

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2486

BY DELEGATE SHOTT, FOSTER, KESSINGER AND PUSHKIN

[Introduced January 17, 2019; Referred to the

Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §30-1-22; and to amend and reenact §30-5-11, §30-5-11a, §30-10-8, §30-10-
3 10, §30-13A-9, §30-13A-12, §30-14-11, §30-20-8, §30-20-10, §30-20A-5, §30-21-7, §30-
4 22-10, §30-23-9, §30-23-15, §30-23-17, §30-23-20, §30-25-8, §30-26-5, §30-26-13, §30-
5 30-8, §30-30-10, §30-30-12, §30-30-14, §30-30-26, §30-31-8, §30-31-9, §30-38-12 and
6 §30-39-6 of said code, all relating to using records of criminal conviction to disqualify a
7 person from receiving a license for a profession or occupation; requiring criminal offenses
8 that can be used as a basis for disqualifying a person from initially applying for a license,
9 certification or registration to bear a rational nexus to the occupation requiring licensure,
10 limiting the time of disqualification for criminal offense; providing exceptions; providing
11 petition process for individual with a criminal record to obtain determination of effect of a
12 criminal record on ability to obtain a license; and requiring boards and licensing authorities
13 to update legislative rules.

Be it enacted by the Legislature of West Virginia:

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

§30-1-22. Use of criminal records as disqualification of authorization to practice.

1 Notwithstanding any other provision of this chapter to the contrary, except for the
2 professions and occupations in articles two, eighteen and twenty-nine of this chapter and in order
3 to conform with or remain in compliance with model acts:

4 (a) Boards or licensing authorities referred to in this chapter may not disqualify an applicant
5 for initial licensure, certification or registration because of a prior criminal conviction that has not
6 been reversed unless that conviction is for a crime that bears a rational nexus to the occupation
7 requiring licensure.

8 (b) Because the term “moral turpitude” is vague and subject to inconsistent applications,
9 boards or licensing authorities referred to in this chapter when making licensure, certification or
10 registration determination may not rely upon the description of a crime as one of “moral turpitude”
11 unless the underlying crime bears a rational nexus to the occupation requiring licensure.

12 (c) If an applicant is disqualified for licensure, certification or registration because of a
13 criminal conviction that has not been reversed, the board or licensing authority shall afford the
14 applicant the opportunity to reapply for licensure, certification or registration after the expiration
15 of five years from the date of conviction or date of release from the penalty that was imposed,
16 whichever is later, if the individual has not been convicted of any other crime during that period of
17 time: *Provided*, That convictions for violent or sexual offenses or offenses shall subject an
18 individual to a longer period of disqualification, to be determined by the individual board or
19 licensing authority.

20 (d) An individual with a criminal record who has not previously applied for licensure,
21 certification or registration may petition a board at any time for a determination of whether the
22 individual’s criminal record will disqualify the individual from obtaining a license or other
23 authorization to practice. This petition shall include sufficient details about the individual’s criminal
24 record to enable the licensing authority to identify the jurisdiction where the conviction occurred,
25 the date of the conviction and the specific nature of the conviction. The licensing authority shall
26 inform the individual of his or her standing within 60 days of receiving the petition from the
27 applicant. The licensing authority may charge a fee to recoup its costs for each petition.

28 (e) Nothing in this section alters the standards and procedures each licensing authority
29 uses for evaluating licensure renewals.

30 (f) Every board shall propose rules or amendments to existing rules for legislative approval
31 to comply with the provisions of this section. These rules or amendments to rules shall be
32 proposed pursuant to the provisions of §29A-3-1 *et seq.* of this code within the applicable time
33 limit to be considered by the Legislature during its regular session in the year 2020.

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS
AND PHARMACIES.**

§30-5-11. Registration of pharmacy technicians.

1 (a) To be eligible for registration as a pharmacy technician to assist in the practice of
2 pharmacist care, the applicant shall:

3 (1) Submit a written application to the board;

4 (2) Pay the applicable fees;

5 (3) Have graduated from high school or obtained a Certificate of General Educational
6 Development (GED) or equivalent;

7 (4) Have:

8 (A) Graduated from a competency-based pharmacy technician education and training
9 program as approved by legislative rule of the board;

10 (B) Completed a pharmacy-provided, competency-based education and training program
11 approved by the board; or

12 (C) Obtained a national certification as a pharmacy technician and have practiced in
13 another jurisdiction for a period of time as determined by the board.

14 (5) Have successfully passed an examination developed using nationally recognized and
15 validated psychometric and pharmacy practice standards approved by the board;

16 (6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code:
17 *Provided*, That an applicant in an active recovery process, which may, in the discretion of the
18 board, be evidenced by participation in a twelve-step program or other similar group or process,
19 may be considered;

20 (7) Not have been convicted of a felony in any jurisdiction within ten years preceding the
21 date of application for license, which conviction remains unreversed: *Provided, That any*

22 consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-
23 1-22.

24 (8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
25 for which he or she was convicted ~~bearing~~ bears a rational nexus to the practice of pharmacist
26 care, which conviction remains unreversed: Provided, That any consideration of prior criminal
27 convictions shall be governed by the provisions of W.Va. Code §30-1-22; and

28 (9) Have fulfilled any other requirement specified by the board in rule.

29 (b) A person whose license to practice pharmacist care has been denied, revoked,
30 suspended, or restricted for disciplinary purposes in any jurisdiction is not eligible to be registered
31 as a pharmacy technician.

32 (c) A person registered to assist in the practice pharmacist care issued by the board shall
33 for all purposes be considered registered under this article and may renew pursuant to the
34 provisions of this article.

§30-5-11a. Pharmacy technician trainee qualifications.

1 (a) To be eligible for registration as a pharmacy technician trainee to assist in the practice
2 of pharmacist care, the applicant shall:

3 (1) Submit a written application to the board;

4 (2) Pay the applicable fees;

5 (3) (A) Have graduated from a high school or obtained a Certificate of General Educational
6 Development (GED), or

7 (B) Be currently enrolled in a high school competency-based pharmacy technician
8 education and training program;

9 (4) (A) Be currently enrolled in a competency-based pharmacy technician education and
10 training program of a learning institution or training center approved by the board; or

11 (B) Be an employee of a pharmacy in an on-the-job competency-based pharmacy
12 technician training program.

13 (5) Not be an alcohol or drug abuser as these terms are defined in section 11, article one-
14 a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process,
15 which may, in the discretion of the board, be evidenced by participation in a twelve-step program
16 or other similar group or process, may be considered;

17 (6) Not have been convicted of a felony in any jurisdiction within ten years preceding the
18 date of application for registration, which conviction remains unreversed: *Provided, That any*
19 *consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-*
20 *1-22;*

21 (7) Not have been convicted of a misdemeanor or felony in any jurisdiction which bears a
22 rational nexus to the practice of pharmacist care, which conviction remains unreversed: *Provided,*
23 *That any consideration of prior criminal convictions shall be governed by the provisions of W.Va.*
24 *Code §30-1-22; and*

25 (8) Have requested and submitted to the board the results of a fingerprint-based state and
26 a national electronic criminal history records check.

27 (b) The rules, authorized duties and unauthorized prohibitions as set out in section twelve
28 of this article for pharmacy technicians apply to pharmacy technician trainees.

29 (c) The board shall promulgate an emergency rule and legislative rule pursuant article two,
30 chapter twenty-nine-a, to authorize the requirements of this section to permit pharmacy technician
31 trainees.

32 **ARTICLE 10. VETERINARIANS.**

§30-10-8. Requirements for Veterinary License.

1 (a) To be eligible for a license to practice veterinary medicine under the provisions of this
2 article, the applicant must:

3 (1) Be of good moral character;

4 (2) (A) Be a graduate of an accredited school approved by the board; or

5 (B) Be a graduate of a foreign veterinary school and hold a certificate of competence
6 issued by a foreign veterinary graduate educational organization as approved by the board;

7 (3) Have passed the examinations required by the board;

8 (4) Be at least eighteen years of age;

9 (5) Be a citizen of the United States or be eligible for employment in the United States;

10 and

11 ~~(6) Not have been convicted of a crime involving moral turpitude;~~

12 ~~(7) (6)~~ Not have been convicted of a felony under the laws of any jurisdiction within five
13 years preceding the date of application for licensure which conviction remains unreversed:

14 Provided, That any consideration of prior criminal convictions shall be governed by the provisions
15 of W.Va. Code §30-1-22; and

16 ~~(8) (7)~~ Not have been convicted of a misdemeanor or a felony under the laws of any
17 jurisdiction at any time if the offense for which the applicant was convicted related to the practice
18 of veterinary medicine or animal abuse or neglect: Provided, That any consideration of prior
19 criminal convictions shall be governed by the provisions of W.Va. Code §30-1-22.

20 (b) A person seeking a license under the provisions of this article shall submit an
21 application on a form prescribed by the board and pay all applicable fees.

22 (c) An applicant from another jurisdiction shall comply with all the requirements of this
23 article.

24 (d) A license to practice veterinary medicine issued by the board prior to July 1, 2010, shall
25 for all purposes be considered a license issued under this article and may be renewed under this
26 article.

27 (e) An application for a license to practice veterinary medicine submitted to the board prior
28 to July 1, 2010, shall be considered in conformity with the licensing provisions of this article and
29 the rules promulgated thereunder in effect at the time of the submission of the application.

§30-10-10. Requirements for a registered veterinary technician.

1 (a) To be eligible for a registration to practice veterinary technology under the provisions
2 of this article, the applicant must:

3 (1) Be of good moral character;

4 (2) Have a degree in veterinary technology from an accredited school, approved by the
5 board;

6 (3) Have passed the examinations required by the board;

7 (4) Be at least eighteen years of age;

8 (5) Be a citizen of the United States or be eligible for employment in the United States;

9 and

10 ~~(6) Not have been convicted of a crime involving moral turpitude;~~

11 ~~(7)~~ (6) Not have been convicted of a felony under the laws of any jurisdiction within five
12 years preceding the date of application for registration which conviction remains unreversed:

13 Provided, That any consideration of prior criminal convictions shall be governed by the provisions
14 of W.Va. Code §30-1-22; and

15 ~~(8)~~ (7) Not have been convicted of a misdemeanor or a felony under the laws of any
16 jurisdiction at any time if the offense for which the applicant was convicted related to the practice
17 of veterinary technology or animal abuse or neglect: Provided, That any consideration of prior
18 criminal convictions shall be governed by the provisions of W.Va. Code §30-1-22;

19 (b) A person seeking registration under the provisions of this article shall submit an
20 application on a form prescribed by the board and pay all applicable fees.

21 (c) A person registered to practice veterinary technology issued by the board prior to July
22 1, 2010, shall for all purposes be considered registered under this article and may renew pursuant
23 to the provisions of this article.

ARTICLE 13A. LAND SURVEYORS.

§30-13A-9. Surveying license requirements.

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

3 (1) Is of good moral character;

4 (2) Is at least eighteen years of age;

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

6 (4) Holds a high school diploma or its equivalent; and

7 ~~(5) Has not been convicted of a crime involving moral turpitude; and~~

8 ~~(6)~~ (5) Has completed all of one of the education, experience and examination
9 requirements set out in section eight of this article.

10 (b) An application for a surveying license shall be made on forms provided by the board
11 and include the following:

12 (1) Name and address of the applicant;

13 (2) Applicant's education and experience;

14 (3) Location and date of passage of all the examinations;

15 (4) Names of five persons for reference, at least three of whom shall be licensees or
16 persons authorized in another jurisdiction to engage in the practice of surveying, and who have
17 knowledge of the applicant's work; and

18 (5) Any other information the board prescribes.

19 (c) An applicant shall pay all the applicable fees.

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

§30-13A-12. Surveyor intern requirements.

1 (a) To be recognized as a surveyor intern by the board, a person must meet the following
2 requirements:

- 3 (1) Is of good moral character;
- 4 (2) Is at least eighteen years of age;
- 5 (3) Is a citizen of the United States or is eligible for employment in the United States;
- 6 (4) Holds a high school diploma or its equivalent;
- 7 ~~(5) Has not been convicted of a crime involving moral turpitude;~~
- 8 ~~(6)~~ (5) Has completed one of the education requirements set out in section eight of this
- 9 article; and
- 10 ~~(7)~~ (6) Has passed an examination in the fundamentals of land surveying.

11 (b) A surveyor intern must pass the principles and practice of land surveying examination
12 and the West Virginia examination within ten years of passing the fundamentals of land surveying
13 examination. If the examinations are not passed within ten years, then the surveyor intern must
14 retake the fundamentals of land surveying examination.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

- 1 (a) The board may refuse to issue a license, suspend or revoke a license, fine a licensee,
2 order restitution or rehabilitative action by a licensee, or order a combination thereof for any one
3 or more of the following causes:
- 4 (1) Conviction of a felony, as shown by a certified copy of the record of the trial court:
5 *Provided*, That if the conviction is for an offense that involves the transfer, delivery or illicit
6 possession of a prescription drug, then the board shall revoke or refuse to issue the license of the
7 convicted physician or physician's assistant for a period of time until the physician or physician's
8 assistant demonstrates a record of rehabilitation and that he or she has the integrity, moral
9 character, and professional competence to practice in this state;
 - 10 ~~(2) Conviction of a misdemeanor involving moral turpitude;~~

11 ~~(3)~~ (2) Violation of any provision of this article regulating the practice of osteopathic
12 physicians and surgeons;

13 ~~(4)~~ (3) Fraud, misrepresentation or deceit in procuring or attempting to procure admission
14 to practice;

15 ~~(5)~~ (4) Gross malpractice;

16 ~~(6)~~ (5) Advertising by means of knowingly false or deceptive statements;

17 ~~(7)~~ (6) Advertising, practicing or attempting to practice under a name other than one's own;

18 ~~(8)~~ (7) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other
19 habit-forming drugs; or

20 ~~(9)~~ (8) Knowingly failing to report to the board any act of gross misconduct committed by
21 another licensee of the board.

22 (b) The board shall also have the power to suspend or revoke for cause any certificate of
23 authorization issued by it. It shall have the power to reinstate any certificate of authorization
24 suspended or revoked by it.

25 (c) An osteopathic physician licensed under this article may not be disciplined for providing
26 expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-8. License to practice physical therapy.

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

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have graduated from an accredited school of physical therapy approved by the
7 Commission on Accreditation in Physical Therapy Education or a successor organization;

8 (5) Pass a national examination as approved by the board;

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

13 (7) Not have been convicted of a felony in any jurisdiction within ten years preceding the
14 date of application for license which conviction remains unreversed: *Provided, That any*
15 *consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-*
16 *1-22;*

17 (8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
18 for which he or she was convicted related to the practice of physical therapy, which conviction
19 remains unreversed: *Provided, That any consideration of prior criminal convictions shall be*
20 *governed by the provisions of W.Va. Code §30-1-22;* and

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

22 (b) A physical therapist shall use the letters "PT" immediately following his or her name to
23 designate licensure under this article.

24 (c) A license to practice physical therapy issued by the board prior to July 1, 2010, is
25 considered a license issued under this article: *Provided*, That a person holding a license issued
26 prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

§30-20-10. License to act as a physical therapist assistant.

1 (a) To be eligible for a license to act as a physical therapist assistant, the applicant must:

2 (1) Submit an application to the board;

3 (2) Be at least eighteen years of age;

4 (3) Be of good moral character;

5 (4) Have graduated from a two-year college level education program for physical therapist
6 assistants which meets the standards established by the Commission on Accreditation in Physical
7 Therapy Education and the board;

8 (5) Have passed the examination approved by the board for a license to act as a physical
9 therapist assistant;

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

14 (7) Not have been convicted of a felony in any jurisdiction within ten years preceding the
15 date of application for license which conviction remains unreversed: *Provided*, That any
16 consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-
17 1-22;

18 (8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
19 for which he or she was convicted related to the practice of physical therapy, which conviction
20 remains unreversed: *Provided*, That any consideration of prior criminal convictions shall be
21 governed by the provisions of W.Va. Code §30-1-22; and

22 ~~(9)~~ (9) Meet any other requirements established by the board.

23 (b) A physical therapist assistant shall use the letters "PTA" immediately following his or
24 her name to designate licensure under this article.

25 (c) A license to act as a physical therapist assistant issued by the board prior to July 1,
26 2010, is considered a license issued under this article: *Provided*, That a person holding a license
27 issued prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

ARTICLE 20A. ATHLETIC TRAINERS.

§30-20A-5. Requirements for registration.

1 (a) To be eligible for registration by the board as an athletic trainer, an applicant shall:

2 (1) Submit an application in the form prescribed by the board;

3 (2) Submit a current certification from the National Athletic Trainers' Association Board of
4 Certification or successor organization; and

5 (3) Pay the required fee.

6 (b) The board shall issue a registration to an applicant satisfying all the requirements in
7 subsection (a) of this section: *Provided*, That the board may deny an application for registration if
8 the applicant:

9 (1) Has been convicted of a felony ~~or other crime involving moral turpitude~~; *Provided, That*
10 any consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code
11 §30-1-22;

12 (2) Is an alcohol or drug abuser as these terms are defined in section eleven, article one-
13 a, chapter twenty-seven of this code: *Provided*, That the board may take into consideration that
14 an applicant in an active recovery process, which may, in the discretion of the board, be evidenced
15 by participation in a twelve-step program or other similar group or process;

16 (3) Has been convicted of fraudulent, false, misleading or deceptive advertising;

17 (4) Has been convicted for wrongfully prescribing medicines or drugs, or practicing any
18 licensed profession without legal authority;

19 (5) Has had a registration or other authorization revoked, suspended, restricted or other
20 disciplinary action taken by the proper authorities of another jurisdiction;

21 (6) Is incapacitated by a physical or mental disability which is determined by a physician
22 to render further practice by the applicant inconsistent with competency and ethic requirements;

23 or

24 (7) Has been convicted of sexual abuse or sexual misconduct.

25 (c) In determining whether an application should be denied for any of the reasons set forth
26 in subsection (b), the board may consider:

27 (1) How recently the conduct occurred;

28 (2) The nature of the conduct and the context in which it occurred; and

29 (3) Any other relevant conduct of the applicant.

30 (d) A registration issued by the board is valid for two years from the date it was issued.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-7. Qualifications of applicants; exceptions; applications; fee.

1 (a) To be eligible for a license to engage in the practice of psychology, the applicant must:

2 (1) Be at least eighteen years of age;

3 (2) Be of good moral character;

4 (3) Be a holder of a doctor of philosophy degree or its equivalent or a master's degree in
5 psychology from an accredited institution of higher learning, with adequate course study at such
6 institution in psychology, the adequacy of any such course study to be determined by the board;

7 (4) When the degree held is a doctor of philosophy degree or its equivalent, at least one
8 thousand and eight hundred hours must be a predoctoral internship in the performance of any of
9 the psychological services described in subdivision (e), section two of this article, including those
10 activities excluded from the definition of the term "practice of psychology" in said subdivision (e),
11 and, when the degree held is a master's degree, have at least five years' experience subsequent
12 to receiving said degree in the performance of any of the psychological services described in said
13 subdivision (e), including those activities excluded from the definition of the term "practice of
14 psychology" in said subdivision (e);

15 (5) Have passed the examination prescribed by the board, which examination shall cover
16 the basic subject matter of psychology and psychological skills and techniques;

17 (6) Not have been convicted of a felony ~~or crime involving moral turpitude~~: Provided, That
18 any consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code
19 §30-1-22; and

20 (7) Not, within the next preceding six months, have taken and failed to pass the
21 examination required by subdivision (5), subsection (a) of this section.

22 (b) The following persons shall be eligible for a license to engage in the practice of
23 psychology without examination:

24 (1) Any applicant who holds a doctor of philosophy degree or its equivalent from an
25 institution of higher learning, with adequate course study at such institution in psychology and
26 who is a diplomate of the “American Board of Examiners in Professional Psychology”; and

27 (2) Any person who holds a license or certificate to engage in the practice of psychology
28 issued by any other state, the requirements for which license or certificate are found by the board
29 to be at least as great as those provided in this article.

30 (c) Any person who is engaged in the practice of psychology in this state, or is engaged
31 in any of the activities described in subdivision (e), (1), (2), or (3), section two of this article, in this
32 state, on the effective date of this article and has been so engaged for a period of two consecutive
33 years immediately prior thereto shall be eligible for a license to engage in the practice of
34 psychology without examination and without meeting the requirements of subdivision (4),
35 subsection (a) of this section, if application for such license is made within six months after the
36 effective date of this article and if such person meets the requirements of subdivisions (1), (2), (3)
37 and (6), subsection (a) of this section: *Provided*, That an equivalent of a master’s degree in
38 psychology may be considered by the board, only for the purpose of this subsection (c), as
39 meeting the requirements of subdivision (3), subsection (a) of this section.

40 (d) Any applicant for any such license shall submit an application therefor at such time
41 (subject to the time limitation set forth in subsection (c) of this section), in such manner, on such
42 forms and containing such information as the board may from time to time by reasonable rule and
43 regulation prescribe, and pay to the board an application fee.

ARTICLE 22. LANDSCAPE ARCHITECTS.

§30-22-10. License requirements.

1 (a) The board shall issue a license to practice under the provisions of this article to an
2 applicant who meets the following requirements:

- 3 (1) Is of good moral character;
- 4 (2) Is at least eighteen years of age;

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

6 ~~(4) Has not been convicted of a crime involving moral turpitude;~~

7 ~~(5)~~ (4) Has not had his or her application for a license to practice as a landscape architect
8 refused in any state of the United States;

9 ~~(6)~~ (5) Has not had his or her license to practice landscape architecture suspended or
10 revoked in any state of the United States; and

11 ~~(7)~~ (6) Has completed the licensure requirements set out in this article and the rules
12 promulgated hereunder.

13 (b) The board may issue a license to practice under the provisions of this article to an
14 applicant who does not meet the licensure requirements set out in subdivisions (5) or (6) of
15 subsection (a) of this section, but who does meet the licensure requirements established by rule
16 by the board.

17 (c) An application for a license shall be made on forms prescribed by the board.

18 (d) An applicant shall pay all the applicable fees.

19 (e) A license to practice landscape architecture issued by the board prior to July 1, 2006,
20 shall for all purposes be considered a license issued under this article: *Provided*, That a person
21 holding a license to practice landscape architecture issued prior to July 1, 2006, must renew the
22 license pursuant to the provisions of this article.

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-9. Requirements for Radiologic Technology license.

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

2 (1) Be of good moral character;

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

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

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

9 (5) Not have been convicted of a felony under the laws of any state or the United States
10 within five years preceding the date of application for licensure, which conviction remains
11 unreversed: Provided, That any consideration of prior criminal convictions shall be governed by
12 the provisions of W.Va. Code §30-1-22; and

13 (6) Not have been convicted of a misdemeanor or a felony under the laws of any state or
14 the United States at any time if the offense for which the applicant was convicted related to the
15 practice of Medical Imaging, which conviction remains unreversed: Provided, That any
16 consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-
17 1-22.

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

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

§30-23-15. Requirements for Nuclear Medicine Technologist license.

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

3 (1) Be of good moral character;

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

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

8 (4) Not have been convicted of a misdemeanor or felony under the laws of any state or
9 the United States if the offense for which the applicant was convicted related to the practice of

10 Medical Imaging, which conviction remains unreversed: Provided, That any consideration of prior
11 criminal convictions shall be governed by the provisions of W.Va. Code §30-1-22;

12 (5) Meet one of the following qualifications:

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

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

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

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

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

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

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

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

29 (c) A Nuclear Medicine Technology license issued by the board prior to July 1, 2007, shall
30 for all purposes be considered a license issued under this article: *Provided*, That a person holding
31 a Nuclear Medicine Technology license issued prior to July 1, 2007, must renew the license
32 pursuant to the provisions of this article.

§30-23-17. Requirements for Magnetic Resonance Imaging Technologist license.

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

3 (1) Be of good moral character;

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

5 (3) Not have been convicted of a felony under the laws of any state or the United States
6 within five years preceding the date of application for licensure, which conviction remains
7 unreversed: Provided, That any consideration of prior criminal convictions shall be governed by
8 the provisions of W.Va. Code §30-1-22;

9 (4) Not have been convicted of a misdemeanor or a felony under the laws of any state or
10 the United States if the offense for which the applicant was convicted practice of Medical Imaging,
11 which conviction remains unreversed: Provided, That any consideration of prior criminal
12 convictions shall be governed by the provisions of W.Va. Code §30-1-22;

13 (5) Meet one of the following qualifications:

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

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

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

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

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

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

24 (G) National certification as an MRI technologist (ARRT (MR) or ARMRT); and

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

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

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

§30-23-20. Requirements for Podiatric Medical Assistant permit.

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

3 (1) Be of good moral character;

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

5 (3) Pass a written examination for certification from the American Society of Podiatric
6 Medical Assistants (ASPMA);

7 (4) Maintain an active certification in the American Society of Podiatric Medical Assistants
8 (ASPMA) and meet all requirements of that organization including the continuing education
9 requirements; and

10 (5) Not have been convicted of a felony under the laws of any state or the United States
11 within five years preceding the date of application for licensure, which conviction remains
12 unreversed: Provided, That any consideration of prior criminal convictions shall be governed by
13 the provisions of W.Va. Code §30-1-22; and

14 (6) Not have been convicted of a misdemeanor or felony under the laws of any state or
15 the United States if the offense for which the applicant was convicted related to the practice of
16 Radiologic Technology, which conviction remains unreversed: Provided, That any consideration
17 of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-1-22.

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

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

23 (c) A Podiatric Medical Assistant permit issued by the board prior to July 1, 2007, shall for
24 all purposes be considered a permit issued under this article: *Provided*, That a person holding a
25 Podiatric Medical Assistant permit issued prior to July 1, 2007, must renew the permit pursuant
26 to the provisions of this article.

ARTICLE 25. NURSING HOME ADMINISTRATORS.

§30-25-8. Qualifications for license; exceptions; application; fees.

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

- 3 (1) Submit an application to the board;
- 4 (2) Be of good moral character;
- 5 (3) Obtain a baccalaureate degree;
- 6 (4) Pass a state and national examination as approved by the board;
- 7 (5) Complete the required experience as prescribed by the board;
- 8 (6) Successfully complete a criminal background check, through the West Virginia State
9 Police and the National Criminal Investigative Center;
- 10 (7) Successfully complete a Health Integrity Protection Data Bank check;
- 11 (8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article
12 one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery
13 process, which may, in the discretion of the board, be evidenced by participation in a twelve-step
14 program or other similar group or process, may be considered;

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

17 (10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
18 for which he or she was convicted related to the practice of nursing home administration, which
19 conviction remains unreversed: Provided, That any consideration of prior criminal convictions
20 shall be governed by the provisions of W.Va. Code §30-1-22; and

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

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

ARTICLE 26. HEARING-AID DEALERS AND FITTERS.

§30-26-5. Application for licenses; qualifications of applicants; fees; duties of the board with respect thereto.

1 Each person desiring to obtain a license from the board to engage in the practice of dealing
2 in or fitting of hearing aids shall make application to the board. The application shall be made in
3 such manner and form as prescribed by the board and shall be accompanied by the prescribed
4 fee. The application shall state under oath that the applicant:

5 (1) Intends to maintain a permanent office or place of business in this state or that the
6 applicant has at the time of application a permanent office or place of business in another state
7 within a reasonable commuting distance from this state. The board shall determine and prescribe
8 by regulation the term "reasonable distance" as used herein;

9 (2) Is a person of good moral character ~~and that he or she has never been convicted of~~
10 ~~nor is presently under indictment for a crime involving moral turpitude;~~

11 (3) Is eighteen years of age or older;

12 (4) Has an education equivalent to a four-year course in an accredited high school; and

13 (5) Is free of chronic infectious or contagious diseases.

14 Any person who fails to meet any of the standards set forth in the next preceding
15 paragraph shall not be eligible or qualified to take the examination nor shall any such person be
16 eligible or qualified to engage in the practice of dealing in or fitting of hearing aids.

17 The board, after first determining that the applicant is qualified and eligible in every respect
18 to take the examination, shall notify the applicant that he or she has fulfilled all of the qualifications
19 and eligibility requirements as required by this section and shall advise him or her of the date,
20 time and place for him or her to appear to be examined as required by the provisions of this article
21 and the regulations promulgated by the board pursuant to this article.

22 The board, with the aid and assistance of the department, shall give at least one annual
23 examination of the type required by this article and may give such additional examinations, at
24 such times and places, as the board and the department may deem proper, giving consideration
25 to the number of applications.

**§30-26-13. Refusal to issue, suspension or revocation of license or trainee permit; false
and deceptive advertising.**

1 (a) The board may refuse to issue or renew, or may suspend or revoke any license or
2 trainee permit for any one, or any combination of the following causes: Violation of a rule or
3 regulation governing the ethical practice of dealing in or fitting of hearing aids promulgated by the
4 board under the authority granted by this article; conviction of a felony as shown by a certified
5 copy of the record of the court wherein such conviction was had after such conviction has become
6 final; the obtaining of or the attempt to obtain a license, money or any other thing of value, by
7 fraudulent misrepresentation; malpractice; continued practice of dealing in or fitting of hearing
8 aids by a person knowingly having a chronic infectious or contagious disease; habitual
9 drunkenness or addiction to the use of a controlled substance as defined in chapter sixty-a of this
10 code; advertising, practicing or attempting to practice under a name other than one's own;
11 advertising by means of or selling by the use of knowingly false or deceptive statements: Provided,

12 That any consideration of prior criminal convictions shall be governed by the provisions of W.Va.
13 Code §30-1-22.

14 (b) False and deceptive advertisement shall constitute unethical practice and the board,
15 by rules and regulations may regulate and proscribe acts considered by it to be false and
16 deceptive advertisement.

17 The rules and regulations promulgated pursuant to this subsection shall include
18 prohibitions against (1) advertising a particular model or type of hearing aid for sale when
19 purchasers or prospective purchasers responding to the advertisement cannot purchase the
20 advertised model or type, where it is established that the purpose of the advertisement is to obtain
21 prospects for the sale of a different model or type than that advertised, (2) representing that the
22 service or advice of a person licensed to practice medicine will be used or made available in the
23 selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using
24 the words “doctor”, “clinic” or similar words, abbreviations or symbols which tend to connote the
25 medical profession when such use is not accurate, and (3) advertising a manufacturer’s product
26 or using a manufacturer’s name or trademark which implies a relationship with the manufacturer
27 that does not exist or using the words “audiologist”, “state licensed clinic”, “state registered”, “state
28 certified”, or “state approved” or any other term, abbreviation or symbol when it would falsely give
29 the impression that service is being provided by persons holding a degree in audiology or trained
30 in clinical audiology, or that licensee’s service has been recommended by the state when such is
31 not the case.

32 (c) The refusal to issue or renew a license or trainee permit or the suspension or revocation
33 of a license or trainee permit by the board must have the concurrence of a majority of the members
34 of the board.

ARTICLE 30. SOCIAL WORKERS.

§30-30-8. License to practice as an independent clinical social worker.

1 To be eligible for a license to practice as an independent clinical social worker, the
2 applicant must:

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have obtained a master's degree from a school of social work accredited by the council
7 on social work education that included a concentration of clinically oriented course work as
8 defined by the board;

9 (5) Have completed a supervised clinical field placement at the graduate level, or post-
10 master's clinical training that is found by the board to be equivalent;

11 (6) Have practiced clinical social work for at least two years in full-time employment, or
12 three thousand hours under the supervision of an independent clinical social worker, or clinical
13 supervision that is found by the board to be equivalent;

14 (7) Have passed an examination approved by the board;

15 (8) Have satisfied the board that he or she merits the public trust by providing the board
16 with three letters of recommendation from persons not related to the applicant;

17 (9) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article
18 one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery
19 process, which may, in the discretion of the board, be evidenced by participation in an
20 acknowledged substance abuse treatment and/or recovery program may be considered;

21 (10) Not have been convicted of a felony, in any jurisdiction within five years preceding
22 the date of application for license which conviction remains unreversed;

23 (11) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
24 for which he or she was convicted related to the practice of social work, which conviction remains
25 unreversed: *Provided*, That any consideration of prior criminal convictions shall be governed by
26 the provisions of W.Va. Code §30-1-22; and

27 (12) Meet any other requirements established by the board.

§30-30-10. License to practice as a certified social worker.

1 (a) To be eligible for a license to practice as certified social worker, the applicant must:

2 (1) Submit an application to the board;

3 (2) Be at least eighteen years of age;

4 (3) Be of good moral character;

5 (4) Have obtained a master's degree from a school of social work accredited by the council
6 on social work education;

7 (5) Have practiced social work for at least two-years post-master's experience in full-time
8 employment or earned three thousand hours of post-master's social work experience;

9 (6) Have passed an examination approved by the board;

10 (7) Have satisfied the board that he or she merits the public trust by providing the board
11 with three letters of recommendation from persons not related to the applicant;

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

16 (9) Not have been convicted of a felony in any jurisdiction within five years preceding the
17 date of application for license which conviction remains unreversed: *Provided, That any*
18 *consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-*
19 *1-22;*

20 (10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
21 for which he or she was convicted related to the practice of social work, which conviction remains
22 unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by*
23 *the provisions of W.Va. Code §30-1-22;* and

24 (11) Meet other additional requirements as established by the board.

25 (b) A certified social worker may engage in the practice of clinical social work, if that
26 certified social worker has:

27 (1) Obtained a master's degree from a school of social work accredited by the council on
28 social work education that included a concentration of clinically oriented course work as defined
29 by the board;

30 (2) Has completed a supervised clinical field placement at the graduate level, or post-
31 master's clinical training that is found by the board to be equivalent;

32 (3) Has contracted, in writing, with a licensed clinical social worker who shall assume
33 responsibility for and supervise the certified social worker's practice as directed by the board by
34 promulgation of legislative rules;

35 (4) Is an employee of an institution or organization in which the certified social worker has
36 no direct or indirect interest other than employment.

37 (c) A certified social worker may not practice clinical social work until his or her contract
38 has been approved by the board, and shall cease the practice of clinical social work immediately
39 upon the termination of the contract. At the termination of the contract, the certified social worker
40 shall apply for licensure as a licensed clinical social worker or request an extension of the contract
41 from the board.

§30-30-12. License to practice as a licensed graduate social worker.

1 (a) To be eligible for a license to practice as a graduate social worker, the applicant must:

2 (1) Submit an application to the board;

3 (2) Be at least eighteen years of age;

4 (3) Be of good moral character;

5 (4) Have obtained a master's degree from a school of social work accredited by the council
6 on social work education;

7 (5) Have passed an examination approved by the board;

8 (6) Have satisfied the board that he or she merits the public trust by providing the board
9 with three letters of recommendation from persons not related to the applicant;

10 (7) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article
11 one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery
12 process, which may, in the discretion of the board, be evidenced by participation in an
13 acknowledged substance abuse treatment and/or recovery program may be considered;

14 (8) Not have been convicted of a felony in any jurisdiction within five years preceding the
15 date of application for license which conviction remains unreversed: *Provided, That any*
16 *consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-*
17 *1-22;*

18 (9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
19 for which he or she was convicted related to the practice of social work, which conviction remains
20 unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by*
21 *the provisions of W.Va. Code §30-1-22; and*

22 (10) Meet any other requirements established by the board.

23 (b) A licensed graduate social worker may engage in the practice of clinical social work, if
24 he or she has:

25 (1) Obtained a master's degree from a school of social work accredited by the council on
26 social work education that included a concentration of clinically oriented course work as defined
27 by the board;

28 (2) Has completed a supervised clinical field placement at the graduate level, or post-
29 master's clinical training that is found by the board to be equivalent;

30 (3) Has contracted, in writing, with a licensed clinical social worker who shall assume
31 responsibility for and supervise the certified social worker's practice as directed by the board by
32 promulgation of legislative rules;

33 (4) Be employed by an institution or organization in which the graduate social worker has
34 no direct or indirect interest other than employment.

35 (c) A graduate social worker may not practice clinical social work until this contract has
36 been approved by the board, and shall cease the practice of clinical social work immediately upon
37 the termination of the contract. At the termination of the contract, the graduate social worker shall
38 apply for licensure as a licensed independent clinical social worker or request an extension of the
39 contract from the board.

§30-30-14. License to practice as a social worker.

1 To be eligible for a license to practice as a social worker, the applicant must:

2 (1) Submit an application to the board;

3 (2) Be at least eighteen years of age;

4 (3) Be of good moral character;

5 (4) Have a baccalaureate degree in social work from a program accredited by the council
6 on social work education;

7 (5) Have passed an examination approved by the board;

8 (6) Have satisfied the board that he or she merits the public trust by providing the board
9 with three letters of recommendation from persons not related to the applicant;

10 (7) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article
11 one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery
12 process, which may, in the discretion of the board, be evidenced by participation in an
13 acknowledged substance abuse treatment and/or recovery program may be considered;

14 (8) Not have been convicted of a felony in any jurisdiction within five years preceding the
15 date of application for license which conviction remains unreversed: *Provided, That any*
16 *consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-*
17 *1-22;*

18 (9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense
19 for which he or she was convicted related to the practice of social work, which conviction remains
20 unreversed: Provided, That any consideration of prior criminal convictions shall be governed by
21 the provisions of W.Va. Code §30-1-22; and

22 (10) Meet any other requirements established by the board.

**§30-30-26. Complaints; investigations; due process procedure; grounds for disciplinary
action.**

1 (a) The board may upon its own motion based on credible information, and shall upon the
2 written complaint of any person, cause an investigation to be made to determine whether grounds
3 exist for disciplinary action under this article or the legislative rules promulgated pursuant to this
4 article.

5 (b) Upon initiation or receipt of the complaint, the board shall provide a copy of the
6 complaint to the licensee or permittee.

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

10 (d) Upon a finding that probable cause exists that the licensee or 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 the suspension or revocation of the license or permit
13 or the imposition of sanctions against the licensee or permittee. Any hearing shall be held in
14 accordance with this article.

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

18 (f) Any member of the board or its administrator may sign a consent decree or other legal
19 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 once a
23 violation has been proven by a preponderance of the evidence:

24 (1) Obtaining a license or permit by fraud, misrepresentation or concealment of material
25 facts;

26 (2) Being convicted of a felony ~~or other crime involving moral turpitude~~: Provided, That
27 any consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code
28 §30-1-22;

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

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

32 (5) Having had a license or other authorization revoked or suspended, other disciplinary
33 action taken, or an application for licensure or other authorization revoked or suspended by the
34 proper authorities of another jurisdiction;

35 (6) Aiding or abetting unlicensed practice; or

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

38 (h) For the purposes of subsection (g) of this section, effective July 1, 2011, disciplinary
39 action may include:

40 (1) Reprimand;

41 (2) Probation;

42 (3) Restrictions;

43 (4) Administrative fine, not to exceed \$1,000 per day per violation;

44 (5) Mandatory attendance at continuing education seminars or other training;

45 (6) Practicing under supervision or other restriction; or

46 (7) Requiring the licensee or permittee to report to the board for periodic interviews for a
47 specified period of time.

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

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-8. Requirements for license to practice counseling.

1 (a) To be eligible for a license to practice professional counseling, an applicant must:

2 (1) Be of good moral character;

3 (2) Be at least eighteen years of age;

4 (3) Be a citizen of the United States or be eligible for employment in the United States;

5 (4) Pay the applicable fee;

6 (5)(A)(i) Have earned a master's degree in an accredited counseling program or in a field
7 closely related to an accredited counseling program as determined by the board or have received
8 training equivalent to such degree as may be determined by the board; and

9 (ii) Have at least two years of supervised professional experience in counseling of such a
10 nature as is designated by the board after earning a master's degree or equivalent; or

11 (B)(i) Have earned a doctorate degree in an accredited counseling program or in a field
12 closely related to an accredited counseling program as determined by the board or have received
13 training equivalent to such degree as may be determined by the board; and

14 (ii) Have at least one year of supervised professional experience in counseling of such a
15 nature as is designated by the board after earning a doctorate degree or equivalent;

16 (6) Have passed a standardized national certification examination in counseling approved
17 by the board;

18 (7) Not have been convicted of a felony ~~or crime involving moral turpitude~~ under the laws
19 of any jurisdiction: Provided, That any consideration of prior criminal convictions shall be governed
20 by the provisions of W.Va. Code §30-1-22:

21 (A) If the applicant has never been convicted of a felony ~~or a crime involving moral~~
22 ~~turpitude~~, the applicant shall submit letters of recommendation from three persons not related to
23 the applicant and a sworn statement from the applicant stating that he or she has never been
24 convicted of a felony or a crime involving moral turpitude; or

25 (B) If the applicant has been convicted of a felony ~~or a crime involving moral turpitude~~, it
26 is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits
27 competent evidence of sufficient rehabilitation and present fitness to perform the duties of a
28 licensed professional counselor as may be established by the production of:

29 (i) Documentary evidence including a copy of the relevant release or discharge order,
30 evidence showing compliance with all conditions of probation or parole, evidence showing that at
31 least one year has elapsed since release or discharge without subsequent conviction, and letters
32 of reference from three persons who have been in contact with the applicant since his or her
33 release or discharge; and

34 (ii) Any collateral evidence and testimony as may be requested by the board which shows
35 the nature and seriousness of the crime, the circumstances relative to the crime or crimes
36 committed and any mitigating circumstances or social conditions surrounding the crime or crimes
37 and any other evidence necessary for the board to judge present fitness for licensure or whether
38 licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

39 (8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article
40 one-a, chapter twenty-seven of this code: *Provided*, That an applicant who has had at least two
41 continuous years of uninterrupted sobriety in an active recovery process, which may, in the
42 discretion of the board, be evidenced by participation in a twelve-step program or other similar
43 group or process, may be considered; and

44 (9) Has fulfilled any other requirement specified by the board.

45 (b) A person who holds a license or other authorization to practice counseling issued by
46 another state, the qualifications for which license or other authorization are determined by the
47 board to be at least substantially equivalent to the license requirements in this article, is eligible
48 for licensure.

49 (c) A person seeking licensure under the provisions of this section shall submit an
50 application on a form prescribed by the board and pay all applicable fees. A person applying for
51 licensure may elect for a temporary permit to utilize during the application process while the
52 applicant takes the required examination. The temporary permit shall be valid for a period not to
53 exceed six months and may not be renewed. The fee for the temporary permit is \$50. The
54 permittee shall be supervised by an approved licensed professional supervisor while practicing
55 under the temporary permit. Supervision hours completed under the temporary permit count as
56 supervised professional experience as required for licensure under this section. The supervision
57 requirements are the same as required with a provisional license as defined in section six of this
58 article. The temporary permit may be revoked at any time by a majority vote of the board.

59 (d) A person who has been continually licensed under this article since 1987, pursuant to
60 prior enactments permitting waiver of certain examination and other requirements, is eligible for
61 renewal under the provisions of this article.

62 (e) A license to practice professional counseling issued by the board prior to July 1, 2009,
63 shall for all purposes be considered a license issued under this article: *Provided*, That a person
64 holding a license issued prior to July 1, 2009, must renew the license pursuant to the provisions
65 of this article.

§30-31-9. Requirements for a license to practice marriage and family therapy.

1 (a) To be eligible for a license to practice marriage and family therapy, an applicant must:

2 (1) Be of good moral character;

3 (2) Be at least eighteen years of age;

4 (3) Be a citizen of the United States or be eligible for employment in the United States;

5 (4) Pay the applicable fee;

6 (5)(A)(i) Have earned a master's degree in marriage and family therapy from a program
7 accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the
8 Council for Accreditation of Counseling and Related Education Programs, or a comparable
9 accrediting body as approved by the board, or in a field closely related to an accredited marriage
10 and family therapy program as determined by the board, or have received training equivalent to
11 such degree as may be determined by the board; and

12 (ii) Have at least two years of supervised professional experience in marriage and family
13 therapy of such a nature as is designated by the board after earning a master's degree or
14 equivalent; or

15 (B)(i) Have earned a doctorate degree in marriage and family therapy from a program
16 accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the
17 Council for Accreditation of Counseling and Related Education Programs, or a comparable
18 accrediting body as approved by the board, or in a field closely related to an accredited marriage
19 and family therapy program as determined by the board, or have received training equivalent to
20 such degree as may be determined by the board; and

21 (ii) Have at least one year of supervised professional experience in marriage and family
22 therapy of such a nature as is designated by the board after earning a doctorate degree or
23 equivalent;

24 (6) Have passed a standardized national certification examination in marriage and family
25 therapy as approved by the board;

26 (7) Not have been convicted of a felony ~~or crime involving moral turpitude~~ under the laws
27 of any jurisdiction: Provided, That any consideration of prior criminal convictions shall be governed
28 by the provisions of W.Va. Code §30-1-22:

29 (A) If the applicant has never been convicted of a felony ~~or a crime involving moral~~
30 ~~turpitude~~, the applicant shall submit letters of recommendation from three persons not related to
31 the applicant and a sworn statement from the applicant stating that he or she has never been
32 convicted of a felony or a crime involving moral turpitude; or

33 (B) If the applicant has been convicted of a felony ~~or a crime involving moral turpitude~~, it
34 is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits
35 competent evidence of sufficient rehabilitation and present fitness to perform the duties of a
36 person licensed to practice marriage and family therapy as may be established by the production
37 of:

38 (i) Documentary evidence including a copy of the relevant release or discharge order,
39 evidence showing compliance with all conditions of probation or parole, evidence showing that at
40 least one year has elapsed since release or discharge without subsequent conviction, and letters
41 of reference from three persons who have been in contact with the applicant since his or her
42 release or discharge; and

43 (ii) Any collateral evidence and testimony as may be requested by the board which shows
44 the nature and seriousness of the crime, the circumstances relative to the crime or crimes
45 committed and any mitigating circumstances or social conditions surrounding the crime or crimes,
46 and any other evidence necessary for the board to judge present fitness for licensure or whether
47 licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

48 (8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article
49 one-a, chapter twenty-seven of this code: *Provided*, That an applicant who has had at least two
50 continuous years of uninterrupted sobriety in an active recovery process, which may, in the
51 discretion of the board, be evidenced by participation in a twelve-step program or other similar
52 group or process, may be considered; and

53 (9) Has fulfilled any other requirement specified by the board.

54 (b) A person who holds a license or other authorization to practice marriage and family
55 therapy issued by another state, the qualifications for which license or other authorization are
56 determined by the board to be at least substantially equivalent to the license requirements in this
57 article, is eligible for licensure.

58 (c) A person seeking licensure under the provisions of this section shall submit an
59 application on a form prescribed by the board and pay all applicable fees. A person applying for
60 licensure may elect for a temporary permit to utilize during the application process while the
61 applicant takes the required examination. The temporary permit shall be valid for a period not to
62 exceed six months and may not be renewed. The fee for the temporary permit is \$50. The
63 permittee shall be supervised by an approved licensed professional supervisor while practicing
64 under the temporary permit. Supervision hours completed under the temporary permit count as
65 supervised professional experience as required for licensure under this section. The supervision
66 requirements are the same as required with a provisional license as defined in section six of this
67 article. The temporary permit may be revoked at any time by a majority vote of the board.

68 (d) A person who is licensed for five years as of July 1, 2010, and has substantially similar
69 qualifications as required by subdivisions (1), (2), (3), (4), (5)(A)(i) or (5)(B)(i), (7) and (8),
70 subsection (a) of this section is eligible for a license to practice marriage and family therapy until
71 July 1, 2012, and is eligible for renewal under section ten of this article.

**ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION
ACT.**

**§30-38-12. Refusal to issue or renew license or certification; suspension or revocation;
grounds for disciplinary action.**

1 (a) The following acts or omissions are grounds for disciplinary action, and the board may
2 refuse to issue or renew a license or certification, or after issuance may suspend or revoke a
3 license or certification or impose disciplinary sanctions for:

4 (1) Procuring or attempting to procure license or certification under this article by
5 knowingly making a false statement, submitting false information or making a material
6 misrepresentation in an application filed with the board, or procuring or attempting to procure a
7 license or certification through fraud or misrepresentation;

8 (2) Paying money other than the fees provided for by this article to any member or
9 employee of the board to procure a license or certification under this article;

10 (3) An act or omission in the practice of real estate appraising which constitutes
11 dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensee or
12 another person or with the intent to substantially injure another person;

13 (4) Entry of a final civil or criminal judgment against a licensee on grounds of fraud,
14 misrepresentation or deceit in the making of an appraisal of real estate;

15 (5) Conviction, including a conviction based upon a plea of guilty or nolo contendere of a
16 crime which is substantially related to the qualifications, functions or duties of a person developing
17 real estate appraisals and communicating real estate appraisals to others: Provided, That any
18 consideration of prior criminal convictions shall be governed by the provisions of W.Va. Code §30-
19 1-22;

20 (6) Making a false or misleading statement in that portion of a written appraisal report that
21 deals with professional qualifications or in any testimony concerning professional qualifications;

22 (7) Violation of any section of this article, or any rule of the board;

23 (8) Violation of the confidential nature of governmental records to which a licensee gained
24 access through employment or engagement as an appraiser by a governmental agency;

25 (9) Acceptance of a fee that is or was contingent upon the appraiser reporting a
26 predetermined analysis, opinion, or conclusion, or is or was contingent upon the analysis, opinion,
27 conclusion or valuation reached, or upon the consequences resulting from the appraisal
28 assignment;

29 (10) Failing to meet the minimum qualifications for state licensure or certification
30 established by or pursuant to this article; or

31 (11) Failing or refusing without good cause to exercise reasonable diligence, or negligence
32 or incompetence, in developing an appraisal, preparing an appraisal report, or communicating an
33 appraisal.

34 (b) Every person licensed or certified by the board has a duty to report to the board in a
35 timely manner any known or observed violation of this article or the board's rules by any other
36 person licensed or certified by the board.

ARTICLE 39. UNIFORM ATHLETE AGENTS ACT.

§30-39-6. Certificate of registration; issuance or denial; renewal.

1 (a) Except as otherwise provided in subsection (b) of this section, the Secretary of State
2 shall issue a certificate of registration to an individual who complies with subsection (a), section
3 five of this article or whose application has been accepted under subsection (b), section five of
4 this article.

5 (b) The Secretary of State may refuse to issue a certificate of registration if the Secretary
6 of State determines that the applicant has engaged in conduct that has a significant adverse effect
7 on the applicant's fitness to act as an athlete agent. In making the determination, the Secretary
8 of State may consider whether the applicant has:

9 (1) Been convicted of a crime that, if committed in this state, would be a ~~crime involving~~
10 ~~moral turpitude or a felony;~~

11 (2) Made a materially false, misleading, deceptive, or fraudulent representation in the
12 application or as an athlete agent;

13 (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary
14 capacity;

15 (4) Engaged in conduct prohibited by section fourteen of this article;

16 (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or
17 been refused renewal of registration or licensure as an athlete agent in any state;

18 (6) Engaged in conduct the consequence of which was that a sanction, suspension, or
19 declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was
20 imposed on a student-athlete or educational institution; or

21 (7) Engaged in conduct that significantly adversely reflects on the applicant's credibility,
22 honesty or integrity.

23 (c) In making a determination under subsection (b) of this section, the Secretary of State
24 shall consider:

25 (1) How recently the conduct occurred;

26 (2) The nature of the conduct and the context in which it occurred; and

27 (3) Any other relevant conduct of the applicant.

28 (d) An athlete agent may apply to renew a registration by submitting an application for
29 renewal in a form prescribed by the Secretary of State. An application filed under this section is a
30 public record. The application for renewal must be signed by the applicant under penalty of perjury
31 and must contain current information on all matters required in an original registration.

32 (e) An individual who has submitted an application for renewal of registration or licensure
33 in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to
34 subsection (d) of this section, may file a copy of the application for renewal and a valid certificate
35 of registration or licensure from the other state. The Secretary of State shall accept the application
36 for renewal from the other state as an application for renewal in this state if the application to the
37 other state:

38 (1) Was submitted in the other state within six months next preceding the filing in this state
39 and the applicant certifies the information contained in the application for renewal is current;

40 (2) Contains information substantially similar to or more comprehensive than that required
41 in an application for renewal submitted in this state; and

- 42 (3) Was signed by the applicant under penalty of perjury.
- 43 (f) A certificate of registration or a renewal of a registration is valid for two years.

NOTE: The purpose of this bill is to remove barriers to employment for individuals with criminal records who seek licensure or certification in an occupation governed by this article, with certain exceptions.

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