

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 419**

By Senators Weld and Deeds

[Introduced January 23, 2023; referred  
to the Committee on Military; and then to the  
Committee on Government Organization]

1 A BILL to amend and reenact §30-1B-1, §30-1B-2, §30-1B-3, and §30-1B-4 of the Code of West  
 2 Virginia, 1931, as amended; to repeal §30-1B-5 and §30-1B-7 of said code; and to amend  
 3 said code by adding thereto a new section, designated §30-1B-5, all relating to professions  
 4 and occupations; and providing licensure provisions for individuals with military training  
 5 and experience applicable to military members and their spouses.

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

**ARTICLE 1B. PROVISIONS APPLICABLE TO MILITARY MEMBERS AND THEIR SPOUSES.**

**§30-1B-1. Legislative findings and declarations.**

1 The Legislature finds that:

2 (1) In recognition of the enormous sacrifices made by members of the Armed Forces of the  
 3 United States of America and their families in voluntary service to this state and our nation, the  
 4 citizens of West Virginia must endeavor to find new and innovative ways to improve the lives of  
 5 military families and support their personal and professional growth;

6 (2) Many current and former members of the United States Armed Forces have acquired  
 7 extensive academic, professional and occupational training and experience in various professions  
 8 and occupations while serving in the Armed Forces, comparable to or exceeding that required in  
 9 this state to register for examination or qualify for licensure, certification or registration for similar  
 10 or related occupations and professions;

11 ~~(3) Military families are ten times more likely to move from one state to another than their~~  
 12 ~~civilian counterparts, and 35% of military spouses work in professions that require state licenses,~~  
 13 ~~certifications or registrations~~

14 (4) Veterans of the Armed armed forces and the spouses of current members who return or  
 15 relocate to this state after being called to active duty service, and spouses accompanying armed  
 16 ~~forces members outside of this state or to this state for active duty~~ are frequently delayed in

17 beginning employment as professionals because of issues with obtaining licenses, certifications  
18 or registrations upon arrival or return to West Virginia;

19 (5) The boards in this chapter have the particular expertise necessary to evaluate and  
20 determine the adequacy of military education, training and experience for licensure, certification or  
21 registration and to adopt procedures that ease the burden of transition for military families through  
22 waivers, temporary licensing, or otherwise, while ensuring competency of professionals and  
23 protecting the citizens of the state from harm.

24 Because of the training and experiences these individuals have and the challenges they  
25 may face when seeking licensure, certification, or registration, it is in the best interests of this state  
26 to ease these burdens and ensure the boards in this chapter use the relevant experiences of these  
27 men and women to ensure they are able to find employment as quickly as possible.

**~~§30-1B-2. Consideration of military education, training and experience for licensure or  
registration, generally~~ Licensure for individuals with military training and  
experience.**

1 (a) Except as provided in section eight of this article, and notwithstanding any law to the  
2 contrary, all boards referred to in this chapter shall, upon presentation of satisfactory evidence by  
3 an applicant for licensure, certification or registration, consider the individual's education, training  
4 or experience as a member of the Armed Forces or Reserves of the United States, the National  
5 Guard of any state, or the military reserves of any state, as part of the evaluation process toward  
6 the qualifications to receive, or take examination for, that respective professional license,  
7 certification or registration. Subsection (c) of this section, and notwithstanding any other provision  
8 of this Code to the contrary, all boards referred to in this chapter shall issue a license, certification,  
9 or registration to a military-trained applicant to allow the applicant to lawfully practice the  
10 applicant's occupation in this state if, upon application to a board, the military-trained applicant  
11 satisfies the following conditions:

12 (1) Has been awarded a military occupational specialty and has done all of the following at

13 a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or  
14 registration of the board from which the applicant is seeking licensure, certification, or registration  
15 in this state:

16 (A) Completed a military program of training;

17 (B) Completed testing or equivalent training and experience; and

18 (C) Performed in the occupational specialty;

19 (2) Has engaged in the active practice of the occupation for which the person is seeking a  
20 license, certification, or permit from the board in this state for at least two of the five years  
21 preceding the date of the application under this section; and

22 (3) Has not committed any act in any jurisdiction that would have constituted grounds for  
23 refusal, suspension, or revocation of a license to practice that occupation in this state at the time  
24 the act was committed and has no pending complaints.

25 (b) No later than 15 days following receipt of an application from a military-trained  
26 applicant, the board shall either issue a license, certification, or registration or notify an applicant  
27 when the applicant's military training or experience does not satisfy the requirements for licensure,  
28 certification, or registration and specify the criteria or requirements that the board determined that  
29 the applicant failed to meet and the basis for that determination. If a military-trained applicant has a  
30 pending complaint under subdivision (3) of subsection (a) of this section, the board shall notify the  
31 applicant no later than 15 days following the board receiving written notice of the disposition of the  
32 pending complaint.

33 (c) A board shall issue a license, certification, or registration to a military-trained applicant  
34 to allow the applicant to lawfully practice the applicant's occupation in this state if the military-  
35 trained applicant, upon application to the board, satisfies the following conditions:

36 (1) Presents official, notarized documentation, such as a U.S. Department of Defense  
37 Form 214 (DD-214), or similar substantiation, attesting to the applicant's military occupational  
38 specialty certification and experience in an occupational field within the board's purview; and

39 (2) Passes a proficiency examination offered by the board to military-trained applicants in  
40 lieu of satisfying the conditions set forth in subsection (a) of this section; however, if an applicant  
41 fails the proficiency examination, then the applicant may be required by the board to satisfy those  
42 conditions.

43 (d) In any case where a proficiency examination is not offered routinely by a board, the  
44 board shall design a fair proficiency examination for military-trained applicants to obtain licensure,  
45 certification, or registration under this section. If a proficiency examination is offered routinely by a  
46 board, that examination shall satisfy the requirements of this section.

47 (e) All relevant experience of a military service member in the discharge of official shall be  
48 credited in the calculation of years of practice in an occupation as required under subsection (a) of  
49 this section.

50 (f) A nonresident licensed, certified, or registered under this section shall be entitled to the  
51 same rights and subject to the same obligations as required of a resident licensed, certified, or  
52 registered by all boards referred to in this chapter.

53 (g) Nothing in this section may be construed to apply to the practice of law under §30-2-1 et  
54 seq. of this code.

55 (h) Nothing in this section may be construed to prohibit a military-trained applicant from  
56 proceeding under the existing licensure, certification, or registration requirements established by a  
57 board referred to in this chapter.

58 (i) A board may not charge a military-trained applicant an initial application fee for a  
59 license, certification, registration, or temporary practice permit issued pursuant to this section:  
60 Provided, That nothing in this subsection may be construed to prohibit a board from charging its  
61 ordinary fee for a renewal application or prohibit a third party from charging actual costs for a  
62 service such as a background check.

**~~§30-1B-3. Licensure certification or registration of persons on military active duty outside  
this state; extension of licenses or registration; waiver of certain license,~~**

~~certification or registration requirements~~ for military spouses.

1           (a) ~~During periods when the licensee, certificate holder or registrant is on active duty as a~~  
2 ~~member of the Armed Forces of the United States and deployed outside of this state, and for six~~  
3 ~~months after discharge from active duty, his or her license, certification or registration shall~~  
4 ~~continue in good standing and shall be renewed, upon receipt of a waiver request pursuant to~~  
5 ~~subsection (b) of this section:~~

6           (1) ~~Without meeting continuing education requirements for the license, certification or~~  
7 ~~registration when:~~

8           (A) ~~Circumstances associated with the military duty prevent the obtaining of continuing~~  
9 ~~education, or~~

10           (B) ~~The licensee, certificate holder or registrant performs the profession or occupation as~~  
11 ~~part of his or her military duties, as may be evidenced by annotation on Defense Department Form~~  
12 ~~214 (DD214), National Guard Bureau Form 22 (NGB22) or other official record; and~~

13           (2) ~~Without payment of fees for the renewal of the license, certification or registration~~

14           (b) (a) ~~The licensee, certificate holder or registrant shall submit a waiver request to the~~  
15 ~~appropriate board, informing the board of circumstances which include, but are not limited to,~~  
16 ~~being deployed outside of this state~~ Notwithstanding any other provision of this code to the  
17 contrary, all boards referred to in this chapter shall issue a license, certification, or registration to a  
18 military spouse to allow the spouse of an active duty military member who is a resident of this state  
19 or who is assigned to state or federal active duty in this state to lawfully practice the spouse's  
20 occupation in this state if, upon application to a board, the spouse satisfies the following  
21 conditions:

22           (1) Holds a current license, certification, or registration from another jurisdiction, and that  
23 jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to  
24 or exceed the requirements for licensure, certification, or registration of the board for which the  
25 applicant is seeking licensure, certification, or registration in this state;

26 (2) Can demonstrate competency in the occupation through methods as determined by the  
27 board, such as having completed continuing education units or having had recent experience for  
28 at least two of the five years preceding the date of the application under this section;

29 (3) Has not committed any act in any jurisdiction that would have constituted grounds for  
30 refusal, suspension, or revocation of a license to practice that occupation in this state at the time  
31 the act was committed; and

32 (4) Is in good standing; has not been disciplined by the agency that had jurisdiction to issue  
33 the license, certification, or permit; and has no pending complaints.

34 (b) No later than 15 days following receipt of an application from a spouse the board shall  
35 either issue a license, certification, or registration or notify an applicant when the applicant's  
36 training or experience does not satisfy the requirements for licensure, certification, or registration  
37 and specify the criteria or requirements that the board determined that the applicant failed to meet  
38 and the basis for that determination. If an applicant who is a military spouse has a pending  
39 complaint under subdivision (4), subsection (a) of this section, the board shall notify the applicant  
40 no later than 15 days following the board receiving written notice of the disposition of the pending  
41 complaint.

42 (c) All relevant experience of a military spouse, including full-time and part-time  
43 experience, regardless of whether in a paid or volunteer capacity, shall be credited in the  
44 calculation of years of practice in an occupation as required under subsection (a) of this section.

45 (d) A nonresident licensed, certified, or registered under this section is entitled to the same  
46 rights and subject to the same obligations as required of a resident licensed, certified, or registered  
47 by all boards referred to in this chapter.

48 (e) Nothing in this section may be construed to apply to the practice of law under article  
49 §30-2-1 et seq. of this code.

50 (f) Nothing in this section may be construed to prohibit a spouse from proceeding under the  
51 existing licensure, certification, or registration requirements established by a board referred to in

52 this chapter.

53 (g) A board may not charge a military spouse an initial application fee for a license,  
54 certification, registration, or temporary practice permit issued pursuant to this section: *Provided,*  
55 That nothing in this subsection may be construed to prohibit a board from charging its ordinary fee  
56 for a renewal application or prohibit a third party from charging actual costs for a service such as a  
57 background \_\_\_\_\_ check.

**§30-1B-4. Temporary licensure certification or registration of spouses of persons on military active duty outside this state; extension of licenses or registration; waiver of certain license, certification or registration requirements.**

1 ~~(a) During periods when the licensee, certificate holder or registrant is accompanying his~~  
2 ~~or her spouse who is on active duty as a member of the Armed Forces of the United States and~~  
3 ~~deployed outside of this state, and for six months after his or her spouse is discharged from active~~  
4 ~~duty, his or her license, certification or registration shall continue in good standing and shall be~~  
5 ~~renewed, upon receipt of a waiver request pursuant to subsection (b) of this section:~~

6 ~~(1) Without meeting continuing education requirements for the license, certification or~~  
7 ~~registration when:~~

8 ~~(A) Circumstances associated with accompanying his or her spouse who is on active duty~~  
9 ~~prevent the obtaining of continuing education, or~~

10 ~~(B) The licensee, certificate holder or registrant presents evidence that he or she performs~~  
11 ~~or performed the profession or occupation while accompanying his or her spouse on active duty;~~  
12 ~~and~~

13 ~~(2) Without payment of fees for the maintenance or renewal of the license, certification or~~  
14 ~~registration.~~

15 ~~(b) The licensee, certificate holder or registrant shall submit a waiver request to the~~  
16 ~~appropriate board informing the board of circumstances which include, but are not limited to,~~  
17 ~~accompanying a spouse who is deployed outside of this state~~



18 All boards referred to in this chapter shall issue a temporary practice permit to a military-  
 19 trained applicant or military spouse licensed, certified, or registered in another jurisdiction while  
 20 the military-trained applicant or military spouse is satisfying the requirements for licensure under  
 21 sections three and four of this section no later than 15 days following receipt of an application, if  
 22 that jurisdiction has licensure, certification, or registration standards substantially equivalent to the  
 23 standards for licensure, certification, or registration of a board in this state. The temporary practice  
 24 permit shall be issued using the same information as provided by the applicant in the licensure  
 25 application and remain valid for the later of one year or the required renewal date for the  
 26 occupation the temporary practice permit was issued for or until a license, certification, or  
 27 registration is granted by the board. A temporary practice permit may be denied or revoked for a  
 28 pending complaint after notice is provided to the military-trained applicant or military spouse as set  
 29 forth under subdivision (3), subsection (a) of section (3) and subdivision (4), or subsection (a) of  
 30 section (4) of this article.

**§30-1B-5. Temporary licensure, certification or registration of spouses of persons on  
 military active duty; waiver of certain license, certification or registration fees.**

1 [Repealed.]

**§30-1B-5 Rule-making authority.**

1 The Boards referred to in this chapter may propose rules for legislative approval in  
 2 accordance with §29A-3-1 et seq. of this code in order to implement the amendments made to this  
 3 article during the 2023 regular session of the Legislature. Proposed rules may:

- 4 (1) Establish criteria or requirements for military education, training and experience that  
 5 qualify the applicant for a waiver of any examination requirement to be licensed, certified, or  
 6 registered; and

7 The Boards referred to in this chapter may propose rules for legislative approval in  
 8 accordance with §29A-3-1 et seq. of this code. Legislature. the provisions of this article. The  
 9 proposed rules may:

10           (1) Establish criteria or requirements for military education, training, and experience that  
11 qualify the applicant to take an examination for licensure, certification, or registration or for a  
12 waiver of any examination requirement to be licensed, certified, or registered; and

13           (2) Implement the provisions of this article while ensuring competency, protecting the  
14 citizens of this state from harm, and addressing issues specific to each profession.

**§30-1B-7. Data collection.**

1           [Repealed.]

NOTE: The purpose of this bill is to amend the professions and occupations licensure provisions for individuals with military training and experience and applicable to military members and their spouses.

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