

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4696**

(BY DELEGATES HOWELL, FAIRCLOTH, STANSBURY,  
R. SMITH, CADLE, ARVON, HARTMAN, HILL, ATKINSON  
AND IHLE)

[Introduced February 23, 2016;  
referred to the Committee on  
Government Organization.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §30-1D-1 and §30-1D-2, all relating to creation of the unlicensed practice  
 3 review board; providing requirements for membership on the board; providing that  
 4 licensing boards shall submit complaints they receive to the board; requiring the board to  
 5 conduct hearings to determine if probable cause exists to take action; providing for  
 6 alternative actions the board may take in making various determinations; and, establishing  
 7 the board’s authority and scope.

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

1 That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new  
 2 article, designated §30-1D-1 and §30-1D-2, all to read as follows:

**ARTICLE 1D. UNLICENSED PRACTICE REVIEW BOARD.**

**§30-1D-1. Unlicensed Practice Review Board.**

1 (a) The West Virginia Unlicensed Practice Review Board is hereby created and is an  
 2 autonomous board, not under the direction or control of any professional or occupational licensing  
 3 board.

4 (b) The Governor shall appoint, with the advice and consent of the Senate, six members  
 5 selected from current members of professional or occupational licensing boards pursuant to this  
 6 chapter for a term of two years. No two members appointed to the board created pursuant to this  
 7 article may be appointed from the same licensing board.

8 (c) Any member whose term expires may be reappointed by the Governor.

9 (d) Any member of the board immediately and automatically forfeits his or her membership  
 10 if he or she has his or her license to practice suspended or revoked by any board pursuant to any  
 11 article under this chapter, is convicted of a felony under the laws of any state or the United States,  
 12 or becomes a nonresident of this state.

13 (e) The board shall elect one of its members as chairperson and one member as recording  
 14 secretary-treasurer who shall serve at the will of the board.

15 (f) A majority of the members of the board shall constitute a quorum.

16 (g) The board shall hold meetings once monthly upon the written request of any  
17 professional or occupational licensing board in this state at a time and place designated by the  
18 board created pursuant to this article.

19 (h) All member compensation, expense reimbursements, and other costs associated with  
20 the board's meetings shall be shared pro rata among all licensing boards requesting the meeting.

21 (i) Each member of the board is entitled to receive compensation and expense  
22 reimbursement in accordance with article one of this chapter.

23 (j) Any member of this board shall recuse himself or herself from all discussion,  
24 consideration, or voting on any matter brought by or about the licensing board to which that  
25 member is also appointed.

#### **§30-1D-2. Authority and Scope of Review Board.**

1 (a) Each licensing board within the state, except the West Virginia State Bar, shall submit  
2 all complaints pertaining to the unlicensed practice of a profession or occupation licensed by a  
3 board pursuant to this chapter, along with all necessary information, to this board for review and  
4 approval before any action may be taken against any unlicensed entity: *Provided*, That any board  
5 may instead submit evidence of criminal behavior, including unlicensed practice, if applicable, to  
6 a prosecuting attorney in lieu of submitting a complaint to the board and without being in violation  
7 of this article.

8 (b) The board shall conduct hearings to determine whether there is probable cause to  
9 believe that a person or entity has engaged in the unlawful practice of a profession or occupation.

10 (c) The board shall issue a determination that the subject licensing board shall follow.  
11 Determinations by the board shall be in writing and direct that action is taken in accordance with  
12 one of the following:

13 (1) Submit the case to the appropriate prosecuting attorney;

14           (2) Submit the case to the Consumer Protection and Antitrust Division of the office of the  
15 Attorney General to determine whether the licensing board may proceed against any unlicensed  
16 entities; or

17           (3) Reject the complaint and prescribe that no action be taken.

18           (d) Nothing in this section shall limit, restrict, or prohibit a licensing board from taking any  
19 action, whether disciplinary or otherwise, against any person or entity licensed by a licensing  
20 board pursuant to this chapter.

NOTE: The purpose of this bill is to create an unlicensed practice review board to which licensing boards shall submit all complaints against unlicensed practitioners.

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