

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 4304**

BY DELEGATES SUMMERS, ELLINGTON, HAMRICK, CRISS,

ROHRBACH AND HOLLEN

[Originating in the House Committee on Government

Organization; February 14, 2018.]



1 A BILL to repeal §30-7-1a, §30-7-6a, §30-7-6b, §30-7-8a, §30-7-11a, §30-7-15a, §30-7-15b, §30-  
2 7-15c, §30-7-15d, and §30-7-15e of the Code of West Virginia, 1931, as amended; to  
3 repeal §30-7A-2, §30-7A-3, §30-7A-4, §30-7A-5, §30-7A-6, §30-7A-6a, §30-7A-7, §30-  
4 7A-7a, §30-7A-8, §30-7A-9, §30-7A-10, and §30-7A-11 of said code; to repeal §30-7D-1,  
5 §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-  
6 7D-10, §30-7D-11, §30-7D-12, and §30-7D-13 of said code; to repeal §30-7E-1, §30-7E-  
7 2, and §30-7E-3 of said code; to amend and reenact §4-10-10 of said code; to amend and  
8 reenact §9-4B-1 of said code; to amend and reenact §16-4C-14 of said code; to amend  
9 and reenact §16-4F-1 of said code; to amend and reenact §16-5B-19 of said code; to  
10 amend and reenact §16-5O-2, §16-5O-4, §16-5O-5 and §16-5O-12 of said code; to amend  
11 and reenact §16-5Y-5 of said code; to amend and reenact §16-30-3 of said code; to amend  
12 and reenact §18-5-22 of said code; to amend and reenact §18-9A-2 of said code; to amend  
13 and reenact §18A-1-1 of said code; to amend and reenact §18A-4-1 and §18A-4-8 of said  
14 code; to amend and reenact §18C-3-4 of said code; to amend and reenact §29-12B-3 of  
15 said code; to amend and reenact §29-29-3 of said code; to amend and reenact §30-1-7a  
16 and §30-1-20 of said code; to amend and reenact §30-3A-1 of said code; to amend and  
17 reenact §30-3F-1 of said code; to amend and reenact §30-7-1, §30-7-2, §30-7-3, §30-7-  
18 4, §30-7-5, §30-7-6, §30-7-7, §30-7-8, §30-7-9, §30-7-10, §30-7-11, §30-7-12, §30-7-13,  
19 §30-7-14, §30-7-15, §30-7-16, §30-7-17, §30-7-18, §30-7-19, and §30-7-20 of said code;  
20 to amend said code by adding thereto twelve new sections, designated §30-7-21, §30-7-  
21 22, §30-7-23, §30-7-24, §30-7-25, §30-7-26, §30-7-27, §30-7-28, §30-7-29, §30-7-30,  
22 §30-7-31, §30-7-32 and §30-7-33; to amend and reenact §30-7A-1 of said code; and to  
23 amend and reenact §30-7B-4 of said code; to amend and reenact §30-7C-1 and §30-7C-  
24 7 of said code; to amend and reenact §30-24-2 and §30-24-3 of said code; to amend and  
25 reenact §60A-9-5a of said code, all relating to the regulation of certain professions by  
26 Board of Nursing, prohibiting the practice of nursing without a license; providing other

27 applicable sections; defining terms; providing for board composition and qualifications;  
28 setting forth the powers and duties of the board; clarifying rule-making authority;  
29 continuing a special revenue account; establishing license and permit requirements;  
30 establishing qualifications for licensure; codifying a scope of practice; creating a temporary  
31 permit; providing for reciprocal licensure; establishing renewal requirements; providing for  
32 exemptions from licensure; creating a special volunteer license; continuing a Joint  
33 Advisory Council; providing the council's composition; providing council members' terms;  
34 providing powers of the council; providing duties of the council; setting forth limitations of  
35 the article; permitting the board to file an injunction; setting forth grounds for disciplinary  
36 actions; allowing for specific disciplinary actions; providing procedures for investigation of  
37 complaints; providing duty to warn; providing for judicial review and appeals of decisions;  
38 setting forth hearing and notice requirements; providing for civil causes of action; providing  
39 criminal offenses are to be reported to law enforcement; providing a period of transition;  
40 eliminating the Board of Examiners for licensed practical nurses; transferring assets to the  
41 Board of Nursing; transferring employees to the Board of Nursing; repealing expired  
42 authority; and updating references.

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

## **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) 2017: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of  
5 Social Work Examiners.

6 (2) 2018: Board of Examiners of Psychologists; Board of Optometry; and Board of  
7 Veterinary Medicine.

8 (3) 2019: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of  
9 Examiners in Counseling.

10 (4) 2020: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home  
11 Administrators Board.

12 (5) 2021: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.

13 (6) 2022: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical  
14 Therapy.

15 (7) 2023: Board of Occupational Therapy; Board of Examiners for Speech-Language  
16 Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.

17 (8) 2024: Board of Professional Surveyors; Board of Registration for Foresters; and Board  
18 of Registration for Professional Engineers.

19 (9) 2025: ~~Board of Examiners for Licensed Practical Nurses; Board of Examiners for~~  
20 ~~Registered Professional Nurses; West Virginia Board of Nurses; and Massage Therapy Licensure~~  
21 Board.

22 (10) 2026: Board of Architects; Board of Embalmers and Funeral Directors; and Board of  
23 Landscape Architects; and

24 (11) 2027: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and  
25 Certification Board; and Real Estate Commission.

## **CHAPTER 9. HUMAN SERVICES.**

### **ARTICLE 4B. PHYSICIAN/MEDICAL PRACTITIONER PROVIDER MEDICAID ACT.**

#### **§9-4B-1. Definitions.**

1 The following words, when used in this article, have meanings ascribed to them in this  
2 section, except in those instances where the context clearly indicates a different meaning:

3 (a) "Board" means the physician/medical practitioner provider Medicaid enhancement  
4 board created to develop, review and recommend the physician/medical practitioner provider fee  
5 schedule;

6 (b) "Physician provider" means an allopathic or osteopathic physician, rendering services  
7 within this state and receiving reimbursement, directly as an individual provider or indirectly as an  
8 employee or agent of a medical clinic, partnership or other business entity;

9 (c) "Nurse practitioner" means a registered nurse qualified by virtue of his or her education  
10 and credentials and approved by the ~~West Virginia board of examiners for registered professional~~  
11 ~~nurses~~ West Virginia Board of Nurses to practice as an advanced practice nurse independently  
12 or in a collaborative relationship with a physician;

13 (d) "Nurse-midwife" means a qualified professional nurse registered with the ~~West Virginia~~  
14 ~~board of examiners for registered professional nurses~~ West Virginia Board of Nurses who by  
15 virtue of additional training is specifically qualified to practice nurse-midwifery according to the  
16 statement of standards for the practice of nurse-midwifery as set forth by the American college of  
17 nurse-midwives;

18 (e) "Physician assistant" means an assistant to a physician who is a graduate of an  
19 approved program of instruction in primary health care or surgery, has attained a baccalaureate  
20 or master's degree, has passed the national certification examination and is qualified to perform  
21 direct patient care services under the supervision of a physician;

22 (f) "Registered nurse first assistant" means one who:

23 (1) Holds a current active registered nurse licensure;

24 (2) Is certified in perioperative nursing; and

25 (3) Has successfully completed and holds a degree or certificate from a recognized  
26 program which consists of:

27 (A) The association of operating room nurses, inc., care curriculum for the registered nurse  
28 first assistant; and

29 (B) One year of post-basic nursing study, which shall include at least forty-five hours of  
30 didactic instruction and one hundred twenty hours of clinical internship or its equivalent of two  
31 college semesters;

32 A registered nurse who was certified by the certification board of perioperative nursing  
33 before one thousand nine hundred ninety-seven is not required to fulfill the requirements of  
34 subdivision (3) of this subsection;

35 (g) "Perioperative nursing" means a practice of nursing in which the nurse provides  
36 preoperative, intraoperative and post-operative nursing care to surgical patients;

37 (h) "Secretary" means the secretary of the Department of Health and Human Resources;  
38 and

39 (i) "Single state agency" means the single state agency for Medicaid in this state.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT**

#### **§16-4C-14. Services that may be performed by emergency medical service personnel.**

1 Notwithstanding any other provision of law, emergency medical service personnel may  
2 provide the services as determined by the commissioner by legislative rule pursuant to the  
3 provisions of §29A-3 of this code. Legislative rules governing provision of these services in a  
4 hospital emergency room setting shall be developed by the commissioner and shall include  
5 provisions allowing paramedics to function under the direct supervision of a registered  
6 professional nurse in a hospital emergency room setting. Provision of these services in an  
7 emergency room hospital setting shall not be initiated until a legislative rule establishing training  
8 requirements, standards and requirements for these functions is in effect. The Legislature  
9 therefore directs the commissioner to propose this legislative rule on or before July 1, 2006.  
10 Further, the Commissioner may promulgate this rule as an emergency rule pursuant to the  
11 provisions of §29A-15-3 of this code. Any rule so promulgated shall provide that paramedics are  
12 under the jurisdiction of the commissioner. ~~The West Virginia Board of Registered Professional~~

13 ~~Nurses~~ West Virginia Board of Nurses may propose legislative rules, pursuant to §29A-3-1 *et seq.*  
14 of the code relating to the scope of practice for nurses as those practices relates to overseeing  
15 these paramedics. The provisions of this section and any rules promulgated thereunder may not  
16 be construed to alter in any manner the duties, role or responsibilities of attending physicians  
17 regarding the providing and oversight of patient care.

## **ARTICLE 4F. EXPEDITED PARTNER THERAPY.**

### **§16-4F-1. Definitions.**

1 As used in this article, unless the context otherwise indicates, the following terms have the  
2 following meanings:

3 (1) "Department" means the West Virginia Department of Health and Human Resources.

4 (2) "Expedited partner therapy" means prescribing, dispensing, furnishing or otherwise  
5 providing prescription antibiotic drugs to the sexual partner or partners of a person clinically  
6 diagnosed as infected with a sexually transmitted disease without physical examination of the  
7 partner or partners.

8 (3) "Health care professional" means:

9 (A) An allopathic physician licensed pursuant to article three, chapter thirty of this code;

10 (B) An osteopathic physician licensed pursuant to §30-14-1 *et seq.* of this code;

11 (C) A physician assistant licensed pursuant to §30-3E-4 of this code;

12 (D) An advanced practice registered nurse authorized with prescriptive authority pursuant  
13 to ~~section fifteen a, article seven, chapter thirty~~ §30-7-15 of this code; or

14 (E) A pharmacist licensed pursuant to §30-5-1 *et seq.* of this code.

15 (4) "Sexually transmitted disease" means a disease that may be treated by expedited  
16 partner therapy as determined by rule of the department.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.**



**§16-5B-19. Circulating registered nurses.**

1           A registered nurse experienced in operating room nursing shall be present as a circulating  
2 nurse in each operating room in a hospital, or ambulatory surgical center as defined by §16-5B-1  
3 of this code, during operative procedures.

**ARTICLE 50. MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL.**

**§16-5O-2. Definitions.**

1           As used in this article the following definitions apply:

2           (a) “Administration of medication” means:

3           (1) Assisting a person in the ingestion, application or inhalation of medications, including  
4 prescription drugs, or in the use of universal precautions or rectal or vaginal insertion of  
5 medication, according to the legibly written or printed directions of the attending physician or the  
6 health care professional in accordance §30-5-4(61) of this code, or as written on the prescription  
7 label; and

8           (2) Making a written record of such assistance with regard to each medication  
9 administered, including the time, route and amount taken. However, for purposes of this article,  
10 “administration” does not include judgment, evaluation, assessments, injections of medication  
11 (except for prefilled insulin or insulin pens), or monitoring of medication or self-administration of  
12 medications, such as prescription drugs and self-injection of medication by the resident.

13           (b) “Approved medication assistive personnel (AMAP)” means unlicensed facility staff  
14 member, who meets eligibility requirements, has successfully completed the required training and  
15 competency testing, and is considered competent by the authorized registered professional nurse  
16 to administer medications or perform health maintenance tasks, or both, to residents of the facility  
17 in accordance with this article.

18           (c) “Authorized practitioner” means a physician licensed under the provisions of §30-3-1  
19 *et seq.* of this code or §30-14-1 *et seq.* of this code.

20 (d) “Authorized registered professional nurse” means a person who holds an  
21 unencumbered license pursuant to §30-7-1 *et seq.*, and meets the requirements to train and  
22 supervise approved medication assistive personnel pursuant to this article, and has completed  
23 and passed the facility trainer/instructor course developed by the authorizing agency.

24 (e) “Authorizing agency” means the Office of Health Facility Licensure and Certification

25 (f) “Delegation” means transferring to a competent individual, as determined by the  
26 authorized registered professional nurse, the authority to perform a selected task in a selected  
27 situation.

28 (g) “Delegation decision model” means the process the authorized registered professional  
29 nurse must follow to determine whether or not to delegate a nursing task to an approved  
30 medication assistive personnel. The delegation decision model is approved by the ~~West Virginia~~  
31 ~~Board of Examiners for Registered Professional Nurses~~ West Virginia Board of Nurses.

32 (h) “Department” means the Department of Health and Human Resources.

33 (i) “Facility” means an intermediate care facility for individuals with an intellectual disability,  
34 assisted living, behavioral health group home, private residence in which health care services and  
35 health maintenance tasks are provided under the supervision of a registered professional nurse  
36 as defined in §30-7-1 *et seq.* of this code.

37 (j) “Facility staff member” means an individual employed by a facility but does not include  
38 a health care professional acting within his or her scope of practice.

39 (k) “Family” means biological parents, adoptive parents, foster parents, or other immediate  
40 family members living within the same household.

41 (l) “Health care professional” means a medical doctor or doctor of osteopathy, a podiatrist,  
42 registered professional nurse, practical nurse, advanced practice registered nurse, physician’s  
43 assistant, dentist, optometrist or respiratory care professional licensed under chapter thirty of this  
44 code.

45 (m) "Health maintenance tasks" means performing the following tasks according to the  
46 legibly written or printed directions of a health care professional or as written on the prescription  
47 label, and making a written record of that assistance with regard to each health maintenance task  
48 administered, including the time, route and amount taken:

49 (1) Administering glucometer tests;

50 (2) Administering gastrostomy tube feedings;

51 (3) Administering enemas;

52 (4) Performing ostomy care which includes skin care and changing appliances; and

53 (5) Performing tracheostomy and ventilator care for residents in a private residence who  
54 are living with family and/or natural supports.

55 "Health maintenance tasks" do not include judgment, evaluation, assessments, injections  
56 of medication, except for prefilled insulin or insulin pens, or monitoring of medication or self-  
57 administration of medications, such as prescription drugs and self-injection of medication by the  
58 resident.

59 (n) "Immediate family" means mother, stepmother, father, stepfather, sister, stepsister,  
60 brother, stepbrother, spouse, child grandparent and grandchildren.

61 (o) "Location of medication administration or location where health maintenance tasks are  
62 performed" means a facility or location where the resident requires administration of medication  
63 or assistance in taking medications or the performance of health maintenance tasks.

64 (p) "Medication" means a drug, as defined in section one hundred one, article one, chapter  
65 sixty-a of this code, which has been prescribed by a health care professional to be ingested  
66 through the mouth, inhaled through the nose or mouth, administered through a gastrostomy tube,  
67 applied to the outer skin, eye or ear, or applied through nose drops, vaginal or rectal suppositories.

68 (q) "Natural supports" means family, friends, neighbors or anyone who provides  
69 assistance and support to a resident but is not reimbursed.

70 (r) "Registered professional nurse" means a person who holds a valid license pursuant to  
71 §30-7 of this code.

72 (s) "Resident" means a resident of a facility who for purposes of this article, is in a stable  
73 condition.

74 (t) "Secretary" means the Secretary of the department or his or her designee.

75 (u) "Self-administration of medication" means the act of a resident, who is independently  
76 capable of reading and understanding the labels of drugs ordered by an authorized practitioner,  
77 in opening and accessing prepackaged drug containers, accurately identifying and taking the  
78 correct dosage of the drugs as ordered by the health care professional, at the correct time and  
79 under the correct circumstances.

80 (v) "Self-administration of medication with assistance" means assisting residents who are  
81 otherwise able to self-administer their own medications except their physical disabilities prevent  
82 them from completing one or more steps in the process.

83 (w) "Stable" means the individual's health condition is predictable and consistent as  
84 determined by the registered professional nurse.

85 (x) "Supervision of self-administration of medication" means a personal service which  
86 includes reminding residents to take medications, opening medication containers for residents,  
87 reading the medication label to residents, observing residents while they take medication,  
88 checking the self-administered dosage against the label on the container and reassuring residents  
89 that they have obtained and are taking the dosage as prescribed.

**§16-50-4. Exemption from licensure; statutory construction.**

1 (a) Any individual who is not otherwise authorized by law to administer medication or  
2 perform health maintenance tasks may administer medication or perform health maintenance  
3 tasks in locations covered by this article if he or she meets the requirements of this article and is  
4 exempt from the licensing requirements of chapter thirty of this code.

5 (b) Licensed health care professionals remain subject to their respective licensing laws.

6 (c) Notwithstanding any other provision of law to the contrary, this article shall not be  
7 construed to violate or be in conflict with ~~articles seven or seven-a, chapter thirty~~ §30-7-1 et seq.  
8 of this code.

9 (d) Any parent or guardian may administer medication to, or perform health maintenance  
10 tasks for, his or her adult or minor child regardless of whether or not the parent or guardian  
11 receives compensation for caring for said child.

**§16-5O-5. Instruction and training.**

1 (a) The authorizing agency shall establish a council of nurses to represent the facilities  
2 and registered professional nurses affected by this article. The council shall prepare a procedural  
3 manual and recommendations regarding a training course to the secretary. The council shall meet  
4 every two years to review and make recommendations to the training curricula, competency  
5 evaluation procedures and rules implemented by the secretary.

6 (b) The department shall develop and approve training curricula and competency  
7 evaluation procedures for facility staff members who administer medication or perform health  
8 maintenance tasks. The department shall consider the recommendations of the council and shall  
9 consult with the ~~West Virginia Board of Examiners for Registered Nurses~~ West Virginia Board of  
10 Nurses in developing the training curricula and competency evaluation procedures.

11 (c) The authorizing agency shall coordinate and collaborate with the Board of Respiratory  
12 Care to develop the training and testing component for health maintenance tasks related to  
13 respiratory care, including but not limited to inhaled medications, tracheostomy care and ventilator  
14 care. This includes modifying and updating the existing curriculum for an authorized registered  
15 professional nurse and the approved medication assistive persons.

16 (1) The authorizing agency shall develop and approve training curricula and competency  
17 evaluation. The authorizing agency shall establish a council of nurses to assist with the  
18 development of the training and evaluation process.

19           (2) The curriculum, training competency and testing components related to respiratory  
20 care shall be approved by the Respiratory Care Board per §30-34-15.

21           (d) The program developed by the department shall require that any person who applies  
22 to act as a facility staff member authorized to administer medications or perform health  
23 maintenance tasks shall:

24           (1) Hold a high school diploma or general education diploma;

25           (2) Be certified in cardiopulmonary resuscitation and first aid;

26           (3) Participate in the initial training program developed by the department;

27           (4) Pass a competency evaluation developed by the department; and

28           (5) Participate in a retraining program every two years.

29           (e) Any facility may offer the training and competency evaluation program developed by  
30 the department to its facility staff members. The training and competency programs shall be  
31 provided by the facility through a registered professional nurse.

32           (f) A registered professional nurse who is authorized to train facility staff members to  
33 administer medications or perform health maintenance tasks in facilities shall:

34           (1) Possess a current active license as set forth in §30-7-1 *et seq.* in good standing to  
35 practice as a registered nurse;

36           (2) Have practiced as a registered professional nurse in a position or capacity requiring  
37 knowledge of medications and the performance of health maintenance tasks for the immediate  
38 two years prior to being authorized to train facility staff members;

39           (3) Be familiar with the nursing care needs of residents of facilities as described in this  
40 article; and

41           (4) Have completed and passed the facility trainer/instructor course developed by the  
42 authorizing agency.

43           (g) After successfully completing the initial training and testing for the AMAP program,  
44 registered professional nurses and AMAPs shall have competencies for health maintenance tasks

45 reassessed and documented annually by the employer of record to ensure continued  
46 competence.

**§16-50-12. Advisory Committee.**

1 (a) There is continued an advisory committee to assist with the development of polices  
2 and procedures regarding health maintenance care in order to safeguard the well-being and to  
3 preserve the dignity of persons who need assistance to live in their communities and avoid  
4 institutionalization.

5 (b) (1) The advisory committee shall consist of eleven voting members as follows:

6 (A) The Olmstead Coordinator within the department of Health and Human Resources,  
7 Office of Inspector General;

8 (B) One physician with expertise in respiratory medicine to be chosen by the West Virginia  
9 Board of Respiratory Care.

10 (C) A representative chosen by AARP West Virginia;

11 (D) A representative chosen by the West Virginia Statewide Independent Living Council;

12 (E) A representative chosen by the West Virginia Developmental Disabilities Council;

13 (F) A representative chosen by the West Virginia Board of Respiratory Care;

14 (G) A representative chosen by the West Virginia Society for Respiratory Care.

15 (H) One representative of the ~~West Virginia Board of Examiners for Registered~~  
16 ~~Professional Nurses~~ West Virginia Board of Nurses;

17 (I) One representative of the West Virginia Nurses Association;

18 (J) One representative of the Fair Shake Network; and

19 (K) The Office Director of the Office of Health Facility Licensure and Certification.

20 (c) A chairman shall be selected from the voting members of the advisory committee.

21 (d) The advisory committee shall meet at least four times annually, upon the call of the  
22 chairman, or at the request of the authorizing agency. A simple majority of the members shall  
23 constitute a quorum.

24 (e) All members of the committee shall be reimbursed reasonable expenses pursuant to  
25 the rules promulgated by the Department of Administration for the reimbursement of expenses of  
26 state officials and employees and shall receive no other compensation for their services.

**ARTICLE 5Y. MEDICATION-ASSISTED TREATMENT PROGRAM LICENSING ACT.**

**§16-5Y-5. Operational requirements.**

1 (a) The medication-assisted treatment program shall be licensed and registered in this  
2 state with the secretary, the Secretary of State, the state Tax Department and all other applicable  
3 business or licensing entities.

4 (b) The program sponsor need not be a licensed physician but shall employ a licensed  
5 physician for the position of medical director, when required by the rules promulgated pursuant to  
6 this article.

7 (c) Each medication-assisted treatment program shall designate a medical director. If the  
8 medication-assisted treatment program is accredited by a Substance Abuse and Mental Health  
9 Services Administration (SAMHSA) approved accrediting body that meets nationally accepted  
10 standards for providing medication-assisted treatment, including the Commission on  
11 Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on Accreditation of  
12 Healthcare Organizations, then the program may designate a medical director to oversee all  
13 facilities associated with the accredited medication-assisted treatment program. The medical  
14 director shall be responsible for the operation of the medication-assisted treatment program, as  
15 further specified in the rules promulgated pursuant to this article. He or she may delegate the day  
16 to day operation of medication-assisted treatment program as provided in rules promulgated  
17 pursuant to this article. Within ten days after termination of a medical director, the medication-  
18 assisted treatment program shall notify the director of the identity of another medical director for  
19 that program. Failure to have a medical director practicing at the program may be the basis for a  
20 suspension or revocation of the program license. The medical director shall:



21 (1) Have a full, active and unencumbered license to practice allopathic medicine or surgery  
22 from the West Virginia Board of Medicine or to practice osteopathic medicine or surgery from the  
23 West Virginia Board of Osteopathic Medicine in this state and be in good standing and not under  
24 any probationary restrictions;

25 (2) Meet both of the following training requirements:

26 (A) If the physician prescribes a partial opioid agonist, he or she shall complete the  
27 requirements for the Drug Addiction Treatment Act of 2000; and

28 (B) Complete other programs and continuing education requirements as further described  
29 in the rules promulgated pursuant to this article;

30 (3) Practice at the licensed or registered medication-assisted treatment program a  
31 sufficient number of hours, based upon the type of medication-assisted treatment license or  
32 registration issued pursuant to this article, to ensure regulatory compliance and carry out those  
33 duties specifically assigned to the medical director as further described in the rules promulgated  
34 pursuant to this article;

35 (4) Be responsible for monitoring and ensuring compliance with all requirements related  
36 to the licensing and operation of the medication-assisted treatment program;

37 (5) Supervise, control and direct the activities of each individual working or operating at  
38 the medication-assisted treatment program, including any employee, volunteer or individual under  
39 contract, who provides medication-assisted treatment at the program or is associated with the  
40 provision of that treatment. The supervision, control and direction shall be provided in accordance  
41 with rules promulgated by the secretary; and

42 (6) Complete other requirements prescribed by the secretary by rule.

43 (d) Each medication-assisted treatment program shall designate counseling staff, either  
44 employee or those used on a referral-basis by the program, which meet the requirements of this  
45 article and the rules promulgated pursuant to this article. The individual members of the  
46 counseling staff shall have one or more of the following qualifications:

- 47           (1) A licensed psychiatrist;
- 48           (2) Certification as an alcohol and drug counselor;
- 49           (3) Certification as an advanced alcohol and drug counselor;
- 50           (4) A counselor, psychologist, marriage and family therapist or social worker with a  
51 master's level education with a specialty or specific training in treatment for substance use  
52 disorders, as further described in the rules promulgated pursuant to this article;
- 53           (5) Under the direct supervision of an advanced alcohol and drug counselor, a counselor  
54 with a bachelor's degree in social work or another relevant human services field: *Provided*, That  
55 the individual practicing with a bachelor's degree under supervision applies for certification as an  
56 alcohol and drug counselor within three years of the date of employment as a counselor; or
- 57           (6) A counselor with a graduate degree actively working toward licensure or certification  
58 in the individual's chosen field under supervision of a licensed or certified professional in that field  
59 and/or advanced alcohol and drug counselor.
- 60           (e) The medication-assisted treatment program shall be eligible for, and not prohibited  
61 from, enrollment with West Virginia Medicaid and other private insurance. Prior to directly billing  
62 a patient for any medication-assisted treatment, a medication-assisted treatment program must  
63 receive either a rejection of prior authorization, rejection of a submitted claim, or a written denial  
64 from a patient's insurer or West Virginia Medicaid denying coverage for such treatment: *Provided*,  
65 That the Secretary may grant a variance from this requirement pursuant to section six of this  
66 article. The program shall also document whether a patient has no insurance. At the option of  
67 the medication-assisted treatment program, treatment may commence prior to billing.
- 68           (f) The medication-assisted treatment program shall apply for and receive approval as  
69 required from the United States Drug Enforcement Administration, Center for Substance Abuse  
70 Treatment or an organization designated by Substance Abuse and Mental Health and Mental  
71 Health Administration.

72 (g) All persons employed by the medication-assisted treatment program shall comply with  
73 the requirements for the operation of a medication-assisted treatment program established within  
74 this article or by any rule adopted pursuant to this article.

75 (h) All employees of an opioid treatment program shall furnish fingerprints for a state and  
76 federal criminal records check by the Criminal Identification Bureau of the West Virginia State  
77 Police and the Federal Bureau of Investigation. The fingerprints shall be accompanied by a signed  
78 authorization for the release of information and retention of the fingerprints by the Criminal  
79 Identification Bureau and the Federal Bureau of Investigation. The opioid treatment program shall  
80 be subject to the provisions of article forty-nine, chapter sixteen of this code and subsequent rules  
81 promulgated thereunder.

82 (i) The medication-assisted treatment program shall not be owned by, nor shall it employ  
83 or associate with, any physician or prescriber:

84 (1) Whose Drug Enforcement Administration number is not currently full, active and  
85 unencumbered;

86 (2) Whose application for a license to prescribe, dispense or administer a controlled  
87 substance has been denied by and is not full, active and unencumbered in any jurisdiction; or

88 (3) Whose license is anything other than a full, active and unencumbered license to  
89 practice allopathic medicine or surgery by the West Virginia Board of Medicine or osteopathic  
90 medicine or surgery by the West Virginia Board of Osteopathic Medicine in this state, and, who is  
91 in good standing and not under any probationary restrictions.

92 (j) A person may not dispense any medication-assisted treatment medication, including a  
93 controlled substance as defined by §60A-1-101 of this code, on the premises of a licensed  
94 medication-assisted treatment program, unless he or she is a physician or pharmacist licensed in  
95 this state and employed by the medication-assisted treatment program unless the medication-  
96 assisted treatment program is a federally-certified narcotic treatment program. Prior to dispensing  
97 or prescribing medication-assisted treatment medications, the treating physician must access the

98 Controlled Substances Monitoring Program database to ensure the patient is not seeking  
99 medication-assisted treatment medications that are controlled substances from multiple sources,  
100 and to assess potential adverse drug interactions, or both. Prior to dispensing or prescribing  
101 medication-assisted treatment medications, the treating physician shall also ensure that the  
102 medication-assisted treatment medication utilized is related to an appropriate diagnosis of a  
103 substance use disorder and approved for such usage. The physician shall also review the  
104 Controlled Substances Monitoring Program database no less than quarterly and at each patient's  
105 physical examination. The results obtained from the Controlled Substances Monitoring Program  
106 Database shall be maintained with the patient's medical records.

107 (k) A medication-assisted treatment program responsible for medication administration  
108 shall comply with:

109 (1) The West Virginia Board of Pharmacy regulations;

110 (2) ~~The West Virginia Board of Examiners for Registered Professional Nurses~~ West  
111 Virginia Board of Nurses regulations;

112 (3) All applicable federal laws and regulations relating to controlled substances; and

113 (4) Any requirements as specified in the rules promulgated pursuant to this article.

114 (l) Each medication-assisted treatment program location shall be licensed separately,  
115 regardless of whether the program is operated under the same business name or management  
116 as another program.

117 (m) The medication-assisted treatment program shall develop and implement patient  
118 protocols, treatment plans or treatment strategies and profiles, which shall include, but not be  
119 limited by, the following guidelines:

120 (1) When a physician diagnoses an individual as having a substance use disorder, the  
121 physician may treat the substance use disorder by managing it with medication in doses not  
122 exceeding those approved by the United States Food and Drug Administration as indicated for  
123 the treatment of substance use disorders and not greater than those amounts described in the

124 rules promulgated pursuant to this article. The treating physician and treating counselor's  
125 diagnoses and treatment decisions shall be made according to accepted and prevailing standards  
126 for medical care;

127 (2) The medication-assisted treatment program shall maintain a record of all of the  
128 following:

129 (A) Medical history and physical examination of the individual;

130 (B) The diagnosis of substance use disorder of the individual;

131 (C) The plan of treatment proposed, the patient's response to the treatment and any  
132 modification to the plan of treatment;

133 (D) The dates on which any medications were prescribed, dispensed or administered, the  
134 name and address of the individual for whom the medications were prescribed, dispensed or  
135 administered and the amounts and dosage forms for any medications prescribed, dispensed or  
136 administered;

137 (E) A copy of the report made by the physician or counselor to whom referral for evaluation  
138 was made, if applicable; and

139 (F) A copy of the coordination of care agreement, which is to be signed by the patient,  
140 treating physician and treating counselor. If a change of treating physician or treating counselor  
141 takes place, a new agreement must be signed. The coordination of care agreement must be  
142 updated or reviewed at least annually. If the coordination of care agreement is reviewed, but not  
143 updated, this review must be documented in the patient's record. The coordination of care  
144 agreement will be provided in a form prescribed and made available by the secretary;

145 (3) Medication-assisted treatment programs shall report information, data, statistics and  
146 other information as directed in this code, and the rules promulgated pursuant to this article to  
147 required agencies and other authorities;

148 (4) A physician, physician assistant, or advanced practice registered nurse shall perform  
149 a physical examination of a patient on the same day that the prescriber initially prescribes,

150 dispenses or administers a medication-assisted treatment medication to a patient and at intervals  
151 as required in the rules promulgated pursuant to this article;

152 (5) An alcohol and drug abuse counselor, an advanced alcohol and drug abuse counselor  
153 or other qualified counselor, psychiatrist, psychologist or social worker shall perform a  
154 biopsychosocial assessment, including, but not limited to, a mental status examination of a patient  
155 on the same day or no more than seven days prior to the day that the physician initially prescribes,  
156 dispenses or administers a medication-assisted treatment medication to a patient and at intervals  
157 as required in the rules promulgated pursuant to this article;

158 (6) A prescriber authorized to prescribe a medication-assisted treatment medication who  
159 practices at a medication-assisted treatment program is responsible for maintaining the control  
160 and security of his or her prescription blanks and any other method used for prescribing a  
161 medication-assisted treatment medication. The prescriber shall comply with all state and federal  
162 requirements for tamper-resistant prescription paper. In addition to any other requirements  
163 imposed by statute or rule, the prescriber shall notify the secretary and appropriate law  
164 enforcement agencies in writing within twenty-four hours following any theft or loss of a  
165 prescription blank or breach of any other method of prescribing a medication-assisted treatment  
166 medication; and,

167 (7) The medication-assisted treatment program shall have a drug testing program to  
168 ensure a patient is in compliance with the treatment strategy.

169 (n) Medication-assisted treatment programs shall only prescribe, dispense or administer  
170 liquid methadone to patients pursuant to the restrictions and requirements of the rules  
171 promulgated pursuant to this article.

172 (o) The medication-assisted treatment program shall immediately notify the secretary, or  
173 his or her designee, in writing of any changes to its operations that affect the medication-assisted  
174 treatment program's continued compliance with the certification and licensure requirements.

175 (p) If a physician treats a patient with more than sixteen milligrams per day of  
176 buprenorphine then clear medical notes shall be placed in the patient's medical file indicating the  
177 clinical reason or reasons for the higher level of dosage.

178 (q) If a physician is not the patient's obstetrical or gynecological provider, the physician  
179 shall consult with the patient's obstetrical or gynecological provider to the extent possible to  
180 determine whether the prescription is appropriate for the patient.

181 (r) A practitioner providing medication-assisted treatment may perform certain aspects  
182 telehealth if permitted under his or her scope of practice.

183 (s) The physician shall follow the recommended manufacturer's tapering schedule for the  
184 medication assisted treatment medication. If the schedule is not followed, the physician shall  
185 document in the patient's medical record and the clinical reason why the schedule was not  
186 followed. The secretary may investigate a medication-assisted treatment program if a high  
187 percentage of its patients are not following the recommended tapering schedule.

**ARTICLE 30. WEST VIRGINIA HEALTH CARE DECISIONS ACT.**

**§16-30-3. Definitions.**

1 For the purposes of this article:

2 (a) "Actual knowledge" means the possession of information of the person's wishes  
3 communicated to the health care provider orally or in writing by the person, the person's medical  
4 power of attorney representative, the person's health care surrogate or other individuals resulting  
5 in the health care provider's personal cognizance of these wishes. Constructive notice and other  
6 forms of imputed knowledge are not actual knowledge.

7 (b) "Adult" means a person who is eighteen years of age or older, an emancipated minor  
8 who has been established as such pursuant to the provisions of §49-7-27 of this code or a mature  
9 minor.

10 (c) "Advanced nurse practitioner" means a registered nurse with substantial theoretical  
11 knowledge in a specialized area of nursing practice and proficient clinical utilization of the

12 knowledge in implementing the nursing process, and who has met the further requirements of title  
13 19, legislative rules for ~~West Virginia board of examiners for registered professional nurses~~ the  
14 West Virginia Board of Nurses, series 7 , who has a mutually agreed upon association in writing  
15 with a physician and has been selected by or assigned to the person and has primary  
16 responsibility for treatment and care of the person.

17 (d) "Attending physician" means the physician selected by or assigned to the person who  
18 has primary responsibility for treatment and care of the person and who is a licensed physician.  
19 If more than one physician shares that responsibility, any of those physicians may act as the  
20 attending physician under this article.

21 (e) "Capable adult" means an adult who is physically and mentally capable of making  
22 health care decisions and who is not considered a protected person pursuant to the provisions of  
23 chapter forty-four-a of this code.

24 (f) "Close friend" means any adult who has exhibited significant care and concern for an  
25 incapacitated person who is willing and able to become involved in the incapacitated person's  
26 health care and who has maintained regular contact with the incapacitated person so as to be  
27 familiar with his or her activities, health and religious and moral beliefs.

28 (g) "Death" means a finding made in accordance with accepted medical standards of  
29 either: (1) The irreversible cessation of circulatory and respiratory functions; or (2) the irreversible  
30 cessation of all functions of the entire brain, including the brain stem.

31 (h) "Guardian" means a person appointed by a court pursuant to the provisions of §44A-  
32 1-1 *et seq.* of this code who is responsible for the personal affairs of a protected person and  
33 includes a limited guardian or a temporary guardian.

34 (i) "Health care decision" means a decision to give, withhold or withdraw informed consent  
35 to any type of health care, including, but not limited to, medical and surgical treatments, including  
36 life-prolonging interventions, psychiatric treatment, nursing care, hospitalization, treatment in a  
37 nursing home or other facility, home health care and organ or tissue donation.



38 (j) "Health care facility" means a facility commonly known by a wide variety of titles,  
39 including, but not limited to, hospital, psychiatric hospital, medical center, ambulatory health care  
40 facility, physicians' office and clinic, extended care facility operated in connection with a hospital,  
41 nursing home, a hospital extended care facility operated in connection with a rehabilitation center,  
42 hospice, home health care and other facility established to administer health care in its ordinary  
43 course of business or practice.

44 (k) "Health care provider" means any licensed physician, dentist, nurse, physician's  
45 assistant, paramedic, psychologist or other person providing medical, dental, nursing,  
46 psychological or other health care services of any kind.

47 (l) "Incapacity" means the inability because of physical or mental impairment to appreciate  
48 the nature and implications of a health care decision, to make an informed choice regarding the  
49 alternatives presented and to communicate that choice in an unambiguous manner.

50 (m) "Life-prolonging intervention" means any medical procedure or intervention that, when  
51 applied to a person, would serve to artificially prolong the dying process or to maintain the person  
52 in a persistent vegetative state. Life-prolonging intervention includes, among other things, nutrition  
53 and hydration administered intravenously or through a feeding tube. The term "life-prolonging  
54 intervention" does not include the administration of medication or the performance of any other  
55 medical procedure considered necessary to provide comfort or to alleviate pain.

56 (n) "Living will" means a written, witnessed advance directive governing the withholding or  
57 withdrawing of life-prolonging intervention, voluntarily executed by a person in accordance with  
58 the requirements of section four of this article.

59 (o) "Mature minor" means a person less than eighteen years of age who has been  
60 determined by a qualified physician, a qualified psychologist or an advanced nurse practitioner to  
61 have the capacity to make health care decisions.

62 (p) "Medical information" or "medical records" means and includes without restriction any  
63 information recorded in any form of medium that is created or received by a health care provider,

64 health care facility, health plan, public health authority, employer, life insurer, school or university  
65 or health care clearinghouse that relates to the past, present or future physical or mental health  
66 of the person, the provision of health care to the person, or the past, present or future payment  
67 for the provision of health care to the person.

68 (q) "Medical power of attorney representative" or "representative" means a person  
69 eighteen years of age or older appointed by another person to make health care decisions  
70 pursuant to the provisions of section six of this article or similar act of another state and recognized  
71 as valid under the laws of this state.

72 (r) "Parent" means a person who is another person's natural or adoptive mother or father  
73 or who has been granted parental rights by valid court order and whose parental rights have not  
74 been terminated by a court of law.

75 (s) "Persistent vegetative state" means an irreversible state as diagnosed by the attending  
76 physician or a qualified physician in which the person has intact brain stem function but no higher  
77 cortical function and has neither self-awareness or awareness of the surroundings in a learned  
78 manner.

79 (t) "Person" means an individual, a corporation, a business trust, a trust, a partnership, an  
80 association, a government, a governmental subdivision or agency or any other legal entity.

81 (u) "Physician orders for scope of treatment (POST) form" means a standardized form  
82 containing orders by a qualified physician that details a person's life-sustaining wishes as  
83 provided by section twenty-five of this article.

84 (v) "Principal" means a person who has executed a living will or medical power of attorney.

85 (w) "Protected person" means an adult who, pursuant to the provisions of chapter forty-  
86 four-a of this code, has been found by a court, because of mental impairment, to be unable to  
87 receive and evaluate information effectively or to respond to people, events and environments to  
88 an extent that the individual lacks the capacity to: (1) Meet the essential requirements for his or  
89 her health, care, safety, habilitation or therapeutic needs without the assistance or protection of a

90 guardian; or (2) manage property or financial affairs to provide for his or her support or for the  
91 support of legal dependents without the assistance or protection of a conservator.

92 (x) "Qualified physician" means a physician licensed to practice medicine who has  
93 personally examined the person.

94 (y) "Qualified psychologist" means a psychologist licensed to practice psychology who has  
95 personally examined the person.

96 (z) "Surrogate decisionmaker" or "surrogate" means an individual eighteen years of age  
97 or older who is reasonably available, is willing to make health care decisions on behalf of an  
98 incapacitated person, possesses the capacity to make health care decisions and is identified or  
99 selected by the attending physician or advanced nurse practitioner in accordance with the  
100 provisions of this article as the person who is to make those decisions in accordance with the  
101 provisions of this article.

102 (aa) "Terminal condition" means an incurable or irreversible condition as diagnosed by the  
103 attending physician or a qualified physician for which the administration of life-prolonging  
104 intervention will serve only to prolong the dying process.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

#### **§18-5-22. Medical and dental inspection; school nurses; specialized health procedures; establishment of council of school nurses.**

1 (a) County boards shall provide proper medical and dental inspections for all pupils  
2 attending the schools of their county and have the authority to take any other action necessary to  
3 protect the pupils from infectious diseases, including the authority to require from all school  
4 personnel employed in their county, certificates of good health and of physical fitness.

5 (b) Each county board shall employ full time at least one school nurse for every one  
6 thousand five hundred kindergarten through seventh grade pupils in net enrollment or major  
7 fraction thereof: *Provided*, That each county shall employ full time at least one school nurse:

8 *Provided, however,* That a county board may contract with a public health department for services  
9 considered equivalent to those required by this section in accordance with a plan to be approved  
10 by the state board: *Provided further,* That the state board shall promulgate rules requiring the  
11 employment of school nurses in excess of the number required by this section to ensure adequate  
12 provision of services to severely handicapped pupils. An appropriation may be made to the state  
13 department to be distributed to county boards to support school health service needs that exceed  
14 the capacity of staff as mandated in this section. Each county board shall apply to the state  
15 superintendent for receipt of this funding in a manner set forth by the state superintendent that  
16 assesses and takes into account varying acuity levels of students with specialized health care  
17 needs.

18 (c) Any person employed as a school nurse must be a registered professional nurse  
19 properly licensed by the ~~West Virginia Board of Examiners for Registered Professional Nurses~~  
20 Board of Nurses in accordance with §30-7-1 *et seq.* of this code.

21 (d) Specialized health procedures that require the skill, knowledge and judgment of a  
22 licensed health professional may be performed only by school nurses, other licensed school  
23 health care providers as provided in this section, or school employees who have been trained and  
24 retrained every two years who are subject to the supervision and approval by school nurses. After  
25 assessing the health status of the individual student, a school nurse, in collaboration with the  
26 student's physician, parents and, in some instances, an individualized education program team,  
27 may delegate certain health care procedures to a school employee who shall be trained pursuant  
28 to this section, considered competent, have consultation with, and be monitored or supervised by  
29 the school nurse: *Provided,* That nothing in this section prohibits any school employee from  
30 providing specialized health procedures or any other prudent action to aid any person who is in  
31 acute physical distress or requires emergency assistance. For the purposes of this section  
32 "specialized health procedures" means, but is not limited to, catheterization, suctioning of  
33 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means

34 “teachers” as defined in section one, article one of this chapter and “aides” as defined in §18A-4-  
35 8 of this code. Commencing with the school year beginning on July 1, 2002, “school employee”  
36 also means “secretary I”, “secretary II” and “secretary III” as defined in §18A-4-8 of this code:  
37 *Provided, however,* That a “secretary I”, “secretary II” and “secretary III” shall be limited to the  
38 dispensing of medications.

39 (e) Any school service employee who elects, or is required by this section, to undergo  
40 training or retraining to provide, in the manner specified in this section, the specialized health care  
41 procedures for those students for which the selection has been approved by both the principal  
42 and the county board shall receive additional pay of at least one pay grade higher than the highest  
43 pay grade for which the employee is paid: *Provided,* That any training required in this section may  
44 be considered in lieu of required in-service training of the school employee and a school employee  
45 may not be required to elect to undergo the training or retraining: *Provided, however,* That  
46 commencing with July 1, 1989, any newly employed school employee in the field of special  
47 education is required to undergo the training and retraining as provided in this section: *Provided*  
48 *further,* That if an employee who holds a class title of an aide is employed in a school and the  
49 aide has received the training, pursuant to this section, then an employee in the field of special  
50 education is not required to perform the specialized health care procedures.

51 (f) Each county school nurse, as designated and defined by this section, shall perform a  
52 needs assessment. These nurses shall meet on the basis of the area served by their regional  
53 educational service agency, prepare recommendations and elect a representative to serve on the  
54 council of school nurses established under this section.

55 (g) There shall be a council of school nurses which shall be convened by the state Board  
56 of Education. This council shall prepare a procedural manual and shall provide recommendations  
57 regarding a training course to the Commissioner of the Bureau for Public Health who shall consult  
58 with the state Department of Education. The state board then has the authority to promulgate a  
59 rule in accordance with the provisions of article §29A-3B-1 *et seq.* of this code to implement the

60 training and to create standards used by those school nurses and school employees performing  
61 specialized health procedures. The council shall meet every two years to review the certification  
62 and training program regarding school employees.

63 (h) The State Board of Education shall work in conjunction with county boards to provide  
64 training and retraining every two years as recommended by the Council of School Nurses and  
65 implemented by the rule promulgated by the state board.

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-2. Definitions.**

1 For the purpose of this article:

2 (a) "State board" means the West Virginia Board of Education.

3 (b) "County board" or "board" means a county board of education.

4 (c) "Professional salaries" means the state legally mandated salaries of the professional  
5 educators as provided in a §18A-4 of this code.

6 (d) "Professional educator" shall be synonymous with and shall have the same meaning  
7 as "teacher" as defined in section one, article one of this chapter, and includes technology  
8 integration specialists.

9 (e) "Professional instructional personnel" means a professional educator whose regular  
10 duty is as that of a classroom teacher, librarian, attendance director or school psychologist. A  
11 professional educator having both instructional and administrative or other duties shall be  
12 included as professional instructional personnel for that ratio of the school day for which he or she  
13 is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance  
14 or psychologist duties.

15 (f) "Professional student support personnel" means a "teacher" as defined in section one,  
16 article one of this chapter who is assigned and serves on a regular full-time basis as a counselor  
17 or as a school nurse with a bachelor's degree and who is licensed by the ~~West Virginia Board of~~  
18 ~~Examiners for Registered Professional Nurses~~ West Virginia Board of Nurses. For all purposes

19 except for the determination of the allowance for professional educators pursuant to section four  
20 of this article, professional student support personnel are professional educators.

21 (g) "Service personnel salaries" means the state legally mandated salaries for service  
22 personnel as provided in §18A-4-8a of this code.

23 (h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the  
24 purpose of computations under this article of ratios of service personnel to net enrollment, a  
25 service employee shall be counted as that number found by dividing his or her number of  
26 employment days in a fiscal year by two hundred: *Provided*, That the computation for any service  
27 person employed for three and one-half hours or less per day as provided in §18A-4-8a of this  
28 code shall be calculated as one half an employment day.

29 (i) "Net enrollment" means the number of pupils enrolled in special education programs,  
30 kindergarten programs and grades one to twelve, inclusive, of the public schools of the county.  
31 Net enrollment further shall include:

32 (1) Adults enrolled in regular secondary vocational programs existing as of the effective  
33 date of this section, subject to the following:

34 (A) Net enrollment includes no more than one thousand of those adults counted on the  
35 basis of full-time equivalency and apportioned annually to each county in proportion to the adults  
36 participating in regular secondary vocational programs in the prior year counted on the basis of  
37 full-time equivalency; and

38 (B) Net enrollment does not include any adult charged tuition or special fees beyond that  
39 required of the regular secondary vocational student;

40 (2) Students enrolled in early childhood education programs as provided in section forty-  
41 four, article five of this chapter, counted on the basis of full-time equivalency;

42 (3) No pupil shall be counted more than once by reason of transfer within the county or  
43 from another county within the state, and no pupil shall be counted who attends school in this  
44 state from another state;

45 (4) The enrollment shall be modified to the equivalent of the instructional term and in  
46 accordance with the eligibility requirements and rules established by the state board; and

47 (5) For the purposes of determining the county's basic foundation program only, for any  
48 county whose net enrollment as determined under all other provisions of this definition is less than  
49 one thousand four hundred, the net enrollment of the county shall be increased by an amount to  
50 be determined in accordance with the following:

51 (A) Divide the state's lowest county student population density by the county's actual  
52 student population density;

53 (B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision  
54 by the difference between one thousand four hundred and the county's actual net enrollment;

55 (C) If the increase in net enrollment as determined under this subdivision plus the county's  
56 net enrollment as determined under all other provisions of this subsection is greater than one  
57 thousand four hundred, the increase in net enrollment shall be reduced so that the total does not  
58 exceed one thousand four hundred; and

59 (D) During the 2008-2009 interim period and every three interim periods thereafter, the  
60 Legislative Oversight Commission on Education Accountability shall review this subdivision to  
61 determine whether or not these provisions properly address the needs of counties with low  
62 enrollment and a sparse population density.

63 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any  
64 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
65 section, of the definition of "net enrollment", to the square miles of the county is less than five.

66 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any  
67 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
68 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater  
69 than five but less than ten.



70 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any  
71 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
72 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater  
73 than ten but less than twenty.

74 (m) "High-density county" means a county whose ratio of net enrollment, excluding any  
75 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
76 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater  
77 than twenty.

78 (n) "Levies for general current expense purposes" means ninety percent of the levy rate  
79 for county boards of education calculated or set by the Legislature pursuant to section six-f, article  
80 eight, chapter eleven of this code.

81 (o) "Technology integration specialist" means a professional educator who has expertise  
82 in the technology field and is assigned as a resource teacher to provide information and guidance  
83 to classroom teachers on the integration of technology into the curriculum.

84 (p) "State aid eligible personnel" means all professional educators and service personnel  
85 employed by a county board in positions that are eligible to be funded under this article and whose  
86 salaries are not funded by a specific funding source such as a federal or state grant, donation,  
87 contribution or other specific funding source not listed.

## **CHAPTER 18A. SCHOOL PERSONNEL.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§18A-1-1. Definitions.**

1 The definitions contained in §18-1-1 of this code apply to this chapter. In addition, the  
2 following words used in this chapter and in any proceedings pursuant to this chapter have the  
3 meanings ascribed to them unless the context clearly indicates a different meaning:

4 (a) "School personnel" means all personnel employed by a county board whether  
5 employed on a regular full-time basis, an hourly basis or otherwise. "School personnel" is  
6 comprised of two categories: Professional personnel and service personnel;

7 (b) "Professional person" or "professional personnel" means those persons or employees  
8 who meet the certification requirements of the state, licensing requirements of the state, or both,  
9 and includes a professional educator and other professional employee;

10 (c) "Professional educator" has the same meaning as "teacher" as defined in §18-1-1 of  
11 this code. Professional educators are classified as follows:

12 (1) "Classroom teacher" means a professional educator who has a direct instructional or  
13 counseling relationship with students and who spends the majority of his or her time in this  
14 capacity;

15 (2) "Principal" means a professional educator who functions as an agent of the county  
16 board and has responsibility for the supervision, management and control of a school or schools  
17 within the guidelines established by the county board. The principal's major area of responsibility  
18 is the general supervision of all the schools and all school activities involving students, teachers  
19 and other school personnel;

20 (3) "Supervisor" means a professional educator who is responsible for working primarily  
21 in the field with professional and other personnel in instructional and other school improvement.  
22 This category includes other appropriate titles or positions with duties that fit within this definition;  
23 and

24 (4) "Central office administrator" means a superintendent, associate superintendent,  
25 assistant superintendent and other professional educators who are charged with administering  
26 and supervising the whole or some assigned part of the total program of the countywide school  
27 system. This category includes other appropriate titles or positions with duties that fit within this  
28 definition;

29 (d) "Other professional employee" means a person from another profession who is  
30 properly licensed and who is employed to serve the public schools. This definition includes a  
31 registered professional nurse, licensed by the ~~West Virginia Board of Examiners for Registered~~  
32 ~~Professional Nurses~~ West Virginia Board of Nurses who is employed by a county board and has  
33 completed either a two-year (sixty-four semester hours) or a three-year (ninety-six semester  
34 hours) nursing program;

35 (e) "Service person" or "service personnel", whether singular or plural, means a  
36 nonteaching school employee who is not included in the meaning of "teacher" as defined in §18-  
37 1-1 of this code and who serves the school or schools as a whole, in a nonprofessional capacity,  
38 including such areas as secretarial, custodial, maintenance, transportation, school lunch, and  
39 aides. Any reference to "service employee" or "service employees" in this chapter or §18 of this  
40 code means service person or service personnel as defined in this section;

41 (f) "Principals Academy" or "academy" means the academy created pursuant to section  
42 two-b, article three-a of this chapter;

43 (g) "Center for Professional Development" means the center created pursuant to section  
44 one, article three-a of this chapter;

45 (h) "Job-sharing arrangement" means a formal, written agreement voluntarily entered into  
46 by a county board with two or more of its employees who wish to divide between them the duties  
47 and responsibilities of one authorized full-time position;

48 (i) "Prospective employable professional person", whether singular or plural, means a  
49 certified professional educator who:

50 (1) Has been recruited on a reserve list of a county board;

51 (2) Has been recruited at a job fair or as a result of contact made at a job fair;

52 (3) Has not obtained regular employee status through the job posting process provided in  
53 section seven-a, article four of this chapter; and

54 (4) Has obtained a baccalaureate degree from an accredited institution of higher education  
55 within the past year;

56 (j) "Dangerous student" means a student who is substantially likely to cause serious bodily  
57 injury to himself or herself, herself or another individual within that student's educational  
58 environment, which may include any alternative education environment, as evidenced by a  
59 pattern or series of violent behavior exhibited by the student, and documented in writing by the  
60 school, with the documentation provided to the student and parent or guardian at the time of any  
61 offense;

62 (k) "Alternative education" means an authorized departure from the regular school  
63 program designed to provide educational and social development for students whose disruptive  
64 behavior places them at risk of not succeeding in the traditional school structures and in adult life  
65 without positive interventions; and

66 (l) "Long-term substitute" means a substitute employee who fills a vacant position:

67 That the county superintendent expects to extend for at least thirty consecutive days, and  
68 is either:

69 (A) Listed in the job posting as a long-term substitute position of over thirty days; or

70 (B) Listed in a job posting as a regular, full-time position and:

71 (i) Is not filled by a regular, full-time employee; and

72 (ii) Is filled by a substitute employee.

73 For the purposes of section two, article sixteen, chapter five of this code, long-term  
74 substitute does not include a retired employee hired to fill the vacant position.

#### **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

##### **§18A-4-1. Definitions.**

1 For the purpose of this article, salaries shall be defined as: (a) "Basic salaries" which shall  
2 mean the salaries paid to teachers with zero years of experience and in accordance with the  
3 classification of certification and of training of said teachers; and (b) "advanced salaries" which

4 shall mean the basic salary plus an experience increment based on the allowable years of  
5 experience of the respective teachers in accordance with the schedule established herein for the  
6 applicable classification of certification and of training of said teachers.

7 “Classification of certification” means the class or type of certificate issued by the state  
8 superintendent under the statutory provisions of this chapter. “Classification of training” means  
9 the number of collegiate or graduate hours necessary to meet the requirements stipulated in the  
10 definitions set forth in the next paragraph in items (2) to (11), inclusive.

11 The column heads of the state minimum salary schedule set forth in section two of this  
12 article are defined as follows:

13 (1) “Years of experience” means the number of years the teacher has been employed in  
14 the teaching profession, including active work in educational positions other than the public  
15 schools, and service in the Armed Forces of the United States if the teacher was under contract  
16 to teach at the time of induction. For a registered professional nurse employed by a county board,  
17 “years of experience” means the number of years the nurse has been employed as a public school  
18 health nurse, including active work in a nursing position related to education, and service in the  
19 Armed Forces if the nurse was under contract with the county board at the time of induction. For  
20 the purpose of section two of this article, the experience of a teacher or a nurse shall be limited  
21 to that allowed under their training classification as found in the minimum salary schedule.

22 (2) “Fourth class” means all certificates previously identified as: (a) “Certificates secured  
23 by examination”; and (b) “other first grade certificates”.

24 (3) “Third class” means all certificates previously identified as: (a) “Standard normal  
25 certificates”; and (b) “third class temporary (sixty-four semester hours) certificates”.

26 (4) “Second class” means all certificates previously identified as “second class temporary  
27 certificates based upon the required ninety-six hours of college work”.

28 (5) “A.B.” means a bachelor’s degree, from an accredited institution of higher education,  
29 which has been issued to, or for which the requirements for such have been met by, a person

30 who qualifies for or holds a professional certificate or its equivalent. A registered professional  
31 nurse with a bachelor's degree, who is licensed by the ~~West Virginia board of examiners for~~  
32 ~~registered professional nurses~~ West Virginia Board of Nurses and employed by a county board,  
33 shall be within this classification for payment in accordance with sections two and two-a of this  
34 article.

35 (6) "A.B. plus 15" means a bachelor's degree as defined above plus fifteen hours of  
36 graduate work, from an accredited institution of higher education certified to do graduate work, in  
37 an approved planned program at the graduate level which requirements have been met by a  
38 person who qualifies for or holds a professional certificate or its equivalent.

39 (7) "M.A." means a master's degree, earned in an institution of higher education approved  
40 to do graduate work, which has been issued to, or the requirements for such have been met by,  
41 a person who qualifies for or holds a professional certificate or its equivalent.

42 (8) "M.A. plus 15" means the above-defined master's degree plus fifteen hours of graduate  
43 work, earned in an institution of higher education approved to do graduate work, if the person is  
44 qualified for or holds a professional certificate or its equivalent.

45 (9) "M.A. plus 30" means the above-defined master's degree plus thirty graduate hours,  
46 earned in an institution approved to do graduate work, if the person is qualified for or holds a  
47 professional certificate or its equivalent.

48 (10) "Doctorate" means a doctor's degree, earned from a university qualified and approved  
49 to confer such a degree, which has been issued to or the requirements for such have been met  
50 by a person who qualifies for or holds a professional certificate or its equivalent.

51 For purposes of advanced salary classification, graduate work completed after July 1,  
52 1994, shall be related to the public school program, as prescribed by the state board.

53 Notwithstanding the requirements set forth in subdivisions (6), (8) and (9) of this section  
54 relating to hours of graduate work at an institution certified to do such work, fifteen undergraduate  
55 credit hours from a regionally accredited institution of higher education, earned after the effective

56 date of this section, may be utilized for advanced salary classification if such hours are in  
57 accordance with: (a) The teacher's current classification of certification and of training; (b) a  
58 designated instructional shortage area documented by the employing county superintendent; or  
59 (c) an identified teaching deficiency documented through the state approved county personnel  
60 evaluation system.

61 Effective July 1, 1994, the following definition shall be applicable.

62 (11) "M.A. plus 45" means the above-defined master's degree plus forty-five graduate  
63 hours, earned in an institution approved to do graduate work, if the person is qualified for or holds  
64 a professional certificate or its equivalent.

**§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  
30 state 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 Nurses, employed to work in a  
209 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 West Virginia Board of Nurses, pursuant to section seven-a, article seven-a, chapter thirty~~  
15 ~~of this code;~~ West Virginia Board of Nurses pursuant to §30-7-1 et seq. 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 §30-7B of this code, the commission shall administer a scholarship,

22 designated the Nursing Scholarship Program, designed to benefit nurses who practice in hospitals  
23 and other health care institutions or teach in state nursing programs.

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

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

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

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

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

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

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

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

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

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

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



- 49 (1) Eligibility and selection criteria for program participation;
- 50 (2) Terms of a service agreement which a recipient shall execute as a condition of
- 51 receiving an award;
- 52 (3) Repayment provisions for a recipient who fails to fulfill the service requirement;
- 53 (4) Forgiveness options for death or disability of a recipient;
- 54 (5) An appeal process for students denied participation or ordered to repay awards; and
- 55 (6) Additional provisions as necessary to implement this section.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 12B. WEST VIRGINIA HEALTH CARE PROVIDER PROFESSIONAL LIABILITY INSURANCE AVAILABILITY ACT.**

#### **§29-12B-3. Definitions.**

- 1 As used in this article, the following terms have the meanings set forth herein:
- 2 (a) "Board" means the state Board of Risk and Insurance Management.
- 3 (b) "Health care provider" means:
- 4 (1) A person licensed by the West Virginia Board of Medicine to practice medicine in this
- 5 state;
- 6 (2) A person licensed by the West Virginia Board of Osteopathy to practice medicine in
- 7 this state;
- 8 (3) A podiatrist licensed by the West Virginia Board of Medicine;
- 9 (4) An optometrist licensed by the West Virginia Board of Optometry;
- 10 (5) A pharmacist licensed by the West Virginia Board of Pharmacy;
- 11 (6) A registered nurse holding an advanced practice announcement from the ~~West Virginia~~
- 12 ~~board of examiners for registered professional nurses~~ West Virginia Board of Nurses;
- 13 (7) A physician's assistant licensed by either the West Virginia Board of Medicine or the
- 14 West Virginia Board of Osteopathy;

- 15 (8) A dentist licensed by the West Virginia board of Dental Examiners;
- 16 (9) A physical therapist licensed by the West Virginia Board of Physical Therapy;
- 17 (10) A chiropractor licensed by the West Virginia Board of Chiropractic;
- 18 (11) A professional limited liability company or medical corporation certified by the state
- 19 Board of Medicine;
- 20 (12) An association, partnership or other entity organized for the purpose of rendering
- 21 professional services by persons who are health care providers;
- 22 (13) A hospital, medical clinic, psychiatric hospital or other medical facility authorized by
- 23 law to provide professional medical services; and
- 24 (14) Such other health care provider as the board may from time to time approve, and for
- 25 whom an adequate rate can be established.
- 26 "Health care provider" does not include any provider of professional medical services that
- 27 has medical malpractice insurance pursuant to article twelve of this chapter.
- 28 (b) "Sexual acts" means that sexual conduct which constitutes a criminal or tortious act
- 29 under the laws of West Virginia.
- 30 (c) "Prior acts" coverage means coverage for claims arising out of the providing of medical
- 31 services, including medical treatment, which are first reported to the board during the effective
- 32 policy period, but which occurred on or after the retroactive date reported in the policy
- 33 declarations.
- 34 (d) "High risk" means the probability of loss is greater than average based on criteria
- 35 specified in this article and established by the board.
- 36 (e) "Retroactive date" means the date designated in the policy declarations, before which
- 37 coverage is not applicable.
- 38 (f) "Tail coverage" or "extended reporting coverage" is coverage that protects the health
- 39 care provider against all claims arising from professional services performed while the claims-
- 40 made policy was in effect and included in the policy but reported after the termination of the policy.

**ARTICLE 29. VOLUNTEER FOR NONPROFIT YOUTH ORGANIZATIONS ACT.**

**§29-29-3. Definitions.**

1 As used in this article:

2 (a) "Applicant" means any emergency medical service applicant, law-enforcement  
3 applicant or medical services applicant, that is registered as a volunteer of the nonprofit  
4 organization, making application for a nonprofit volunteer permit under the provisions of this  
5 article.

6 (b) "Appropriate licensing agency" means the board, department, division or other agency  
7 in each jurisdiction charged with the licensing, certification or permitting of persons performing  
8 services of the nature and kind described or duties provided for in this article.

9 (c) "Emergency medical service applicant" means a person authorized to provide  
10 emergency medical services in West Virginia, or in another state who but for this article would be  
11 required to obtain a certification from the Commissioner of the Bureau for Public Health pursuant  
12 to §16-8 of this code to perform emergency medical services in this state.

13 (d) "Law-enforcement applicant" means a person authorized to work as a law-enforcement  
14 officer in West Virginia, or in another state who but for this article would be required to obtain  
15 authorization pursuant to §30-29-1 *et seq.* of this code to work as a law-enforcement officer in  
16 this state: *Provided,* That any person authorized to work as a law-enforcement officer in another  
17 state shall have completed a training program approved by the governing authority of a political  
18 subdivision in order to work as a law-enforcement officer in that state.

19 (e) "Medical services applicant" means a person authorized to provide medical services in  
20 West Virginia, or in another state who but for this article would be required to obtain authorization  
21 to practice in this state, and who is a:

22 (1) Practitioner of medicine, surgery or podiatry as defined in §30-3-1 *et seq.* of this code;

23 (2) Physician assistant as defined in section three, §30-3-1 *et seq.* of this code;

24 (3) Chiropractor as defined in §30-16-3 of this code;

- 25 (4) Dentist or dental assistant as defined in §30-4-1 *et seq.* of this code;
- 26 (5) Nurse as defined in ~~article seven or seven-a, chapter thirty~~ §30-7-1 *et seq.* of this code;
- 27 (6) Nurse practitioner as defined in §9-4B-1 of this code;
- 28 (7) Occupational therapist as defined in §30-28-3 of this code;
- 29 (8) Practitioner of optometry as defined in §30-8-3 of this code;
- 30 (9) Osteopathic physician or surgeon as defined in §30-14-1 *et seq.* of this code;
- 31 (10) Osteopathic physician assistant as defined in §30-14A-1 *et seq.* of this code;
- 32 (11) Pharmacist as defined in §30-5-1 *et seq.* of this code;
- 33 (12) Physical therapist as defined in §30-20-1 *et seq.* of this code;
- 34 (13) Professional counselor as defined in §30-31-3 of this code;
- 35 (14) Practitioner of psychology or school psychologist as defined in §30-21-2 of this code;
- 36 (15) Radiologic technologist, nuclear medicine technologist or practitioner of medical  
37 imaging and radiation therapy technology as defined in §30-23-4 of this code; and
- 38 (16) Social worker licensed by the state Board of Social Work Examiners pursuant to §30-  
39 30-1 *et seq.* of this code.
- 40 (f) “Nonprofit volunteer permit” or “permit” means a permit issued to an applicant pursuant  
41 to the provisions of this article.
- 42 (g) “Nonprofit volunteer permittee” or “permittee” means a person holding a nonprofit  
43 volunteer permit issued under the provisions of this article.
- 44 (h) “Nonprofit youth organization” or “organization” means any nonprofit organization,  
45 including any subsidiary, affiliated or other related entity within its corporate or business structure,  
46 that has been chartered by the United States Congress to help train young people to do things  
47 for themselves and others, and that has established an area of at least six thousand contiguous  
48 acres within West Virginia in which to provide adventure or recreational activities for these young  
49 people and others.

50 (i) "Nonprofit volunteer organization medical director" means an individual licensed in West  
51 Virginia as a practitioner of medicine or surgery pursuant to §30-3-1 *et seq.* of this code, or an  
52 individual licensed in West Virginia as an osteopathic physician or surgeon pursuant to §30-14 of  
53 this code, that has been designated by the nonprofit volunteer organization to serve as the  
54 medical director for an event or program offered by the organization.

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

5 (b) Notwithstanding any other provision of this code or the provision of a legislative rule to  
6 the contrary, each person issued a license to practice medicine and surgery, 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 an advanced nurse practitioner by the~~  
12 ~~West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as~~  
13 ~~a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical~~  
14 ~~Nurses~~ each person licensed to practice registered professional nursing, licensed as an advanced  
15 nurse practitioner, or licensed as a licensed practical nurse by the West Virginia Board of Nurses,  
16 and each person licensed to practice medicine and surgery as an osteopathic physician and

17 surgeon or licensed or certified as an osteopathic as physician assistant by the West Virginia  
18 Board of Osteopathy shall complete drug diversion training, best-practice prescribing of controlled  
19 substances training and training on prescribing and administration of an opioid antagonist, as the  
20 trainings are established by his or her respective licensing board, if that person prescribes,  
21 administers or dispenses a controlled substance, as that term is defined in §60A-1-101 of this  
22 code.

23 (1) Notwithstanding any other provision of this code or the provision of any legislative rule  
24 to the contrary, the West Virginia Board of Medicine, the West Virginia Board of Dental Examiners,  
25 the West Virginia Board of Optometry, the West Virginia Board of Pharmacy, ~~the West Virginia~~  
26 ~~Board of Examiners for Registered Professional Nurses, the West Virginia State Board of~~  
27 ~~Examiners for Licensed Practical Nurses~~ the West Virginia Board of Nurses and the West Virginia  
28 Board of Osteopathy shall establish continuing education requirements and criteria appropriate  
29 to their respective discipline on the subject of drug diversion training, best-practice prescribing of  
30 controlled substances training and prescribing and administration of an opioid antagonist training  
31 for each person issued a license or certificate by their respective board who prescribes,  
32 administers or dispenses a controlled substance, as that term is defined in §60A-1-100 of this  
33 code, and shall develop a certification form pursuant to 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 §60A-1-101 of this code, during  
45 the entire applicable reporting period.

46 (c) Notwithstanding any other provision of this code or the provision of any legislative rule  
47 to the contrary, ~~each person licensed to practice registered professional nursing or licensed as~~  
48 ~~an advanced nurse practitioner by the West Virginia Board of Examiners for Registered~~  
49 ~~Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia~~  
50 ~~State Board of Examiners for Licensed Practical Nurses, each person licensed to practice~~  
51 ~~registered professional nursing, licensed as an advanced nurse practitioner, or licensed as a~~  
52 ~~licensed practical nurse by the West Virginia Board of Nurses, each person licensed to practice~~  
53 psychology by the Board of Examiners of Psychologists, each person licensed to practice social  
54 work by the West Virginia Board of Social Work and each person licensed to practice professional  
55 counseling by the West Virginia Board of Examiners in Counseling shall complete two hours of  
56 continuing education for each reporting period on mental health conditions common to veterans  
57 and family members of veterans, as the continuing education is established by his or her  
58 respective licensing board. In cooperation with the Secretary of the Department of Veterans'  
59 Assistance, the continuing education shall include training on inquiring about whether the patients  
60 are veterans or family members of veterans, and screening for conditions such as post-traumatic  
61 stress disorder, risk of suicide, depression and grief and prevention of suicide. The two hours  
62 shall be part of the total hours of continuing education required by each board and not two  
63 additional hours.

**§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) The West Virginia Board of Examiners for Licensed Practical Nurses, established~~  
15 ~~pursuant to the provisions of article seven-a of this chapter;~~

16 (2) The West Virginia Board of Nurses, established pursuant to the provisions of article 7  
17 of this chapter;

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

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

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

## **ARTICLE 3A. MANAGEMENT OF INTRACTABLE PAIN.**

### **§30-3A-1. Definitions.**

1 For the purposes of this article, the words or terms defined in this section have the  
2 meanings ascribed to them. These definitions are applicable unless a different meaning clearly  
3 appears from the context.



4 (1) An “accepted guideline” is a care or practice guideline for pain management developed  
5 by a nationally recognized clinical or professional association or a specialty society or  
6 government-sponsored agency that has developed practice or care guidelines based on original  
7 research or on review of existing research and expert opinion. An accepted guideline also  
8 includes policy or position statements relating to pain management issued by any West Virginia  
9 board included in §30 of the West Virginia Code with jurisdiction over various health care  
10 practitioners. Guidelines established primarily for purposes of coverage, payment or  
11 reimbursement do not qualify as accepted practice or care guidelines when offered to limit  
12 treatment options otherwise covered by the provisions of this article.

13 (2) “Board” or “licensing board” means the West Virginia Board of Medicine, the West  
14 Virginia Board of Osteopathy, ~~the West Virginia Board of Registered Nurses~~ the West Virginia  
15 Board of Nurses or the West Virginia Board of Pharmacy.

16 (3) “Nurse” means a registered nurse licensed in the State of West Virginia pursuant to  
17 the provisions of article seven of this chapter.

18 (4) “Pain” means an unpleasant sensory and emotional experience associated with actual  
19 or potential tissue damage or described in terms of such damage.

20 (5) “Pain-relieving controlled substance” includes, but is not limited to, an opioid or other  
21 drug classified as a Schedule II through V controlled substance and recognized as effective for  
22 pain relief, and excludes any drug that has no accepted medical use in the United States or lacks  
23 accepted safety for use in treatment under medical supervision including, but not limited to, any  
24 drug classified as a Schedule I controlled substance.

25 (6) “Pharmacist” means a registered pharmacist licensed in the State of West Virginia  
26 pursuant to the provisions of article five of this chapter.

27 (7) “Physician” means a physician licensed in the State of West Virginia pursuant to the  
28 provisions of article three or article fourteen of this chapter.

## **ARTICLE 3F. DIRECT PRIMARY CARE PRACTICE.**

### **§30-3F-1. Definitions.**

1 As used in this section:

2 (1) "Boards" means the West Virginia Board of Medicine; the West Virginia Board of  
3 Osteopathic Medicine, the West Virginia Board of Optometry, West Virginia Board of Chiropractic,  
4 West Virginia Board of Dentistry and the ~~West Virginia Board of Examiners for Registered~~  
5 ~~Professional Nurses~~ West Virginia Board of Nurses;

6 (2) "Direct primary care membership agreement" means a written contractual agreement  
7 between a primary care provider and a person, or the person's legal representative;

8 (3) "Direct primary care provider" means an individual or legal entity, alone or with others  
9 professionally associated with the provider or other legal entity, that is authorized to provide  
10 primary care services and who chooses to enter into a direct primary care membership  
11 agreement;

12 (4) "Medical products" means any product used to diagnose or manage a disease,  
13 including any medical device, treatment or drug;

14 (5) "Medical services" means a screen, assessment, diagnosis or treatment for the  
15 purpose of promotion of health or the detection and management of disease or injury within the  
16 competency and training of the direct primary care provider; and

17 (6) "Primary care provider" means an individual or other legal entity that is authorized to  
18 provide medical services and medical products under his or her scope of practice in this state.

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

### **ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

#### **§30-7-1. Unlawful acts.**

1 (a) It is unlawful for a person to practice or offer to practice practical nursing, registered  
2 professional nursing, or advanced practice registered nursing in this state without a license,

3 issued under the provisions of this article, or advertise or use any title or description tending to  
4 convey or give the impression that he or she is a practical nurse, registered professional nurse,  
5 or advanced practice registered nurse, unless the person is licensed under the provisions of this  
6 article.

7 (b) A business entity may not render any service or engage in any activity which, if  
8 rendered or engaged in by an individual, would constitute the practice of practical nursing,  
9 registered professional nursing, or advanced practice nursing, except through a licensee.

**§30-7-1a. Eligibility for licensure by meeting requirements which existed prior to the  
legislative enactments during the 2012 legislative session.**

1 [Repealed]

**§30-7-2. Applicable law.**

1 The practices authorized under the provisions of this article and the board are subject to  
2 §30-1-1 et seq. of this code, the provisions of this article, and any rules promulgated hereunder.

**§30-7-3. Definitions.**

1 As used in this article:

2 (1) "Advanced practice registered nurse" means a registered nurse who has acquired  
3 advanced clinical knowledge and skills preparing him or her to provide direct and indirect care to  
4 patients;

5 (2) "Board" means the West Virginia Board of Nurses;

6 (3) "Collaborative relationship" means a working relationship, structured through a written  
7 agreement, in which an advanced practice registered nurse may prescribe drugs in collaboration  
8 with a qualified physician;

9 (4) "License" means a license to practice practical nursing, registered professional  
10 nursing, or advanced practice registered nursing;

11 (5) "Licensee" means a person licensed as a practical nurse, registered professional  
12 nurse, or advanced practice registered nurse under this article;

13 (6) "Major mental illness" means a diagnosis of a mental disorder within the axis of  
14 psychotic or affective or mood, alcohol, or chemical abuse, or alcohol or chemical dependency  
15 as stipulated in the International Code of Diagnosis';

16 (7) "Nurse health program" means a program meeting the requirements of this article;

17 (8) "Practical nurse" means a person who has met all the requirements for licensure as a  
18 practical nurse and who practices practical nursing;

19 (9) "Qualifying illness" means the diagnosis of substance use disorder, alcohol, or  
20 substance dependency or major mental illness;

21 (10) "Registered nurse" means a person licensed under this article to practice registered  
22 professional nursing under this article;

23 (11) "Temporary permit" means a permit authorizing the holder to practice registered  
24 professional nursing or practical nursing until the permit is no longer effective or the holder is  
25 granted a license by the board.

**§30-7-4. West Virginia Board of Nurses.**

1 (a) The West Virginia Board of Examiners for Registered Professional Nurses is  
2 terminated, effective July 1, 2018, and on that date, all moneys, employees, and assets of the  
3 Board of Examiners for Registered Professional Nurses are transferred to the West Virginia Board  
4 of Nurses. A new board is created pursuant to the provisions of this article and shall be known  
5 as the West Virginia Board of Nurses. A member of the Board of Examiners for Licensed Practical  
6 Nurses and the West Virginia Board of Examiners for Registered Professional Nurses is eligible  
7 for appointment to the West Virginia Board of Nurses.

8 (b) The Governor, by and with the advice and consent of the Senate, shall appoint:

9 (1) Four individuals licensed as a registered professional nurse by the board;

10 (2) Two individuals licensed as an advanced practice registered nurse by the board;

11 (3) Two individuals licensed as a practical nurse by the board;

12 (4) One dialysis technician; and

13 (5) Two citizen members who are not licensed under the provisions of this chapter and  
14 who have never performed any services as a health care professional;

15 (c) The licensed members shall represent a variety of nursing practices;

16 (d) Organizations that represent nurses may submit to the Governor recommendations for  
17 the appointment of the licensed board members.

18 (e) The Governor shall stagger the terms of the initial appointments. For the initial  
19 appointments, the Governor shall appoint at least five members who previously served on either  
20 board. After the initial appointment term, the appointment term is five years. A member may not  
21 serve more than two consecutive terms. A member may continue to serve until his or her  
22 successor has been appointed and qualified.

23 (f) Each licensed member of the board, at the time of his or her appointment, shall have  
24 been actively practicing in this state for three out of the last five years immediately preceding the  
25 appointment.

26 (g) Each member of the board shall be a resident of this state during the appointment  
27 term.

28 (h) A vacancy on the board shall be filled by appointment by the Governor for the  
29 unexpired term of the member whose office is vacant.

30 (i) The Governor may remove any member from the board for neglect of duty,  
31 incompetency, or official misconduct.

32 (j) A licensed member of the board immediately and automatically forfeits membership to  
33 the board if his or her license to practice is disciplined in any jurisdiction.

34 (k) A member of the board immediately and automatically forfeits membership to the board  
35 if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident  
36 of this state.

37 (l) The board shall elect one of its members as president and one member as secretary  
38 who shall serve at the will and pleasure of the board.

39 (m) A member of the board is entitled to receive compensation and expense  
40 reimbursement in accordance with §30-1-1 et seq. of this code.

41 (n) A simple majority of the membership serving on the board at a given time is a quorum  
42 for the transaction of business.

43 (o) The board shall hold at least one meeting annually. Other meetings shall be held at  
44 the call of the president or upon the written request of four members, at the time and place as  
45 designated in the call or request.

46 (p) Prior to commencing his or her duties as a member of the board, each member shall  
47 take and subscribe to the oath required by section five, article four of the Constitution of this state.

48 (q) A board member, when acting in good faith and without malice, shall enjoy immunity  
49 from individual civil liability while acting within the scope of their duties as board members.

**§30-7-5. Powers of the board.**

1 The board has all the powers and duties set forth in this article, in §30-1-1 et seq. of this  
2 code and elsewhere in law, including the ability to:

3 (1) Hold meetings;

4 (2) Establish procedures for submitting, approving, and rejecting applications for a license  
5 and permit;

6 (3) Determine the qualifications of an applicant for a license and permit;

7 (4) Establish the fees charged under the provisions of this article;

8 (5) Issue, renew, restrict, deny, suspend, revoke, or reinstate a license and permit;

9 (6) Prepare, conduct, administer, and grade written, oral, or written and oral examinations  
10 for a license;

11 (7) Contract with third parties to administer the examinations required under the provisions  
12 of this article;

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

15           (9) Maintain an office and hire, discharge, establish the job requirements, and fix the  
16 compensation of employees, and contract with persons necessary to enforce the provisions of  
17 this article;

18           (10) Employ investigators, attorneys, hearing examiners, consultants, and other  
19 employees as may be necessary who are exempt from the classified service and who serve at  
20 the will and pleasure of the board;

21           (11) Delegate hiring of employees to the executive director;

22           (12) Investigate alleged violations of the provisions of this article and legislative rules,  
23 orders, and final decisions of the board;

24           (13) Conduct disciplinary hearings of persons regulated by the board;

25           (14) Determine disciplinary action and issue orders;

26           (15) Institute appropriate legal action for the enforcement of the provisions of this article;

27           (16) Maintain an accurate registry of names and addresses of all persons regulated by the  
28 board;

29           (17) Keep accurate and complete records of its proceedings, and certify the same as may  
30 be necessary and appropriate;

31           (18) Propose rules in accordance with the provisions of §29A-3-1 et seq. of this code to  
32 implement the provisions of this article;

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

34           (20) Establish a nurse health program;

35           (21) Implement the provisions of the enhanced nurse licensure compact in accordance  
36 with §30-7B-1 et seq. of this code;

37           (22) Coordinate with and assist the Center for Nursing in accordance with §30-7B-1 et  
38 seq. of this code; and

39           (23) Confer with the Attorney General or his or her assistant in connection with legal  
40 matters and questions.

**§30-7-6. Rule-making.**

- 1           (a) The board shall propose rules for legislative approval, in accordance with the  
2 provisions of §29A-3-1 et seq. of this code to implement the provisions of this article including:  
3           (1) Standards and requirements for licenses and permits;  
4           (2) Requirements for third parties to prepare and/or administer examinations and  
5 reexaminations;  
6           (3) Educational and experience requirements;  
7           (4) Continuing education requirements and approval of continuing education courses;  
8           (5) Procedures for the issuance and renewal of licenses and permits;  
9           (6) Establish a fee schedule;  
10           (7) Assess a supplemental licensure fee not to exceed \$10 per license per year. The  
11 supplemental licensure fee is to be used to fund the center for nursing and to carry out its  
12 purposes as set forth in §30-7B-1 et seq. of this code;  
13           (8) Establish professional conduct requirements;  
14           (9) Establish the procedures for denying, suspending, restricting, revoking, reinstating, or  
15 limiting the practice of licensees;  
16           (10) Establish requirements for inactive, retired, or revoked licenses and permits;  
17           (11) Regulate a nursing school as provided for in section twenty-two of this article;  
18           (12) Establish a nurse health program;  
19           (13) Establish prescribing requirement for an advanced practice registered nurse as  
20 provided in section fifteen of this article;  
21           (14) Reports to be submitted by nursing programs;  
22           (15) Regulate dialysis care; and  
23           (16) Any other rules necessary to implement this article.  
24           (b) The legislative rules of the West Virginia Board of Examiners for Registered  
25 Professional Nurses, pursuant to the authority provided in previous enactments of this article, and



26 the legislative rules of the Board of Examiners for Licensed Practical Nurses, pursuant to the  
27 authority provided in §30-7A-1 et seq. of this code, in effect on June 30, 2018 and not in conflict  
28 with the provisions of this article shall remain in effect until they are amended, replaced, or  
29 rescinded, and are to be considered transferred to and under the authority of the West Virginia  
30 Board of Nurses pursuant to the provisions of this article.

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

1 [Repealed]

**§30-7-6b. Special volunteer license; civil immunity for voluntary services rendered to  
indigents.**

1 [Repealed]

**§30-7-7. Fees; special revenue account; administrative fines.**

1 (a) The special revenue fund as expended by the West Virginia Board of Examiners for  
2 Registered Professional Nurses pursuant to the authority granted under previous enactments of  
3 this article shall expire July 1, 2018, and all such remaining funds shall transfer to the special  
4 revenue account which shall be created in the state Treasury on July 1, 2018 and shall be known  
5 as the “West Virginia Board of Nurses Fund.”

6 (b) All fees and other moneys, except administrative fines, received by the board shall be  
7 deposited in the “West Virginia Board of Nurses’ Fund” which is continued. The fund is used by  
8 the board for the administration of this article. Except as provided in §30-1-1 et seq. of this code,  
9 the board retains the amount in the special revenue account from year to year. No compensation  
10 or expense incurred under this article is a charge against the General Revenue Fund.

**§30-7-8. License to practice practical nursing.**

1 (a) The board shall issue a license to practice practical nursing to an applicant who meets  
2 the following requirements:

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;

6 (3) Has successfully completed a course of study in an approved school for practical  
7 nurses;

8 (4) Has passed an examination in such subjects as the board may determine;

9 (5) Has paid the application fee specified by rule;

10 (6) Has completed a criminal background check, as required by §30-1D-1 et seq. of this  
11 code;

12 (7) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code.

13 An applicant in an active recovery process, which may, in the discretion of the board, be  
14 evidenced by participation in a nurse health program, an aftercare program, or a twelve-step  
15 program or other similar group or process, may be considered; and

16 (8) Is a citizen of the United States or is eligible for employment in the United States.

17 (b) A license to practice practical nursing issued by the board shall for all purposes be  
18 considered a license issued under this section and may be renewed.

**§30-7-8a. Supplemental fees to fund center for nursing; emergency rules.**

1 [Repealed]

**§30-7-9. Scope of practice of a licensed practical nurse.**

1 A practical nurse under the supervision of a registered professional nurse, an advanced  
2 practice registered nurse; a physician assistant; a physician, or a dentist, licensed under this  
3 chapter, shall:

4 (1) Collect data and conduct focused nursing assessments of the health status of patients;

5 (2) Participate with other health care providers in the development and modification of the  
6 patient centered health care plan;

7 (3) Implement nursing interventions within a patient centered health care plan;

8 (4) Assist in the evaluation of responses to interventions;

- 9           (5) Provide for the maintenance of safe and effective nursing care rendered directly or  
10 indirectly;
- 11           (6) Advocate the best interest of patients;
- 12           (7) Communicate and collaborate with patients and members of the health care team;
- 13           (8) Provide health care information to patients;
- 14           (9) Delegate and assign nursing interventions to implement the plan of care; and
- 15           (10) Perform other acts for which a licensed practical nurse is educated and trained,  
16 consistent with professional standards.

**§30-7-10. License to practice registered professional nursing.**

- 1           (a) The board shall issue a license to practice registered nursing to an applicant who meets  
2 the following requirements:
- 3           (1) Is at least 18 years of age;
- 4           (2) Is of good moral character;
- 5           (3) Has completed an approved four-year high school course of study or the equivalent  
6 thereof, as determined by the appropriate educational agency;
- 7           (4) Holds a diploma of a school of nursing approved by the board;
- 8           (5) Has passed an examination approved by the board;
- 9           (6) Has paid the application fee specified by rule;
- 10           (7) Has completed a criminal background check, as required by §30-1D-1 et seq. of this  
11 code;
- 12           (8) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code,  
13 unless an applicant in an active recovery process, which may be evidenced by participation in a  
14 Nurse Health Program, structured aftercare, or a twelve-step program or other similar group or  
15 process, may be considered; and
- 16           (9) Is a citizen of the United States or is eligible for employment in the United States.

17           (b) A license to practice registered professional nursing issued by the board shall for all  
18 purposes be considered a license issued under this section: *Provided*, That a person holding a  
19 license shall renew the license.

**§30-7-11. Scope of practice of a registered professional nurse.**

- 1           The practice of registered professional nursing includes:
- 2           (1) Providing comprehensive nursing assessment of the health status of patients;
- 3           (2) Collaborating with health care team to develop and coordinate an integrated patient  
4 centered health care plan;
- 5           (3) Developing the comprehensive patient centered health care plan, including:
- 6           (A) Establishing nursing diagnoses;
- 7           (B) Setting goals to meet identified health care needs; and
- 8           (C) Prescribing nursing interventions.
- 9           (4) Implementing nursing care through the execution of independent nursing strategies,  
10 and the provision of regimens requested, ordered, or prescribed by authorized health care  
11 providers;
- 12           (5) Evaluating responses to interventions and the effectiveness of the plan of care;
- 13           (6) Designing and implementing teaching plans based on patient needs;
- 14           (7) Delegating and assigning nursing interventions to implement the plan of care;
- 15           (8) Providing for the maintenance of safe and effective nursing care rendered directly or  
16 indirectly;
- 17           (9) Advocating the best interest of patients;
- 18           (10) Communicating and collaborating with other health care providers in the management  
19 of health care and the implementation of the total health care regimen within and across care  
20 settings;
- 21           (11) Managing, supervising, and evaluating the practice of nursing;
- 22           (12) Teaching the theory and practice of nursing;

23 (13) Participating in development of health care policies, procedures, and systems;

24 (14) Performing other acts for which a registered professional nurse is educated and  
25 trained, consistent with professional standards.

**§30-7-11a. Voluntary agreements relating to alcohol or chemical dependency;  
confidentiality.**

1 [Repealed]

**§30-7-12. License to practice advanced practice registered nursing.**

1 (a) The board shall issue an advanced practice registered nurse license to an applicant  
2 who meets the following requirements:

3 (1) Is at least 18 years of age;

4 (2) Is of good moral character;

5 (3) Has satisfactorily completed a graduate program accredited by a national accreditation  
6 body that is acceptable to the board;

7 (4) Is currently certified by a national certification organization, approved by the board, in  
8 one or more of the following nationally recognized advance practice registered nursing roles:  
9 certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist, or certified  
10 nurse practitioner;

11 (5) Has paid the application fee specified by legislative rule; and

12 (6) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code,  
13 unless an applicant in an active recovery process, which may, in the discretion of the board, be  
14 evidenced by participation in a Nurse Health Program, structured aftercare, or a twelve-step  
15 program or other similar group or process, may be considered.

16 (b) An advanced practice registered nurse license issued by the board and in good  
17 standing on the effective date of the amendments to this section shall for all purposes be  
18 considered an advanced practice registered nurse license issued under this section: *Provided,*  
19 That a person holding an advanced practice registered nurse license shall renew the license.

**§30-7-13. Scope of practice for an advanced practice registered nurse.**

1 In addition to the scope of practice set forth in §30-7-11 of this code, the practice of  
2 advanced practice registered nursing includes the following:

3 (1) Conducting an advanced assessment;

4 (2) Ordering and interpreting diagnostic procedures;

5 (3) Establishing primary and differential diagnoses;

6 (4) Prescribing, ordering, administering, dispensing, and furnishing therapeutic measures  
7 as set forth in §30-7-15 of this code;

8 (5) Delegating and assigning therapeutic measures to assistive personnel standards;

9 (6) Consulting with other disciplines and providing referrals to health care agencies, health  
10 care providers, and community resources; and

11 (7) Performing other acts for which an advanced practice registered nurse is educated  
12 and trained, consistent with professional standards.

**§30-7-14. Administration of anesthetics.**

1 In any case where it is lawful for a licensed physician or dentist practicing medicine or  
2 dentistry under the laws of this state to administer anesthetics, the anesthetics may lawfully be  
3 given and administered by a person (a) who has been licensed to practice registered professional  
4 nursing under this article, and (b) who holds a diploma or certificate evidencing his or her  
5 successful completion of the educational program of a school of anesthesia accredited by the  
6 Council on Accreditation of Nurse Anesthesia Educational Programs: *Provided*, That the  
7 anesthesia is administered by the person in the presence and under the supervision of the  
8 physician or dentist.

**§30-7-15. Prescriptive authority for prescription drugs.**

1 (a) The board may authorize an advanced practice registered nurse to prescribe  
2 prescription drugs in accordance with this article and all other applicable state and federal laws.

3 An authorized advanced practice registered nurse may write or sign prescriptions or transmit  
4 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. The rules shall provide, at a minimum, a state formulary classifying those  
8 categories of drugs which shall not be prescribed by an advanced practice registered nurse  
9 including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act,  
10 antineoplastics, radiopharmaceuticals, and general anesthetics. Drugs listed under Schedule III  
11 shall be limited to a 30-day supply without refill. In addition to the above referenced provisions  
12 and restrictions and pursuant to a collaborative agreement as set forth in §30-7-16 of this code,  
13 the rules shall permit the prescribing of an annual supply of any drug, with the exception of  
14 controlled substances, which is prescribed for the treatment of a chronic condition, other than  
15 chronic pain management. For the purposes of this section, a “chronic condition” is a condition  
16 which lasts three months or more, generally cannot be prevented by vaccines, can be controlled  
17 but not cured by medication, and does not generally disappear. These conditions, with the  
18 exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease,  
19 cancer, diabetes, epilepsy and seizures, and obesity. The prescriber authorized in this section  
20 shall note on the prescription the chronic disease being treated.

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

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

**§30-7-15a. Prescriptive authority for prescription drugs; coordination with Board of  
Pharmacy; rule-making authority.**

1 [Repealed]

**§30-7-15b. Eligibility for prescriptive authority; application; fee; collaborative relationships and agreements.**

1 [Repealed]

**§30-7-15c. Form of prescriptions; termination of authority; renewal; notification of termination of authority.**

1 [Repealed]

**§30-7-15d. Advanced practice registered nurse signatory authority.**

1 [Repealed]

**§30-7-15e. Joint Advisory Council on Limited Prescriptive Authority.**

1 [Repealed]

**§30-7-16. Eligibility for prescriptive authority and collaborative relationships.**

1 (a) To be eligible to apply for authorization to prescribe drugs pursuant to §30-7-15 of this  
2 code, an applicant:

3 (1) Shall be licensed in West Virginia as an advanced practice registered nurse;

4 (2) Shall be at least 18 years of age;

5 (3) Shall have completed 45 contact hours of education in pharmacology and clinical  
6 management of drug therapy under a program approved by the board; 15 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) Shall provide the board with evidence that he or she is a person of good moral  
10 character and not addicted to alcohol or the use of controlled substances;

11 (5) May not have his or her practice authorization in any jurisdiction suspended, limited,  
12 or revoked; and

13 (6) Shall submit a completed 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, in accordance with §30-7-15 of this code and applicable legislative  
17 rules if the applicant has met the prerequisites of subsection (a) of this section and the following  
18 additional 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 §30-7-15 of this code without the further  
39 requirement of a 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) Is 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.

**§30-7-17. Form of prescriptions; termination of authority; renewal; notification of  
termination of authority.**

1 (a) Prescriptions authorized by an advanced practice registered nurse shall:

2 (1) Comply with all applicable state and federal laws;

3 (2) Be signed by the prescriber with the initials "A.P.R.N." or the designated certification  
4 title of the prescriber; and

5 (3) Include the prescriber's identification number assigned by the board or the prescriber's  
6 national provider identifier assigned by the National Provider System pursuant to 45 C. F. R.  
7 §162.408.

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

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

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

13 (3) Not filed verification of a collaborative agreement with the board if such an agreement  
14 is required.

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

18 (d) The board shall notify the Board of Pharmacy within 24 hours after termination of, or  
19 change in, an advanced practice registered nurse's prescriptive authority.

**§30-7-18. 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 his  
3 or her 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.

**§30-7-19. Joint Advisory Council on Limited Prescriptive Authority.**

1 (a) There is continued the Joint Advisory Council on Limited Prescriptive Authority. The  
2 purpose of the council 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 as recommended by the Board of Osteopathic Medicine  
8 who are in a collaborative relationship with advanced practice registered nurses;

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

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

14           (5) One consumer representative; and

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

16           (c) Members of the council who are healthcare providers shall have at least three years  
17 full-time practice experience and hold active state licenses.

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

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

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

26           (g) The council may perform the following duties:

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

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

32           (3) Advise the board in emergency situations of a rescinded collaborative agreement,  
33 giving a 60-day grace period;

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

- 35 (5) Review and advise on complaints against advanced practice registered nurses;  
36 (6) Develop pilot projects allowing independent prescribing of controlled substances by  
37 advanced practice registered nurses, and study results to assure patient/public safety;  
38 (7) Develop other studies and/or pilot projects, including, but not limited to:  
39 (A) Issues of access, outcomes, and cost effectiveness of services;  
40 (B) The development of recommendations for reciprocity;  
41 (C) The optimal length of time for transition into independent prescribing; and  
42 (D) Methods to foster effective inter-professional communication.

**§30-7-20. Exceptions.**

- 1 This article may not be construed to prohibit:  
2 (1) The furnishing of nursing assistance in an emergency;  
3 (2) The practice of nursing incidental to a program of study by students enrolled in a  
4 nursing education program approved by the board;  
5 (3) Caring for the sick when done in connection with the practice of religious tenets of any  
6 church and by and for its members.  
7 (4) The practice of any legally qualified nurse of another state who is employed by the  
8 United States or any bureau, division, or agency thereof, while in the discharge of his or her official  
9 duties; or  
10 (5) A licensed practical nurse, licensed registered professional nurse, or licensed  
11 advanced practice registered nurse, who accompanies a patient to whom he or she administers  
12 practical nursing, registered professional nursing, or advanced practice registered nursing while  
13 the patient is in transit or being transported into, out of, or through this state. The board may set  
14 forth additional requirements for this exemption by legislative rule.

**§30-7-21. Temporary permits.**

- 1 A temporary permit authorizes the holder to practice practical nursing, registered  
2 professional nursing, or advanced practice registered nursing, in this state while the temporary

3 permit is effective. A temporary permit is effective for 90 days, unless the board revokes the permit  
4 prior to its expiration, and the permit may not be renewed. An applicant for a temporary permit  
5 shall make an application on a form prescribed by the board and pay a nonrefundable fee as  
6 prescribe by legislative rule.

**§30-7-22. Schools of nursing.**

1 (a) A nursing program approved by the boards before January 1, 2018, is determined to  
2 meet all of the criteria as established by the Department of Education, the Higher Education Policy  
3 Commission or the Council for Community and Technical Colleges and shall continue to be  
4 approved to operate in this state.

5 (b) On July 1, 2018, the initial approval of nursing programs is transferred to the  
6 appropriate educational regulating entity either the Department of Education, the Higher  
7 Education Policy Commission, or the Council for Community and Technical Colleges. A program  
8 approved by the Department of Education, the Higher Education Policy Commission, or the  
9 Council for Community and Technical Colleges is approved by the Board of Nursing.

10 (c) By July 1, 2022, a nursing program shall be accredited by an accrediting agency  
11 recognized by the United States Department of Education. A program created after the July 1,  
12 2018, shall have 5 years to obtain accreditation by an accrediting agency recognized by the United  
13 States Department of Education.

14 (d) The board may require information concerning the nursing program to be reported to  
15 the board by legislative rule. The requested information shall be consistent with information  
16 already being collected by the schools which is required to maintain the program's accreditation.

17 (e) Upon advice of national nursing accreditors, the Department of Education, the Higher  
18 Education Policy Commission, or the Council for Community and Technical Colleges may close  
19 a program. The board, the Department of Education, the Higher Education Policy Commission,  
20 or the Council for Community and Technical Colleges shall assist students to transition to a new  
21 nursing program, if a nursing program is closed.

**§30-7-23. Voluntary agreements relating to alcohol or chemical dependency; confidentiality.**

1       (a) A licensee or applicant may enter into a voluntary agreement with a nurse health  
2 program. The agreement between the licensee or applicant and the nurse health program shall  
3 include a jointly agreed upon treatment program and mandatory conditions and procedures to  
4 monitor compliance with the program of recovery.

5       (b) A voluntary agreement entered into pursuant to this section is not a disciplinary action  
6 or order by the board and may not be disclosed to the board and is not public information if:

7       (1) The voluntary agreement is the result of the licensee or applicant self-enrolling or  
8 voluntarily participating in the board-designated nurse health program;

9       (2) The board has not received nor filed a written complaint regarding the licensee or  
10 applicant relating to an alcohol, chemical dependency, or major mental illness affecting the care  
11 and treatment of patients; and

12       (3) The licensee or applicant is in compliance with the voluntary treatment program and  
13 the conditions and procedures to monitor compliance.

14       (c) If a licensee or applicant enters into a voluntary agreement with a nurse health program  
15 and then fails to comply with or fulfill the terms of said agreement, the nurse health program shall  
16 report the noncompliance to the board within 24 hours. The board may initiate disciplinary  
17 proceedings pursuant to §30-7-24 of this code or may permit continued participation in the nurse  
18 health program or both.

19       (d) If the board has not instituted a disciplinary proceeding as provided for in this article,  
20 the information received, maintained, or developed by the board relating to the alcohol or chemical  
21 dependency impairment of a licensee or applicant and a voluntary agreement made pursuant to  
22 this section shall be confidential and not available for public information, discovery, or court  
23 subpoena, nor for introduction into evidence in a medical professional liability action or other  
24 action for damages arising out of the provision of or failure to provide health care services.

25 (e) Notwithstanding any of the foregoing provisions, the board may cooperate with and  
26 provide documentation of a voluntary agreement entered into pursuant to this section to licensing  
27 boards in other jurisdictions of which the board has become aware and may be appropriate.

28 (f) A licensee is not entitled to the creation or designation of a nurse health program for  
29 any individual qualifying illness or group of qualifying illnesses.

**§30-7-24. License renewal.**

1 (a) Persons regulated by this article shall annually or biennially, renew his or her board  
2 authorization 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 board authorization and shall charge  
5 a late fee for any renewal not paid by the due date.

6 (c) The board shall require as a condition of renewal that each licensee or permittee  
7 complete continuing education.

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

**§30-7-25. Special volunteer nurse; civil immunity for voluntary services rendered to**  
**indigents.**

1 (a) There is continued a special volunteer licensed practical nurse, registered professional  
2 nurse, and advanced practice nurse who has retired from the active practice of practical nursing,  
3 registered professional nursing, or an advanced practice nursing and want to donate their  
4 expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics  
5 organized, in whole or in part, for the delivery of health care services without charge. The special  
6 volunteer to a licensee under this article and the legislative rules promulgated hereunder without  
7 the payment of an application fee, license fee, or renewal fee, shall be issued for the remainder  
8 of the licensing period, and renewed consistent with the board's other licensing requirements. The



9 board shall develop application forms for the special volunteer license provided in this subsection  
10 which shall contain the licensee's acknowledgment that:

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

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

16 (3) The licensee will supply any supporting documentation that the board may reasonably  
17 require.

18 (b) A licensee whose license is in good standing may donate his or her expertise for the  
19 care and treatment of indigent and needy patients pursuant to an arrangement with a clinic  
20 organized, in whole or in part, for the delivery of health care services without charge to the patient.  
21 Services rendered pursuant to an arrangement may be performed in either the licensee's office  
22 or a clinical setting.

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

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

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

42 (e) For purposes of this section, a person otherwise eligible for licensure means the  
43 satisfaction of all the requirements for licensure as listed in §30-7-8, §30-7-10 and §30-7-12 of  
44 this code, and in the legislative rules promulgated thereunder, except the fee requirements of that  
45 section and of the legislative rules promulgated by the board relating to fees.

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

52 (g) Any policy or contract of liability insurance providing coverage for liability sold, issued,  
53 or delivered in this state to a licensee covered under the provisions of this article shall be read so  
54 as to contain a provision or endorsement where the company issuing the policy waives or agrees  
55 not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim  
56 covered by the terms of the policy within the policy limits, the immunity from liability of the insured  
57 by reason of the care and treatment of needy and indigent patients by a registered professional  
58 nurse who holds a special volunteer registered professional nurse license or who renders such

59 care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection  
60 (b) of this section.

**§30-7-26. Reinstatement.**

1 (a) A licensee against whom disciplinary action has been taken under the provisions of  
2 this article shall be afforded an opportunity to demonstrate the qualifications to resume practice.  
3 The application for reinstatement is subject to the procedures specified by legislative rule.

4 (b) A licensee who does not complete a licensure renewal, as specified by the board by  
5 rule, and whose license has lapsed, shall apply for reinstatement as specified by the board by  
6 rule.

7 (c) The board, at its discretion and for cause, may require an applicant for reinstatement  
8 to undergo a physical and/or mental evaluation to determine if a licensee is competent to practice  
9 or if the licensee is impaired by drugs or alcohol.

**§30-7-27. Actions to enjoin violations.**

1 (a) If the board obtains information that any person has engaged in, is engaging in, or is  
2 about to engage in any act which constitutes or will constitute a violation of the provisions of this  
3 article, the rules promulgated pursuant to this article or a final order or decision of the board, it  
4 may issue a notice to the person to cease and desist in engaging in the act and/or apply to the  
5 circuit court in the county of the alleged violation for an order enjoining the act.

6 (b) The circuit court may issue a temporary injunction pending a decision on the merits  
7 and may issue a permanent injunction based on its findings in the case.

8 (c) The judgment of the circuit court on an application permitted by the provisions of this  
9 section is final unless reversed, vacated, or modified on appeal to the West Virginia Supreme  
10 Court of Appeals.

**§30-7-28. Complaints; investigations; due process procedure; grounds for disciplinary**  
**action.**

1 (a) The board may initiate a complaint upon receipt of credible information and shall, upon  
2 the receipt of a written complaint of any person, cause an investigation to be made to determine

3 whether grounds exist for disciplinary action under this article or the legislative rules promulgated  
4 pursuant to this article.

5 (b) After reviewing any information obtained through an investigation, the board shall  
6 determine if probable cause exists that the licensee or permittee has violated subsection (g) of  
7 this section or rules promulgated pursuant to this article.

8 (c) Upon a finding of probable cause to go forward with a complaint, the board shall provide  
9 a copy of the complaint to the licensee or permittee.

10 (d) Upon a finding that probable cause exists that the licensee permittee has violated  
11 subsection (g) of this section or rules promulgated pursuant to this article, the board may enter  
12 into a consent decree or hold a hearing for disciplinary action against the licensee or permittee.  
13 Any hearing shall be held in accordance with the provisions of this article and shall require a  
14 violation to be proven by a preponderance of the evidence.

15 (e) A member of the discipline review committee or the executive director of the board  
16 may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in  
17 the investigation of allegations against any person regulated by the article.

18 (f) Any member of the board or its executive director may sign a consent decree or other  
19 legal document on behalf of the board.

20 (g) The board may, after notice and opportunity for hearing, deny or refuse to renew,  
21 suspend, restrict, or revoke the license or permit of, or impose probationary conditions upon, or  
22 take disciplinary action against, any licensee or permittee for any of the following reasons:

23 (1) Obtaining a board authorization by fraud, misrepresentation, or concealment of  
24 material facts;

25 (2) Being convicted of a felony or a misdemeanor crime of moral turpitude;

26 (3) Being guilty of unprofessional conduct which placed the public at risk, as defined by  
27 legislative rule of the board;

28 (4) Intentional violation of a lawful order or legislative rule of the board;

29           (5) Having had a board authorization revoked or suspended, other disciplinary action  
30 taken, or an application for a board authorization denied by the proper authorities of another  
31 jurisdiction;

32           (6) Aiding or abetting unlicensed practice;

33           (7) Engaging in an act while acting in a professional capacity which has endangered or is  
34 likely to endanger the health, welfare, or safety of the public;

35           (8) Having an incapacity that prevents a licensee from engaging in the practice of practical  
36 nursing, registered professional nursing, or advanced practice registered nursing, with reasonable  
37 skill, competence, and safety to the public;

38           (9) Committing fraud in connection with the practice of practical nursing, registered  
39 professional nursing or advanced practice registered nursing;

40           (10) Failing to report to the board of one's surrender of a license or authorization to practice  
41 of practical nursing, registered professional nursing, or advanced practice registered nursing in  
42 another jurisdiction while under disciplinary investigation by any of those authorities or bodies for  
43 conduct that would constitute grounds for action as defined in this section;

44           (11) Failing to report to the board any adverse judgment, settlement, or award arising from  
45 a malpractice claim arising related to conduct that would constitute grounds for action as defined  
46 in this section;

47           (12) Being guilty of unprofessional conduct as contained in the American Nurses  
48 Association principles of ethics and code of professional conduct. The following acts are  
49 conclusively presumed to be unprofessional conduct:

50           (A) Being guilty of any fraud or deception;

51           (B) Committing a criminal operation or being convicted of a crime involving moral turpitude;

52           (C) Abusing alcohol or drugs;

53           (D) Violating any professional confidence or disclosing any professional secret;

54           (E) Being grossly immoral;

55 (F) Harassing, abusing, intimidating, insulting, degrading, or humiliating a patient  
56 physically, verbally, or through another form of communication;

57 (G) Obtaining any fee by fraud or misrepresentation;

58 (H) Engaging in any action or conduct which would have warranted the denial of the  
59 license.

60 (13) Knowing or suspecting that a licensee is incapable of engaging in the practice of  
61 practical nursing, registered professional nursing, or advanced practice registered nursing, with  
62 reasonable skill, competence, and safety to the public, and failing to report any relevant  
63 information to the board;

64 (14) Using or disclosing protected health information in an unauthorized or unlawful  
65 manner;

66 (15) Engaging in any conduct that subverts or attempts to subvert any licensing  
67 examination or the administration of any licensing examination;

68 (16) Failing to furnish to the board or its representatives any information legally requested  
69 by the board or failing to cooperate with or engaging in any conduct which obstructs an  
70 investigation being conducted by the board;

71 (17) Failing to report to the board any driving under the influence and/or driving while  
72 intoxicated offense; or

73 (18) Violating any of the terms or conditions of any order entered in any disciplinary action.

74 (h) For the purposes of subsection (g) of this section, effective July 1, 2018, disciplinary  
75 action may include:

76 (1) Reprimand;

77 (2) Probation;

78 (3) Restrictions;

79 (4) Suspension;

80 (5) Revocation;

- 81 (6) Administrative fine, not to exceed \$1,000 per day per violation;
- 82 (7) Mandatory attendance at continuing education seminars or other training;
- 83 (8) Practicing under supervision or other restriction; or
- 84 (9) Requiring the licensee or permittee to report to the board for periodic interviews for a
- 85 specified period.

86 (i) In addition to any other sanction imposed, the board may require a licensee or permittee  
87 to pay the costs of the proceeding.

88 (j) A person authorized to practice under this article who reports or otherwise provides  
89 evidence of the negligence, impairment, or incompetence of another member of this profession  
90 to the board or to any peer review organization is not liable to any person for making the report if  
91 the report is made without actual malice and in the reasonable belief that the report is warranted  
92 by the facts known to him or her at the time.

**§30-7-29. Procedures for hearing; right of appeal.**

- 1 (a) Hearings are governed by provisions in §30-1-8 of this code.
- 2 (b) The board may conduct the hearing or elect to have an administrative law judge  
3 conduct the hearing.
- 4 (c) If the hearing is conducted by an administrative law judge, at the conclusion of a  
5 hearing he or she shall prepare a proposed written order containing findings of fact and  
6 conclusions of law. The proposed order may contain proposed disciplinary actions if the board  
7 so directs. The board may accept, reject, or modify the decision of the administrative law judge.
- 8 (d) Any member or the executive director of the board has the authority to administer oaths  
9 and examine any person under oath.
- 10 (e) If, after a hearing, the board determines the licensee or permittee has violated  
11 provisions of this article or the board's rules, a formal written decision shall be prepared which  
12 contains findings of fact, conclusions of law, and a specific description of the disciplinary actions  
13 imposed.

**§30-7-30. Judicial review.**

1 A person adversely affected by a decision of the board denying an application, or entered  
2 after a hearing, may obtain judicial review of the decision in accordance with §29A-5-4 of this  
3 code and may appeal any ruling resulting from judicial review in accordance with §29A-6-1 et seq.  
4 of this code.

**§30-7-31. Criminal offenses.**

1 (a) When, as a result of an investigation under this article or otherwise, the board has  
2 reason to believe that a person authorized under this article has committed a criminal offense  
3 under this article, the board may bring its information to the attention of an appropriate law-  
4 enforcement official.

5 (b) Any person who intentionally practices, or holds himself or herself out as qualified to  
6 practice registered nursing or advanced practice registered nursing, or uses any title, word, or  
7 abbreviation to indicate to or induce others to believe he or she is licensed to practice as a  
8 registered professional nurse or advanced practice registered nurse without obtaining an active,  
9 valid West Virginia license to practice that profession or with a license that is:

10 (1) Expired, suspended, or lapsed; or

11 (2) Inactive, revoked, suspended as a result of disciplinary action, or surrendered, is guilty  
12 of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000.

**§30-7-32. Single act evidence of practice.**

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

**§30-7-33. Transition period.**

1 The West Virginia Board of Nursing has one year to transition from the Board of Examiners  
2 for Registered Nursing and the Board of Examiners for Practical Nursing.

**ARTICLE 7A. PRACTICAL NURSES.**



**§30-7A-1. Termination of the Board of Examiners for Licensed Practical Nurses; transfer of fund; transfer of legislative rules to the West Virginia Board of Nurses.**

1        (a) The Board of Examiners for Licensed Practical Nurses shall terminate July 1, 2018.  
2        On that date, all moneys, employees, and assets of the Board of Examiners for Licensed Practical  
3        Nurses are transferred to the West Virginia Board of Nurses, pursuant to the provisions of §30-7-  
4        1 et seq. of this code.

5        (b) The special revenue fund as expended by the Board of Examiners for Licensed  
6        Practical Nurses pursuant to the authority granted under previous enactments of this article shall  
7        expire July 1, 2018, and all such remaining funds shall transfer to the special revenue account  
8        which shall be created in the State Treasury on July 1, 2018 and shall be known as the “West  
9        Virginia Board of Nurses Fund” pursuant to the provisions of §30-7-1 et seq. of this code.

10       (c) The Board of Examiners for Licensed Practical Nurses rules in effect and not in conflict  
11       with §30-7-1 et seq. of this code shall remain in effect until they are amended, replaced, or  
12       rescinded by the West Virginia Board of Nurses.

**ARTICLE 7A. PRACTICAL NURSES.**

**§30-7A-2. Use of titles.**

1        [Repealed]

**§30-7A-3. Qualifications of applicants for license.**

1        [Repealed]

**§30-7A-4. Application for license or registration; examination fee.**

1        [Repealed]

**§30-7A-5. Board of Examiners; powers; duties.**

1        [Repealed]

**§30-7A-6. Examination and licensure of practical nurses; present practitioners.**

1        [Repealed]

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

1 [Repealed]

**§30-7A-7. Renewal or reinstatement of license.**

1 [Repealed]

**§30-7A-7a. Supplemental fees to fund center for nursing; emergency rules.**

1 [Repealed]

**§30-7A-8. Schools of practical nursing.**

1 [Repealed]

**§30-7A-9. Construction of article; acts not prohibited.**

1 [Repealed]

**§30-7A-10. Disciplinary proceeding; grounds for discipline.**

1 [Repealed]

**§30-7A-11. Prohibited acts; penalties.**

1 [Repealed]

**ARTICLE 7B. CENTER FOR NURSING.**

**§30-7B-4. 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) ~~Two~~ Three representatives from the ~~West Virginia Board of Examiners for Registered~~  
4 ~~Professional Nurses~~ West Virginia Board of Nurses, as follows:

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

6 (B) One representing an associate degree program;

7 ~~(2) (C) One representative from the West Virginia Board of Examiners for Licensed~~  
8 ~~Practical Nurses~~ One licensed practical nurse;

9 ~~(3) (2)~~ (2) One representative from the West Virginia Nurses Association;

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

## **ARTICLE 7C. DIALYSIS TECHNICIANS.**

### **§30-7C-1. Definitions.**

1           As used in this article:

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

5 (2) "Board" means the ~~West Virginia Board of Examiners for Registered Professional~~  
6 ~~Nurses~~ West Virginia Board of Nurses.

7 (3) "Dialysis care" means performing and monitoring dialysis procedures which includes  
8 initiating and discontinuing dialysis, drawing blood, and administering medications authorized  
9 under section seven of this article.

10 (4) "Dialysis technician trainee" means an individual enrolled in an approved dialysis  
11 technician program.

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

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

16 (7) "West Virginia dialysis technician or dialysis technician" means an individual certified  
17 by the board who has successfully completed an approved dialysis technician training program  
18 and who has achieved national certification as a dialysis technician, or an individual who meets  
19 the requirements set forth in subsection (b), section three of this article.

**§30-7C-7. Powers and duties of Board; rule-making authority.**

1 (a) The Board may:

2 (1) Adopt and amend rules consistent with this article necessary to enable it to carry into  
3 effect the provisions of this article, including disciplinary rules;

4 (2) Prescribe standards for preparing individuals for the role of dialysis technician under  
5 this article;

6 (3) Provide for standards for approved dialysis technician training programs;

7 (4) Accredite educational programs for the preparation of dialysis technicians that meet the  
8 requirements of this article;

9 (5) Provide surveys of educational programs when the board considers it necessary;

10 (6) Approve, reapprove, and prescribe standards for testing organizations and the tests  
11 offered by organizations for dialysis technicians;

12 (7) Deny or withdraw approval of testing organizations;

13 (8) Prescribe standards for dialysis technician trainees;

14 (9) Issue, renew, or revoke temporary permits, endorsements and certifications for dialysis  
15 technicians;

16 (10) Deny or withdraw accreditation of approved dialysis technician training programs for  
17 failure to meet or maintain prescribed standards required by this article and by the board;

18 (11) Conduct hearings upon charges calling for discipline of a dialysis technician;

19 (12) Keep a record of all proceedings of the board; and

20 (13) Further regulate, as necessary, dialysis technicians: *Provided*, That the board is not  
21 authorized to establish staffing ratios.

22 (b) The Board shall propose rules for legislative approval in accordance with the provisions  
23 of article three, chapter twenty-nine-a of the code to:

24 (1) Prescribe standards for training programs;

25 (2) Prescribe testing standards and requirements;

26 (3) Prescribe requirements for persons and organizations providing training programs and  
27 testing services;

28 (4) Assess fees for the certification of dialysis technicians, approval of training programs,  
29 tests and providers of training programs and testing services, and other services performed by  
30 the board; and

31 (5) Provide for any other requirements necessary to carry out the purposes of this article.

32 (c) The Board may promulgate emergency rules pursuant to the provisions of section  
33 fifteen, article three, chapter twenty-nine-a of this code for the purposes set forth in this section.

34 Notwithstanding the provisions of §29A-3-15 of this code to the contrary, the legislative rule  
35 proposed by the ~~board of Registered Professional Nurses~~ West Virginia Board of Nurses entitled

36 “Dialysis Technicians”, [19CSR13] and authorized as an emergency rule by the Secretary of State  
37 on August 5, 2005, shall continue in full force and effect as an emergency rule until July 1, 2007,  
38 unless disapproved or authorized as a legislative rule, or otherwise amended by an Act of the  
39 Legislature.

**ARTICLE 7D. MEDICATION ASSISTIVE PERSONS.**

**§30-7D-1. Pilot program.**

1 [Repealed]

**§30-7D-2. Definitions.**

1 [Repealed]

**§30-7D-3. Certificate required.**

1 [Repealed]

**§30-7D-4. Designated facilities.**

1 [Repealed]

**§30-7D-5. Qualifications.**

1 [Repealed]

**§30-7D-6. Scope of work.**

1 [Repealed]

**§30-7D-7. Renewal of certifications.**

1 [Repealed]

**§30-7D-8. Disciplinary actions.**

1 [Repealed]

**§30-7D-9. Offenses and Penalties.**

1 [Repealed]

**§30-7D-10. Injunction.**

1 [Repealed]

**§30-7D-11. Medication Assistive Person Advisory Committee.**

1 [Repealed]

**§30-7D-12. Applicability of article.**

1 [Repealed]

**§30-7D-13. Rulemaking authority.**

1 [Repealed]

**ARTICLE 7E. NURSE HEALTH PROGRAMS.**

**§30-7E-1. Definitions.**

1 [Repealed]

**§30-7E-2. Nurse health program.**

1 [Repealed]

**§30-7E-3. Discretionary authority of boards to designate programs.**

1 [Repealed]

**ARTICLE 24. QUALIFICATION OF ARMED FORCES HEALTH TECHNICIANS FOR  
CIVILIAN HEALTH OCCUPATIONS.**

**§30-24-2. Qualification for examination for license as a registered professional nurse.**

1 Any person who has served on active duty in the medical corps of any of the Armed Forces  
2 of the United States and who has successfully completed the course of instruction required to  
3 qualify him or her for rating as a medical specialist advanced, medical service technician or  
4 advanced hospital corpsman technician, or other equivalent rating in his or her particular branch  
5 of the Armed Forces, and whose service in the Armed Forces was under honorable conditions,  
6 may submit to the ~~West Virginia board of examiners for registered professional nurses~~ West  
7 Virginia Board of Nurses, a photostatic copy of the certificate issued to him or her certifying  
8 successful completion of such course of instruction, a photostatic copy of his or her discharge  
9 from the Armed Forces, an application for a license as a registered professional nurse and the  
10 prescribed license fee.

11           If the certificate and discharge, as evidenced by the photostatic copies thereof, the  
12 application and prescribed license fee are in order, and if the veteran meets all of the requirements  
13 of article seven of this chapter, except the requirement therein specified requiring an applicant to  
14 have completed an accredited program of registered professional nursing education and to hold  
15 a diploma from a school accredited by such board, the veteran shall be permitted, notwithstanding  
16 any provision of said article seven to the contrary, to take the same examination or examinations  
17 as are required under section six of said article seven for applicants who do not apply for a license  
18 under the provisions of this article twenty-four. If the veteran passes such examination or  
19 examinations, he or she shall be licensed as a registered professional nurse, and such veteran  
20 shall thereafter be subject to all of the provisions of said article seven. If the veteran does not  
21 pass such examination or examinations, the provisions of said article seven relating to  
22 reexaminations shall apply to such veteran the same as they apply to a person who does not  
23 apply for a license under the provisions of this article twenty-four.

**§30-24-3. Qualification for examination for license as a licensed practical nurse.**

1           Any person who has served on active duty in the medical corps of any of the Armed Forces  
2 of the United States and who has successfully completed the course of instruction required to  
3 qualify him or her for rating as a medical specialist advanced, medical service technician,  
4 advanced hospital corpsman technician, medical corpsman, medical service specialist or class A  
5 hospital corpsman, or other equivalent rating in his or her particular branch of the Armed Forces,  
6 and whose service in the Armed Forces was under honorable conditions, may submit to the West  
7 Virginia state board of examiners for licensed practical nurses, a photostatic copy of the certificate  
8 issued to him or her certifying successful completion of such course of instruction, a photostatic  
9 copy of his or her discharge from the Armed Forces, an application for license as a licensed  
10 practical nurse and the prescribed fee.

11           If the certificate and discharge, as evidenced by the photostatic copies thereof, the  
12 application and prescribed fee are in order, and if the veteran meets all of the requirements of



13 article ~~seven-a~~ seven of this chapter, except the requirements therein specified requiring an  
14 applicant to have completed a course of study in an accredited school for practical nurses as  
15 defined by such board, to hold a diploma therefrom and to have completed such other general  
16 educational requirements as may be prescribed by such board, the veteran shall be permitted,  
17 notwithstanding any provision of said article ~~seven-a~~ seven to the contrary, to take the same  
18 examination or examinations as are required under section six of said article seven-a for  
19 applicants who do not apply for a license under the provisions of this article twenty-four. If the  
20 veteran passes such examination or examinations, he or she shall be licensed as a licensed  
21 practical nurse, and such veteran shall thereafter be subject to all of the provisions of said article  
22 seven-a. If the veteran does not pass such examination or examinations, the provisions of said  
23 article ~~seven-a~~ seven relating to reexaminations (by cross reference to section six, article one of  
24 this chapter) shall apply to such veteran the same as they apply to a person who does not apply  
25 for a license under the provisions of this article twenty-four.

## **CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.**

### **ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.**

#### **§60A-9-5a. Practitioner requirements to access database and conduct annual search of the database; required rulemaking.**

1 (a) All practitioners, as that term is defined in section one hundred one, article two of this  
2 chapter who prescribe or dispense Schedule II, III, or IV controlled substances shall register with  
3 the West Virginia Controlled Substances Monitoring Program and obtain and maintain online or  
4 other electronic access to the program database: *Provided*, That compliance with the provisions  
5 of this subsection must be accomplished within thirty days of the practitioner obtaining a new  
6 license: *Provided, however*, That the Board of Pharmacy may renew a practitioner's license  
7 without proof that the practitioner meet the requirements of this subsection.

8 (b) Upon initially prescribing or dispensing any pain-relieving controlled substance for a  
9 patient for whom they are providing pain-relieving controlled substances as part of a course of

10 treatment for chronic, nonmalignant pain but who are not suffering from a terminal illness and at  
11 least annually thereafter should the practitioner or dispenser continue to treat the patient with  
12 controlled substances, all persons with prescriptive or dispensing authority and in possession of  
13 a valid Drug Enforcement Administration registration identification number and, who are licensed  
14 by the Board of Medicine as set forth in §30-3-1 *et seq.* of this code, the ~~Board of Registered~~  
15 ~~Professional Nurses~~ West Virginia Board of Nurses as set forth in article seven of said chapter,  
16 the Board of Dental Examiners as set forth in article four of said chapter and the Board of  
17 Osteopathic Medicine as set forth in article fourteen of said chapter shall access the West Virginia  
18 Controlled Substances Monitoring Program database for information regarding specific patients.  
19 The information obtained from accessing the West Virginia Controlled Substances Monitoring  
20 Program database for the patient shall be documented in the patient's medical record maintained  
21 by a private prescriber or any inpatient facility licensed pursuant to the provisions of chapter  
22 sixteen of this code. A pain-relieving controlled substance shall be defined as set forth in §30-3A-  
23 1 of this code.

24 (c) The various boards mentioned in subsection (b) of this section shall promulgate both  
25 emergency and legislative rules pursuant to the provisions of §29A-3-1 *et seq.* of this code to  
26 effectuate the provisions of this section.

NOTE: The purpose of this bill is to combine the Board of Examiners for Licensed Practical Nurses and West Virginia Board of Examiners for Registered Professional Nurses into a new Board of Nurses.

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

§30-7-1 *et seq.* has been rewritten; therefore, it has been completely underscored.