

HB # 4590

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

Com. Sub. For  
HOUSE BILL No. 4590

(By Delegates P. White, Phillips, Compton,  
Mezzatesta, Marten, S. Williams  
and Askcraft)

Passed March 11, 1994

In Effect 90 Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 4590**

(By DELEGATES P. WHITE, PHILLIPS, COMPTON, MEZZATESTA,  
MARTIN, S. WILLIAMS AND ASHCRAFT)

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[Passed March 11, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact sections eleven and twelve, article ten, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to veterinarians; the West Virginia board of veterinary medicine; complaints and disciplinary action; and hearings.

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

That sections eleven and twelve, article ten, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. VETERINARIANS.**

**§30-10-11. Complaints; disciplinary action.**

1     The board may at any time upon its own motion, and  
2     shall upon the written complaint of any person, conduct  
3     an investigation to determine whether there are any  
4     grounds for the board to suspend or revoke the license  
5     of a veterinarian issued under the provisions of this  
6     article or otherwise discipline a licensed veterinarian.

7     By a concurrence of four members, the board may  
8     suspend for a certain time or revoke the license of or

- 9 otherwise discipline, for any of the following reasons:
- 10 (a) The employment of fraud, misrepresentation or  
11 deception in obtaining his or her license;
- 12 (b) An adjudication of insanity;
- 13 (c) Chronic inebriety or the habitual use of drugs;
- 14 (d) The use of advertising or solicitation which is false,  
15 misleading or is otherwise deemed unprofessional under  
16 reasonable rules promulgated by the board;
- 17 (e) Conviction of a felony or other crime involving  
18 moral turpitude;
- 19 (f) Incompetence, gross negligence or other malprac-  
20 tice in the practice of veterinary medicine;
- 21 (g) Having professional association with or employing  
22 any person practicing veterinary medicine unlawfully;
- 23 (h) Fraud or dishonesty in the application or reporting  
24 of any test for disease in any animal or animals;
- 25 (i) Failure to keep veterinary premises and equipment  
26 in a clean and sanitary condition;
- 27 (j) Failure to report, as required by law, or making  
28 false report of, any contagious or infectious disease;
- 29 (k) Dishonesty or gross negligence in the inspection of  
30 foodstuffs or the issuance of health or inspection  
31 certificates;
- 32 (l) Cruelty to animals;
- 33 (m) Revocation of a license to practice veterinary  
34 medicine by another state, territory or district of the  
35 United States on grounds other than nonpayment of any  
36 registration or license fee or fees; or
- 37 (n) Unprofessional conduct as defined in reasonable  
38 rules promulgated by the board.

**§30-10-12. Hearings; administrative procedures act made applicable; grounds for suspension or revocation of license or disciplinary action.**

1 Whenever the board denies an application for any

2 license or renewal of any license, or suspends or revokes  
3 any license, or otherwise disciplines any licensed  
4 veterinarian, it shall make and enter an order to that  
5 effect and serve a copy thereof on the applicant or  
6 licensed veterinarian, as the case may be, at his or her  
7 last known address, by certified mail, return receipt  
8 requested. The order shall state the grounds for action  
9 taken and shall require that any license suspended or  
10 revoked thereby shall be returned to the board by the  
11 holder within twenty days after receipt of the copy of  
12 the order.

13 Any person adversely affected by any such order is  
14 entitled to a hearing thereon as to all issues not excluded  
15 from the definition of a "contested case" as set forth in  
16 article one, chapter twenty-nine-a of this code if, within  
17 twenty days after receipt of a copy thereof, he or she  
18 files with the board a written demand for such a  
19 hearing. A demand for hearing shall operate automat-  
20 ically to stay or suspend the execution of any order  
21 placing a licensed veterinarian on probation, suspending  
22 or revoking a license or denying an application for a  
23 renewal license. The board may require the person  
24 demanding the hearing to give reasonable security for  
25 the costs thereof and if the person does not substantially  
26 prevail at the hearing, such security shall be forfeited  
27 or the cost shall be assessed against him or her and may  
28 be collected by an action at law or other proper remedy.

29 Upon receipt of a written demand for a hearing, the  
30 board shall set a time and place therefore not less than  
31 ten and not more than thirty days thereafter.

32 All of the pertinent provisions of article five, chapter  
33 twenty-nine-a of this code shall apply to and govern any  
34 hearing and the administrative procedures in connection  
35 with and following the hearing.

36 Any hearing shall be conducted by a quorum of the  
37 board. For the purpose of conducting the hearing, any  
38 member of the board may issue subpoenas and subpo-  
39 enas duces tecum in the name of the board, in accor-  
40 dance with the provisions of section one, article five,  
41 chapter twenty-nine-a of this code. All subpoenas and

42 subpoenas duces tecum shall be issued and served  
43 within the time and for the fees and shall be enforced,  
44 as specified in said section and all of the section one  
45 provisions dealing with subpoenas and subpoenas duces  
46 tecum apply to subpoenas and subpoenas duces tecum  
47 issued for the purpose of a hearing hereunder.

48 The board may postpone or continue any hearing on  
49 its own motion or for good cause shown upon the  
50 application of the applicant or licensee, as the case may  
51 be. At the hearing the applicant or licensee, as the case  
52 may be, has the right to be heard in person and by any  
53 attorney at law admitted to practice before any circuit  
54 court of this state.

55 After any hearing and consideration of all the  
56 testimony, evidence and record in the case, the board  
57 shall render its decision in writing.

58 The written decision of the board shall be accompan-  
59 ied by findings of fact and conclusions of law as  
60 specified in section three, article five, chapter twenty-  
61 nine-a of this code, and a copy of the decision and  
62 accompanying findings and conclusions shall be served  
63 upon the applicant or licensee, as the case may be, and  
64 his or her attorney of record, if any.

65 The decision of the board shall be final unless vacated  
66 or modified upon judicial review thereof in accordance  
67 with the provisions of section thirteen of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten signature]*

Chairman Senate Committee

*Ernest C. Moore*

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Darrell Edkins*

Clerk of the Senate

*Donald L. Zopp*

Clerk of the House of Delegates

*Neil S. Smith*

President of the Senate

*Paul S. Baker*

Speaker of the House of Delegates

The within *is approved* this the *30th* day of *March* 1994.

*Walter D. Coon*  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/28/94

Time 4:00 pm