeen 2017, Board of Accountancy; Board of Respiratory Care~~
24 ~~Practitioners; and Board of Social Work Examiners.~~

25 ~~(11) (2) Two thousand eighteen 2018, Board of Examiners of Psychologists; Board of~~
26 ~~Optometry; and Board of Veterinary Medicine.~~

27 (3) 2019, Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of
28 Examiners in Counseling.

29 (4) 2020, Board of Hearing Aid Dealers; and Board of Licensed Dietitians.

30 (5) 2021, Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.

31 (6) 2022, Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical
32 Therapy.

33 (7) 2023, Board of Occupational Therapy; and Board of Examiners for Speech-Language
34 Pathology and Audiology.

35 (8) 2024, Board of Professional Surveyors; Board of Registration for Foresters; and Board
36 of Registration for Professional Engineers.

37 (9) 2025, Board of Nursing and Health Services; and Massage Therapy Licensure Board.

38 (10) 2026, Board of Architects; Board of Embalmers and Funeral Directors; and Board of
39 Landscape Architects; and

40 (11) 2027, Board of Registration for Sanitarians; Real Estate Appraiser Licensure and
41 Certification Board; and Real Estate Commission.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-8. Employment term and class titles of service personnel; definitions.

1 (a) The purpose of this section is to establish an employment term and class titles for
2 service personnel. The employment term for service personnel may not be less than ten months.
3 A month is defined as twenty employment days. The county board may contract with all or part of
4 these service personnel for a longer term.

5 (b) Service personnel employed on a yearly or twelve-month basis may be employed by
6 calendar months. Whenever there is a change in job assignment during the school year, the
7 minimum pay scale and any county supplement are applicable.

8 (c) Service personnel employed in the same classification for more than the two hundred-
9 day minimum employment term are paid for additional employment at a daily rate of not less than
10 the daily rate paid for the two hundred-day minimum employment term.

11 (d) A service person may not be required to report for work more than five days per week
12 without his or her agreement, and no part of any working day may be accumulated by the
13 employer for future work assignments, unless the employee agrees thereto.

14 (e) If a service person whose regular work week is scheduled from Monday through Friday
15 agrees to perform any work assignments on a Saturday or Sunday, the service person is paid for
16 at least one-half day of work for each day he or she reports for work. If the service person works
17 more than three and one-half hours on any Saturday or Sunday, he or she is paid for at least a
18 full day of work for each day.

19 (f) A custodian, aide, maintenance, office and school lunch service person required to
20 work a daily work schedule that is interrupted is paid additional compensation in accordance with
21 this subsection.

22 (1) A maintenance person means a person who holds a classification title other than in a
23 custodial, aide, school lunch, office or transportation category as provided in section one, article
24 one of this chapter.

25 (2) A service person's schedule is considered to be interrupted if he or she does not work
26 a continuous period in one day. Aides are not regarded as working an interrupted schedule when
27 engaged exclusively in the duties of transporting students;

28 (3) The additional compensation provided in this subsection:

29 (A) Is equal to at least one eighth of a service person's total salary as provided by the state
30 minimum pay scale and any county pay supplement; and

31 (B) Is payable entirely from county board funds.

32 (g) When there is a change in classification or when a service person meets the
33 requirements of an advanced classification, his or her salary shall be made to comply with the

34 requirements of this article and any county salary schedule in excess of the minimum
35 requirements of this article, based upon the service person's advanced classification and
36 allowable years of employment.

37 (h) A service person's contract, as provided in section five, article two of this chapter, shall
38 state the appropriate monthly salary the employee is to be paid, based on the class title as
39 provided in this article and on any county salary schedule in excess of the minimum requirements
40 of this article.

41 (i) The column heads of the state minimum pay scale and class titles, set forth in section
42 eight-a of this article, are defined as follows:

43 (1) "Pay grade" means the monthly salary applicable to class titles of service personnel;

44 (2) "Years of employment" means the number of years which an employee classified as a
45 service person has been employed by a county board in any position prior to or subsequent to
46 the effective date of this section and includes service in the Armed Forces of the United States, if
47 the employee was employed at the time of his or her induction. For the purpose of section eight-
48 a of this article, years of employment is limited to the number of years shown and allowed under
49 the state minimum pay scale as set forth in section eight-a of this article;

50 (3) "Class title" means the name of the position or job held by a service person;

51 (4) "Accountant I" means a person employed to maintain payroll records and reports and
52 perform one or more operations relating to a phase of the total payroll;

53 (5) "Accountant II" means a person employed to maintain accounting records and to be
54 responsible for the accounting process associated with billing, budgets, purchasing and related
55 operations;

56 (6) "Accountant III" means a person employed in the county board office to manage and
57 supervise accounts payable, payroll procedures, or both;

58 (7) "Accounts payable supervisor" means a person employed in the county board office
59 who has primary responsibility for the accounts payable function and who either has completed

60 twelve college hours of accounting courses from an accredited institution of higher education or
61 has at least eight years of experience performing progressively difficult accounting tasks.
62 Responsibilities of this class title may include supervision of other personnel;

63 (8) "Aide I" means a person selected and trained for a teacher-aide classification such as
64 monitor aide, clerical aide, classroom aide or general aide;

65 (9) "Aide II" means a service person referred to in the "Aide I" classification who has
66 completed a training program approved by the state board, or who holds a high school diploma
67 or has received a general educational development certificate. Only a person classified in an Aide
68 II class title may be employed as an aide in any special education program

69 (10) "Aide III" means a service person referred to in the "Aide I" classification who holds a
70 high school diploma or a general educational development certificate; and

71 (A) Has completed six semester hours of college credit at an institution of higher
72 education; or

73 (B) Is employed as an aide in a special education program and has one year's experience
74 as an aide in special education;

75 (11) "Aide IV" means a service person referred to in the "Aide I" classification who holds a
76 high school diploma or a general educational development certificate; and

77 (A) Has completed eighteen hours of State Board-approved college credit at a regionally
78 accredited institution of higher education, or

79 (B) Has completed fifteen hours of State Board-approved college credit at a regionally
80 accredited institution of higher education; and has successfully completed an in-service training
81 program determined by the state board to be the equivalent of three hours of college credit;

82 (12) "Audiovisual technician" means a person employed to perform minor maintenance on
83 audiovisual equipment, films, and supplies and who fills requests for equipment;

84 (13) "Auditor" means a person employed to examine and verify accounts of individual
85 schools and to assist schools and school personnel in maintaining complete and accurate records

86 of their accounts;

87 (14) "Autism mentor" means a person who works with autistic students and who meets
88 standards and experience to be determined by the state board. A person who has held or holds
89 an aide title and becomes employed as an autism mentor shall hold a multiclassification status
90 that includes both aide and autism mentor titles, in accordance with section eight-b of this article;

91 (15) "Braille specialist" means a person employed to provide braille assistance to students.
92 A service person who has held or holds an aide title and becomes employed as a braille specialist
93 shall hold a multiclassification status that includes both aide and braille specialist title, in
94 accordance with section eight-b of this article;

95 (16) "Bus operator" means a person employed to operate school buses and other school
96 transportation vehicles as provided by the state board;

97 (17) "Buyer" means a person employed to review and write specifications, negotiate
98 purchase bids and recommend purchase agreements for materials and services that meet
99 predetermined specifications at the lowest available costs;

100 (18) "Cabinetmaker" means a person employed to construct cabinets, tables, bookcases
101 and other furniture;

102 (19) "Cafeteria manager" means a person employed to direct the operation of a food
103 services program in a school, including assigning duties to employees, approving requisitions for
104 supplies and repairs, keeping inventories, inspecting areas to maintain high standards of
105 sanitation, preparing financial reports and keeping records pertinent to food services of a school;

106 (20) "Carpenter I" means a person classified as a carpenter's helper;

107 (21) "Carpenter II" means a person classified as a journeyman carpenter;

108 (22) "Chief mechanic" means a person employed to be responsible for directing activities
109 which ensure that student transportation or other county board-owned vehicles are properly and
110 safely maintained;

111 (23) "Clerk I" means a person employed to perform clerical tasks;

112 (24) "Clerk II" means a person employed to perform general clerical tasks, prepare reports
113 and tabulations, and operate office machines;

114 (25) "Computer operator" means a qualified person employed to operate computers;

115 (26) "Cook I" means a person employed as a cook's helper;

116 (27) "Cook II" means a person employed to interpret menus and to prepare and serve
117 meals in a food service program of a school. This definition includes a service person who has
118 been employed as a "Cook I" for a period of four years;

119 (28) "Cook III" means a person employed to prepare and serve meals, make reports,
120 prepare requisitions for supplies, order equipment and repairs for a food service program of a
121 school system;

122 (29) "Crew leader" means a person employed to organize the work for a crew of
123 maintenance employees to carry out assigned projects;

124 (30) "Custodian I" means a person employed to keep buildings clean and free of refuse;

125 (31) "Custodian II" means a person employed as a watchman or groundsman;

126 (32) "Custodian III" means a person employed to keep buildings clean and free of refuse,
127 to operate the heating or cooling systems and to make minor repairs;

128 (33) "Custodian IV" means a person employed as a head custodian. In addition to
129 providing services as defined in "Custodian III" duties may include supervising other custodian
130 personnel;

131 (34) "Director or coordinator of services" means an employee of a county board who is
132 assigned to direct a department or division.

133 (A) Nothing in this subdivision prohibits a professional person or a professional educator
134 from holding this class title;

135 (B) Professional personnel holding this class title may not be defined or classified as
136 service personnel unless the professional person held a service personnel title under this section
137 prior to holding the class title of "director or coordinator of services;"

138 (C) The director or coordinator of services is classified either as a professional person or
139 a service person for state aid formula funding purposes;

140 (D) Funding for the position of director or coordinator of services is based upon the
141 employment status of the director or coordinator either as a professional person or a service
142 person; and

143 (E) A person employed under the class title “director or coordinator of services” may not
144 be exclusively assigned to perform the duties ascribed to any other class title as defined in this
145 subsection: *Provided*, That nothing in this paragraph prohibits a person in this position from being
146 multiclassified;

147 (35) “Draftsman” means a person employed to plan, design and produce detailed
148 architectural/engineering drawings;

149 (36) “Early Childhood Classroom Assistant Teacher I” means a person who does not
150 possess minimum requirements for the permanent authorization requirements, but is enrolled in
151 and pursuing requirements;

152 (37) “Early Childhood Classroom Assistant Teacher II” means a person who has
153 completed the minimum requirements for a state-awarded certificate for early childhood
154 classroom assistant teachers as determined by the state board;

155 (38) “Early Childhood Classroom Assistant Teacher III” means a person who has
156 completed permanent authorization requirements, as well as additional requirements comparable
157 to current paraprofessional certificate;

158 (39) “Educational Sign Language Interpreter I” means a person employed to provide
159 communication access across all educational environments to students who are deaf or hard of
160 hearing, and who holds the Initial Paraprofessional Certificate – Educational Interpreter pursuant
161 to state board policy;

162 (40) “Educational Sign Language Interpreter II” means a person employed to provide
163 communication access across all educational environments to students who are deaf or hard of

164 hearing, and who holds the Permanent Paraprofessional Certificate – Educational Interpreter
165 pursuant to state board policy;

166 (41) “Electrician I” means a person employed as an apprentice electrician helper or one
167 who holds an electrician helper license issued by the State Fire Marshal;

168 (42) “Electrician II” means a person employed as an electrician journeyman or one who
169 holds a journeyman electrician license issued by the State Fire Marshal;

170 (43) “Electronic technician I” means a person employed at the apprentice level to repair
171 and maintain electronic equipment;

172 (44) “Electronic technician II” means a person employed at the journeyman level to repair
173 and maintain electronic equipment;

174 (45) “Executive secretary” means a person employed as secretary to the county school
175 superintendent or as a secretary who is assigned to a position characterized by significant
176 administrative duties;

177 (46) “Food services supervisor” means a qualified person who is not a professional person
178 or professional educator as defined in section one, article one of this chapter. The food services
179 supervisor is employed to manage and supervise a county school system's food service program.
180 The duties include preparing in-service training programs for cooks and food service employees,
181 instructing personnel in the areas of quantity cooking with economy and efficiency and keeping
182 aggregate records and reports;

183 (47) “Foreman” means a skilled person employed to supervise personnel who work in the
184 areas of repair and maintenance of school property and equipment;

185 (48) “General maintenance” means a person employed as a helper to skilled maintenance
186 employees, and to perform minor repairs to equipment and buildings of a county school system;

187 (49) “Glazier” means a person employed to replace glass or other materials in windows
188 and doors and to do minor carpentry tasks;

189 (50) “Graphic artist” means a person employed to prepare graphic illustrations;

190 (51) "Groundsman" means a person employed to perform duties that relate to the
191 appearance, repair and general care of school grounds in a county school system. Additional
192 assignments may include the operation of a small heating plant and routine cleaning duties in
193 buildings;

194 (52) "Handyman" means a person employed to perform routine manual tasks in any
195 operation of the county school system;

196 (53) "Heating and air conditioning mechanic I" means a person employed at the apprentice
197 level to install, repair and maintain heating and air conditioning plants and related electrical
198 equipment;

199 (54) "Heating and air conditioning mechanic II" means a person employed at the
200 journeyman level to install, repair and maintain heating and air conditioning plants and related
201 electrical equipment;

202 (55) "Heavy equipment operator" means a person employed to operate heavy equipment;

203 (56) "Inventory supervisor" means a person employed to supervise or maintain operations
204 in the receipt, storage, inventory and issuance of materials and supplies;

205 (57) "Key punch operator" means a qualified person employed to operate key punch
206 machines or verifying machines;

207 (58) "Licensed practical nurse" means a nurse, licensed by the ~~West Virginia Board of~~
208 ~~Examiners for Licensed Practical Nurses~~ West Virginia Board of Nursing and Health Services,
209 employed to work in a public school under the supervision of a school nurse;

210 (59) "Locksmith" means a person employed to repair and maintain locks and safes;

211 (60) "Lubrication man" means a person employed to lubricate and service gasoline or
212 diesel-powered equipment of a county school system;

213 (61) "Machinist" means a person employed to perform machinist tasks which include the
214 ability to operate a lathe, planer, shaper, threading machine and wheel press. A person holding
215 this class title also should have the ability to work from blueprints and drawings;

216 (62) "Mail clerk" means a person employed to receive, sort, dispatch, deliver or otherwise
217 handle letters, parcels and other mail;

218 (63) "Maintenance clerk" means a person employed to maintain and control a stocking
219 facility to keep adequate tools and supplies on hand for daily withdrawal for all school
220 maintenance crafts;

221 (64) "Mason" means a person employed to perform tasks connected with brick and block
222 laying and carpentry tasks related to these activities;

223 (65) "Mechanic" means a person employed to perform skilled duties independently in the
224 maintenance and repair of automobiles, school buses and other mechanical and mobile
225 equipment to use in a county school system;

226 (66) "Mechanic assistant" means a person employed as a mechanic apprentice and
227 helper;

228 (67) "Multiclassification" means a person employed to perform tasks that involve the
229 combination of two or more class titles in this section. In these instances the minimum salary
230 scale is the higher pay grade of the class titles involved;

231 (68) "Office equipment repairman I" means a person employed as an office equipment
232 repairman apprentice or helper;

233 (69) "Office equipment repairman II" means a person responsible for servicing and
234 repairing all office machines and equipment. A person holding this class title is responsible for the
235 purchase of parts necessary for the proper operation of a program of continuous maintenance
236 and repair;

237 (70) "Painter" means a person employed to perform duties painting, finishing and
238 decorating wood, metal and concrete surfaces of buildings, other structures, equipment,
239 machinery and furnishings of a county school system;

240 (71) "Paraprofessional" means a person certified pursuant to section two-a, article three
241 of this chapter to perform duties in a support capacity including, but not limited to, facilitating in

242 the instruction and direct or indirect supervision of students under the direction of a principal, a
243 teacher or another designated professional educator.

244 (A) A person employed on the effective date of this section in the position of an aide may
245 not be subject to a reduction in force or transferred to create a vacancy for the employment of a
246 paraprofessional;

247 (B) A person who has held or holds an aide title and becomes employed as a
248 paraprofessional shall hold a multiclassification status that includes both aide and
249 paraprofessional titles in accordance with section eight-b of this article; and

250 (C) When a service person who holds an aide title becomes certified as a paraprofessional
251 and is required to perform duties that may not be performed by an aide without paraprofessional
252 certification, he or she shall receive the paraprofessional title pay grade;

253 (72) "Payroll supervisor" means a person employed in the county board office who has
254 primary responsibility for the payroll function and who either has completed twelve college hours
255 of accounting from an accredited institution of higher education or has at least eight years of
256 experience performing progressively difficult accounting tasks. Responsibilities of this class title
257 may include supervision of other personnel;

258 (73) "Plumber I" means a person employed as an apprentice plumber and helper;

259 (74) "Plumber II" means a person employed as a journeyman plumber;

260 (75) "Printing operator" means a person employed to operate duplication equipment, and
261 to cut, collate, staple, bind and shelve materials as required;

262 (76) "Printing supervisor" means a person employed to supervise the operation of a print
263 shop;

264 (77) "Programmer" means a person employed to design and prepare programs for
265 computer operation;

266 (78) "Roofing/sheet metal mechanic" means a person employed to install, repair, fabricate
267 and maintain roofs, gutters, flashing and duct work for heating and ventilation;

268 (79) "Sanitation plant operator" means a person employed to operate and maintain a water
269 or sewage treatment plant to ensure the safety of the plant's effluent for human consumption or
270 environmental protection;

271 (80) "School bus supervisor" means a qualified person:

272 (A) Employed to assist in selecting school bus operators and routing and scheduling
273 school buses, operate a bus when needed, relay instructions to bus operators, plan emergency
274 routing of buses and promote good relationships with parents, students, bus operators and other
275 employees; and

276 (B) Certified to operate a bus or previously certified to operate a bus;

277 (81) "Secretary I" means a person employed to transcribe from notes or mechanical
278 equipment, receive callers, perform clerical tasks, prepare reports and operate office machines;

279 (82) "Secretary II" means a person employed in any elementary, secondary, kindergarten,
280 nursery, special education, vocational, or any other school as a secretary. The duties may include
281 performing general clerical tasks; transcribing from notes; stenotype, mechanical equipment or a
282 sound-producing machine; preparing reports; receiving callers and referring them to proper
283 persons; operating office machines; keeping records and handling routine correspondence.
284 Nothing in this subdivision prevents a service person from holding or being elevated to a higher
285 classification;

286 (83) "Secretary III" means a person assigned to the county board office administrators in
287 charge of various instructional, maintenance, transportation, food services, operations and health
288 departments, federal programs or departments with particular responsibilities in purchasing and
289 financial control or any person who has served for eight years in a position which meets the
290 definition of "Secretary II" or "Secretary III";

291 (84) "Sign Support Specialist" means a person employed to provide sign supported
292 speech assistance to students who are able to access environments through audition. A person
293 who has held or holds an aide title and becomes employed as a sign support specialist shall hold

294 a multiclassification status that includes both aide and sign support specialist titles, in accordance
295 with section eight-b of this article.

296 (85) "Supervisor of maintenance" means a skilled person who is not a professional person
297 or professional educator as defined in section one, article one of this chapter. The responsibilities
298 include directing the upkeep of buildings and shops, and issuing instructions to subordinates
299 relating to cleaning, repairs and maintenance of all structures and mechanical and electrical
300 equipment of a county board;

301 (86) "Supervisor of transportation" means a qualified person employed to direct school
302 transportation activities properly and safely, and to supervise the maintenance and repair of
303 vehicles, buses and other mechanical and mobile equipment used by the county school system.
304 After July 1, 2010, all persons employed for the first time in a position with this classification title
305 or in a multiclassification position that includes this title shall have five years of experience working
306 in the transportation department of a county board. Experience working in the transportation
307 department consists of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief
308 mechanic or in a clerical position within the transportation department;

309 (87) "Switchboard operator-receptionist" means a person employed to refer incoming
310 calls, to assume contact with the public, to direct and to give instructions as necessary, to operate
311 switchboard equipment and to provide clerical assistance;

312 (88) "Truck driver" means a person employed to operate light or heavy duty gasoline and
313 diesel-powered vehicles;

314 (89) "Warehouse clerk" means a person employed to be responsible for receiving, storing,
315 packing and shipping goods;

316 (90) "Watchman" means a person employed to protect school property against damage
317 or theft. Additional assignments may include operation of a small heating plant and routine
318 cleaning duties;

319 (91) "Welder" means a person employed to provide acetylene or electric welding services

320 for a school system; and

321 (92) "WVEIS data entry and administrative clerk" means a person employed to work under
322 the direction of a school principal to assist the school counselor or counselors in the performance
323 of administrative duties, to perform data entry tasks on the West Virginia Education Information
324 System, and to perform other administrative duties assigned by the principal.

325 (j) Notwithstanding any provision in this code to the contrary, and in addition to the
326 compensation provided for service personnel in section eight-a of this article, each service person
327 is entitled to all service personnel employee rights, privileges and benefits provided under this or
328 any other chapter of this code without regard to the employee's hours of employment or the
329 methods or sources of compensation.

330 (k) A service person whose years of employment exceeds the number of years shown and
331 provided for under the state minimum pay scale set forth in section eight-a of this article may not
332 be paid less than the amount shown for the maximum years of employment shown and provided
333 for in the classification in which he or she is employed.

334 (l) Each county board shall review each service person's job classification annually and
335 shall reclassify all service persons as required by the job classifications. The state superintendent
336 may withhold state funds appropriated pursuant to this article for salaries for service personnel
337 who are improperly classified by the county boards. Further, the state superintendent shall order
338 a county board to correct immediately any improper classification matter and, with the assistance
339 of the Attorney General, shall take any legal action necessary against any county board to enforce
340 the order.

341 (m) Without his or her written consent, a service person may not be:

342 (1) Reclassified by class title; or

343 (2) Relegated to any condition of employment which would result in a reduction of his or
344 her salary, rate of pay, compensation or benefits earned during the current fiscal year; or for which
345 he or she would qualify by continuing in the same job position and classification held during that

346 fiscal year and subsequent years.

347 (n) Any county board failing to comply with the provisions of this article may be compelled
348 to do so by mandamus and is liable to any party prevailing against the board for court costs and
349 the prevailing party's reasonable attorney fee, as determined and established by the court.

350 (o) Notwithstanding any provision of this code to the contrary, a service person who holds
351 a continuing contract in a specific job classification and who is physically unable to perform the
352 job's duties as confirmed by a physician chosen by the employee, shall be given priority status
353 over any employee not holding a continuing contract in filling other service personnel job
354 vacancies if the service person is qualified as provided in section eight-e of this article.

355 (p) Any person employed in an aide position on the effective date of this section may not
356 be transferred or subject to a reduction in force for the purpose of creating a vacancy for the
357 employment of a licensed practical nurse.

358 (q) Without the written consent of the service person, a county board may not establish
359 the beginning work station for a bus operator or transportation aide at any site other than a county
360 board-owned facility with available parking. The workday of the bus operator or transportation
361 aide commences at the bus at the designated beginning work station and ends when the
362 employee is able to leave the bus at the designated beginning work station, unless he or she
363 agrees otherwise in writing. The application or acceptance of a posted position may not be
364 construed as the written consent referred to in this subsection.

365 (r) Itinerant status means a service person who does not have a fixed work site and may
366 be involuntarily reassigned to another work site. A service person is considered to hold itinerant
367 status if he or she has bid upon a position posted as itinerant or has agreed to accept this status.
368 A county board may establish positions with itinerant status only within the aide and autism mentor
369 classification categories and only when the job duties involve exceptional students. A service
370 person with itinerant status may be assigned to a different work site upon written notice ten days
371 prior to the reassignment without the consent of the employee and without posting the vacancy.

372 A service person with itinerant status may be involuntarily reassigned no more than twice during
373 the school year. At the conclusion of each school year, the county board shall post and fill,
374 pursuant to section eight-b of this article, all positions that have been filled without posting by a
375 service person with itinerant status. A service person who is assigned to a beginning and ending
376 work site and travels at the expense of the county board to other work sites during the daily
377 schedule, is not considered to hold itinerant status.

378 (s) Any service person holding a classification title on June 30, 2013, that is removed from
379 the classification schedule pursuant to amendment and reenactment of this section in the year
380 2013, has his or her employment contract revised as follows:

381 (1) Any service person holding the Braille or Sign Language Specialist classification title
382 has that classification title renamed on his or her employment contract as either Braille Specialist
383 or Sign Support Specialist. This action does not result in a loss or reduction of salary or
384 supplement by any employee. Any seniority earned in the Braille or Sign Language Specialist
385 classification prior to July 1, 2013, continues to be credited as seniority earned in the Braille
386 Specialist or Sign Support Specialist classification;

387 (2) Any service person holding the Paraprofessional classification title and holding the
388 Initial Paraprofessional Certificate – Educational Interpreter has the title Educational Sign
389 Language Interpreter I added to his or her employment contract. This action does not result in a
390 loss or reduction of salary or supplement by any employee. Any seniority earned in the
391 Paraprofessional classification prior to July 1, 2013, continues to be credited as seniority earned
392 in the Educational Sign Language Interpreter I classification; and

393 (3) Any service person holding the Paraprofessional classification title and holding the
394 Permanent Paraprofessional Certificate – Educational Interpreter has the title Educational Sign
395 Language Interpreter II added to his or her employment contract. This action does not result in a
396 loss or reduction of salary or supplement by any employee. Any seniority earned in the
397 Paraprofessional classification prior to July 1, 2013, continues to be credited as seniority earned

398 in the Educational Sign Language Interpreter II classification;

399 (t) Any person employed as an aide in a kindergarten program who is eligible for full
400 retirement benefits before the first day of the instructional term in the 2020-2021 school year, may
401 not be subject to a reduction in force or transferred to create a vacancy for the employment of a
402 less senior Early Childhood Classroom Assistant Teacher;

403 (u) A person who has held or holds an aide title and becomes employed as an Early
404 Childhood Classroom Assistant Teacher shall hold a multiclassification status that includes aide
405 and/or paraprofessional titles in accordance with section eight-b of this article.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN PROGRAMS.

§18C-3-4. Nursing Scholarship Program; Center for Nursing Fund; administration; scholarship awards; service requirements.

1 (a) There is continued in the State Treasury a special revenue account known as the
2 "Center for Nursing Fund" to be administered by the commission to implement the provisions of
3 this section and article seven-b, chapter thirty of this code. Any moneys in the account on the
4 effective date of this section are transferred to the commission's administrative authority.
5 Balances remaining in the fund at the end of the fiscal year do not expire or revert to the general
6 revenue. All costs associated with the administration of this section and article seven-b, chapter
7 thirty of this code shall be paid from the Center for Nursing Fund under the direction of the Vice
8 Chancellor for Administration. Administrative costs are to be minimized and the maximum amount
9 feasible is to be used to fund awards for students in nursing programs.

10 (b) The account is funded from the following sources:

11 (1) A supplemental licensure fee, not to exceed \$10 per year, to be paid by all nurses
12 licensed by the ~~board of Examiners for Registered Professional Nurses, pursuant to section eight-~~
13 ~~a, article seven, chapter thirty of this code and the board of Examiners for Licensed Practical~~

14 ~~Nurses, pursuant to section seven-a, article seven-a, Board of Nursing and Health Services,~~
15 ~~pursuant to article forty-one,~~ chapter thirty of this code;

16 (2) Repayments, including interest as set by the Vice Chancellor for Administration,
17 collected from recipients who fail to practice or teach in West Virginia under the terms of the
18 scholarship agreement; and

19 (3) Any other funds from any source as may be added to the account.

20 (c) In consultation with the Board of Directors of the West Virginia Center for Nursing,
21 established pursuant to article seven-b, chapter thirty of this code, the commission shall
22 administer a scholarship, designated the Nursing Scholarship Program, designed to benefit
23 nurses who practice in hospitals and other health care institutions or teach in state nursing
24 programs.

25 (1) Awards are available for students enrolled in accredited nursing programs in West
26 Virginia. A recipient shall execute an agreement to fulfill a service requirement or repay the
27 amount of any award received.

28 (2) Awards are made as follows, subject to the rule required by this section:

29 (A) An award for any student may not exceed the full cost of education for program
30 completion.

31 (B) An award of up to \$3,000 is available for a student in a licensed practical nurse
32 education program. A recipient is required to practice nursing in West Virginia for one year
33 following program completion.

34 (C) An award of up to \$7,500 is available for a student who has completed one half of a
35 registered nurse education program. A recipient is required to teach or practice nursing in West
36 Virginia for two years following program completion.

37 (D) An award of up to \$15,000 is available to a student in a nursing master's degree
38 program or a doctoral nursing or education program. A recipient is required to teach in West
39 Virginia for two years following program completion.

40 (E) An award of up to \$1,000 per year is available for a student obtaining a licensed
41 practical nurse teaching certificate. A recipient is required to teach in West Virginia for one year
42 per award received.

43 (d) An award recipient shall satisfy one of the following conditions:

44 (1) Fulfill the service requirement pursuant to this section and the legislative rule; or

45 (2) Repay the commission for the amount awarded, together with accrued interest as
46 stipulated in the service agreement.

47 (e) The commission shall promulgate a rule for legislative approval pursuant to article
48 three-a, chapter twenty-nine-a of this code to implement and administer this section. The rule
49 shall provide for the following:

50 (1) Eligibility and selection criteria for program participation;

51 (2) Terms of a service agreement which a recipient shall execute as a condition of
52 receiving an award;

53 (3) Repayment provisions for a recipient who fails to fulfill the service requirement;

54 (4) Forgiveness options for death or disability of a recipient;

55 (5) An appeal process for students denied participation or ordered to repay awards; and

56 (6) Additional provisions as necessary to implement this section.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

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

§30-1-7a. Continuing education.

1 (a) Each board referred to in this chapter shall establish continuing education
2 requirements as a prerequisite to license renewal. Each board shall develop continuing education
3 criteria appropriate to its discipline, which shall include, but not be limited to, course content,
4 course approval, hours required and reporting periods.

5 (b) Notwithstanding any other provision of this code or the provision of any rule to the
6 contrary, each person issued a license to practice medicine and surgery or a license to practice
7 podiatry or licensed as a physician assistant by the West Virginia Board of Medicine, each person
8 issued a license to practice dentistry by the West Virginia Board of Dental Examiners, each person
9 issued a license to practice optometry by the West Virginia Board of Optometry, each person
10 licensed as a pharmacist by the West Virginia Board of Pharmacy, each person licensed to
11 practice registered professional nursing or licensed as a licensed practical nurse or an advanced
12 nurse practitioner by the West Virginia Board of Nursing and Health Services, ~~Examiners for~~
13 ~~Registered Professional Nurses~~ each person licensed as a licensed practical nurse by the West
14 ~~Virginia State Board of Examiners for Licensed Practical Nurses~~ and each person licensed to
15 practice medicine and surgery as an osteopathic physician and surgeon or licensed or certified
16 as an osteopathic physician assistant by the West Virginia Board of Osteopathy shall complete
17 drug diversion training, best-practice prescribing of controlled substances training and training on
18 prescribing and administration of an opioid antagonist, as the trainings are established by his or
19 her respective licensing board, if that person prescribes, administers or dispenses a controlled
20 substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this
21 code.

22 (1) Notwithstanding any other provision of this code or the provision of any rule to the
23 contrary, the West Virginia Board of Medicine, the West Virginia Board of Dental Examiners, the
24 West Virginia Board of Optometry, the West Virginia Board of Pharmacy, the West Virginia Board
25 of Nursing and Health Services ~~Examiners for Registered Professional Nurses~~ the West Virginia
26 ~~State Board of Examiners for Licensed Practical Nurses~~ and the West Virginia Board of
27 Osteopathy shall establish continuing education requirements and criteria appropriate to their
28 respective discipline on the subject of drug diversion training, best-practice prescribing of
29 controlled substances training and prescribing and administration of an opioid antagonist training
30 for each person issued a license or certificate by their respective board who prescribes,

31 administers or dispenses a controlled substance, as that term is defined in section one hundred
32 one, article one, chapter sixty-a of this code, and shall develop a certification form pursuant to
33 subdivision (b)(2) of this section.

34 (2) Each person who receives his or her initial license or certificate from any of the boards
35 set forth in subsection (b) of this section shall complete the continuing education requirements
36 set forth in subsection (b) of this section within one year of receiving his or her initial license from
37 that board and each person licensed or certified by any of the boards set forth in subsection (b)
38 of this section who has held his or her license or certificate for longer than one year shall complete
39 the continuing education requirements set forth in subsection (b) of this section as a prerequisite
40 to each license renewal: *Provided*, That a person subject to subsection (b) of this section may
41 waive the continuing education requirements for license renewal set forth in subsection (b) of this
42 section if he or she completes and submits to his or her licensing board a certification form
43 developed by his or her licensing board attesting that he or she has not prescribed, administered
44 or dispensed a controlled substance, as that term is defined in section one hundred one, article
45 one, chapter sixty-a of this code, during the entire applicable reporting period.

46 (c) Notwithstanding any other provision of this code or the provision of any rule to the
47 contrary, each person licensed to practice registered professional nursing or licensed as an
48 advanced nurse practitioner or a licensed practical nurse by the West Virginia Board of Nursing
49 and Health Services ~~Examiners for Registered Professional Nurses~~, each person licensed as a
50 ~~licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical~~
51 ~~Nurses~~ each person issued a license to practice midwifery as a nurse-midwife by the West Virginia
52 Board of Nursing and Health Services ~~Examiners for Registered Professional Nurses~~, each
53 person issued a license to practice chiropractic by the West Virginia Board of Chiropractic, each
54 person licensed to practice psychology by the Board of Examiners of Psychologists, each person
55 licensed to practice social work by the West Virginia Board of Social Work and each person
56 licensed to practice professional counseling by the West Virginia Board of Examiners in

57 Counseling shall complete two hours of continuing education for each reporting period on mental
58 health conditions common to veterans and family members of veterans, as the continuing
59 education is established or approved by his or her respective licensing board. The two hours shall
60 be part of the total hours of continuing education required by each board and not two additional
61 hours.

62 (1) Notwithstanding any other provision of this code or the provision of any rule to the
63 contrary, on or before July 1, 2015, the boards referred to in this subsection shall establish
64 continuing education requirements and criteria and approve continuing education coursework
65 appropriate to their respective discipline on the subject of mental health conditions common to
66 veterans and family members of veterans, in cooperation with the Secretary of the Department of
67 Veterans' Assistance. The continuing education shall include training on inquiring about whether
68 the patients are veterans or family members of veterans, and screening for conditions such as
69 post-traumatic stress disorder, risk of suicide, depression and grief and prevention of suicide.

70 (2) On or after July 1, 2017, each person licensed by any of the boards set forth in this
71 subsection shall complete the continuing education described herein as a prerequisite to his or
72 her next license renewal.

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

**§30-1-20. Certain boards to regulating health care professions to gather retirement
information and include in annual reports.**

1 (a) The health related professional licensing boards referred to in subsection (c) of this
2 section shall request that their licensees provide the boards with their anticipated retirement
3 dates, age, gender, percentage of time working direct services, percentage of time working
4 administration and county of practice, in order to facilitate planning for future workforce needs for
5 health care professionals.

6 (b) The boards shall redact personal identifiers and include only aggregate data in the
7 annual reports required by the provisions of section twelve of this article, beginning with the annual
8 report due on or before January 1, 2016.

9 (c) The provisions of this section apply to:

10 (1) The West Virginia Board of Medicine, established pursuant to the provisions of article
11 three of this chapter;

12 ~~(2) The West Virginia Board of Examiners for Registered Professional Nurses, established~~
13 ~~pursuant to the provisions of article seven of this chapter;~~

14 ~~(3) (2) The West Virginia Board of Examiners for Licensed Practical Nurses, established~~
15 ~~pursuant to the provisions of article seven-a Nursing and Health Services, established pursuant~~
16 ~~to the provisions of article forty-one of this chapter;~~

17 ~~(4) (3) The West Virginia Board of Pharmacy, established pursuant to the provisions of~~
18 ~~article five of this chapter;~~

19 ~~(5) (4) The West Virginia Board of Dentistry, established pursuant to the provisions of~~
20 ~~article four of this chapter; and~~

21 ~~(6) (5) The West Virginia Board of Osteopathy, established pursuant to the provisions of~~
22 ~~article fourteen of this chapter.~~

ARTICLE 1D. PROVISIONS AFFECTING CERTAIN BOARDS OF LICENSURE.

§30-1D-1. Criminal background checks required of new applicants.

1 (a) This article shall be known as "Lynette's Law."

2 (b) The requirements in subsection (c) of this section for criminal background checks apply
3 to those persons applying to be licensed in West Virginia for the first time by the boards governing
4 licensing under the following sections: Section ten, article three of this chapter; section four,
5 article three-e of this chapter; section eight, article four of this chapter; section nine, article five of
6 this chapter; section six, ~~article seven of this chapter; section three, article seven-a of this chapter;~~
7 section eight, article eight of this chapter; section eight, article ten of this chapter; section four,

8 article fourteen of this chapter; ~~and~~ section seven, article twenty-one of this chapter, and sections
9 fourteen and seventeen article forty-one of this chapter.

10 (c) A person applying for licensing to a board listed in subsection (b) of this section must
11 submit to a state and national criminal history record check, as set forth in this subsection:
12 *Provided*, That an applicant for a license who is an attorney at law may submit a letter of good
13 standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of submitting to
14 a state and national criminal history record check.

15 (1) This requirement is found not to be against public policy.

16 (2) The criminal history record check shall be based on fingerprints submitted to the West
17 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

18 (3) The applicant shall meet all requirements necessary to accomplish the state and
19 national criminal history record check, including:

20 (A) Submitting fingerprints for the purposes set forth in this subsection; and

21 (B) Authorizing the board, the West Virginia State Police and the Federal Bureau of
22 Investigation to use all records submitted and produced for the purpose of screening the applicant
23 for a license.

24 (4) The results of the state and national criminal history record check may not be released
25 to or by a private entity except:

26 (A) To the individual who is the subject of the criminal history record check;

27 (B) With the written authorization of the individual who is the subject of the criminal history
28 record check; or

29 (C) Pursuant to a court order.

30 (5) The criminal history record check and related records are not public records for the
31 purposes of chapter twenty-nine-b of this code.

32 (6) The applicant shall pay the actual costs of the fingerprinting and criminal history record
33 check.

34 (d) Before implementing the provisions of this subsection, the board shall propose rules
35 for legislative approval in accordance with article three, chapter twenty-nine-a of this code. The
36 rules shall set forth the requirements and procedures for the criminal history check and must be
37 consistent with standards established by the Federal Bureau of Investigation and the National
38 Crime Prevention and Privacy Compact as authorized by 42 U. S. C. A. §14611, *et seq.*

ARTICLE 41. WEST VIRGINIA BOARD OF NURSING AND HEALTH SERVICES.

§30-41-1. License required to practice.

1 (a) It is unlawful for any person not licensed, certified, registered or permitted under the
2 provisions of this article to practice or to offer to practice as a:

- 3 (1) Registered professional nurse;
- 4 (2) Licensed professional nurse;
- 5 (3) Advance practice registered nurse;
- 6 (4) Certified nurse practitioner;
- 7 (5) Certified nurse-midwife;
- 8 (6) Certified registered nurse anesthetist;
- 9 (7) Clinical nurse specialist;
- 10 (8) Medical imaging technologist;
- 11 (9) Radiation technology therapist;
- 12 (10) Medical imaging apprentice;
- 13 (11) Radiation therapy technology apprentice;
- 14 (12) Dialysis technician;
- 15 (13) Nuclear medicine technologist;
- 16 (14) Nuclear medicine technologist apprentice;
- 17 (15) Magnetic resonance imaging technologist;
- 18 (16) Magnetic resonance imaging technologist apprentice; and
- 19 (17) Podiatric medical assistant.

§30-41-2. Display of license.

1 (a) The board shall prescribe the form for a license, certification, registration and permit
2 and may issue a duplicate license, certification, registration or permit, upon payment of a fee.

3 (b) A licensee shall conspicuously display his or her license at his or her principal place of
4 practice. A photocopy of the original license shall be conspicuously displayed at his or her
5 secondary place of employment.

6 (c) A certificate holder, registrant or permittee shall conspicuously display his or her
7 certification, registration or permit at his or her principal place of practice. A photocopy of the
8 original certification, registration or permit shall be conspicuously displayed at his or her
9 secondary place of employment.

§30-41-3. Use of titles.

1 (a) Pursuant to the provisions of this article, the following restrictions apply to the use of
2 certain nursing titles:

3 (1) Any person licensed pursuant to this article may use the title "registered nurse" and
4 the abbreviation "R.N." or the term "nurse". Except as otherwise provided in article forty-one of
5 this chapter, no other person may assume a title or use abbreviations or any other words, letters,
6 figures, signs, or devices to indicate that the person using the same is a registered professional
7 nurse; and

8 (2) Any person licensed pursuant to this article may use the title "licensed practical nurse,"
9 "practical nurse" and the abbreviation "L.P.N" or the term "nurse". Except as otherwise provided
10 in this article, no other person may assume such title, or use such abbreviation, or any other
11 words, letters, figures, signs, or devices to indicate that the person using the same is a licensed
12 practical nurse or a practical nurse;

13 (b) Pursuant to the provisions of this article, the following restrictions apply to the use of
14 certain health services titles:

15 (1) The practice of dialysis technician by an individual who has not met the requirements

16 of this article is declared to be inimical to the public health and welfare and to be a public nuisance.

17 (A) Whenever, in the judgment of the Board, an individual has engaged in, is engaging in,
18 or is about to engage in, the practice of dialysis technician without holding a valid certification
19 under this article, or has engaged, is engaging or is about to engage in any act which constitutes,
20 or will constitute, a violation of this article, the Board may make application to the appropriate
21 court having equity jurisdiction for an order enjoining the practices or acts, and upon a showing
22 that the individual has engaged, is engaging or is about to engage, in any such practices or acts,
23 an injunction, restraining order, or other order as the court considers appropriate shall be entered
24 by the court.

25 (B) The remedy provided in this section is in addition to, and not in lieu of, all other
26 penalties and remedies provided in this article.

§30-41-4. Construction of article; acts not prohibited.

1 (a) The provisions of this article shall not be construed as prohibiting:

2 (1) The care of a sick, disabled, injured, crippled or infirm person by a member or members
3 of such person's family, or by close relatives, or by domestic servants, housekeepers or
4 household aides thereof, whether employed regularly or because of emergency circumstances
5 due to illness or other disabilities.

6 (2) The work and services of auxiliary hospital personnel, such as nursing aides, maids,
7 orderlies, technicians, volunteer workers and other like hospital employees.

8 (3) Practical nursing by students enrolled in accredited schools for practical nursing
9 incidental to their course of study.

10 (4) Practice of nursing in this state by any legally qualified practical nurse of another state
11 or country for a period not to exceed six months or whose engagement requires such practical
12 nurse to accompany and care for a patient temporarily residing in this state during the period of
13 such engagement.

14 (5) Nursing services rendered by a graduate of an approved school of practical nursing

15 working under qualified supervision during the period between completion of his or her course of
16 nursing education and notification of the results of the first licensing examination following
17 graduation. In cases of hardship and upon petition to the board, the board may grant an extension
18 of such period to such graduate.

§30-41-5. Single act evidence of practice.

1 In any action brought or in any proceeding initiated under this article, evidence of the
2 commission of a single act prohibited by this article is sufficient to justify a penalty, injunction,
3 restraining order or conviction without evidence of a general course of conduct.

§30-41-6. Injunction or other relief against unlawful acts.

1 (a) The practice of nursing or other health services regulated pursuant to this article, by
2 any person who has not been licensed under the provisions of this article, or whose license has
3 expired or has been suspended or revoked, is hereby declared to be inimical to the public health
4 and welfare and to be a public nuisance. Whenever in the judgment of the board any person has
5 engaged in, is engaging in or is about to engage in the practice of nursing or health services
6 regulated pursuant to this article, without holding a valid license hereunder, or has engaged, is
7 engaging or is about to engage in any act which constitutes, or will constitute, a violation of this
8 article, the board may make application to the appropriate court having equity jurisdiction for an
9 order enjoining such practices or acts, and upon a showing that such person has engaged, is
10 engaging or is about to engage, in any such practices or acts, an injunction, restraining order, or
11 such other order as the court may deem appropriate shall be entered by the court.

12 (b) The remedy provided in this section shall be in addition to, and not in lieu of, all other
13 penalties and remedies provided in this article.

§30-41-7. Prohibited acts; penalties.

1 (a) It is prohibited and shall be a misdemeanor for any person, firm, corporation or
2 association of persons to:

3 (1) Sell or fraudulently obtain or furnish any diploma, license, test, exam, or record or aid

4 or abet therein;

5 (2) Practice any regulated activity pursuant to this article unless duly authorized to do so
6 under the provisions of this article;

7 (3) Use, in connection with his or her name, any designation tending to imply that he or
8 she is qualified to engage in nursing or in a health service unless duly authorized under the
9 provisions of this article;

10 (4) Practice nursing or a health service regulated by this article during the time his or her
11 license, certificate, registration, permit or authorization issued under the provisions of this article
12 shall be suspended or revoked; or

13 (5) otherwise violate any provision of this article.

14 (b) Any person convicted of any such misdemeanor shall be punishable by a fine of not
15 less than twenty-five nor more than one hundred dollars.

§30-41-8. Definitions.

1 (a) As used in this article, the following words and terms have the following meanings
2 unless the context clearly indicates otherwise:

3 (1) "Advanced practice registered nurse" means a registered nurse who has acquired
4 advanced clinical knowledge and skills preparing him or her to provide direct and indirect care to
5 patients as a certified nurse practitioner, certified nurse-midwife, certified registered nurse
6 anesthetist, or clinical nurse specialist, who has completed a board-approved graduate-level
7 education program and who has passed a board-approved national certification examination.

8 (2) "Applicant" means any person making application for an original or renewal license or
9 a temporary or emergency permit under the provisions of this article.

10 (3) "Approved dialysis technician training program" means any board approved program
11 used to train dialysis technicians including, but not limited to, a Board approved dialysis facility-
12 sponsored training program or another state approved program.

13 (4) "ARMRIT" means the American Registry of Magnetic Resonance Imaging

14 Technologists.

15 (5) "ARRT" means the American Registry of Radiologic Technologist.

16 (6) "ASPMA" means the American Society of Podiatric Medical Assistants.

17 (7) "Board" means the Board of Nursing and Health Services.

18 (8) "Business entity" means any firm, partnership, association, company, corporation,
19 limited partnership, limited liability company or other entity providing medical imaging or radiation
20 therapy technology.

21 (9) "Center" means the West Virginia Center for Nursing;

22 (10) "Center for Nursing Fund" means the special revenue account established in section
23 four, article three, chapter eighteen-c of this code.

24 (11) "Collaborative relationship" means a working relationship, structured through a written
25 agreement, in which an advanced practice registered nurse may prescribe drugs in collaboration
26 with a qualified physician;

27 (12) "Commission" means the West Virginia Higher Education Policy Commission; and

28 (13) "Dental X-rays" means X-rays taken of the oral cavity with x-ray units designed for
29 this specific performance.

30 (14) "Designated facility" means a type of facility determined by the board as an
31 environment in which medication assistive persons may serve in accordance with the
32 requirements of this article and rules promulgated by the board;

33 (15) "Dialysis care" means performing and monitoring dialysis procedures which includes
34 initiating and discontinuing dialysis, drawing blood, and administering medications authorized
35 under section seven of this article.

36 (16) "Dialysis technician trainee" means an individual enrolled in an approved dialysis
37 technician program.

38 (17) "West Virginia dialysis technician or dialysis technician" means an individual certified
39 by the Board who has successfully completed an approved dialysis technician training program

40 and who has achieved national certification as a dialysis technician, or an individual who meets
41 the requirements set forth in subsection (b), section three of this article.

42 (18) "Direct supervision" means initial and ongoing direction, procedural guidance,
43 observation and evaluation, and the on-site presence of a registered nurse or physician.

44 (19) "Facility" means any entity that is certified by the Office of Health Facilities Licensure
45 and Certification to provide dialysis services.

46 (20) "JRCERT" means the Joint Review Committee on Education in Radiologic
47 Technology.

48 (21) "JRCNMT" means the Joint Review Committee on Education Programs in Nuclear
49 Medicine Technology.

50 (22) "License" means a license issued under the provisions of this article.

51 (23) "Licensed practitioner" means a person licensed in West Virginia to practice medicine,
52 chiropractic, podiatry, osteopathy or dentistry.

53 (24) "Licensee" means a person or entity holding a license issued under the provisions of
54 this article.

55 (25) "MA-C" is the designation for a person who is certified as a medication assistive
56 person.

57 (26) "Major mental illness" means a diagnosis of a mental disorder within the axis of
58 psychotic or affective or mood, alcohol or chemical abuse or alcohol or chemical dependency as
59 stipulated in the International Code of Diagnosis.

60 (27) "Magnetic Resonance Imaging or MRI" means the performance of medical imaging
61 using radio waves, magnetic fields and a computer to produce images of the body tissues.

62 (28) "Medication assistive person" means a person who is certified by the board to
63 administer certain nonprescription and legend drugs in designated facilities;

64 (29) "Medical Imaging" means the use of ionizing radiation, electromagnetic radiation, or
65 radioactivity for evaluation of body tissue in order to diagnose injury and disease by means of

66 image production.

67 (30) "NMTCB" means the Nuclear Medicine Technology Certification Board.

68 (31) "Nurse" means those health care professionals licensed under this article as an
69 advanced practice registered nurse, a licensed practical nurse, or a registered professional nurse.

70 (32) "Nurse health program" means a program meeting the requirements of this article.

71 (33) "Nursing home" means a nursing home as that term is defined in subdivision (c),
72 section two, article five c, chapter sixteen of this code.

73 (34) "Nursing home administrator" means a person who performs or is responsible for
74 planning, organizing, directing and controlling a nursing home, whether or not such the person
75 has an ownership interest in the nursing home or shares the functions.

76 (35) "Nuclear Medicine Technologist" means a person holding a nuclear medicine license
77 issued under the provisions of this article.

78 (36) "Nuclear Medicine Technology" means the compounding, calibrating, dispensing and
79 administrating of radio-pharmaceuticals, pharmaceuticals and radio-nuclides under the direction
80 of an individual listed as an authorized user by the U.S. Nuclear Regulatory Commission for the
81 production of images for diagnosis and/or treatment of various disorders.

82 (37) "Permit" means a temporary permit or emergency permit issued under the provisions
83 of this article.

84 (38) "Permittee" means any person holding a permit issued pursuant to the provisions of
85 this article.

86 (39) "PET/CT Technologist" means an individual recognized by the board as qualified to
87 operate a PET/CT scanner.

88 (40) "PET/CT Technology" means the operation of a Positron Emission
89 Tomography/Computerized Tomography scanner to view internal images of the body.

90 (41) "Podiatric medical assistant permittee" means any person holding a podiatric medical
91 assistant permit issued pursuant to the provisions of this article.

92 (42) "Practice of nursing home administration" means any service requiring nursing home
93 administration education, training, or experience and applying such to planning, organizing,
94 staffing, directing, and controlling of the total management of a nursing home.

95 (43) "Practical nurse" means a person who has met all the requirements for licensure as
96 a practical nurse and who engages in practical nursing as hereinabove defined.

97 (44) "Practical nursing" means the performance for compensation of selected nursing acts
98 in the care of the ill, injured, or infirm under the direction of a registered professional nurse or a
99 licensed physician or a licensed dentist, and not requiring the substantial specialized skill,
100 judgment and knowledge required in professional nursing.

101 (45) "Practice of Medical Imaging and Radiation Therapy Technology" means the practice
102 of Radiologic Technology, Radiation Therapy, Nuclear Medicine Technology and Magnetic
103 Resonance Imaging Technology.

104 (46) "Practice of registered professional nursing" or "registered professional nursing"
105 means the performance for compensation of any service requiring substantial specialized
106 judgment and skill based on knowledge and application of principles of nursing derived from the
107 biological, physical and social sciences, such as responsible supervision of a patient requiring
108 skill in observation of symptoms and reactions and the accurate recording of the facts, or the
109 supervision and teaching of other persons with respect to such principles of nursing, or in the
110 administration of medications and treatments as prescribed by a licensed physician, a licensed
111 dentist or a licensed advanced practice registered nurse, or the application of such nursing
112 procedures as involve understanding of cause and effect in order to safeguard life and health of
113 a patient and others; and

114 (47) "Podiatric medical assistant" means a person who has been issued a permit under
115 the provisions of this article, to perform podiatric radiographs.

116 (48) "Podiatric radiographs" means radiographs confined to the foot and ankle performed
117 on dedicated podiatric X-ray equipment.

118 (49) "Qualifying illness" means the diagnosis of alcohol or substance abuse, alcohol or
119 substance dependency or major mental illness.

120 (50) "Radiologic technologist" means a person, other than a licensed practitioner, who
121 applies medical imaging or assists in the application of ionizing radiation to human beings for
122 diagnostic or therapeutic purposes as prescribed by a licensed practitioner.

123 (51) "Radiologic technology" means the application of ionizing radiation or assisting in the
124 application of medical imaging to human beings for diagnostic or therapeutic purposes as
125 prescribed by a licensed practitioner.

126 (52) "Radiologist" means a licensed practitioner who has successfully completed a
127 residency in the field of Radiology and specializes in the use of medical imaging for the diagnosis
128 or treatment of disease.

129 (53) "Radiologist Assistant or RA" means an individual who is licensed under the rules of
130 the West Virginia Board of Medicine and has completed specialized training from an accredited
131 program in the profession and passed a written examination as recognized by the West Virginia
132 Board of Medicine.

133 (54) "Radiology resident" means a licensed practitioner who is in training to become a
134 Radiologist and who uses medical imaging in the diagnosis or treatment of disease, under the
135 supervision of a Radiologist.

136 (55) "Supervision" means the active oversight of patient care services while on the
137 premises of a designated facility in a manner defined by the board; and "Supervision" means
138 responsibility for and control of quality, safety and technical aspects in the application of medical
139 imaging technology on human beings for diagnostic or therapeutic purposes.

140 (56) "Technology" means Medical Imaging Technology or Radiation Therapy Technology

141 (57) "Temporary permit" means a permit authorizing the holder to practice registered
142 professional nursing in this state until such permit is no longer effective or the holder is granted a
143 license by the West Virginia State Board of Examiners for Registered Professional Nurses.

§30-41-9. Creating a Board of Nursing and Health Services; sun-setting certain boards; and transferring of terminated boards authority.

1 (a) Beginning on July 1, 2017, there is created a "West Virginia Board of Nursing and
2 Health Services."

3 (b) The boards specified in this subsection and organized pursuant to previous
4 enactments of this chapter are repealed, and beginning July 1, 2017, shall commence their wind-
5 up year activities pursuant to section twelve, article ten, chapter four of this code. All records,
6 assets, funds, licenses, certificates, registrations, permits, apprenticeships and other
7 authorizations and all regulatory authority shall, by June 30, 2018, transfer to, and shall be
8 administered by the Board of Nursing and Health Services, established pursuant to the provisions
9 of this article. Boards subject to sun-setting, termination and transfer of assets and authorities
10 pursuant to this article include the West Virginia Board of Examiners for Registered Professional
11 Nurses, established pursuant to article seven, of this chapter, the Board of Examiners for
12 Licensed Practical Nurses, established pursuant to article seven-a of this chapter, the West
13 Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, established
14 pursuant to article twenty-three of this chapter, and the West Virginia Nursing Home
15 Administrators Licensing Board, established pursuant to article twenty-five of this chapter.

16 (c) The Governor shall appoint eleven members to the West Virginia Board of Nursing and
17 Health Services, by and with the advice and consent of the Senate, who shall be citizens of the
18 state of West Virginia, who shall constitute the "West Virginia Board of Nursing and Health
19 Services" and they shall be charged with the duty of administering the provisions of this article.
20 Each member of the board shall be a citizen of the United States and a resident of West Virginia
21 during the appointment term. Each member shall serve for a term of four years. The Governor
22 shall stagger the terms so that no more than three appointments shall expire annually.

23 The Governor shall appoint eleven board members with the following qualifications:

24 (1) One registered professional nurse, who shall be a graduate from an accredited

25 educational program in this or any other state for the preparation of practitioners of registered
26 professional nursing, or be a graduate from an accredited college or university with a major in the
27 field of nursing and has graduated from an accredited college or university, is a registered
28 professional nurse licensed in this state or eligible for licensure as such, and shall have five years'
29 experience as a registered professional nurse;

30 (2) One licensed practical nurse, who shall be a graduate of an approved school of
31 practical nursing, and shall have five years' experience as a licensed practical nurse;

32 (3) One advance practice registered nurse, who has completed an advanced nursing
33 education program and is recognized, licensed or certified in an advanced practice or as a certified
34 nurse midwife by West Virginia or another state, and shall have five years' experience as an
35 advanced practice or a certified nurse midwife;

36 (4) One medical imaging technologist, nuclear medicine technologist, or radiation therapy
37 technologist, who shall have five years' experience as an actively practicing licensee in this or
38 another state;

39 (5) One dialysis technician, who shall have five years' experience as an actively practicing
40 licensee in this or another state;

41 (6) One nursing home administrator, who shall have five years' experience as an actively
42 practicing licensee in this or another state; and

43 (7) Five citizen members, who are not licensed under the provisions of this article and
44 does not perform any services related to nursing or health services licensed under the provisions
45 of this article.

46 (d) Any member of the board may be eligible for reappointment, but no member shall serve
47 more than two successive terms. A member of the board immediately and automatically forfeits
48 membership to the board if his or her license to practice is suspended or revoked, he or she is
49 convicted of a felony under the laws of any jurisdiction, or he or she becomes a nonresident of
50 this state.

51 (e) The board shall hold not less than two regular meetings each year and such additional
52 meetings at such times and places as the board may determine. The board shall annually elect
53 from its members a chairperson who shall call the board to meet, set the agenda for board
54 meetings, and preside over the meetings of the board. The board shall annually elect one member
55 as secretary who shall help prepare and keep the record of the boards proceedings. Each member
56 of the board shall receive compensation and expense reimbursement in accordance with article
57 one of this chapter. The compensation and expenses of the members of the board and its
58 appointees and employees shall be paid out of such funds as are allocated to the board in its
59 annual budget. The board is authorized to adopt and, from time to time, to revise such rules and
60 regulations not inconsistent with this article, as may be necessary to enable it to carry into effect
61 the provisions hereof.

62 (f) The board is hereby authorized to appoint and employ a qualified person to perform
63 the duties of executive secretary and to act as educational advisor to the board. Such secretary
64 shall act under the direction of the board. The board shall furnish the secretary a headquarters
65 and shall provide such office equipment and clerical assistance as the duties of the office may
66 require. The board shall have power to hire such nurses, deputies, clerks, assistants, inspectors
67 and employees as shall be necessary for the proper exercise of the powers and duties of the
68 board.

69 (g) The executive secretary shall assist the board secretary and keep the records of
70 proceedings of the board, and shall keep a registry of the names and addresses of all persons
71 regulated under this article, which registry shall be a public record.

§30-41-10. Board powers and duties.

1 (a) The board has all the powers and duties set forth in this article, by rule, in article one
2 of this chapter, and elsewhere in law.

3 (b) The board shall:

4 (1) Hold meetings, conduct hearings and administer examinations;

5 (2) Establish requirements for a license, apprentice license and permit;

6 (3) Establish procedures for submitting, approving and rejecting applications for a license,
7 apprentice license and permit;

8 (4) Determine the qualifications of any applicant for a license, permit, certificate and
9 registration;

10 (5) Provide standards for:

11 (A) Schools of Medical Imaging and Radiation Therapy Technology, procedures for
12 obtaining and maintaining approval, and procedures of revocation of approval where standards
13 are not maintained: Provided, That the standards for approved schools meet at least the minimal
14 requirements of the American Registry of Radiologic Technologist JRCERT, JRCNMT or
15 standards determined programmatically equivalent by the board;

16 (B) An institution desiring to be accredited by the board for the preparation of practitioners
17 of registered professional nursing shall file an application therefor with the board, together with
18 the information required and a fee of fifty dollars. It shall submit written evidence that: (a) It is
19 prepared to give a program of nursing education which meets the standards prescribed by the
20 board; and (b) it is prepared to meet all other standards prescribed in this article and by the board.
21 Instruction and practice may be secured in one or more institutions approved by the board. Such
22 institution or institutions with which the school is to be affiliated shall be surveyed by the executive
23 secretary of the board, who shall submit a written report of the survey to the board. If, in the
24 opinion of the board, the requirements for an accredited school to prepare practitioners of
25 registered professional nursing are met, it shall approve the school as an accredited school. From
26 time to time as deemed necessary by the board, it shall be the duty of the board, through its
27 executive secretary, to survey all such schools. Written reports of such surveys shall be submitted
28 to the board. If the board determines that any such accredited school is not maintaining the
29 standards required by this article and by the board, notice thereof in writing specifying the defect
30 or defects shall be immediately given to the school. A school which fails to correct these conditions

31 to the satisfaction of the board within a reasonable time shall be removed from the list of
32 accredited schools; and

33 (C) The development of curricula and standards for schools and courses preparing
34 persons for licensure as a licensed practical nurse under this article. It shall survey such schools
35 and courses at such times as it may deem necessary. It shall survey and accredit such schools,
36 clinical practice areas and courses as meet the requirements of this article and of the board. It
37 shall examine, license and renew the license of duly qualified applicants.

38 (6) Work with the West Virginia Board of Medicine to determine the scope of practice, the
39 required education and training, and the type of regulations necessary for Radiologist Assistants;

40 (7) Prepare, conduct, administer and grade written, oral or written and oral examinations
41 for a license, certificate and registration;

42 (8) Determine the passing grade for the examinations;

43 (9) Maintain records of the examinations the board or a third party administers, including
44 the number of persons taking the examination and the pass and fail rate;

45 (10) Maintain an office, and hire, discharge, establish the job requirements and fix the
46 compensation of employees and contract with persons necessary to enforce the provisions of this
47 article;

48 (11) Investigate alleged violations of the provisions of this article, legislative rules, orders
49 and final decisions of the board;

50 (12) Conduct disciplinary hearings of persons regulated by the board;

51 (13) Determine disciplinary action and issue orders;

52 (14) Institute appropriate legal action for the enforcement of the provisions of this article;

53 (15) Maintain an accurate registry of names and addresses of all persons regulated by the
54 board;

55 (16) Keep accurate and complete records of its proceedings, and certify the same as may
56 be necessary and appropriate;

57 (17) Establish, by legislative rule, the continuing education requirements for licensees,
58 permittees, certificate holders and registrants; and

59 (18) Propose rules in accordance with the provisions of article three, chapter twenty-nine-
60 a of this code to implement the provisions of this article.

61 (c) The board may:

62 (1) Contract with third parties to administer the examinations required under the provisions
63 of this article;

64 (2) Define, by legislative rule, the fees charged under the provisions of this article;

65 (3) Issue, renew, deny, suspend, revoke or reinstate a license, permit, certificate and
66 registration;

67 (4) Sue and be sued in its official name as an agency of this state;

68 (5) Confer with the Attorney General or his or her assistant in connection with legal matters
69 and questions; and

70 (6) Take all other actions necessary and proper to effectuate the purposes of this article.

71 (d) The board shall meet at least once each year and shall elect from its members a
72 president and a secretary. The secretary shall also act as treasurer of the board. The board may
73 hold such other meetings during the year as it may deem necessary to transact its business. A
74 majority, including one officer, of the board shall constitute a quorum at any meeting. The board
75 is hereby authorized and empowered to:

76 (1) Adopt and, from time to time, amend such rules and regulations, not inconsistent with
77 this article, as may be necessary to enable it to carry into effect the provisions of this article;

78 (2) Prescribe standards for educational programs preparing persons for licensure to
79 practice registered professional nursing under this article;

80 (3) Provide for surveys of such educational programs at such time as it may deem
81 necessary;

82 (4) Accredite such educational programs for the preparation of practitioners of registered

83 professional nursing as shall meet the requirements of this article and of the board;

84 (5) Deny or withdraw accreditation of educational programs for failure to meet or maintain
85 prescribed standards required by this article and by the board;

86 (6) Examine, license and renew the licenses of duly qualified applicants;

87 (7) Conduct hearings upon charges calling for discipline of a licensee or revocation or
88 suspension of a license;

89 (8) Keep a record of all proceedings of the board;

90 (9) Make a biennial report to the Governor and the Legislative Oversight Commission for
91 Health and Human Resources Accountability;

92 (10) Appoint and employ a qualified person, who shall not be a member of the board, to
93 serve as executive secretary to the board;

94 (11) Define the duties and fix the compensation for the executive secretary; and

95 (12) Employ such other persons as may be necessary to carry on the work of the board.

96 (e) All fees and other moneys collected by the board pursuant to the provisions of this
97 article shall be kept in a separate fund and expended solely for the purpose of this article. No part
98 of this special fund shall revert to the General Funds of this state. The compensation provided by
99 this article and all expenses incurred under this article shall be paid from this special fund. No
100 compensation or expense incurred under this article shall be a charge against the General Funds
101 of this state.

**§30-41-11. Board of Nursing and Health Services Fund created: funds continued; and
funds terminated.**

1 (a) There is created a special revenue fund in the State Treasury designated the “Board
2 of Nursing and Health Services Fund”, to be administered by the board pursuant to effectuate the
3 provision of this article. All fees and other moneys collected by the Board pursuant to the
4 provisions of this article shall be kept in the special revenue fund. The costs and all expenses
5 incurred under this article are to be paid from this special fund. No compensation or expense

6 incurred under this article is a charge against the General Fund of this state.

7 (b) The special revenue funds in the State Treasury, administered by the West Virginia
8 Board of Examiners for Registered Professional Nurses, and by the Board of Examiners for
9 Licensed Practical Nurses, shall be terminated on or before June 30, 2018, upon the transfer of
10 all remaining balances in said fund to the "Board of Nursing and Health Services Fund,"
11 established pursuant to this section, subject to the wind up of activities by the Board of Examiners
12 for Registered Professional Nurses, and the Board of Examiners for Licensed Practical Nurses
13 and the transfer of its assets pursuant to this article.

14 (c) The Dialysis Technician Fund established in the State Treasury shall be terminated on
15 or before June 30, 2018, upon the transfer of all remaining balances in said fund to the "Board of
16 Nursing and Health Services Fund," established pursuant to this section, subject to the wind up
17 of activities pursuant to section nine of this article.

18 (d) The special revenue fund in the State Treasury designated the "Board of Examiners
19 of Medical Imaging Technology Fund", shall be terminated on or before June 30, 2018, upon the
20 transfer of all remaining balances in said fund to the "Board of Nursing and Health Services Fund,"
21 established pursuant to this section, subject to the wind up of activities by the Board of Examiners
22 of Medical Imaging Technology and the transfer of its assets pursuant to this article.

23 (e) The special revenue fund in the State Treasury designated "Center for Nursing Fund"
24 is continued under the provisions of this article.

25 (f) The special revenue fund in the State Treasury designated the "West Virginia Nursing
26 Home Administrators Licensing Board Fund", shall be terminated on or before June 30, 2018,
27 upon the transfer of all remaining balances in said fund to the "Board of Nursing and Health
28 Services Fund," established pursuant to this section, subject to the wind up of activities by the
29 Nursing Home Administrators Licensing Board and the transfer of its assets pursuant to this
30 article.

31 (g) Any amount received as fines, imposed pursuant to this article, shall be deposited into

32 the General Revenue Fund of the State Treasury.

§30-41-12. Rule-making authority.

1 (a) Legislative rules promulgated by the West Virginia Board of Examiners for Registered
2 Professional Nurses, pursuant to article seven, of this chapter, the Board of Examiners for
3 Licensed Practical Nurses pursuant to article seven-a of this chapter, the West Virginia Medical
4 Imaging and Radiation Therapy Technology Board of Examiners, pursuant to article twenty-three
5 of this chapter, and the West Virginia Nursing Home Administrators Licensing Board, pursuant to
6 article twenty-five of this chapter, and such rules shall be transferred pursuant to the wind up
7 provisions pursuant to section nine of this article: *Provided*, That prior to June 30, 2018 the
8 authority to administer such rules shall be transferred to and shall be administered by the Board
9 of Nursing and Health Services established pursuant to this article, and such rules shall remain
10 in effect until amended, modified, repealed or replaced by the Board of Nursing and Health
11 Services pursuant to the provisions of article three, chapter twenty-nine-a of this code.

12 (b) The board shall propose rules for legislative approval, in accordance with the
13 provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this
14 article, including:

15 (1) Standards and requirements for licensure, apprentice licensure and permits to practice
16 each discipline as authorized by this article;

17 (2) Procedures for examinations and reexaminations;

18 (3) Requirements for third parties to prepare and/or administer examinations and
19 reexaminations;

20 (4) Educational and experience requirements, and the passing grade on the examination;

21 (5) Standards for approval of courses;

22 (6) Procedures for the issuance and renewal of a license, apprentice license and permit;

23 (7) A fee schedule;

24 (8) Continuing education requirements for licensees;

25 (9) The procedures for denying, suspending, revoking, reinstating or limiting the practice
26 of a licensee or permittee;

27 (10) Requirements for inactive or revoked licenses, apprentice licenses and permits; and

28 (11) Any other rules necessary to effectuate the provisions of this article.

29 (c) The Board shall prescribe standards for approved dialysis technician training
30 programs, and prescribe testing standards and requirements, by legislative rule, including:

31 (1) Persons and organizations providing dialysis technician training programs and testing
32 services must be approved by the Board; and

33 (2) Approval for dialysis training and testing programs may be denied or withdrawn for
34 failure to meet the standards set out in code or rule.

35 (d) The board shall prescribe curricula and standards for schools and courses preparing
36 persons for licensure under this article by legislative rule. It shall survey such schools and courses
37 at such times as it may deem necessary. It shall survey and accredit such schools, clinical practice
38 areas and courses as meet the requirements of this article and of the board. It shall examine,
39 license and renew the license of duly qualified applicants.

§30-41-13. Schools of nursing accreditation.

1 (a) A nursing school shall be approved by the board or accredited by The Accreditation
2 Commission for Education in Nursing, The Commission on Collegiate Nursing Education or The
3 National League for Nursing Accrediting Commission or national nursing accrediting body
4 recognized by the United States Secretary of Education.

5 (b) An institution desiring to be approved by the board for the preparation of practitioners
6 of registered professional nursing shall file an application with the board, with the information
7 required and a fee as provided by legislative rule. It shall submit information that:

8 (1) It is prepared to give a program of nursing education which meets the standards
9 prescribed by the board; and

10 (2) it is prepared to meet the legislative rule as promulgated by the board.

11 (c) A nursing school accredited by The Accreditation Commission for Education in
12 Nursing, The Commission on Collegiate Nursing Education or The National League for Nursing
13 Accrediting Commission or national nursing accrediting body recognized by the United States
14 Secretary of Education is deemed fully approved by the board but is subject to legislative rule as
15 prescribed by the board.

16 (d) A nursing school that has been accredited for one accreditation cycle by The
17 Accreditation Commission for Education in Nursing, The Commission on Collegiate Nursing
18 Education or The National League for Nursing Accrediting Commission or national nursing
19 accrediting body recognized by the United States Secretary of Education is not subject to the
20 additional requirements of this article or legislative rules promulgated thereunder. If a nursing
21 school loses its accreditation, it is immediately subject to the authority of the board.

22 (e) The board may assist a nursing student in filing a complaint to a national accrediting
23 body.

§30-41-14. Qualifications to practice registered professional nursing; licensure; fees; temporary permits.

1 (a) To obtain a license to practice registered professional nursing, an applicant shall
2 submit to the board written evidence, verified by oath, that he or she:

- 3 (1) is of good moral character;
4 (2) has completed an approved four-year high school course of study or the equivalent
5 thereof, as determined by the appropriate educational agency; and

6 (3) has completed and holds a diploma of a school approved by the board or school
7 accredited by The Accreditation Commission for Education in Nursing, The Commission on
8 Collegiate Nursing Education or The National League for Nursing Accrediting Commission or
9 national nursing accrediting body recognized by the United States Secretary of Education.

10 (b) The applicant shall also be required to pass an examination as prescribed by legislative
11 rule. If an applicant fails to pass the examination on two occasions, the applicant shall present to

12 the board such other evidence of his or her qualifications as the board may prescribe.

13 (c) The board may, upon application, issue a license to practice registered professional
14 nursing by endorsement to an applicant who has been licensed as a registered professional nurse
15 under the laws of another state, territory or foreign country if in the opinion of the board the
16 applicant meets the qualifications required of registered professional nurses at the time of
17 graduation.

18 (d) The board may, upon application and proper identification determined by the board,
19 issue a temporary permit to practice registered professional nursing by endorsement to an
20 applicant who has been licensed as a registered professional nurse under the laws of another
21 jurisdiction. The temporary permit authorizes the holder to practice registered professional nursing
22 in this state while the temporary permit is effective. A temporary permit shall be effective for ninety
23 days, unless the board revokes such permit prior to its expiration, and such permit may not be
24 renewed. Any person applying for a temporary license under the provisions of this paragraph
25 shall, with his or her application, pay to the board a fee as provided in legislative rule.

26 (e) Any person holding a valid license designated as a "waiver license" may submit an
27 application to the board for a license containing no reference to the fact that ~~such~~ the person has
28 theretofore been issued such "waiver license." The provisions of this section relating to
29 examination and fees and the provisions of all other sections of this article shall apply to any
30 application submitted to the board pursuant to the provisions of this paragraph.

31 (f) Any person applying for a license to practice registered professional nursing under the
32 provisions of this article shall, with his or her application, pay to the board a fee as prescribed by
33 legislative rule. In the event it shall be necessary for the board to reexamine any applicant for a
34 license, an additional fee shall be paid to the board by the applicant for reexamination as
35 prescribed by legislative rule.

36 (g) A license issued by the board shall for all purposes be considered a license issued
37 under this section: Provided, That a person holding a license shall renew the license.

38 (h) The board shall, upon receipt of a application for licensure and the fee as prescribed
39 by legislative rule, issue a temporary permit to practice registered professional nursing to any
40 applicant who has received a diploma from a school of nursing approved pursuant to this article
41 after the date the board last scheduled a written examination for persons eligible for licensure:
42 *Provided*, That no such temporary permit shall be renewable nor shall any such permit be valid
43 for any purpose subsequent to the date the board has announced the results of the first written
44 examination given by the board following the issuance of such permit.

45 (i) To obtain a license to practice as an advanced practice registered nurse, an applicant
46 must submit a written application, verified by oath, to the board together with an application fee
47 established by the board through an authorized legislative rule. The requirements for a license to
48 practice as an advanced practice registered nurse in this state are listed below and must be
49 demonstrated to the board through satisfactory evidence submitted with the application for a
50 license:

51 (1) The applicant must be licensed in good standing with the board as a registered
52 professional nurse;

53 (2) The applicant must have satisfactorily completed a graduate-level program accredited
54 by a national accreditation body that is acceptable to the board; and

55 (3) The applicant must be currently certified by a national certification organization,
56 approved by the board, in one or more of the following nationally recognized advance practice
57 registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical
58 nurse specialist or certified nurse practitioner.

**§30-41-14a. 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, for any nursing
17 services rendered under the special volunteer registered professional nurse license;

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

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

22 (b) Any registered professional nurse who renders nursing service to indigent and needy
23 patients of a clinic organized, in whole or in part, for the delivery of health care services without
24 charge under a special volunteer registered professional nurse license authorized under
25 subsection (a) of this section without payment or compensation or the expectation or promise of
26 payment or compensation is immune from liability for any civil action arising out of any act or
27 omission resulting from the rendering of the nursing service at the clinic unless the act or omission
28 was the result of the registered professional nurse's gross negligence or willful misconduct. In
29 order for the immunity under this subsection to apply, there must be a written agreement between

30 the registered professional nurse and the clinic pursuant to which the registered professional
31 nurse will provide voluntary uncompensated nursing services under the control of the clinic to
32 patients of the clinic before the rendering of any services by the registered professional nurse at
33 the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain
34 liability coverage of not less than one million dollars per occurrence.

35 (c) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in
36 whole or in part, for the delivery of health care services without charge is not relieved from imputed
37 liability for the negligent acts of a registered professional nurse rendering voluntary nursing
38 services at or for the clinic under a special volunteer registered professional nurse license
39 authorized under subsection (a) of this section.

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

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

52 (f) Any policy or contract of liability insurance providing coverage for liability sold, issued
53 or delivered in this state to any registered professional nurse covered under the provisions of this
54 article shall be read so as to contain a provision or endorsement whereby the company issuing
55 such policy waives or agrees not to assert as a defense on behalf of the policyholder or any

56 beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the
57 immunity from liability of the insured by reason of the care and treatment of needy and indigent
58 patients by a registered professional nurse who holds a special volunteer registered professional
59 nurse license.

§30-41-14b. Qualifications and licensure of persons not citizens of United States.

1 (a) The board may, upon application, issue a license to practice registered professional
2 nursing by endorsement to any person who is not a citizen of the United States of America if such
3 person: (1) Has been duly licensed as a registered professional nurse under the laws of another
4 state, territory or foreign country; and (2) shall, in any such state, territory or foreign country, have
5 passed a written examination in the English language which, in the opinion of the board, is
6 comparable in content and scope to the type of written examination that is required in subsection
7 (b) of section six of this article.

8 (b) All other provisions of this article shall be applicable to any application for or license
9 issued pursuant to this section.

§30-41-14c. Renewal of licenses; reinstatement; fees; penalties; inactive list.

1 The license of every person licensed and registered under the provisions of this article
2 shall be annually renewed except as hereinafter provided. At such time or times as the board in
3 its discretion may determine, the board shall mail a renewal application to every person whose
4 license was renewed during the previous year and every such person shall fill in such application
5 blank and return it to the board with a renewal fee of twenty-five dollars within thirty days after
6 receipt of said renewal application: *Provided*, That the board in its discretion by rule may increase
7 or decrease the renewal fee. Upon receipt of the application and fee, the board shall verify the
8 accuracy of the application and, if the same be accurate, issue to the applicant a certificate of
9 renewal for the current year. Such certificate of renewal shall entitle the holder thereof to practice
10 registered professional nursing for the period stated on the certificate of renewal. Any licensee
11 who allows his or her license to lapse by failing to renew the license as provided above may be

12 reinstated by the board on satisfactory explanation for such failure to renew his or her license and
13 on payment to the board of the renewal fee hereinabove provided and a reinstatement fee of fifty
14 dollars. Any person practicing registered professional nursing during the time his or her license
15 has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided
16 for violation of this article. A person licensed under the provisions of this article desiring to retire
17 from practice temporarily shall send a written notice of such desire to the board. Upon receipt of
18 such notice the board shall place the name of such person upon the inactive list. While remaining
19 on this list the person shall not be subject to the payment of any renewal fees and shall not
20 practice registered professional nursing in this state. When the person desires to resume active
21 practice, application for renewal of license and payment of the renewal fee for the current year
22 shall be made to the board.

§30-41-15. Circulating registered nurses.

1 A registered nurse as defined in this article, qualified by education, licensed, and
2 experienced in operating room nursing, shall be present as a circulating nurse in each operating
3 room in a hospital, or ambulatory surgical center as defined by section one, article five-b, chapter
4 sixteen of this code, during operative procedures.

**§30-41-16. Prescriptive authority for advanced practice registered nurse; coordination with
Board of Pharmacy; rule-making authority.**

1 (a) The board may, in its discretion, authorize an advanced practice registered nurse to
2 prescribe prescription drugs in accordance with this article and all other applicable state and
3 federal laws. An authorized advanced practice registered nurse may write or sign prescriptions or
4 transmit prescriptions verbally or by other means of communication.

5 (b) The board shall promulgate legislative rules in accordance with chapter twenty-nine-a
6 of this code governing the eligibility and extent to which an advanced practice registered nurse
7 may prescribe drugs. Such rules shall provide, at a minimum, a state formulary classifying those
8 categories of drugs which shall not be prescribed by advanced practice registered nurse including,

9 but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics,
10 radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to
11 a thirty day supply without refill. In addition to the above referenced provisions and restrictions
12 and pursuant to a collaborative agreement as set forth in section fifteen-b of this article, the rules
13 shall permit the prescribing of an annual supply of any drug, with the exception of controlled
14 substances, which is prescribed for the treatment of a chronic condition, other than chronic pain
15 management. For the purposes of this section, a "chronic condition" is a condition which lasts
16 three months or more, generally cannot be prevented by vaccines, can be controlled but not cured
17 by medication and does not generally disappear. These conditions, with the exception of chronic
18 pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes,
19 epilepsy and seizures, and obesity. The prescriber authorized in this section shall note on the
20 prescription the chronic disease being treated.

21 (c) The board may promulgate emergency rules to implement the provisions of this article
22 pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

23 (d) The board shall transmit to the Board of Pharmacy a list of all advanced practice
24 registered nurses with prescriptive authority. The list shall include:

- 25 (1) The name of the authorized advanced practice registered nurse;
- 26 (2) The prescriber's identification number assigned by the board; and
- 27 (3) The effective date of prescriptive authority.

§30-41-16a. Eligibility for prescriptive authority; application; fee; collaborative relationships and agreements.

1 (a) An advanced practice registered nurse shall be eligible to apply for authorization to
2 prescribe drugs pursuant to this article after satisfying the following requirements:

- 3 (1) Be licensed and certified in West Virginia as an advanced practice registered nurse;
- 4 (2) Be at least eighteen years of age;
- 5 (3) Have completed forty-five contact hours of education in pharmacology and clinical

6 management of drug therapy under a program approved by the board, fifteen hours of which shall
7 have been completed within the two-year period immediately prior to entering into a prerequisite
8 collaborative relationship;

9 (4) Provide the board with evidence that he or she is a person of good moral character
10 and not addicted to alcohol or the use of controlled substances;

11 (5) Does not have his or her advanced practice registered nursing license, certification or
12 registration in any jurisdiction suspended, limited or revoked; and

13 (6) Submit a completed, notarized application to the board, accompanied by a fee as
14 established by the board by rule.

15 (b) The board shall authorize an applicant to prescribe prescription drugs under the terms
16 of a collaborative agreement and in accordance with this article and applicable legislative rules if
17 the applicant has met the prerequisites of subsection (a) of this section and the following additional
18 prerequisites are satisfied:

19 (1) The board is satisfied that the collaborating physician is licensed in good standing;

20 (2) The collaborative agreement is sufficient in form;

21 (3) The applicant has completed the education requirements; and

22 (4) The applicant has submitted a completed application on forms developed by the board
23 and paid an application fee established by the board in legislative rule.

24 (c) A collaborative agreement for a collaborative relationship for prescriptive practice
25 between a physician and an advanced practice registered nurse shall be set forth in writing and
26 include, but not be limited to, the following:

27 (1) Mutually agreed upon written guidelines or protocols for prescriptive authority as it
28 applies to the advanced practice registered nurse's clinical practice;

29 (2) Statements describing the individual and shared responsibilities of the advanced
30 practice registered nurse and the collaborating physician;

31 (3) Periodic and joint evaluation of prescriptive practice; and

32 (4) Periodic joint review and updating of the written guidelines or protocols.

33 (d) Verification of a collaborative agreement shall be filed with the board by the advanced
34 practice registered nurse with documentation of completion of the education requirements
35 described in subsection (a) of this section. The board shall forward a copy of the verified
36 agreement to the board through which the collaborative physician is licensed.

37 (e) The board shall, upon application, authorize an advanced practice registered nurse to
38 prescribe prescription drugs in accordance with this article without the further requirement of a
39 collaborative agreement if the applicant has satisfied the following prerequisites:

40 (1) Has practiced at least three years in a duly-documented collaborative relationship with
41 granted prescriptive authority;

42 (2) Licensed in good standing with the board; and

43 (3) Has submitted a completed application on forms developed by the board and paid an
44 application fee established by the board in legislative rule.

45 (f) Notwithstanding the provisions of subsection (e) of this section, the board may require
46 an advanced practice registered nurse to practice in a collaborative agreement if the board
47 determines, by order arising out of the board's complaint process, that a collaborative relationship
48 is necessary for the rehabilitation of a licensee or for protection of the public.

**§30-41-16b. Form of prescriptions; termination of authority; renewal; notification of
termination of authority.**

1 (a) Prescriptions authorized by an advanced practice registered nurse must comply with
2 all applicable state and federal laws; must be signed by the prescriber with the initials "A.P.R.N."
3 or the designated certification title of the prescriber; and must include the prescriber's identification
4 number assigned by the board or the prescriber's national provider identifier assigned by the
5 National Provider System pursuant to 45 C. F. R. §162.408.

6 (b) Prescriptive authorization shall be terminated if the advanced practice registered nurse
7 has:

8 (1) Not maintained current authorization as an advanced practice registered nurse; or

9 (2) Prescribed outside the advanced practice registered nurse's scope of practice or has
10 prescribed drugs for other than therapeutic purposes; or

11 (3) Has not filed verification of a collaborative agreement with the board if such an
12 agreement is required.

13 (c) Prescriptive authority for an advanced practice registered nurse must be renewed
14 biennially. Documentation of eight contact hours of pharmacology during the previous two years
15 must be submitted at the time of renewal.

16 (d) The board shall notify the Board of Pharmacy within twenty-four hours after termination
17 of, or change in, an advanced practice registered nurse's prescriptive authority.

§30-41-16c. Advanced practice registered nurse signatory authority.

1 (a) An advanced practice registered nurse may provide an authorized signature,
2 certification, stamp, verification, affidavit or endorsement on documents within the scope of their
3 practice, including, but not limited to, the following documents:

4 (1) Death certificates: Provided, That the advanced practice registered nurse has received
5 training from the board on the completion of death certificates;

6 (2) "Physician orders for life sustaining treatment," "physician orders for scope of
7 treatment" and "do not resuscitate" forms;

8 (3) Handicap hunting certificates; and

9 (4) Utility company forms requiring maintenance of utilities regardless of ability to pay.

10 (b) An advanced practice registered nurse may not sign a certificate of merit for a medical
11 malpractice claim against a physician.

§30-41-16d. Joint Advisory Council on Limited Prescriptive Authority.

1 (a) The Joint Advisory Council on Limited Prescriptive Authority. The purpose of the
2 Council is continued, is to advise the board regarding collaborative agreements and prescriptive
3 authority for advanced practice registered nurses.

4 (b) The Governor shall appoint:

5 (1) Two allopathic physicians as recommended by the Board of Medicine who are in a
6 collaborative relationship with advanced practice registered nurses;

7 (2) Two osteopathic physicians who are in active collaborative relationships as
8 recommended by the Board of Osteopathic Medicine who are in a collaborative relationship with
9 advanced practice registered nurses;

10 (3) Six advanced practice registered nurses who have at least three years full-time
11 practice experience, and shall include at least one certified nurse practitioner, one certified nurse-
12 midwife, and one certified registered nurse anesthetist, all of whom actively prescribe prescription
13 drugs;

14 (4) One licensed pharmacist as recommended by the Board of Pharmacy;

15 (5) One consumer representative; and

16 (6) One representative from a school of public health of an institution of higher education.

17 (c) All members of the Council who are healthcare providers shall have at least three years
18 full-time practice experience and hold active state licenses.

19 (d) Each member shall serve for a term of three years. The Governor shall stagger the
20 terms so that no more than five appointments shall expire annually. Prior to the election of a
21 chairman, the board shall be called together by the representative from a school of public health
22 of an institution of higher education.

23 (e) A majority of members appointed to the Council shall constitute a quorum to conduct
24 official business.

25 (f) The Council shall choose its own chairman and shall meet at the call of the chairman
26 at least biannually.

27 (g) The Council may perform the following duties:

28 (1) Review and evaluate applications for advanced practice registered nurses to prescribe
29 without a collaborative agreement;

30 (2) Assist advanced practice registered nurses with entering into collaborative agreements
31 in non-emergency situations, including providing the contact information for physicians with whom
32 the advanced practice registered nurses may collaborate;

33 (3) Advise the board in emergency situations of a rescinded collaborative agreement,
34 giving a sixty day grace period;

35 (4) Assist the board in developing and proposing emergency rules;

36 (5) Review and advise on complaints against advanced practice registered nurses;

37 (6) Develop pilot project allowing independent prescribing of controlled substances by
38 advanced practice registered nurses and study results to assure patient/public safety;

39 (7) Develop other studies and/or pilot projects, including but not limited to:

40 (A) Issues of access, outcomes and cost effectiveness of services;

41 (B) The development of recommendations for reciprocity;

42 (C) The optimal length of time for transition into independent prescribing; and

43 (D) Methods to foster effective interprofessional communication.

§30-41-17. Qualifications of applicants for license to practice practical nursing.

1 Except as otherwise provided in this article, any person desiring to obtain a license to
2 practice practical nursing shall submit to the board satisfactory evidence that he or she:

3 (a) Is of good moral character;

4 (b) Has acquired at least a tenth grade education or its equivalent;

5 (c) Has completed a course of study in an accredited school for practical nurses as defined
6 by the board and holds a diploma therefrom; and

7 (d) Has completed such other general educational requirements as may be prescribed by
8 the board.

§30-41-17a. Renewal or reinstatement of practical nursing license.

1 The license of every person licensed under the provisions of this article shall expire on the
2 thirtieth day of June, next following the date of license. In order for such license to be renewed,

3 the licensee shall comply with such rules and regulations of the board as are applicable to
4 renewals. The renewal fee for all licenses shall be five dollars, subject to change by the board.
5 Upon receipt of the renewal fee the board shall issue to the licensee a certificate of renewal for
6 the current year, beginning July first and expiring June thirtieth of the following year. Such
7 certificate shall render the holder thereof a legal practitioner for the period stated on the certificate
8 of renewal. Any licensee who allows his or her license to lapse by failing to renew the license as
9 provided above may be reinstated by the board on satisfactory explanation for such failure to
10 renew his or her license and on payment of a reinstatement fee of five dollars, subject to change
11 by the board, in addition to the renewal fee hereinbefore set out. Any person practicing practical
12 nursing during the time his or her license has lapsed shall be considered an illegal practitioner
13 and shall be subject to the penalties provided for violation of this article. A person licensed under
14 the provisions of this article desiring to retire from practice temporarily shall give written notice of
15 such desire to the board. Upon receipt of such notice the board shall place the name of such
16 person upon the nonpracticing list. While remaining on this list the person shall not be subject to
17 the payment of any renewal fees and shall not practice as a licensed practical nurse in the state.
18 When such person desires to resume practice, application for renewal of license and payment of
19 the renewal fee for the current year shall be made to the board.

§30-41-18. Schools of practical nursing.

20 (a) The board shall prescribe curricula and standards for schools, clinical practice areas
21 and courses preparing persons for licensure under this article; it shall provide for surveys of such
22 schools, clinical practice areas and courses at such times as it may deem necessary. It shall
23 accredit such schools, clinical practice areas and courses as meet the requirements of this article
24 and of the board. An institution desiring to conduct a school of practical nursing to be accredited
25 by the board as such shall file an application therefor with the board, together with the information
26 required and such fee as may be prescribed by the board. It shall submit satisfactory evidence
27 that: (1) It is prepared to give the course of instruction and practical experience in practical nursing

28 as prescribed in the curricula adopted by the board; and (2) it is prepared to meet other standards
29 established by this law and by the board.

30 (b) A survey of the institution or institutions, with which the school is to be, or is, affiliated,
31 shall be made by the executive secretary of the board. The executive secretary shall submit a
32 written report of the survey to the board. If, in the opinion of the board, the requirements for an
33 accredited school of practical nursing are met, it shall approve the school as an accredited school
34 of practical nursing. From time to time as deemed necessary by the board, it shall be the duty of
35 the board, through its executive secretary, to survey all schools of practical nursing in the state.
36 Written reports of such surveys shall be submitted to the board. If the board determines that any
37 accredited school of practical nursing is not maintaining the standards required by the statutes
38 and by the board, notice thereof in writing specifying the defect or defects shall be immediately
39 given to the school. A school which fails to correct these conditions to the satisfaction of the board
40 within a reasonable time shall be removed from the list of accredited schools of practical nursing
41 and shall be in violation of this article. Nothing contained in this article shall infringe upon the
42 rights or power of the state board of education, or county boards of education to establish and
43 conduct a program of practical nurse education or other health occupation so long as the
44 prescribed curricula meets the requirements of the board.

§30-41-19. West Virginia Center for Nursing.

1 (a) The West Virginia Center for Nursing is continued for the purpose of addressing the
2 issues of recruitment and retention of nurses in West Virginia.

3 (b) The commission shall satisfy the following requirements:

4 (1) Provide suitable office space for the center;

5 (2) Provide staff support for the center as necessary;

6 (3) Share statistics and other pertinent information with the center;

7 (4) Work cooperatively with the center to assist it in achieving its objectives; and

8 (5) Utilize moneys from the Center for Nursing Fund to perform its duties required by

9 this article.

§30-41-19a. Center's powers and duties.

1 The center shall satisfy the following requirements:

2 (a) Establish a statewide strategic plan to address the nursing shortage in West
3 Virginia;

4 (b) Collect, evaluate and disseminate data regarding nurse availability and shortage
5 areas;

6 (c) Establish and maintain a website to disseminate information about the center and
7 its mission, and educational opportunities and financial aid available in West Virginia;

8 (d) Evaluate capacity for expansion of nursing programs, including the availability of
9 faculty, clinical laboratories, computers and software, library holdings and supplies;

10 (e) Consult with and advise the commission regarding the commission's administration
11 of the nursing scholarship program designed to benefit nurses who practice in hospitals and other
12 health care institutions or teach in state nursing programs as provided in section four, article three,
13 chapter eighteen-c of this code; and

14 (f) Perform other activities necessary or expedient to accomplish the purposes and
15 implement the provisions of this article.

§30-41-19b. Board of directors.

1 (a) The center is governed by a board of directors consisting of the following members
2 appointed by the Governor:

3 (1) Three representatives from the West Virginia Board of Nursing and Health Services,
4 as follows:

5 (A) One representing a bachelor or higher degree program;

6 (B) One representing an associate degree program; and

7 (C) One representative licensed as an advanced practice registered nurse.

8 (2) One representative from the West Virginia Nurses Association;

- 9 (3) One nurse representing a rural health care facility;
- 10 (4) One director of nursing;
- 11 (5) One health care administrator;
- 12 (6) One registered professional staff nurse engaged in direct patient care;
- 13 (7) One licensed practical nurse engaged in direct patient care;
- 14 (8) Two citizen members; and
- 15 (9) Two ex officio, nonvoting members, or his or her designee, as follows:
- 16 (A) The Secretary of the Department of Health and Human Resources; and
- 17 (B) The Director of Work Force West Virginia.
- 18 (b) Members are appointed for four-year terms. A member may not serve more than
- 19 two consecutive terms.
- 20 (c) The board shall elect annually from its voting members a president and a secretary
- 21 as required by section three, article one, chapter thirty of this code. A majority of the appointed
- 22 members constitutes a quorum.
- 23 (d) The Governor shall fill any vacancy within thirty days of occurrence.
- 24 (e) The members of the board who are in office on the effective date of this section,
- 25 unless sooner removed, shall continue to serve until their successors have been appointed and
- 26 qualified.

§30-41-19c. Powers and duties of the board of directors.

- 1 (a) The board has the following powers and duties:
- 2 (1) Determine policy for the operation of the center to accomplish the purposes of this
- 3 article; and
- 4 (2) Advise the commission on matters pertaining to the administration of the Nursing
- 5 Scholarship Program pursuant to section four, article three, chapter eighteen-c of this code.
- 6 (b) The commission shall provide to the board administrative and professional staff
- 7 support as needed from the Center for Nursing Fund.

§30-41-19d. Expense reimbursement.

1 (a) Members of the board serve without compensation, but may be reimbursed for actual
2 and necessary expenses incurred for each day, or portion thereof, in which they are engaged in
3 the discharge of official duties. Reimbursements are made in a manner consistent with guidelines
4 of the travel management office of the commission.

5 (b) The commission shall provide reimbursement for members' expenses from the Center
6 for Nursing Fund.

§30-41-19e. Reports.

1 The center shall report by December 1, 2017, and biennially thereafter, to the Legislative
2 Oversight Commission on Health and Human Resources Accountability and the Legislative
3 Oversight Commission on Education Accountability on its progress in developing a statewide
4 strategic plan to address the nursing shortage in West Virginia and on any other issues the board
5 considers relevant to the practice of nursing in this state. Additionally, the board shall provide
6 drafts of any legislation needed to implement recommendations of the center's strategic plan.

§30-41-20. License required to practice imaging, radiation therapy and nuclear medicine.

1 The Legislature finds that in the interest of public health that:

2 (1) The people of this state should be protected from excessive and improper exposure to
3 ionizing radiation, radioactive isotopes, radio waves, and magnetic fields energy; and

4 (2) A person performing medical imaging or radiation therapy technology in this state shall
5 be licensed.

6 Therefore, it is the purpose of this article to regulate the practice of medical imaging or
7 radiation therapy in this state by requiring that a person have a license, apprentice license or
8 permit when practicing medical imaging or radiation therapy technology.

§30-41-20a. Requirements for Radiologic Technology license.

1 (a) To be eligible for a license to practice Radiologic Technology, the applicant must:

2 (1) Be of good moral character;

3 (2) Have a high school diploma or its equivalent;

4 (3) Have successfully completed an accredited program in Radiologic technology, as
5 determined by an accreditation body recognized by the board, from a school of Radiologic
6 Technology that has been approved by the board;

7 (4) Have passed the examination prescribed by the board, which examination shall cover
8 the basic subject matter of Radiologic Technology, skills and techniques; and

9 (5) Not have been convicted of a felony under the laws of any state or the United States
10 within five years preceding the date of application for licensure, which conviction remains
11 unreversed; and

12 (6) Not have been convicted of a misdemeanor or a felony under the laws of any state or
13 the United States at any time if the offense for which the applicant was convicted related to the
14 practice of Medical Imaging, which conviction remains unreversed.

15 (b) A person seeking a Radiologic Technology license shall submit an application on a
16 form prescribed by the board and pay the license fee, which fee shall be returned to the applicant
17 if the license application is denied.

18 (c) A Radiologic Technology license issued by the board prior to July 1, 2009, shall for all
19 purposes be considered a license issued under this article.

§30-41-20b. Scope of Practice for a Radiologic Technologist.

1 The scope of practice of a Radiologic Technologist includes the following:

2 (1) Analysis and correlation of procedure requests and clinical information provided by a
3 physician or patient, or both, for preprocedure determination of the appropriate exam, its extent,
4 and its scope;

5 (2) Evaluation of the physical, mental and emotional status of the patient with respect to
6 the ability to understand the risk versus benefit of the procedure and to undergo the procedure
7 requested;

8 (3) Selection, preparation, and operation of medical imaging equipment and accessories

9 to perform procedures;

10 (4) Positioning patient to best demonstrate anatomy of interest, while respecting patient's
11 physical limitations and comfort;

12 (5) Determination of imaging exposure factors, setting of factors on control panel, and
13 application of medical imaging exposures;

14 (6) Application of radiation protection principles to minimize radiation exposure to patient,
15 self, and others;

16 (7) Evaluation of images for technical quality;

17 (8) Performance of noninterpretive fluoroscopic procedures according to institutional
18 policy;

19 (9) Oversight of image processing standards and the appropriate labeling of images;

20 (10) Administering contrast media after consultation with, and under the supervision of, a
21 physician who is immediately and physically available;

22 (11) Maintaining values congruent with the profession's Code of Ethics and scope of
23 practice as well as adhering to national, institutional and/or departmental standards, policies and
24 procedures regarding delivery of services and patient care; and

25 (12) Performing any other duties that the board authorizes for a Radiologic Technologist.

§30-41-20c. Scope of Practice for a Radiation Therapist.

1 The scope of practice for a Radiation Therapist includes the following:

2 (1) Providing Radiation Therapy services by contributing as an essential member of the
3 radiation oncology treatment team through provision of total quality care of each patient
4 undergoing a prescribed course of treatment;

5 (2) Evaluating and assessing treatment delivery components;

6 (3) Providing Radiation Therapy treatment delivery services to cure or improve the quality
7 of life of patients by accurately delivering a prescribed course of treatment;

8 (4) Evaluating and assessing daily, the physical and emotional status of each patient to

9 treatment delivery;

10 (5) Maintaining values congruent with the profession's Code of Ethics and scope of
11 practice as well as adhering to national, institutional and/or departmental standards, policies and
12 procedures regarding treatment delivery and patient care; and

13 (6) Performing any other duties that the board authorizes for a Radiation Therapist.

§30-41-20d. Exemptions from Radiologic Technology license.

1 The following persons are not required to obtain a Radiologic Technology license in
2 accordance with the provisions of this article:

3 (1) A Medical Imaging Technology student enrolled in and attending an approved school
4 of Medical Imaging Technology who as part of his or her course of study applies medical imaging
5 technology to a human being under the supervision of a licensed Medical Imaging Technologist;

6 (2) A person acting as a dental assistant or dental hygienist who under the supervision of
7 a licensed dentist operates only radiographic dental equipment for the sole purpose of dental
8 radiography of the oral cavity;

9 (3) A person engaged in performing the duties of a Medical Imaging Technologist in the
10 person's employment by an agency, bureau or division of the government of the United States;

11 (4) A licensed practitioner, Radiologist or Radiology resident;

12 (5) A person licensed as a Radiologist Assistant under the West Virginia Board of
13 Medicine; and

14 (6) A person who demonstrated to the board, prior to the first day of July, one thousand
15 nine hundred ninety-nine, that he or she:

16 (A) Had engaged in the practice of Radiologic Technology for the limited purpose of
17 performing bone densitometry in this state for five or more years;

18 (B) Practiced under the supervision of a licensed practitioner; and

19 (C) Received a densitometry technologist degree certified by the International Society for
20 Clinical Densitometry.

§30-41-20e. Requirements for temporary Medical Imaging and Radiation Therapy Technology license.

1 (a) The board may issue a temporary Medical Imaging and Radiation Therapy Technology
2 license to engage in the practice of Medical Imaging and Radiation Therapy Technology in this
3 state to an applicant who meets the qualifications for a Medical Imaging and Radiation Therapy
4 Technology license, but has not passed the examination.

5 (b) Temporary licenses expire as provided by rule.

**§30-41-20f. Medical Imaging and Radiation Therapy Technology license from another state;
license to practice in this state.**

1 The board may issue a license to practice Medical Imaging and Radiation Therapy
2 Technology in this state, without requiring an examination, to an applicant from another
3 jurisdiction who:

4 (1) Is not a resident of this state;

5 (2) Is of good moral character:

6 (3) Holds a valid Medical Imaging and Radiation Therapy Technology license, certificate
7 or other authorization, including the American Registry of Radiologic Technologists, or Nuclear
8 Medicine Technology Certification Board or equivalent to practice Medical Imaging and Radiation
9 Therapy Technology in another jurisdiction and meets requirements which are substantially
10 equivalent to the Medical Imaging and Radiation Therapy Technology licensure requirements set
11 forth in this article;

12 (4) Is not currently being investigated by a disciplinary authority of this state or another
13 jurisdiction, does not have charges pending against his or her license or other authorization to
14 practice Medical Imaging and Radiation Therapy Technology, and has never had a license or
15 other authorization to practice Medical Imaging and Radiation Therapy Technology revoked;

16 (5) Has not previously failed an examination for licensure in this state;

17 (6) Has paid all the applicable fees; and

18 (7) Has completed other action as required by the board.

§30-41-20g. Requirements for Nuclear Medicine Technologist license.

1 (a) To be eligible for a license to practice Nuclear Medicine Technology, the applicant
2 must:

3 (1) Be of good moral character;

4 (2) Have a high school diploma or its equivalent;

5 (3) Not have been convicted of a felony under the laws of any state or the United States
6 within five years preceding the date of application for licensure, which conviction remains
7 unreversed;

8 (4) Not have been convicted of a misdemeanor or a felony under the laws of any state or
9 the United States at any time if the offense for which the applicant was convicted related to the
10 practice of Medical Imaging, which conviction remains unreversed.

11 (5) Meet one of the following qualifications:

12 (A) Have a baccalaureate or associate degree in one of the physical or biological sciences
13 pertaining to the Medical Imaging or Radiation Therapy profession;

14 (B) Have a baccalaureate or associate degree in other disciplines of Medical Imaging with
15 successful completion of courses in the following areas: college algebra, physics or chemistry,
16 human anatomy, physiology, and radiation safety;

17 (C) National certification as a certified Nuclear Medicine Technologist (CNMT);

18 (D) National certification as a Registered Radiographer (ARRT (R));

19 (E) National certification as a Registered Radiographer specializing in Nuclear Medicine
20 (ARRT (N)); or

21 (F) National certification as a Radiation Therapist (ARRT(T));

22 and

23 (6) Pass an examination which has been approved by the board, with a minimum passing
24 score of seventy-five percent, which examination shall cover the basic subject matter of medical

25 imaging, radiation safety, skills and techniques as it pertains to Nuclear Medicine.

26 (b) A person seeking a Nuclear Medicine Technology license shall submit an application
27 on a form prescribed by the board and pay the license fee, which fee shall be returned to the
28 applicant if the license application is denied.

29 (c) A Nuclear Medicine Technology license issued by the board prior to the first day of
30 July, two thousand seven, shall for all purposes be considered a license issued under this article:
31 *Provided*, That a person holding a Nuclear Medicine Technology license issued prior to the first
32 day of July, two thousand seven, must renew the license pursuant to the provisions of this article.

§30-41-20h. Scope of practice for Nuclear Medicine Technologist.

1 The scope of practice for Nuclear Medicine Technology includes the following:

2 (1) The practice of diagnostic in-vivo procedures and in-vitro procedures which include:

3 (A) Analysis and correlation of procedure request and clinical information provided by the
4 referring physician or patient, or both, for determination of appropriate exam, extent, and scope;

5 (B) Evaluation of the physical and emotional status of the patient with respect to the ability
6 to undergo the procedure requested;

7 (C) Immediate predose review of patient's identification, prescribed dose quantity and
8 route of administration, and identification of the test agent designed to prevent dose mis-
9 administration;

10 (D) Preparation of the appropriate radiopharmaceutical with measurement of dose activity;

11 (E) Administration of appropriate diagnostic dose levels of radiopharmaceuticals;

12 (F) Administration of nonradioactive pharmaceuticals utilized in conjunction with a nuclear
13 medicine imaging or in-vivo procedure, for example, cholecystokinin, furosemide, vitamin B12, in
14 accordance with hospital or facility procedures, excluding narcotic and sedating medication;

15 (G) Selection of appropriate imaging or test parameters, or both;

16 (H) Obtaining images according to established protocols and any special views to optimize
17 information as appropriate;

18 (I) Placement of patient in proper position using supportive materials and immobilizer as
19 necessary;

20 (J) Assuring appropriate image labeling as to patient;

21 (K) Monitoring of patient and equipment during procedure for determination and
22 application of any corrective actions necessary;

23 (L) Monitoring of data collection and processing and performance of technical analysis of
24 test results;

25 (M) Preparation and performance of laboratory in-vivo nuclear medicine procedures,
26 inclusive of the selection and operation of laboratory counting equipment, performance of
27 calculations and data processing necessary for completion of lab procedures and the submission
28 of results to the physician or licensee;

29 (N) Oversight and application of image development; and

30 (O) Performance of in-vitro testing of serum, plasma, or other body fluids using radio
31 immunoassay, or similar ligand assay methods.

32 (2) The practice for handling radiopharmaceuticals which includes:

33 (A) Preparation, by means of tagging, compounding, etc., in accordance with
34 manufacturer's specifications;

35 (B) Measurement and calculation of activity of radionuclides with a dose calibrator;

36 (C) Application of radioactive decay calculations to determine required volume or unit form
37 necessary to deliver the prescribed radioactive dose; and

38 (D) Recording of radiopharmaceutical information on a patient's permanent record.

39 (3) The practice for radionuclide therapy which includes:

40 (A) Assisting licensee in the preparation and applications of therapeutic radionuclides;

41 (B) Oversight of radiation safety practices related to the handling and administration of
42 radiopharmaceuticals for therapy of patients;

43 (C) Maintenance of records of radioactive material receipt, use, storage, and disposal in

44 accordance with regulatory requirements;

45 (D) Oversight and enforcement of radiation safety policies, practices, and regulations
46 regarding the possession and use of radioactive materials;

47 (E) Performance of radiation safety procedures such as radiation survey and wipe testing
48 of incoming radioactive shipments and facility fixtures;

49 (F) Maintaining values congruent with the profession's code of ethics and scope of practice
50 as well as adhering to national, institutional and/or departmental standards, policies and
51 procedures regarding delivery of services and patient care; and

52 (G) Performing any other duties that the board determines may be performed by a Nuclear
53 Medicine Technologist.

54 (4) The scope of practice for a Nuclear Medicine Technologist or certified PET
55 Technologist to operate a multimodality device, i.e. PET/CT, SPECT/CT etc, requires that:

56 (A) A Nuclear Medicine Technologist, (ARRT(N) or NMTCB) or certified PET Technologist
57 may administer radiopharmaceuticals and/or ionizing radiation from an integrated multimodality
58 device, if the ionizing radiation is produced for the sole purpose of attenuation correction and
59 considered an essential component of the procedure, provided the licensee has obtained proper
60 documented training that has been approved by the board in the radiation safety aspect of the
61 operation of these units; and

62 (B) A licensed radiographer, (ARRT(R)), or Nuclear Medicine Technologist with an
63 additional certification by the ARRT or other nationally recognized certifying body in computed
64 tomography, shall operate the computed tomography scanner if it is used for any other diagnostic
65 radiographic procedures.

§30-41-20i. Requirements for Magnetic Resonance Imaging Technologist license.

1 (a) To be eligible for a license to practice Magnetic Resonance Imaging Technology, the
2 applicant must:

3 (1) Be of good moral character;

4 (2) Have a high school diploma or its equivalent;

5 (3) Not have been convicted of a felony under the laws of any state or the United States
6 within five years preceding the date of application for licensure, which conviction remains
7 unreversed;

8 (4) Not have been convicted of a misdemeanor or a felony under the laws of any state or
9 the United States at any time if the offense for which the applicant was convicted related to the
10 practice of Medical Imaging, which conviction remains unreversed.

11 (5) Meet one of the following qualifications:

12 (A) Have a baccalaureate or associate degree in one of the physical or biological sciences
13 pertaining to the Medical Imaging or Radiation Therapy profession;

14 (B) Have a baccalaureate or associate degree in other disciplines of Medical Imaging with
15 successful completion of courses in the following areas: college algebra, physics or chemistry,
16 human anatomy, physiology, and radiation safety;

17 (C) National certification as a certified Nuclear Medicine Technologist (CNMT);

18 (D) National certification as a Registered Radiographer (ARRT (R));

19 (E) National certification as a Registered Radiographer specializing in Nuclear Medicine
20 (ARRT (N));

21 (F) National certification as a Radiation Therapist (ARRT(T); or

22 (G) National certification as an MRI technologist (ARRT (MR) or ARMRIT); and

23 (6) Pass an examination which has been approved by the board, with a minimum passing
24 score of seventy-five percent, which examination shall cover the basic subject matter of Medical
25 Imaging, radiation safety, skills and techniques as it pertains to Magnetic Resonance Imaging.

26 (b) A person seeking a Magnetic Resonance Imaging Technology license shall submit an
27 application on a form prescribed by the board and pay the license fee, which fee shall be returned
28 to the applicant if the license application is denied.

29 (c) A Magnetic Resonance Imaging Technology license issued by the board prior to July

30 1, 2007, shall for all purposes be considered a license issued under this article: *Provided*, That a
31 person holding a Magnetic Resonance Imaging Technology license issued prior to July 1, 2007,
32 must renew the license pursuant to the provisions of this article.

§30-41-20j. Scope of Practice for Magnetic Resonance Imaging Technologist.

1 The scope of practice for Magnetic Resonance Imaging Technology includes the following:

2 (1) Make arrangements with other departments for ancillary patient services (e.g.
3 transportation, anesthesia);

4 (2) Orient patient and family to requirements necessary for the exam and instruct patient
5 regarding preparation prior to imaging procedures;

6 (3) Assist with scheduling patients and coordinating exams to assure smooth work flow
7 and review patient's chart to verify physician's orders;

8 (4) Assist patient on and off the scanning table and maintain communication and provide
9 reassurance to patient throughout scanning procedure;

10 (5) Obtain patient's medical history prior to scan and observe patient's vital signs, O2
11 saturation, patient's level of consciousness during scanning procedure, and observe patient's
12 physical status prior to discharge from the scanning procedure;

13 (6) Maintain controlled access to restricted area of strong magnetic field to ensure safety
14 of patients, visitors, and hospital personnel and screen patient for ferrous and RF-sensitive
15 material prior to entrance into magnetic field;

16 (7) Evacuate patient in emergency situation (e.g., quench, code, metallic object);

17 (8) Provide hearing protection to patient and others;

18 (9) Inspect equipment to make sure it is operable and safe (e.g., coils, cables, door seals),
19 perform document and interpret the results of daily QC tests (center frequency, signal to noise,
20 image quality and artifacts);

21 (10) Monitor specific absorption rate (SAR) and cryogen levels;

22 (11) Position patient according to type of study indicated and enter patient's data needed

23 to initiate scan;

24 (12) Explain the risks of contrast media injections, obtain signed consent form, determine
25 appropriate dose required, program or activate the power injector and administer the contrast
26 media;

27 (13) Select all parameters needed to obtain a highly diagnostic image;

28 (14) Archive images to or retrieve images from data storage devices;

29 (15) Evaluate quality of filmed images and reformat images;

30 (16) Perform automatic or manual frequency tuning;

31 (17) Differentiate between normal and abnormal images to assess completion of
32 procedure;

33 (18) Monitor image production and discriminate between technically acceptable and
34 unacceptable images;

35 (19) Maintaining values congruent with the profession's code of ethics and scope of
36 practice as well as adhering to national, institutional and/or departmental standards, policies and
37 procedures regarding delivery of services and patient care; and

38 (20) Perform any other duties that the board authorizes.

**§30-41-20k. Requirements for an apprentice license for Nuclear Medicine Technologists
and Magnetic Resonance Imaging Technologists.**

1 (a) The board may issue an apprentice license to an individual who is practicing as a
2 Nuclear Medicine Technologist or a Magnetic Resonance Imaging Technologist prior to July 1,
3 2007 but has not obtained certification in the discipline. A notarized letter, signed by the
4 individual's supervising licensed physician, must be submitted with the individual's application,
5 stating that the individual has performed the duties of a Nuclear Medicine Technologist or
6 Magnetic Resonance Imaging Technologist prior to July 1, 2007.

7 (b) The apprentice license is valid for one year. An apprentice license may be renewed
8 annually for an additional four years, giving the individual a total of five years to complete the

9 requirements and successfully pass the certification examination for a Nuclear Medicine
10 Technologist license or a Magnetic Resonance Imaging Technologist license. All individuals
11 possessing an apprentice license must work under the supervision of a licensed practitioner for
12 MRI, an authorized user for nuclear medicine or a technologist who is licensed in that discipline.

13 (c) Any individual possessing a valid Medical Imaging license issued by the board and
14 seeks to cross-train in the discipline of Nuclear Medicine Technology or Magnetic Resonance
15 Imaging Technology, may obtain an apprentice license in that discipline for the purpose of
16 obtaining the necessary clinical experience requirements in order to qualify to sit for the required
17 examination. This apprentice license will be valid for one year and renewable for four years, giving
18 a cross-trained individual five years to obtain certification in the discipline.

§30-41-20I. Requirements for Podiatric Medical Assistant permit.

1 (a) To be eligible for a Podiatric Medical Assistant permit to perform podiatric radiographs,
2 the applicant must:

- 3 (1) Be of good moral character;
- 4 (2) Have a high school diploma or its equivalent;
- 5 (3) Pass a written examination for certification from the American Society of Podiatric
6 Medical Assistants (ASPMA);
- 7 (4) Maintain an active certification in the American Society of Podiatric Medical Assistants
8 (ASPMA) and meet all requirements of that organization including the continuing education
9 requirements;
- 10 (5) Not have been convicted of a felony under the laws of any state or the United States
11 within five years preceding the date of application for licensure, which conviction remains
12 unreversed; and
- 13 (6) Not have been convicted of a misdemeanor or felony under the laws of any state or
14 the United States at any time if the offense for which the applicant was convicted related to the
15 practice of Radiologic Technology, which conviction remains unreversed.

16 (b) A person seeking a Podiatric Medical Assistant permit shall submit an application on
17 a form prescribed by the board and pay the permit fee, which fee shall be returned to the applicant
18 if the permit application is denied.

19 Upon application for renewal, the permittee shall submit documentation of an active
20 certification in ASPMA and payment of a renewal fee.

21 (c) A Podiatric Medical Assistant permit issued by the board prior to the first day of July,
22 two thousand seven, shall for all purposes be considered a permit issued under this article:
23 *Provided*, That a person holding a Podiatric Medical Assistant permit issued prior to the first day
24 of July, two thousand seven, must renew the permit pursuant to the provisions of this article.

§30-41-20m. Scope of practice for Podiatric Medical Assistants.

1 The scope of practice for a Podiatric Medical Assistant includes the following:

2 (a) The use of equipment specifically designed for the performance of foot or ankle
3 podiatric radiographs, as approved by the board; and

4 (b) Performed under the supervision of a licensed Podiatrist.

§30-41-20n. License and permit renewal requirements.

1 (a) A licensee and permittee shall annually renew his or her license or permit by
2 completing a form prescribed by the board, paying a renewal fee, and submitting any other
3 information required by the board.

4 (b) The board shall charge a fee for each renewal of a license or permit and a late fee for
5 any renewal not paid in a timely manner.

6 (c) The board shall require as a condition for the renewal of a license and permit that each
7 licensee or permittee complete continuing education requirements.

8 (d) The board may deny an application for renewal for any reason which would justify the
9 denial of an original application for a license or permit.

**§30-41-21. Qualifications for nursing home administrator license; exceptions; application;
fees.**

1 (a) To be eligible for a license to engage in the practice of nursing home administration,
2 the applicant must:

3 (1) Submit an application to the board;

4 (2) Be of good moral character;

5 (3) Obtain a baccalaureate degree;

6 (4) Pass a state and national examination as approved by the board;

7 (5) Complete the required experience as prescribed by the board, which shall be in nursing
8 home administration or other related health care administration;

9 (6) Successfully complete a criminal background check, through the West Virginia State
10 Police and the National Criminal Investigative Center;

11 (7) Successfully complete a Health Integrity Protection Data Bank check;

12 (8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article
13 one a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery
14 process, which may, in the discretion of the board, be evidenced by participation in a twelve step
15 program or other similar group or process, may be considered;

16 (9) Not have been convicted of a felony in any jurisdiction within ten years preceding the
17 date of application for license which conviction remains unreversed;

18 (10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
19 for which he or she was convicted related to the practice of nursing home administration, which
20 conviction remains unreversed; and

21 (11) Has fulfilled any other requirement specified by the board.

22 (b) A license issued by the board prior to July 1, 2010, shall for all purposes be considered
23 a license issued under this article: *Provided*, That a person holding a license issued prior to July
24 1, 2010, must renew the license pursuant to the provisions of this article.

§30-41-21a. License to practice nursing home administration from another jurisdiction.

1 The board may issue a license to practice to an applicant of good moral character who

2 holds a valid license or other authorization to practice nursing home administration from another
3 state, if the applicant:

4 (1) Holds a license or other authorization to practice in another state which was granted
5 after the completion of educational requirements substantially equivalent to those required in this
6 state and passed examinations that are substantially equivalent to the examinations required in
7 this state;

8 (2) Does not have charges pending against his or her license or other authorization to
9 practice, and has never had a license or other authorization to practice revoked;

10 (3) Has not previously failed an examination for licensure in this state;

11 (4) Has paid the applicable fee;

12 (5) Is a citizen of the United States or is eligible for employment in the United States; and

13 (6) Has fulfilled any other requirement specified by the board.

§30-41-21b. Temporary and emergency nursing home administration permits.

1 (a) The board may issue a temporary permit for a period of ninety days, to an applicant
2 seeking licensure pursuant to section nine of this article who has accepted employment in West
3 Virginia, but who must wait for the board to meet to act on his or her application. The temporary
4 permit may be renewed at the discretion of the board.

5 (b) The board may issue an emergency permit to a person who is designated as an acting
6 nursing home administrator, if a licensed nursing home administrator dies or is unable to continue
7 due to an unexpected cause. The board may issue the emergency permit to the owner, governing
8 body or other appropriate authority in charge of the nursing home, if it finds the appointment will
9 not endanger the safety of the occupants of the nursing home. A emergency permit is valid for a
10 period determined by the board not to exceed six months and shall not be renewed.

11 (c) The board shall charge a fee for the temporary permit and emergency permit.

§30-41-21c. Nursing home administration renewal requirements.

1 (a) All persons regulated by the article shall annually before June 30, renew his or her

2 license by completing a form prescribed by the board and submitting any other information
3 required by the board.

4 (b) The board shall charge a fee for each renewal of a license or permit and shall charge
5 a late fee for any renewal not properly completed and received with the appropriate fee by the
6 board before June 30.

7 (c) The board shall require as a condition for the renewal that each licensee complete
8 continuing education.

9 (d) The board may deny an application for renewal for any reason which would justify the
10 denial of an original application for a license.

§30-41-21d. Inactive license requirements.

1 (a) A licensee who does not want to continue in active practice shall notify the board in
2 writing and be granted inactive status.

3 (b) A person granted inactive status is exempt from fee requirements and continuing
4 education requirements, and cannot practice in this state.

5 (c) When an inactive licensee wants to return to active practice, he or she must complete
6 all the continuing education requirements for every licensure year the licensee was on inactive
7 status and pay all the applicable fees as determined by the board.

§30-41-22. Complaints; investigations; notice.

1 (a) The board may, on its own motion, conduct an investigation to determine whether there
2 are any grounds for disciplinary action against a licensee or permittee. The board shall, upon the
3 verified written complaint of any person, conduct an investigation to determine whether there are
4 any grounds for disciplinary action against a licensee or permittee. For the purposes of an
5 investigation, a member of the board or the executive director of the board may issue subpoenas
6 and subpoenas duces tecum to obtain testimony and documents to aid in the investigation.

7 (b) Upon receipt of a written complaint filed against any licensee or permittee, the board
8 shall provide a copy of the complaint to the licensee or permittee.

9 (c) If the board finds, upon investigation, that probable cause exists that the licensee or
10 permittee has violated any provision of this article or the rules promulgated hereunder, then the
11 board shall serve the licensee or permittee with a written statement of charges and a notice
12 specifying the date, time and place of the hearing. The hearing shall be held in accordance with
13 the provisions of this article.

§30-41-23. Denial, revocation or suspension of license; grounds for discipline.

1 (a) The board shall have the power to deny, revoke or suspend any license, certificate,
2 registration or permit issued or applied for in accordance with the provisions of this article, or to
3 otherwise discipline a licensee or applicant upon proof that he or she:

4 (1) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to
5 practice registered professional nursing; or

6 (2) Has been convicted of a felony; or

7 (3) Is unfit or incompetent by reason of negligence, habits or other causes; or

8 (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or

9 (5) Is mentally incompetent; or

10 (6) Is guilty of conduct derogatory to the morals or standing of the profession of registered
11 nursing; or

12 (7) Is practicing or attempting to practice registered nursing or health services without a
13 license, certificate, registration or permit; or

14 (8) Has willfully or repeatedly violated any of the provisions of this article.

15 (b) An Advanced practice registered nurse licensed under this article may not be
16 disciplined for providing expedited partner therapy in accordance with article four-f, chapter
17 sixteen of this code.

§30-41-24. Disciplinary proceeding; grounds for discipline.

1 (a) The board shall have the right, in accordance with rules and regulations promulgated
2 under the provisions of article three, chapter twenty-nine-a of this code, to refuse to admit an

3 applicant for the licensure examination for the hereinafter stated reasons, and also the board shall
4 have the power to revoke or suspend any license, certificate, registration or permit to practice
5 nursing or health services issued by the board in accordance with the provisions of this article, or
6 to otherwise discipline a licensee upon satisfactory proof that the person:

7 (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice
8 nursing or health services; or

9 (2) Is convicted of a felony; or

10 (3) Is habitually intemperate or is addicted to the use of habit-forming drugs; or

11 (4) Is mentally incompetent; or

12 (5) Is guilty of professional misconduct as defined by the board pursuant to this article or
13 rules promulgated here under; or

14 (6) Who practices or attempts to practice without a license, certificate, registration or
15 permit or who willfully; or

16 (7) Who violates any of the provisions of this article.

§30-41-25. Refusal to issue or renew, suspension or revocation; disciplinary action.

1 (a) The board may refuse to issue, refuse to renew, suspend, revoke or limit any license,
2 apprentice license, certificate, registration, permit or practice privilege and may take disciplinary
3 action against a licensee, apprentice, certificate holder, registrant or permittee who, after notice
4 and a hearing, has been adjudged by the board as unqualified for any of the following reasons:

5 (1) Fraud, misrepresentation or deceit in obtaining or maintaining a license or permit;

6 (2) Failure by any licensee or permittee to maintain compliance with the requirements for
7 the issuance or renewal of a license, apprentice license or permit;

8 (3) Dishonesty, fraud, professional negligence in the performance of medical imaging or
9 radiation therapy technology, or a willful departure from the accepted standards of practice and
10 professional conduct;

11 (4) Violation of any provision of this article or any rule promulgated hereunder;

- 12 (5) Violation of any professional standard or rule of professional conduct;
- 13 (6) Failure to comply with the provisions of this article or any rule promulgated hereunder;
- 14 (7) Failure to comply with any order or final decision of the board;
- 15 (8) Failure to respond to a request or action of the board;
- 16 (9) Conviction of a crime involving moral turpitude;
- 17 (10) Conviction of a felony or a crime involving dishonesty or fraud or any similar crime
- 18 under the laws of the United States, this state or another jurisdiction, if the underlying act or
- 19 omission involved would have constituted a crime under the laws of this state;
- 20 (11) Knowingly using any false or deceptive statements in advertising;
- 21 (12) Any conduct adversely affecting the licensee's or permittee's fitness to perform
- 22 nursing or health services pursuant to the provisions of this article; or
- 23 (13) Except in emergency situations, failed to obtain written authorization from the
- 24 attending licensed practitioner or from the patient and if the patient is a minor, from a parent or a
- 25 person having custody of the minor.
- 26 (b) The board shall suspend or revoke any license or permit if it finds the existence of any
- 27 grounds which would justify the denial of an application for such license or permit if application
- 28 were then being made for it.
- 29 (c) If the board suspends, revokes, refuses to issue, refuses to renew or limits any license,
- 30 permit or practice privilege, the board shall make and enter an order to that effect and give written
- 31 notice of the order to the person by certified mail, return receipt requested, which order shall
- 32 include a statement of the charges setting forth the reasons for the action, and notice of the date,
- 33 time and place of the hearing. If a license or permit is ordered suspended or revoked, then the
- 34 licensee or permittee shall, within twenty days after receipt of the order, return the license,
- 35 apprentice license or permit to the board. The hearing shall be held in accordance with the
- 36 provisions of this article.
- 37 (d) Disciplinary action includes, but is not limited to, a reprimand, censure, probation,

38 administrative fines, and mandatory attendance at continuing education seminars.

§30-41-26. Hearing and judicial review.

1 (a) Any person adversely affected by an order entered by the board is entitled to a hearing.

2 A hearing on a statement of the charges shall be held in accordance with the provisions for
3 hearings set forth in article one of this chapter and the procedures specified by the board by rule.

4 (b) Either party may elect to have an administrative law judge or hearing examiner conduct
5 the hearing and must notify the other party of the election. The administrative law judge or hearing
6 examiner, at the conclusion of a hearing, shall prepare a proposed order which shall contain
7 findings of fact and conclusions of law. Disciplinary action may be a part of the proposed order,
8 or the board may reserve this obligation for its consideration. The board may accept, reject or
9 modify the decision of the administrative law judge or hearing examiner.

10 (c) For the purpose of conducting a hearing, a member of the board or the executive
11 director of the board may issue subpoenas and subpoenas duces tecum which shall be issued,
12 served, and enforced as specified in section one, article five, chapter twenty-nine-a of this code,
13 and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum
14 shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing
15 hereunder.

16 (d) If, after a hearing, the board determines the licensee or permittee has violated any
17 provision of this article, or the board's rules, a formal decision shall be prepared and signed by a
18 member of the board or the executive director of the board, which contains findings of fact,
19 conclusions of law and specifically lists the disciplinary actions imposed.

20 (e) Any licensee or permittee adversely affected by any decision of the board entered after
21 a hearing, may obtain judicial review of the decision in accordance with section four, article five,
22 chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in
23 accordance with article five, chapter twenty-nine-a of this code.

24 (f) In addition to any other sanction imposed, the board may require a licensee or permittee

25 to pay the costs of the proceeding.

§30-41-27. Injunctions.

1 (a) When, by reason of an investigation under this article or otherwise, the board or any
2 other interested person believes that a person has violated or is about to violate any provision of
3 this article, any rule promulgated hereunder, any order of the board or any final decision of the
4 board, the board or any other interested person may apply to any court of competent jurisdiction
5 for an injunction against such person enjoining such person from the violation. Upon a showing
6 that the person has engaged in or is about to engage in any prohibited act or practice, an
7 injunction, restraining order or other appropriate order may be granted by the court without bond.

8 (b) The board may fine and/or issue cease and desist orders against individuals and/or
9 firms found to be in violation of the provisions of this article or any rule adopted thereunder.

10 (c) A cause of action by the board may be brought in the Circuit Court of Kanawha County
11 or in the Circuit Court of the county where the cause of action took place.

§30-41-28. Criminal proceedings; penalties.

1 (a) When, as a result of an investigation under this article or otherwise, the board has
2 reason to believe that a person has knowingly violated the provisions of this article, the board
3 may bring its information to the attention of the Attorney General or other appropriate law-
4 enforcement officer who may cause appropriate criminal proceedings to be brought.

5 (b) If a court of law finds that a person knowingly violated any provision of this article, any
6 rule promulgated hereunder, any order of the board or any final decision of the board, then the
7 person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one
8 hundred dollars and no more than one thousand dollars for each violation, imprisoned for up to
9 six months for each violation, or both fined and imprisoned.

§30-41-29. Pilot program continued.

1 A pilot program is herein continued to monitor the practice of unlicensed personnel
2 administering medication in the nursing home setting. Monitoring of this pilot program shall be

3 conducted by the West Virginia Board of Nursing and Health Services and shall encompass the
4 following:

5 (1) Signed participation agreements from a minimum of ten nursing homes licensed in
6 West Virginia that meet participation requirements as determined by the board. The pilot program
7 will not progress unless this requirement is met.

8 (2) After a period of six months of monitoring the implementation of the pilot program,
9 a report shall be provided to the Legislative Commission for Health and Human Resources
10 Accountability.

§30-41-29a. Certificate required.

1 In order to safeguard life and health, any person serving or offering to serve as a
2 medication assistive person shall:

3 (1) Submit evidence that he or she is qualified; and

4 (2) Be certified as provided in this article.

§30-41-29b. Designated facilities.

1 (a) The West Virginia Board of Nursing and Health Services shall designate the types of
2 facilities that may use medication assistive persons.

3 (b) (1) Designated facilities may not be required to use medication assistive persons.

4 (2) If a designated facility elects to use medication assistive personnel, the facility shall
5 notify the board in a manner prescribed by the board.

§30-41-29c. Qualifications.

1 (a) In order to be certified as a medication assistive person, an applicant shall submit to
2 the West Virginia Board of Nursing and Health Services an application and appropriate fee. During
3 the pilot program, temporary certificates will be issued. At the completion of the pilot program, if
4 proven successful, qualified individuals holding a temporary certificate as a medication assistive
5 person meeting requirements for full certification shall be issued a permanent certificate. The
6 application shall provide written evidence, verified by oath, that the applicant:

- 7 (1) (A) Is currently listed in good standing on the state's certified nurse aide registry;
- 8 (B) Has maintained registration on the state's certified nurse aide registry continuously for
- 9 a minimum of one year;
- 10 (C) Has completed at least one continuous year of full-time experience as a certified nurse
- 11 aide in this state;
- 12 (D) Is currently employed at a designated facility;
- 13 (E) Has a high school diploma or the equivalent;
- 14 (F) Has successfully completed a literacy and reading comprehension screening process
- 15 approved by the board;
- 16 (G) Has completed a state and federal criminal background check in compliance with
- 17 board requirements;
- 18 (H) Has successfully completed a medication assistive person training course of not less
- 19 than one hundred hours approved by the board; and
- 20 (I) Has successfully passed an examination on subjects the board determines; or
- 21 (2)(A) Has completed a portion of a nursing education program equivalent to the
- 22 medication assistive person training course; and
- 23 (B) Passed the medication aide examination.
- 24 (b) The board may issue a certification as a medication assistive person by endorsement
- 25 to an applicant who has been licensed or certified as a medication assistive person under the
- 26 laws of another state or territory if:
- 27 (1) In the opinion of the board, the applicant meets the qualifications of medication
- 28 assistive persons in this state; and
- 29 (2) The board recommends certification.
- 30 (c) Any person holding a certification as a medication assistive person may use the title
- 31 "medication aide-certified" and the abbreviation "MA-C".

§30-41-29d. Scope of work.

1 (a)(1) A medication assistive person may perform the delegated nursing function of
2 medication administration and related tasks in accordance with rules promulgated by the West
3 Virginia Board of Nursing and Health Services.

4 (2) A medication assistive person shall perform medication administration and related
5 tasks only:

6 (A) At a designated facility; and

7 (B) Under the supervision of a registered professional nurse.

8 (3)(A) Medication administration is limited to the administration of nonprescription and
9 legend drugs ordered by an authorized prescriber and only by the following methods:

10 (i) Orally;

11 (ii) Topically;

12 (iii) Drops for eye, ear or nose;

13 (iv) Vaginally;

14 (v) Rectally;

15 (vi) Transdermally; and

16 (vii) Via oral inhaler.

17 (B) Medication administration by a medication assistive person may not include controlled
18 substances.

19 (b) A medication assistive person may not:

20 (1) Receive, have access to or administer any controlled substance;

21 (2) Administer parenteral, enteral, or injectable medications;

22 (3) Administer any substances by nasogastric, orogastric or gastrostomy tubes;

23 (4) Calculate drug dosages;

24 (5) Destroy medication;

25 (6) Receive orders either in writing or verbally for new or changed medications;

26 (7) Transcribe orders from the medical record;

- 27 (8) Order initial medications;
- 28 (9) Evaluate medication error reports;
- 29 (10) Perform treatments;
- 30 (11) Conduct patient assessments or evaluations; or
- 31 (12) Engage in patient teaching activities.

§30-41-29e. Renewal of certifications.

1 (a) (1) The West Virginia Board of Nursing and Health Services shall prescribe the
2 procedure for the cyclical renewal of medication assistive person certifications.

3 (2) In each case, the board shall provide a notification for renewal to the medication
4 assistive person at least thirty days before the expiration date of the certification by United States
5 Postal Service or by electronic means.

6 (b) (1) Upon receipt of the renewal application and the fee, the board shall verify the
7 accuracy of the application.

8 (2) (A) If the board finds the application to be accurate and related documents indicate
9 that the applicant remains in good standing, the board shall issue a certificate of renewal to the
10 applicant.

11 (B) As a condition of certification renewal, a medication assistive person shall be:

12 (i) Currently listed in good standing on the state's certified nurse aide registry; and

13 (ii) Required to satisfactorily complete all continuing education required in the legislative
14 rules governing the practice of the MA-C.

15 (c) The renewal renders the holder of the certificate a legal provider of medication assistive
16 person services for the period stated in the certificate of renewal.

17 (d) Any medication assistive person who allows his or her certification to lapse by failing
18 to renew the certification as provided in this section may be reinstated by the board on:

19 (1) Payment of the renewal fee plus a penalty; and

20 (2) Submission of evidence that the person currently meets the requirements to serve as

21 a medication assistive person.

22 (e) Any person providing services as a medication assistive person during the time his or
23 her certification has lapsed is considered to be providing services illegally and is subject to the
24 penalties provided for violations of this article.

§30-41-29f. Disciplinary actions.

1 (a) The West Virginia Board of Nursing and Health Services has sole authority to deny,
2 suspend, revoke or limit any medication assistive person certificate issued by the board or applied
3 for in accordance with the provisions of this article or to otherwise discipline a certificate holder
4 upon proof that the person:

5 (1) Is or was guilty of fraud or deceit in procuring or attempting to procure a certificate
6 to practice as a medication aide certified;

7 (2) Has been found guilty of or pled guilty or nolo contendere to a felony, crime of moral
8 turpitude or violation of chapter sixty-a of this code;

9 (3) Is unfit or incompetent by reason of negligence, habits or other causes;

10 (4) Is habitually intemperate or is addicted to the use of habit-forming drugs;

11 (5) Is mentally incompetent;

12 (6) Is guilty of unprofessional conduct;

13 (7) Is practicing or attempting to practice as a medication aide certified without a
14 certification;

15 (8) Has had a license, certificate, or registration revoked or suspended;

16 (9) Has been placed on probation or under disciplinary order in any jurisdiction;

17 (10) Has voluntarily surrendered a license, certification, or registration and has not
18 been reinstated in any jurisdiction; or

19 (11) Has willfully or repeatedly violated any of the provisions of this article.

20 (b) The board shall refuse to issue or shall revoke the certificate of any person who
21 would be disqualified from employment under the provisions of this law or the rules governing the

22 practice of the medication assistive person.

23 (c) Proceedings under this section shall be conducted in accordance with the West
24 Virginia Administrative Procedure Act, chapter twenty-nine-a of this code.

§30-41-29g. Offenses and Penalties.

1 (a) It shall be a misdemeanor for any person to:

2 (1) Sell or fraudulently obtain or furnish any medication assistive person's certificate,
3 renewal or record, or aid or abet in any such sale or fraud;

4 (2) Serve as a medication assistive person under cover of any certificate or record
5 illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

6 (3) Serve as a medication assistive person unless certified by the West Virginia Board
7 of Examiners for Registered Professional Nurses;

8 (4) Use in connection with his or her name any of the following titles, names, or initials
9 if the user is not properly certified under this article:

10 (A) Medication assistive person;

11 (B) M.A.P.;

12 (C) Medication aide;

13 (D) Medication technician;

14 (E) Certified medication aide;

15 (F) C.M.A.;

16 (G) Medication Aide - certified;

17 (H) MA-C; or

18 (I) Any other name, title, or initials that would cause a reasonable person to believe the
19 user is certified under this article;

20 (5) Serve as a medication assistive person during the time his or her certification is
21 suspended;

22 (6) Conduct an education program for the preparation of medication assistive persons

23 unless the program has been approved by the board; or

24 (7) Otherwise violate any provisions of this article.

25 (b) Any person convicted of any such misdemeanor shall be punished by a fine of not
26 less than \$25 nor more than \$250.

§30-41-29h. Injunction.

1 (a) The Kanawha County circuit court is vested with jurisdiction and power to enjoin the
2 unlawful provision of medication assistive person services in any county of the State of West
3 Virginia in a proceeding initiated by the West Virginia Board of Examiners for Registered
4 Professional Nurses, any member of the board, or any citizen in this state.

5 (b) (1) The issuance of an injunction does not relieve a person from criminal
6 prosecution for violation of the provisions of this article.

7 (2) The remedy of injunction is in addition to liability for criminal prosecution.

§30-41-29i. Medication Assistive Person Advisory Committee.

1 (a) (1) The Medication Assistive Person Advisory Committee is continued as an
2 advisory committee to the West Virginia Board of Nursing and Health Services.

3 (2) The committee shall assist the board in implementing the provisions of this article
4 regarding medication assistive persons.

5 (b) The board shall appoint six members who have the following qualifications:

6 (1) Two members shall be certified medication assistive persons;

7 (2) One member shall be a licensed nursing home administrator who has worked in
8 that capacity for at least three years;

9 (3) One member shall be a registered nurse who has been in a practice using certified
10 nurse aides for at least three years;

11 (4) One member shall be a lay person representing the interests of consumers of health
12 care services; and

13 (5) One member shall be a nursing faculty member of a West Virginia nursing education

14 program.

15 (c) Members shall serve three-year terms.

16 (d) The board may remove any committee member after notice and hearing for
17 incapacity, incompetence, neglect of duty or malfeasance in office.

18 (e) The members of the committee shall serve without compensation but may receive
19 expense reimbursement in accordance with applicable law or rule.

§30-41-29j. Applicability of article.

1 Nothing in section thirty through section thirty-i of this article relieves a nurse from the
2 responsibility of assessing each patient daily and as needed to assure public safety and safe
3 medication administration.

§30-41-30. Nurse health program.

1 (a) The board is authorized to designate one or more nurse health programs. To be
2 eligible for designation by the board, a nurse health program shall:

3 (1) Enter into an agreement with the board outlining specific requirements of the
4 program;

5 (2) Agree to make its services available to all licensed nursing and health services
6 licensees regulated by this article with a qualifying illness;

7 (3) Provide for the education of licensees with respect to the recognition and treatment
8 of alcohol, chemical dependency and mental illness and the availability of the nurse health
9 program for qualifying illnesses;

10 (4) Offer assistance to any person in referring a licensee for purposes of assessment
11 or treatment or both for a qualifying illness;

12 (5) Monitor the status of a nurse who enters treatment for a qualifying illness pursuant
13 to a written, voluntary agreement during treatment;

14 (6) Monitor the compliance of a nurse who enters into a written, voluntary agreement
15 for a qualifying illness with the nurse health program setting forth a course for recovery;

16 (7) Agree to accept referrals from the board to provide monitoring services pursuant to
17 a board order; and

18 (8) Include such other requirements as the board deems necessary.

19 (b) A designated nurse health program shall:

20 (1) Set and collect reasonable fees, grants and donations for administration and
21 services provided;

22 (2) Work collaboratively with the board to develop model compliance agreements;

23 (3) Work collaboratively with the board to identify qualified providers of services as may
24 be needed by the individuals participating in the nurse health program;

25 (4) Report to the board, no less than annually, statistics including the number of
26 individuals served; the number of compliant individuals; the number of individuals who have
27 successfully completed their agreement period; and the number of individuals reported to the
28 board for suspected noncompliance: *Provided*, That in making such report the nurse health
29 program shall not disclose any personally identifiable information relating to any licensee
30 participating in a voluntary agreement as provided herein: *Provided, however*, That in the case of
31 a licensee not in compliance with the requirements, full disclosure of information will be provided
32 to the board.

33 (c) The fact that a nurse is participating in a designated nurse health program is
34 confidential, as is all nurse patient information acquired, created or used by the nurse health
35 program, and it shall remain confidential and may not be subject to discovery or subpoena in a
36 civil case. The disclosure of participation and noncompliance to the board, as required by a
37 compliance agreement, waives the confidentiality as to the board for disciplinary purposes.

38 (d) The nurse health program and all persons engaged in nurse health program
39 activities are immune from civil liability and no civil action may be brought or maintained while the
40 nurse health program and all persons engaged in nurse health program activities are acting in
41 good faith and within the scope of their duties.

42 (e) The board is immune from civil liability and no civil action may be brought or
43 maintained against the board or the state for an injury alleged to have been the result of the
44 activities of the nurse health program or the board referral of an individual to the nurse health
45 program when they are acting in good faith and within the scope of their duties.

§30-41-31. Discretionary authority of board to designate programs.

1 The West Virginia Board of Nursing and Health Services has the sole discretion to
2 designate nurse health programs for licensees of the board and no provision of this article may
3 be construed to entitle any licensee to the creation or designation of a nurse health program for
4 any individual qualifying illness or group of qualifying illnesses.

**§30-41-32. Voluntary agreements relating to alcohol or chemical dependency;
confidentiality.**

1 (a) In order to encourage voluntary participation in monitored alcohol, chemical
2 dependency or major mental illness programs and in recognition of the fact that major mental
3 illness, alcoholism and chemical dependency are illnesses, any person who holds a license to
4 practice nursing and health services in this state or who is applying for a license to practice nursing
5 and health services in this state may enter into a voluntary agreement with a nurse health program
6 as defined in section one, article thirty-one of this article. The agreement between the licensee or
7 applicant and the nurse health program shall include a jointly agreed upon treatment program and
8 mandatory conditions and procedures to monitor compliance with the program of recovery.

9 (b) Any voluntary agreement entered into pursuant to this section shall not be considered
10 a disciplinary action or order by the board, shall not be disclosed to the board and shall not be
11 public information if:

12 (1) Such voluntary agreement is the result of the licensee or applicant self-enrolling or
13 voluntarily participating in the board designated nurse health program;

14 (2) The board has not received nor filed any written complaints regarding said licensee or
15 applicant relating to an alcohol, chemical dependency or major mental illness affecting the care

16 and treatment of patients; and

17 (3) The licensee or applicant is in compliance with the voluntary treatment program and
18 the conditions and procedures to monitor compliance.

19 (c) Pursuant to this section, if any licensee or applicant enters into a voluntary agreement
20 with a nurse health program as defined in section thirty-one, of his article, and then fails to comply
21 with or fulfill the terms of said agreement, the nurse health program shall report the noncompliance
22 to the board within twenty-four hours. The board may initiate disciplinary proceedings pursuant to
23 section eleven of this article or may permit continued participation in the nurse health program or
24 both.

25 (d) If the board has not instituted any disciplinary proceeding as provided for in this article,
26 any information received, maintained or developed by the board relating to the alcohol or chemical
27 dependency impairment of any licensee or applicant and any voluntary agreement made pursuant
28 to this section shall be confidential and not available for public information, discovery or court
29 subpoena, nor for introduction into evidence in any medical professional liability action or other
30 action for damages arising out of the provision of or failure to provide health care services.

31 (e) Notwithstanding any of the foregoing provisions, the board may cooperate with and
32 provide documentation of any voluntary agreement entered into pursuant to this section to
33 licensing boards in other jurisdictions of which the board has become aware and may be
34 appropriate.

NOTE: The purpose of this bill is to transfer the regulatory authority of the Board of Registered Professional Nurses, the Board of Licensed Practical Nurses, the Medical Imaging and Radiation Therapy Technology Board of Examiners, and the Nursing Home Administrators Licensing Board, to the Board of Nursing and Health Services.

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