

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 570**

5 (By Senators Browning, Laird, Williams, Palumbo, Foster and
6 Plymale)

7 _____
8 [Originating in the Committee on Government Organization;
9 reported March 1, 2011.]
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13 A BILL to amend the Code of West Virginia, 1931, as amended, by
14 adding thereto a new article, designated §29-29-1, §29-29-2,
15 §29-29-3, §29-29-4, §29-29-5, §29-29-6, §29-29-7 and §29-29-8,
16 all relating to creating an exemption from licensing for
17 nonprofit youth volunteers; exempting certain volunteers for
18 nonprofit youth organizations from licensing, certification
19 and permitting; stating purpose; defining terms; exempting
20 certain medical service professionals; exempting certain
21 law-enforcement officers; exempting certain emergency medical
22 service professionals; stating duties of the nonprofit youth
23 organization; providing for the revocation of permits;
24 defining liability of the volunteers and the nonprofit youth

1 organizations; and declaring the sections of said article
2 severable.

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

4 That the Code of West Virginia, 1931, as amended, be amended
5 by adding thereto a new article, designated §29-29-1, §29-29-2,
6 §29-29-3, §29-29-4, §29-29-5, §29-29-6, §29-29-7 and §29-29-8, all
7 to read as follows:

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

9 **§29-29-1. Short title.**

10 This article shall be known as and may be cited to as the
11 "Volunteer for Nonprofit Youth Organizations Act".

12 **§29-29-2. Legislative purpose.**

13 The Legislature finds that:

14 (1) Adventure and recreational activities attractive to
15 nonprofit youth organizations interested in training and inspiring
16 young people from other parts of the United States and throughout
17 the world will contribute significantly to the economy of West
18 Virginia, and enhance the state's reputation as a place to visit
19 and transact business; and

20 (2) Nonprofit youth organizations must rely on volunteers to
21 staff and support their events and programs and that some of the
22 volunteers are medical, nursing, emergency medical service and law-
23 enforcement professionals authorized to practice in other states.
24 Because of the large number of volunteers required to support those

1 events and programs, the benefits these events and programs provide
2 to youth, the multicounty areas those events and programs may cover
3 and the number of agencies potentially involved in granting
4 authorizations to practice for those volunteers to provide those
5 services in this state, it is in the state's best interest to
6 provide a streamlined system to permit those volunteers to practice
7 for the periods of time they engage in volunteer work at those
8 events and programs.

9 **§29-29-3. Definitions.**

10 As used in this article:

11 (a) "Applicant" means any emergency medical service applicant,
12 law-enforcement applicant or medical services applicant, that is
13 registered as a volunteer of the nonprofit organization, making
14 application for a nonprofit volunteer permit under the provisions
15 of this article.

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

21 (c) "Emergency medical service applicant" means a person
22 authorized to provide emergency medical services in West Virginia,
23 or in another state who but for this article would be required to
24 obtain a certification from the Commissioner of the Bureau for

1 Public Health pursuant to article eight, chapter sixteen of this
2 code to perform emergency medical services in this state.

3 (d) "Law-enforcement applicant" means a person authorized to
4 work as a law-enforcement officer in West Virginia, or in another
5 state who but for this article would be required to obtain
6 authorization pursuant to article twenty-nine, chapter thirty of
7 this code to work as a law-enforcement officer in this state:
8 *Provided,* That any person authorized to work as a law-enforcement
9 officer in another state shall have completed a training program
10 approved by the governing authority of a political subdivision in
11 order to work as a law-enforcement officer in that state.

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

16 (1) Practitioner of medicine or surgery as defined in article
17 three, chapter thirty of this code;

18 (2) Physician assistant as defined in section three, article
19 three, chapter thirty of this code;

20 (3) Dentist or dental assistant as defined in article four,
21 chapter thirty of this code;

22 (4) Nurse as defined in article seven or seven-a, chapter
23 thirty of this code;

24 (5) Osteopathic physician or surgeon as defined in article

1 fourteen, chapter thirty of this code;

2 (6) Osteopathic physician assistant as defined in article
3 fourteen-a, chapter thirty of this code; and

4 (7) Physical therapist as defined in article twenty, chapter
5 thirty of this code;

6 (f) "Nonprofit volunteer permit" or "permit" means a permit
7 issued to an applicant pursuant to the provisions of this article.

8 (g) "Nonprofit volunteer permittee" or "permittee" means a
9 person holding a nonprofit volunteer permit issued under the
10 provisions of this article.

11 (h) "Nonprofit youth organization" or "organization" means any
12 nonprofit organization, including any subsidiary, affiliated or
13 other related entity within its corporate or business structure,
14 that has been chartered by the United States Congress to help train
15 young people to do things for themselves and others, and that has
16 established an area of at least six thousand contiguous acres
17 within West Virginia in which to provide adventure or recreational
18 activities for these young people and others.

19 (i) "Nonprofit volunteer organization medical director" means
20 an individual licensed in West Virginia as a practitioner of
21 medicine or surgery pursuant to article three, chapter thirty of
22 this code, or an individual licensed in West Virginia as a
23 osteopathic physician or surgeon pursuant to article fourteen,
24 chapter thirty of this code, that has been designated by the

1 nonprofit volunteer organization to serve as the medical director
2 for an event or program offered by the organization.

3 **§29-29-4. Exemption from professional licensure.**

4 (a) Notwithstanding any other provision of this code, any
5 individual rendering services in this state in connection with any
6 event or program offered by the nonprofit youth organization is
7 exempt from obtaining an authorization to practice from the
8 appropriate licensing agency of this state while providing services
9 within the limits of his or her authorization to practice, but is
10 required to obtain a nonprofit volunteer permit.

11 (b) The nonprofit youth organization may issue a nonprofit
12 volunteer permit to an applicant, who is a registered volunteer of
13 the nonprofit youth organization serving as a volunteer, without
14 compensation, in connection with any event or program offered by
15 the organization, if:

16 (1) All authorizations held by the medical services applicant
17 are valid, unrestricted without limitation or condition and in good
18 standing: *Provided*, That any medical services applicant issued a
19 permit pursuant to this article shall:

20 (A) Not have prescriptive authority;

21 (B) Not dispense a Schedule II or Schedule III controlled
22 substance, but may dispense pharmaceutical drugs in a manner
23 consistent with the applicant's training and experience; and

24 (C) At all times be subject to the direction of nonprofit

1 volunteer organization medical director.

2 (2) All authorizations held by the law-enforcement applicant
3 are valid, unrestricted without limitation or condition and in good
4 standing and the applicant is deputized by the Superintendent of
5 the West Virginia State Police prior to rendering any law-
6 enforcement services: *Provided, That:*

7 (A) Any permit issued pursuant to this article shall not
8 supersede the authority or duty of a law-enforcement officer
9 certified pursuant to article twenty-nine, chapter thirty of this
10 code to preserve law and order on the premises;

11 (B) The Superintendent of the West Virginia State Police has
12 sole discretion in determining whether to deputize any law-
13 enforcement applicant; and

14 (C) The jurisdiction for a law-enforcement applicant issued a
15 permit pursuant to the provisions of this article shall be limited
16 to:

17 (i) The property owned by the nonprofit youth organization;

18 (ii) Any street, road or thoroughfare, except controlled
19 access and open country highways, immediately adjacent to or
20 passing through the property owned by the nonprofit youth
21 organization; and

22 (iii) Areas of operations in support of an event sponsored by
23 the nonprofit youth organization.

24 (D) A law-enforcement applicant issued a permit pursuant to

1 the provisions of this article shall at all times be subject to the
2 direction of the Superintendent of the West Virginia State Police.

3 (3) All authorizations held by the emergency medical service
4 applicant are valid, unrestricted without limitation or condition
5 and in good standing: *Provided*, That any emergency medical service
6 applicant issued a permit pursuant to this article shall:

7 (A) Not have prescriptive authority;

8 (B) Not dispense a Schedule II or Schedule III controlled
9 substance, but may dispense pharmaceutical drugs in a manner
10 consistent with the applicant's training and experience; and

11 (C) At all times be subject to the direction of nonprofit
12 volunteer organization medical director.

13 (c) Any services rendered by a permittee shall at all times be
14 performed under the guidelines and instructions of the nonprofit
15 volunteer organization.

16 (d) A nonprofit volunteer permit issued pursuant to the
17 provisions of this article may only be valid for a period not to
18 exceed ninety days in a calendar year.

19 **§29-29-5. Powers and duties of nonprofit youth organization.**

20 (a) Before the nonprofit youth organization may issue a
21 nonprofit volunteer permit to an applicant, the organization shall:

22 (1) Gather and maintain the following information for each
23 applicant:

24 (A) The applicant's name, position, address and phone number;

1 (B) A copy of the applicant's authorization to practice from
2 all jurisdictions in which the applicant is authorized to practice;

3 (2) Require documentation that the applicant has received at
4 least two hours of instruction provided by the nonprofit youth
5 organization, which may be accomplished by webinar, video
6 conference or other remote means of instruction;

7 (3) No more than one hundred twenty days prior to any
8 volunteer services being performed, require documentation from all
9 jurisdictions in which the applicant authorized to practice stating
10 that the applicant's authorization to practice is valid, in good
11 standing and unrestricted and without limitation or condition; and

12 (4) Require a written acknowledgment signed by the applicant
13 that the rules, regulations and procedures established by the
14 nonprofit youth organization have been received and reviewed.

15 (b) All information and documentation maintained and gathered
16 pursuant to this section shall be maintained in a safe and secure
17 manner, which may be electronically, by the nonprofit youth
18 organization for a period of ten years from the date a permit is
19 issued to the applicant.

20 (c) The nonprofit youth organization providing emergency
21 medical services shall have a license to operate an emergency
22 medical services agency pursuant to section six-a, article four-c,
23 chapter sixteen of this code and the Commissioner of the Bureau of
24 Public Health may make such adjustments to the licensing standards

1 to reflect the nature of the services provided by the permittees
2 and the size, scope and interests being served by any event or
3 program of such organization.

4 **§29-29-6. Revocation of nonprofit volunteer permit.**

5 (a) The nonprofit volunteer permit may be revoked at any time
6 by the nonprofit volunteer organization.

7 (b) The nonprofit volunteer organization shall revoke a
8 nonprofit volunteer permit and shall report the revocation to the
9 appropriate licensing agency in every jurisdiction where the
10 individual holds an authorization to practice for the following
11 reasons:

- 12 (1) Professional incompetence;
- 13 (2) Professional misconduct; or
- 14 (3) Criminal activity.

15 **§29-29-7. Liability of permittees and the nonprofit volunteer**
16 **organization for volunteer services.**

17 (a) Any claim arising out of the services provided by a
18 permittee or the nonprofit volunteer organization pursuant to this
19 article shall be determined in the same manner and by the same
20 standards as if the permittee was authorized to practice in this
21 state.

22 (b) The nonprofit youth organization shall carry liability
23 insurance in limits of no less than \$1 million per person, and \$1
24 million per occurrence and \$50,000 for property damage and this

1 insurance shall extend to the acts of any nonprofit volunteer
2 permittees providing services under this article and shall be
3 primary to any other available insurance.

4 (c) The liability of nonprofit volunteer permittees shall be
5 limited to the amount of liability insurance available to them
6 under subsection (b) of this section.

7 (d) The West Virginia appropriate licensing agency shall not
8 be liable for any harm or claim arising solely out of the actions
9 of any permittee exempt from obtaining authorization to practice in
10 this state pursuant to this article.

11 **§29-29-8. Severability.**

12 If any provision of this article or the application thereof to
13 any person or circumstance is held unconstitutional or invalid, the
14 unconstitutionality or invalidity may not affect other provisions
15 or applications of this article or chapter, and to this end the
16 provisions of this article and chapter are declared to be
17 severable.