

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2007

BY DELEGATES ESPINOSA, FOSTER, HORST, HAMRICK,
HOWELL, MILLER, STEELE, HOLSTEIN, CLARK, KEATON
AND BURKHAMMER

[Originating in the Committee on Government
Organization, February 11, 2021]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §21-17-1, §21-17-2, §21-17-3, §21-17-4, §21-17-5, §21-17-6, §21-17-7, §21-
3 17-8, §21-17-9, §21-17-10, §21-17-11, §21-17-12, and §21-17-13; to amend said code by
4 adding thereto a new article, designated §29-33-1, §29-33-2, §29-33-3, §29-33-4, §29-33-
5 5, §29-33-6, §29-33-7, §29-33-8, §29-33-9, §29-33-10, §29-33-11, §29-33-12, and §29-
6 33-13; to amend said code by adding thereto a new article, designated §30-1F-1, §30-1F-
7 2, §30-1F-3, §30-1F-4, §30-1F-5, §30-1F-6, §30-1F-7, §30-1F-8, §30-1F-9, §30-1F-10,
8 §30-1F-11, §30-1F-12, and §30-1F-13, all relating to occupational licensing or other
9 authorization to practice; providing for definitions; providing for an application method for
10 persons with a valid license in another state to be licensed in this state; providing that a
11 person applying for licensure in this state has worked in the licensed occupation for at
12 least one year; providing for other criteria a person must satisfy when applying for
13 licensure in this state; establishing that an applicant seeking licensure in this state not
14 have ever had a license revoked or suspended in another state; providing that an applicant
15 seeking licensure in this state not have any pending investigations or disciplinary
16 proceedings in another state; providing that the boards in every state where a person is
17 licensed hold the applicant in good standing for licensure in this state; providing that an
18 applicant pay all applicable fees; providing that an applicant meet all state bonding
19 requirements for licensure in this state; providing for an application fee that may be
20 assessed by the board; providing for 60 days for a board to take action on a completed
21 application; providing for an appeal mechanism for a person to appeal any decision of a
22 board relating to occupational licensure; providing for state law preemption against any
23 township, municipality, county, or other government to regulate occupational licensure;
24 and providing for rulemaking authority to any board affected to carry out the provisions of
25 the article.

Be it enacted by the Legislature of West Virginia:

CHAPTER 21. LABOR.

ARTICLE 17. UNIVERSAL RECOGNITION OF OCCUPATIONAL LICENSES ACT.

§21-17-1. Applicability.

1 The provisions of this article apply to all professions requiring an occupational license or
2 other authorization to practice or perform a specific occupation in this state regulated by this
3 chapter.

§21-17-2. Definitions.

1 The words defined in this section have the meanings given them for purposes of this article
2 unless the context clearly requires otherwise.

3 “Board” means a government agency, board, department, or other government entity that
4 regulates a lawful occupation and issues an occupational license or other authorization to practice
5 to an individual.

6 “Lawful occupation” means a course of conduct, pursuit, or profession that includes the
7 sale of goods or services that are not themselves illegal to sell irrespective of whether the
8 individual selling them is subject to an occupational license.

9 “Occupational license” is a nontransferable authorization in law for an individual to perform
10 or practice a lawful occupation based on meeting personal qualifications established by the
11 Legislature. In an occupation for which a license is required, it is illegal for an individual who does
12 not possess a valid occupational license to perform or practice the occupation.

13 “Other authorization to practice” is a nontransferable acknowledgment, other than a
14 license, by a state government or board that is provided to an individual asserting that the
15 individual has met the educational and examination requirements to engage in a lawful
16 occupation.

17 “Other state” or “another state” means any United States territory or state in the United
18 States other than this state.

19 “Private certification” is a voluntary program in which a private organization grants
20 nontransferable recognition to an individual who meets personal qualifications and standards
21 relevant to performing the occupation as determined by the private organization. The individual
22 may use the designated title of “certified,” as permitted by the private organization.

23 “Scope of practice” means the procedures, actions, processes, and work that a person
24 may perform under an occupational license or other authorization to practice issued in this state.

§21-17-3. Occupational license or other authorization to practice.

1 (a) Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person upon application, if all the following apply:

3 (1) The person holds a valid occupational license or other authorization to practice in
4 another state in a lawful occupation with a similar scope of practice, as determined by the board
5 in this state;

6 (2) The person has held the occupational license or other authorization to practice in the
7 other state for at least one year;

8 (3) The person has met all educational and examination requirements for occupational
9 licensure or other authorization to practice in the state where he or she holds a valid license;

10 (4) A board in all other states where a person is licensed holds the person in good
11 standing;

12 (5) The person indicates on the application that he or she is or intends to be a West Virginia
13 resident;

14 (6) The person does not have a disqualifying criminal record as determined by the board
15 in this state;

16 (7) The person has never had his or her license or other authorization to practice revoked
17 by the board in another state because of negligence or intentional misconduct related to the
18 person’s work in the occupation;

19 (8) The person did not surrender an occupational license or other authorization to practice
20 because of negligence or intentional misconduct related to the person's work in the occupation in
21 another state;

22 (9) The person does not have a complaint, allegation, or investigation pending before a
23 board in another state. If the person has a complaint, allegation, or investigation pending, the
24 board in this state shall not issue or deny an occupational license or other authorization to practice
25 to the person until the complaint, allegation, or investigation is resolved; and

26 (10) The person pays all applicable fees and meet all applicable bonding requirements in
27 this state.

28 (b) If this state requires an occupational license to work, but another state does not issue
29 an occupational license for the same profession and instead issues another authorization to
30 practice, this state shall issue an occupational license to the person if the person otherwise
31 satisfies subsection (a) of this section.

§21-17-4. Work experience.

1 Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person upon application based on work experience in another state,
3 if all the following apply:

4 (1) The person worked in a state that does not use an occupational license or other
5 authorization to practice that regulates a lawful occupation, but this state uses an occupational
6 license or other authorization to practice that regulates a lawful occupation with a similar scope
7 of practice, as determined by the board;

8 (2) The person worked for at least two years in the lawful occupation; and

9 (3) The person satisfies §21-17-3(a)(5) through §21-17-3(a)(10) of this code.

§21-17-5. Private certification.

1 Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person based on holding a private certification and work experience
3 in another state, if all the following apply:

4 (1) The person holds a private certification and worked in a state that does not use an
5 occupational license or other authorization to practice that regulates a lawful occupation, but this
6 state uses an occupational license or other authorization to practice that regulates a lawful
7 occupation with a similar scope of practice, as determined by the board;

8 (2) The person worked for at least one year in the lawful occupation;

9 (3) The person holds a current and valid private certification in the lawful occupation;

10 (4) The private certification organization holds the person in good standing; and

11 (5) The person satisfies §21-17-3(a)(5) through §21-17-3(a)(10) of this code.

§21-17-6. State law examination.

1 A board may require a person to pass a jurisprudential examination specific to relevant
2 state laws that regulate the occupation if an occupational license or other authorization to practice
3 in this state requires a person to pass a jurisprudential examination specific to relevant state
4 statutes and administrative rules that regulate the occupation.

§21-17-7. Decision.

1 The board will provide the person with a written decision regarding the application within
2 60 days after receiving a complete application.

§21-17-8. Appeal.

1 (a) The person may appeal the board's decision to a court of general jurisdiction.

2 (b) The person may appeal the board's:

3 (1) Denial of an occupational license or other authorization to practice;

4 (2) Determination of the occupation;

5 (3) Determination of the similarity of the scope of practice of the occupational license or
6 other authorization to practice; or

7 (4) Other determinations under this article.

§21-17-9. State laws and jurisdiction.

1 A person who obtains an occupational license or other authorization to practice pursuant
2 to this article is subject to:

3 (1) The laws regulating the occupation in this state; and

4 (2) The jurisdiction of the board in this state.

§21-17-10. Limitations.

5 (a) An occupational license or other authorization to practice issued pursuant to this article
6 is valid only in this state. It does not make the person eligible to work in another state under an
7 interstate compact or reciprocity agreement unless otherwise provided in law.

8 (b) Nothing in this article prevents this state from entering into a licensing compact or
9 reciprocity agreement with another state, foreign province, or foreign country.

10 (c) Nothing in this article prevents this state from recognizing occupational credentials
11 issued by a private certification organization, foreign province, foreign country, international
12 organization, or other entity.

13 (d) Nothing in this article requires a private certification organization to grant or deny
14 private certification to any individual.

§21-17-11. Cost for application.

1 The board may charge a fee to the person to recoup its costs. The fee may not exceed
2 the cost of an application for original licensure charged by the board.

§21-17-12. Preemption.

1 This article preempts laws by township, municipal, county, and other governments in the
2 state which regulate occupational licenses and other authorization to practice.

§21-17-13. Rulemaking.

1 Boards affected by these provisions are authorized to promulgate rules pursuant to §29A-
2 3-1 et seq. of this code to carry out the provisions of this article.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 33. UNIVERSAL RECOGNITION OF OCCUPATIONAL LICENSES ACT.

§29-33-1. Applicability.

1 The provisions of this article apply to all professions requiring an occupational license or
2 other authorization to practice or perform a specific occupation in this state regulated by this
3 chapter.

§29-33-2. Definitions.

1 The words defined in this section have the meanings given them for purposes of this article
2 unless the context clearly requires otherwise.

3 “Board” means a government agency, board, department, or other government entity that
4 regulates a lawful occupation and issues an occupational license or other authorization to practice
5 to an individual.

6 “Lawful occupation” means a course of conduct, pursuit, or profession that includes the
7 sale of goods or services that are not themselves illegal to sell irrespective of whether the
8 individual selling them is subject to an occupational license.

9 “Occupational license” is a nontransferable authorization in law for an individual to perform
10 or practice a lawful occupation based on meeting personal qualifications established by the
11 Legislature. In an occupation for which a license is required, it is illegal for an individual who does
12 not possess a valid occupational license to perform or practice the occupation.

13 “Other authorization to practice” is a nontransferable acknowledgment, other than a
14 license, by a state government or board that is provided to an individual asserting that the
15 individual has met the educational and examination requirements to engage in a lawful
16 occupation.

17 “Other state” or “another state” means any United States territory or state in the United
18 States other than this state.

19 “Private certification” is a voluntary program in which a private organization grants
20 nontransferable recognition to an individual who meets personal qualifications and standards
21 relevant to performing the occupation as determined by the private organization. The individual
22 may use the designated title of “certified,” as permitted by the private organization.

23 “Scope of practice” means the procedures, actions, processes, and work that a person
24 may perform under an occupational license or other authorization to practice issued in this state.

§29-33-3. Occupational license or other authorization to practice.

1 (a) Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person upon application, if all the following apply:

3 (1) The person holds a valid occupational license or other authorization to practice in
4 another state in a lawful occupation with a similar scope of practice, as determined by the board
5 in this state;

6 (2) The person has held the occupational license or other authorization to practice in the
7 other state for at least one year;

8 (3) The person has met all educational and examination requirements for occupational
9 licensure or other authorization to practice in the state where he or she holds a valid license;

10 (4) A board in all other states where a person is licensed holds the person in good
11 standing;

12 (5) The person indicates on the application that he or she is or intends to be a West Virginia
13 resident;

14 (6) The person does not have a disqualifying criminal record as determined by the board
15 in this state;

16 (7) The person has never had his or her license or other authorization to practice revoked
17 by the board in another state because of negligence or intentional misconduct related to the
18 person’s work in the occupation;

19 (8) The person did not surrender an occupational license or other authorization to practice
20 because of negligence or intentional misconduct related to the person's work in the occupation in
21 another state;

22 (9) The person does not have a complaint, allegation, or investigation pending before a
23 board in another state. If the person has a complaint, allegation, or investigation pending, the
24 board in this state shall not issue or deny an occupational license or other authorization to practice
25 to the person until the complaint, allegation, or investigation is resolved; and

26 (10) The person pays all applicable fees and meet all applicable bonding requirements in
27 this state.

28 (b) If this state requires an occupational license to work, but another state does not issue
29 an occupational license for the same profession and instead issues another authorization to
30 practice, this state shall issue an occupational license to the person if the person otherwise
31 satisfies subsection (a) of this section.

§29-33-4. Work experience.

1 Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person upon application based on work experience in another state,
3 if all the following apply:

4 (1) The person worked in a state that does not use an occupational license or other
5 authorization to practice that regulates a lawful occupation, but this state uses an occupational
6 license or other authorization to practice that regulates a lawful occupation with a similar scope
7 of practice, as determined by the board;

8 (2) The person worked for at least two years in the lawful occupation; and

9 (3) The person satisfies §29-33-4(a)(5) through §29-33-4(a)(10) of this code.

§29-33-5. Private certification.

1 Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person based on holding a private certification and work experience
3 in another state, if all the following apply:

4 (1) The person holds a private certification and worked in a state that does not use an
5 occupational license or other authorization to practice that regulates a lawful occupation, but this
6 state uses an occupational license or other authorization to practice that regulates a lawful
7 occupation with a similar scope of practice, as determined by the board;

8 (2) The person worked for at least one year in the lawful occupation;

9 (3) The person holds a current and valid private certification in the lawful occupation;

10 (4) The private certification organization holds the person in good standing; and

11 (5) The person satisfies §29-33-4(a)(5) through §29-33-4(a)(10) of this code.

§29-33-6. State law examination.

1 A board may require a person to pass a jurisprudential examination specific to relevant
2 state laws that regulate the occupation if an occupational license or other authorization to practice
3 in this state requires a person to pass a jurisprudential examination specific to relevant state
4 statutes and administrative rules that regulate the occupation.

§29-33-7. Decision.

1 The board will provide the person with a written decision regarding the application within
2 60 days after receiving a complete application.

§29-33-8. Appeal.

1 (a) The person may appeal the board's decision to a court of general jurisdiction.

2 (b) The person may appeal the board's:

3 (1) Denial of an occupational license or other authorization to practice;

4 (2) Determination of the occupation;

5 (3) Determination of the similarity of the scope of practice of the occupational license or
6 other authorization to practice; or

7 (4) Other determinations under this article.

§29-33-9. State laws and jurisdiction.

1 A person who obtains an occupational license or other authorization to practice pursuant
2 to this article is subject to:

3 (1) The laws regulating the occupation in this state; and

4 (2) The jurisdiction of the board in this state.

§29-33-10. Limitations.

1 (a) An occupational license or other authorization to practice issued pursuant to this article
2 is valid only in this state. It does not make the person eligible to work in another state under an
3 interstate compact or reciprocity agreement unless otherwise provided in law.

4 (b) Nothing in this article prevents this state from entering into a licensing compact or
5 reciprocity agreement with another state, foreign province, or foreign country.

6 (c) Nothing in this article prevents this state from recognizing occupational credentials
7 issued by a private certification organization, foreign province, foreign country, international
8 organization, or other entity.

9 (d) Nothing in this article requires a private certification organization to grant or deny
10 private certification to any individual.

§29-33-11. Cost for application.

1 The board may charge a fee to the person to recoup its costs. The fee may not exceed
2 the cost of an application for original licensure charged by the board.

§29-33-12. Preemption.

1 This article preempts laws by township, municipal, county, and other governments in the
2 state which regulate occupational licenses and other authorization to practice.

§29-33-13. Rulemaking.

1 Boards affected by these provisions are authorized to promulgate rules pursuant to §29A-
2 3-1 et seq. of this code to carry out the provisions of this article.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1F. UNIVERSAL RECOGNITION OF OCCUPATIONAL LICENSES ACT.

§30-1F-1. Applicability.

1 The provisions of this article apply to all boards offering an occupational license or other
2 authorization to practice or perform a specific occupation in this state regulated by this chapter;
3 Provided, That the provisions of this article do not apply to §30-2-1 et seq., and §30-29-1 et seq.,
4 of this code.

§30-1F-2. Definitions.

1 The words defined in this section have the meanings given them for purposes of this article
2 unless the context clearly requires otherwise.

3 “Board” means a government agency, board, department, or other government entity that
4 regulates a lawful occupation and issues an occupational license or other authorization to practice
5 to an individual.

6 “Lawful occupation” means a course of conduct, pursuit, or profession that includes the
7 sale of goods or services that are not themselves illegal to sell irrespective of whether the
8 individual selling them is subject to an occupational license.

9 “Occupational license” is a nontransferable authorization in law for an individual to perform
10 or practice a lawful occupation based on meeting personal qualifications established by the
11 Legislature. In an occupation for which a license is required, it is illegal for an individual who does
12 not possess a valid occupational license to perform or practice the occupation.

13 “Other authorization to practice” is a nontransferable acknowledgment, other than a
14 license, by a state government or board that is provided to an individual asserting that the
15 individual has met the educational and examination requirements to engage in a lawful
16 occupation.

17 “Other state” or “another state” means any United States territory or state in the United
18 States other than this state.

19 “Private certification” is a voluntary program in which a private organization grants
20 nontransferable recognition to an individual who meets personal qualifications and standards
21 relevant to performing the occupation as determined by the private organization. The individual
22 may use the designated title of “certified,” as permitted by the private organization.

23 “Scope of practice” means the procedures, actions, processes, and work that a person
24 may perform under an occupational license or other authorization to practice issued in this state.

§30-1F-3. Occupational license or other authorization to practice.

1 (a) Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person upon application, if all the following apply:

3 (1) The person holds a valid occupational license or other authorization to practice in
4 another state in a lawful occupation with a similar scope of practice, as determined by the board
5 in this state;

6 (2) The person has held the occupational license or other authorization to practice in the
7 other state for at least one year;

8 (3) The person has met all educational and examination requirements for occupational
9 licensure or other authorization to practice in the state where he or she holds a valid license;

10 (4) A board in all other states where a person is licensed holds the person in good
11 standing;

12 (5) The person indicates on the application that he or she is or intends to be a West Virginia
13 resident; *Provided*, That any person offering telehealth services pursuant to §30-1-26 of this code
14 does not need to meet the residency requirements;

15 (6) The person does not have a disqualifying criminal record as determined by the board
16 in this state;

17 (7) The person has never had his or her license or other authorization to practice revoked
18 by the board in another state because of negligence or intentional misconduct related to the
19 person's work in the occupation;

20 (8) The person did not surrender an occupational license or other authorization to practice
21 because of negligence or intentional misconduct related to the person's work in the occupation in
22 another state;

23 (9) The person does not have a complaint, allegation, or investigation pending before a
24 board in another state. If the person has a complaint, allegation, or investigation pending, the
25 board in this state shall not issue or deny an occupational license or other authorization to practice
26 to the person until the complaint, allegation, or investigation is resolved; and

27 (10) The person pays all applicable fees and meet all applicable bonding requirements in
28 this state.

29 (b) If this state requires an occupational license to work, but another state does not issue
30 an occupational license for the same profession and instead issues another authorization to
31 practice, this state shall issue an occupational license to the person if the person otherwise
32 satisfies subsection (a) of this section.

§30-1F-4. Work experience.

1 Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person upon application based on work experience in another state,
3 if all the following apply:

4 (1) The person worked in a state that does not use an occupational license or other
5 authorization to practice that regulates a lawful occupation, but this state uses an occupational
6 license or other authorization to practice a lawful occupation with a similar scope of practice, as
7 determined by the board;

8 (2) The person worked for at least two years in the lawful occupation; and

9 (3) The person satisfies §30-1F-3(a)(5) through §30-1F-3(a)(10) of this code.

§30-1F-5. Private certification.

1 Notwithstanding any other law, the board shall issue an occupational license or other
2 authorization to practice to a person based on holding a private certification and work experience
3 in another state, if all the following apply:

4 (1) The person holds a private certification and worked in a state that does not use an
5 occupational license or other authorization to practice that regulates a lawful occupation, but this
6 state uses an occupational license or other authorization to practice that regulates a lawful
7 occupation with a similar scope of practice, as determined by the board;

8 (2) The person worked for at least one year in the lawful occupation;

9 (3) The person holds a current and valid private certification in the lawful occupation;

10 (4) The private certification organization holds the person in good standing; and

11 (5) The person satisfies §30-1F-3(a)(5) through §30-1F-3(a)(10) of this code.

§30-1F-6. State law examination.

1 A board may require a person to pass a jurisprudential examination specific to relevant
2 state laws that regulate the occupation if an occupational license or other authorization to practice
3 in this state requires a person to pass a jurisprudential examination specific to relevant state
4 statutes and administrative rules that regulate the occupation, if the board offers or approves a
5 class or classes designed to teach the relevant jurisprudential material and the same is made
6 available to such persons at a cost comparable to other classes required by the board.

§30-1F-7. Decision.

1 The board will provide the person with a written decision regarding the application within
2 60 days after receiving a complete application.

§30-1F-8. Appeal.

1 (a) The person may appeal the board's decision to a court of general jurisdiction.

2 (b) The person may appeal the board's:

3 (1) Denial of an occupational license or other authorization to practice;

4 (2) Determination of the occupation;

5 (3) Determination of the similarity of the scope of practice of the occupational license or
6 other authorization to practice; or

7 (4) Other determinations under this article.

§30-1F-9. State laws and jurisdiction.

1 A person who obtains an occupational license or other authorization to practice pursuant
2 to this article is subject to:

3 (1) The laws regulating the occupation in this state; and

4 (2) The jurisdiction of the board in this state.

§30-1F-10. Limitations.

1 (a) An occupational license or other authorization to practice issued pursuant to this article
2 is valid only in this state. It does not make the person eligible to work in another state under an
3 interstate compact or reciprocity agreement unless otherwise provided in law.

4 (b) Nothing in this article prevents this state from entering into a licensing compact or
5 reciprocity agreement with another state, foreign province, or foreign country.

6 (c) Nothing in this article prevents this state from recognizing occupational credentials
7 issued by a private certification organization, foreign province, foreign country, international
8 organization, or other entity.

9 (d) Nothing in this article requires a private certification organization to grant or deny
10 private certification to any individual.

§30-1F-11. Cost for application.

1 The board may charge a fee to the person to recoup its costs. The fee may not exceed
2 the cost of an application for original licensure charged by the board.

§30-1F-12. Preemption.

1 This article preempts laws by township, municipal, county, and other governments in the
2 state which regulate occupational licenses and other authorization to practice.

§30-1F-13. Rulemaking.

- 1 Boards affected by these provisions are authorized to promulgate rules pursuant to §29A-
- 2 3-1 *et seq.* of this code to carry out the provisions of this article.

NOTE: The purpose of this bill is to provide for occupational licenses or other authorization to practice by recognition for qualified applicants from other states.

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