

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 557

By Senator Takubo

[Introduced February 20, 2025; referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-1D-1, §30-3-4, §30-3-5, §30-3-6, §30-3-7, §30-3-8, §30-3-9,
2 §30-3-10, §30-3-11, §30-3-11a, §30-3-12, §30-3-13, §30-3-13a, §30-3-15, §30-3-16, §30-
3 3-17, and §30-3-18 of the Code of West Virginia, 1931, as amended; to amend the code by
4 adding three new sections, designated §30-3-10b, §30-3-21, and §30-3-22; to amend said
5 code adding thereto a new article, designated §30-3H-1, §30-3H-2, §30-3H-3, §30-3H-4,
6 §30-3H-5, §30-3H-6, §30-3H-7, §30-3H-8, §30-3H-9, §30-3H-10, §30-3H-11, and §30-3H-
7 12; and to repeal §30-3-7a, §30-3-11, §30-3-11a, §30-3-11b, and §30-3-11c, relating to
8 professionals to be licensed by the West Virginia Board of Medicine; requiring criminal
9 background checks of any applicant for a license to engage in genetic counseling; defining
10 terms; providing for board membership; providing that the board may call emergency
11 meetings; authorizing the delegation of duties by the board; repealing certain provisions
12 pertaining to radiologist assistants; providing for certain use of electronic signatures;
13 providing for the creation of a complaint file that is separate from and in addition to a
14 licensee's historical record; providing requirements for licensure to practice medicine and
15 surgery; podiatry and administrative medicine; providing for certain special license types;
16 repealing provisions relating to endorsement and temporary licensure; repealing certain
17 provisions relating to the practice of medicine and surgery in certain nursing homes;
18 repealing certain provisions pertaining to administrative medicine licenses; creating a
19 Genetic Counselors Practice Act; requiring criminal background checks of any applicant
20 for a license to engage in genetic counseling; requiring persons to possess a valid license
21 prior to practicing genetic counseling; providing licensure requirements for genetic
22 counseling; stating the duties and powers of the board with regard to genetic counseling;
23 providing for the practice of active candidate status and American Board of Genetic
24 Counseling permittees; authorizing the board to promulgate rules for legislative approval;
25 providing for the expiration, renewal, and reinstatement of licenses to practice genetic
26 counseling; setting certain continuing education requirements; setting a genetic

27 counselor's scope of practice; providing for disciplinary proceedings involving genetic
 28 counselors; authorizing the board or the Attorney General to seek certain injunctive relief;
 29 requiring certain reports from health care facilities; prohibiting any genetic counselor or
 30 active candidate status permittee to represent that he or she is a licensed physician; and
 31 providing that any person who violates that prohibition is guilty of a felony and, upon
 32 conviction, shall be imprisoned for not less than one nor more than two years, or be fined
 33 not more than \$2,000, or both find and imprisoned.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1D. PROVISIONS AFFECTING CERTAIN BOARDS OF LICENSURE.

§30-1D-1. Criminal background checks required of new applicants.

- 1 (a) This article shall be known as "Lynette's Law".
- 2 (b) The requirements in subsection (c) of this section for criminal background checks apply
 3 to those persons applying to be licensed in West Virginia for the first time by the boards governing
 4 licensing under the following sections: §30-3-10, §30-3E-4, §30-3H-5; §30-4-8; §30-5-9; §30-7-6;
 5 §30-7A-3; §30-8-8; §30-10-8; §30-14-4; and §30-21-7.
- 6 (c) A person applying for licensing to a board listed in subsection (b) of this section must
 7 submit to a state and national criminal history record check, as set forth in this subsection:
 8 *Provided*, That an applicant for a license who is an attorney at law may submit a letter of good
 9 standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of submitting to a
 10 state and national criminal history record check.
- 11 (1) This requirement is found not to be against public policy.
- 12 (2) The criminal history record check shall be based on fingerprints submitted to the West
 13 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.
- 14 (3) The applicant shall meet all requirements necessary to accomplish the state and
 15 national criminal history record check, including:
- 16 (A) Submitting fingerprints for the purposes set forth in this subsection; and

17 (B) Authorizing the board, the West Virginia State Police, and the Federal Bureau of
18 Investigation to use all records submitted and produced for the purpose of screening the applicant
19 for a license.

20 (4) The results of the state and national criminal history record check may not be released
21 to or by a private entity except:

22 (A) To the individual who is the subject of the criminal history record check;

23 (B) With the written authorization of the individual who is the subject of the criminal history
24 record check; or

25 (C) Pursuant to a court order.

26 (5) The criminal history record check and related records are not public records for the
27 purposes of §29B-1-1, *et seq.* of this code.

28 (6) The applicant shall pay the actual costs of the fingerprinting and criminal history record
29 check.

30 (d) Before implementing the provisions of this subsection, the board shall propose rules for
31 legislative approval in accordance with ~~article three, chapter twenty-nine-a~~ §29A-3-1 of this code.
32 The rules shall set forth the requirements and procedures for the criminal history check and must
33 be consistent with standards established by the Federal Bureau of Investigation and the National
34 Crime Prevention and Privacy Compact as authorized by 42 U. S. C. A. §14611, 34 U.S.C.S. §
35 40311 *et seq.*

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-4. Definitions.

1 As used in this article:

2 "ACGME" means the Accreditation Council of Graduate Medical Education.

3 "Administrative medicine" means administration or management related to the practice of

4 medicine or to the delivery of health care services using the medical knowledge, skill, and
5 judgment of a licensed physician that may affect the health of the public or medical research,
6 excluding clinical trials on humans. Administrative medicine does not include the authority to
7 practice clinical medicine; examine, care for, or treat patients; prescribe medications, including
8 controlled substances; or direct or delegate medical acts or prescriptive authority to others.

9 "Administrative medicine license" means a medical license restricted to the practice of
10 administrative medicine. A physician with an administrative medicine license may manage the
11 integration of clinical medicine, strategy, operations, and other business activities related to the
12 delivery of health care services, advise organizations, both public and private, on health care
13 matters; authorize and deny financial payments for care; organize and direct research programs;
14 review care provided for quality; and perform other similar duties that do not require or involve
15 direct patient care.

16 "APMLE" means the American Podiatric Medical Licensing Examination.

17 "Approved graduate medical education" means education received through: (1) an
18 internship, residency, or clinical fellowship program conducted in the United States and accredited
19 by either the ACGME or AOA; or (2) a residency program conducted in Canada and accredited by
20 RCPSC.

21 "Approved medical school" means an allopathic school of medicine approved by the LCME
22 or the board and which confers the degree of medical doctor or its equivalent upon graduation.

23 (4) "Board" means the West Virginia Board of Medicine established in section five §30-
24 3-5 of this article code.

25 "Clinical medicine" includes, but is not limited to:

26 (A) Direct involvement in patient evaluation, diagnosis, and treatment;

27 (B) Prescribing, administering, or dispensing any medication;

28 (C) Delegating medical acts, service, or prescriptive authority; and

29 (D) Supervision of physicians or podiatrists who practice clinical medicine, physicians

30 and podiatrists engaged in graduate medical education, physician assistants who render medical
31 services in collaboration with physicians, and/or the clinical practice of any other medical
32 professional.

33 "ECFMG" means the Educational Commission for Foreign Medical Graduates.

34 "LCME" means the Liaison Committee on Medical Education.

35 "License" means the legal authorization issued by the board to: a fully qualified allopathic
36 physician to engage in the regular practice of medicine and surgery; a fully qualified podiatrist to
37 engage in the practice of podiatric medicine and surgery; or a fully qualified physician assistant to
38 practice in collaboration with physicians licensed under this article or W. Va. Code §30-14-1 et.
39 seq..

40

41 (2) "Medical peer review committee" means a committee of, or appointed by, a state or
42 local professional medical society, or a committee of, or appointed by, a medical staff of a licensed
43 hospital, long-term care facility, or other health care facility, or any health care peer review
44 organization as defined in ~~section one, article three-c of this chapter~~ §30-3C-1 et seq. of this code,
45 or any other organization of professionals in this state formed pursuant to state or federal law and
46 authorized to evaluate medical and health care services.

47 (3) "Practice of medicine and surgery" means the diagnosis or treatment of, or operation or
48 prescription for, any human disease, pain, injury, deformity or other physical or mental condition.
49 "Surgery" includes the use on humans of lasers, ionizing radiation, pulsed light and radiofrequency
50 devices. The provisions of this section do not apply to any person who is a duly licensed health
51 care provider under other pertinent provisions of this code and who is acting within the scope of his
52 or her license.

53 (4) "Practice of podiatry" means the examination, diagnosis, treatment, prevention and
54 care of conditions and functions of the human foot and ankle by medical, surgical and other
55 scientific knowledge and methods; with surgical treatment of the ankle authorized only when a

56 podiatrist has been granted privileges to perform ankle surgery by a hospital's medical staff
57 credentialing committee based on the training and experience of the podiatrist; and medical and
58 surgical treatment of warts and other dermatological lesions of the hand which similarly occur in
59 the foot. When a podiatrist uses other than local anesthesia, in surgical treatment of the foot, the
60 anesthesia must be administered by, or under the direction of, an anesthesiologist or certified
61 registered nurse anesthetist authorized under the State of West Virginia to administer anesthesia.
62 A medical evaluation shall be made by a physician of every patient prior to the administration of
63 other than local anesthesia.

64 "Practice credential" or "credential" means any permit, certification, registration, or
65 authorization, other than a license, issued by this Board which authorizes the credential holder to
66 practice allopathic or podiatric medicine and surgery, or to practice as a physician assistant, to
67 patients in West Virginia within the limits established for the specific credential type.

68 "RCPSC" means the Royal College of Physicians and Surgeons of Canada.

69 ~~(5)~~ "State health officer" means the commissioner for the Bureau for Public Health or his or
70 her designee, which officer or designee shall be an allopathic physician and shall act as secretary
71 of the board and shall carry out any and all responsibilities assigned in this article to the secretary
72 of the board.

73 "USMLE" means the United States Medical Licensing Examination.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and terms of members; vacancies; removal.

1 (a) The West Virginia Board of Medicine has assumed, carried on, and succeeded to all the
2 duties, rights, powers, obligations, and liabilities heretofore belonging to or exercised by the
3 Medical Licensing Board of West Virginia. All the rules, orders, rulings, licenses, certificates,
4 permits, and other acts and undertakings of the Medical Licensing Board of West Virginia as

5 heretofore constituted have continued as those of the West Virginia Board of Medicine until they
6 expired or were amended, altered, or revoked. The board remains the sole authority for the
7 issuance of licenses to practice allopathic medicine and surgery and podiatry, and to practice as
8 physician assistants in this state in collaboration with physicians licensed under this article. The
9 board shall continue to be a regulatory and disciplinary body for the practice of medicine and
10 surgery, the practice of podiatry, and for physician assistants in this state.

11 ~~The board shall consist of 15 members. One member shall be the state health officer ex~~
12 ~~officio, with the right to vote as a member of the board. The other 14 members shall be appointed~~
13 ~~by the Governor, with the advice and consent of the Senate. Eight of the members shall be~~
14 ~~appointed from among individuals holding the degree of doctor of medicine, and one shall hold the~~
15 ~~degree of doctor of podiatric medicine. Two members shall be physician assistants licensed by the~~
16 ~~board. Each of these members must be duly licensed to practice his or her profession in this state~~
17 ~~on the date of appointment and must have been licensed and actively practicing that profession for~~
18 ~~at least five years immediately preceding the date of appointment. Three lay members shall be~~
19 ~~appointed to represent health care consumers. Neither the lay members nor any person of the lay~~
20 ~~members' immediate families shall be a provider of or be employed by a provider of health care~~
21 ~~services. The state health officer's term shall continue for the period that he or she holds office as~~
22 ~~state health officer. Each other member of the board shall be appointed to serve a term of five~~
23 ~~years: *Provided*, That the members of the Board of Medicine holding appointments on the effective~~
24 ~~date of this section shall continue to serve as members of the Board of Medicine until the~~
25 ~~expiration of their term unless sooner removed. Each term shall begin on October 1 of the~~
26 ~~applicable year and a member may not be appointed to more than two three consecutive full terms~~
27 ~~on the board.~~

28 A person is not eligible for membership on the board who is a member of any political party
29 executive committee or, with the exception of the state health officer, who holds any public office or
30 public employment under the federal government or under the government of this state or any

31 political subdivision thereof.

32 ~~In making appointments to the board, the Governor shall, so far as practicable, select the~~
33 ~~members from different geographical sections of the state. When a vacancy on the board occurs~~
34 ~~and less than one year remains in the unexpired term, the appointee shall be eligible to serve the~~
35 ~~remainder of the unexpired term and two consecutive full terms on the board.~~

36 ~~No member may be removed from office by the Governor except for official misconduct,~~
37 ~~incompetence, neglect of duty, or gross immorality: Provided, That the expiration, surrender, or~~
38 ~~revocation of the professional license by the board of a member of the board shall cause the~~
39 ~~membership to immediately and automatically terminate.~~

40 (b) The board shall consist of the following 15 members:

41 (1) The state health officer, who shall serve ex officio, with the right to vote as a member of
42 the board, for the length of his or her term as state health officer;

43 (2) Eight allopathic physicians;

44 (3) One podiatrist;

45 (4) Two physician assistants; and

46 (5) Three citizen members.

47 (c) With the exception of the state health officer, all members shall be appointed by the
48 Governor with the advice and consent of the Senate. In making appointments to the board, the
49 Governor shall, so far as practicable, select the members from different geographical sections of
50 the state.

51 (d) A person is not eligible for membership on the board who is a member of any political
52 party executive committee or, with the exception of the state health officer, who holds any public
53 office.

54 (e) To be eligible to serve on the board, physicians, podiatrists, and physician assistants
55 must:

56 (1) Reside in West Virginia;

57 (2) Hold an active, full and unrestricted license to practice as an allopathic physician,
58 podiatrist, or physician assistant in West Virginia, and have held such license for at least five
59 years; and

60 (3) Be engaged in active clinical practice in this state as a licensed provider and have a
61 history of active clinical practice in West Virginia for the five years prior to the date of appointment.

62 "Active clinical practice" means that the licensee is engaged in the full-time practice of clinical
63 medicine in West Virginia for a minimum of 50 percent of the licensee's professional practice.

64 (f) To be eligible to serve on the board, citizen members, who represent the interests of
65 health care consumers, and who are appointed to the board after January 1, 2025:

66 (1) Shall reside in West Virginia and have a history of residing in West Virginia for at least
67 five years prior to appointment;

68 (2) Shall not be licensed under the provisions of this article and shall never have performed
69 any services as a licensed health care provider; and

70 (3) Shall not have a financial interest in the practice of the professions regulated by the
71 board. A person shall be deemed to have a financial interest in the practice of the professionals
72 regulated by the board if the individual:

73 (A) Owns or operates a business that is engaged in the delivery of health care services or
74 the provision of health care related goods, services, or staffing;

75 (B) Is married to a health care provider who is licensed to practice in this state; or

76 (C) Is employed by an entity which provides health care goods or services to West Virginia
77 patients if the individual's work responsibilities relate, in whole or in part, to the delivery of health
78 care services, health care administration, management, or policy.

79 (g) Board membership terms shall begin on October 1 of the applicable year and a member
80 may not be appointed to more than two consecutive full terms on the board.

81 (h) When a vacancy on the board occurs and less than one year remains in the unexpired
82 term, the appointee shall be eligible to serve the remainder of the unexpired term and two

83 consecutive full terms on the board.

84 (i) A member whose term has expired may continue to serve until an eligible successor has
85 been appointed.

86 (j) A member who has served two consecutive full terms may not be selected for re-
87 appointment for at least one year after completion of his or her second full term.

88 (k) Excepting the state health officer, whose term shall be limited to their service in that
89 office, a member of the board immediately and automatically forfeits membership to the board if:

90 (1) The member's license to practice is suspended, revoked, surrendered, expired, or
91 placed in inactive status;

92 (2) The member is convicted of a felony under the laws of any jurisdiction;

93 (3) The member no longer meets the active clinical practice requirement;

94 (4) The member becomes a non-resident of this state; or

95 (5) A citizen member commences providing health care services or develops a financial
96 interest in the practice of the professions regulated by the board.

97 (l) No member may be removed from office by the Governor except for official misconduct,
98 incompetence, neglect of duty, or gross immorality.

**§30-3-6. Conduct of business of West Virginia Board of Medicine; meetings; officers;
compensation; expenses; quorum.**

1 Every two years the board shall elect from among its members a president and vice
2 president. Regular meetings shall be held as scheduled by the rules of the board. Special
3 meetings and emergency meetings of the board may be called by the joint action of the president
4 and vice president or by any three members of the board. ~~on seven days' prior written notice by~~
5 ~~mail postage prepaid or electronic means or, in case of emergency, on two days' notice by~~
6 ~~telephone and electronic means.~~ With the exception of the state health officer, members of the
7 board shall receive compensation and expense reimbursement in accordance with ~~section eleven,~~
8 article one of this chapter §30-1-11 of this code.

9 A majority of the membership of the board constitutes a quorum for the transaction of
10 business, and business is transacted by a majority vote of a quorum, except for disciplinary
11 actions which shall require the affirmative vote of not less than five members or a majority vote of
12 those present, whichever is greater.

13 Meetings of the board shall be held in public session. Disciplinary proceedings, prior to a
14 finding of probable cause as provided in ~~subsection (p), section fourteen of this article~~ §30-3-14(p)
15 of this code, shall be held in closed sessions, unless the party subject to discipline requests that
16 the proceedings be held in public session.

§30-3-7. Powers and duties of West Virginia Board of Medicine.

1 (a) The board is autonomous and, in accordance with this article, shall determine
2 qualifications of applicants for licenses and other practice credentials to practice medicine and
3 surgery, to practice podiatry, and to practice as a physician assistant ~~for a physician in~~
4 collaboration with physicians licensed under this article or §30-14-1 et. seq., and shall issue
5 licenses and other practice credentials to qualified applicants and shall regulate the professional
6 conduct and discipline of such individuals. In carrying out its functions, the board may:

- 7 (1) Adopt such rules as are necessary to carry out the purposes of this article;
- 8 (2) Hold hearings and conduct investigations, subpoena witnesses and documents, and
9 administer oaths;
- 10 (3) Institute proceedings in the courts of this state to enforce its subpoenas for the
11 production of witnesses and documents and its orders and to restrain and enjoin violations of this
12 article and of any rules promulgated under it;
- 13 (4) Employ investigators, attorneys, hearing examiners, consultants, and such other
14 employees as may be necessary, who shall be exempt from the classified service of the Division of
15 Personnel and who shall serve at the will and pleasure of the board. ~~In addition, all personnel~~
16 ~~employed through the Department of Health and Human Resources on June 30, 2009, to provide~~
17 ~~services for the board are hereby transferred to the board effective July 1, 2009. However, the~~

18 ~~employment, salary, benefits or position classification of any person transferred under this section~~
 19 ~~may not be reduced or diminished by reason of this section. All persons transferred shall retain~~
 20 ~~their coverage under the classified service of the Division of Personnel and all matters relating to~~
 21 ~~job classification, job tenure and conditions of employment shall remain in force and effect from~~
 22 ~~and after the date of this section, to the same extent as if this section had not been reenacted.~~
 23 ~~Also, nothing herein shall prohibit the disciplining or dismissal of any employee for cause.~~

24 (5) Enter into contracts and receive and disburse funds according to law;

25 (6) Establish and certify standards for the supervision and certification of physician
 26 assistants;

27 (7) Authorize medical and podiatry corporations in accordance with the limitations of
 28 ~~section fifteen of this article~~ §30-3-15 of this code to practice medicine and surgery or podiatry
 29 through duly licensed physicians, ~~or podiatrists~~ or physician assistants; and

30 (8) Establish the circumstances under which the approval of applications and the issuance
 31 of licenses and other practice credentials may be delegated to board staff; and

32 (9) Perform such other duties as are set forth in this article or otherwise provided for in this
 33 code.

34 (b) The board shall submit an annual report of its activities to the Legislature. The report
 35 shall include a statistical analysis of complaints received, charges investigated, charges
 36 dismissed after investigation, the grounds for each such dismissal, and disciplinary proceedings
 37 and disposition.

§30-3-7a. Findings and Rule-making authority.

1 [Repealed.]

§30-3-8. State health officer to act as secretary of the board.

1 The state health officer, in addition to being a member of the board, shall act as its
 2 secretary. He or she shall, together with the president of the board, sign all licenses, reports,
 3 orders, and other documents that may be required by the board in the performance of its duties.

4 With the authorization of the board president and secretary, the board may utilize electronic
5 signatures on licenses and other practice credentials.

§30-3-9. Records of board; expungement; examination; notice; public information; voluntary agreements relating to alcohol or chemical dependency; confidentiality of same; physician-patient privileges.

1 (a) The board shall maintain a permanent record of the names of all physicians, podiatrists,
2 and physician assistants, licensed, certified, or otherwise lawfully practicing in this state and of all
3 persons applying to be so licensed to practice, along with an individual historical record for each
4 such individual containing reports and all other information furnished the board under this article or
5 otherwise. Such record may include, in accordance with rules established by the board, additional
6 items relating to the individual's record of professional practice that will facilitate proper review of
7 such individual's professional competence.

8 (b) Upon a determination by the board that any report submitted to it is without merit, the
9 report shall be expunged from the individual's historical record.

10 (c) A physician, podiatrist, physician assistant, or applicant, or authorized representative
11 thereof, has the right, upon request, to examine his or her own individual historical record
12 maintained by the board pursuant to this article and to place into such record a statement of
13 reasonable length of his or her own view of the correctness or relevance of any information
14 existing in such record. Such statement shall at all times accompany that part of the record in
15 contention.

16 (d) A physician, podiatrist, physician assistant, or applicant has the right to seek through
17 court action the amendment or expungement of any part of his or her historical record.

18 (e) A physician, podiatrist, physician assistant, or applicant shall be provided written notice
19 within ~~thirty~~ 30 days of the placement and substance of any information in his or her individual
20 historical record that pertains to him or her and that was not submitted to the board by him or her.

21 (f) Except for information relating to biographical background, education, professional

22 training and practice, a voluntary agreement entered into pursuant to §30-3-9(h) of this code and
23 which has been disclosed to the board, prior disciplinary action by any entity, or information
24 contained on the licensure application, the board shall expunge information in an individual's
25 historical record unless it has initiated a proceeding for a hearing upon such information within two
26 years of the placing of the information into the historical record.

27 (g) Orders and decisions of the board relating to disciplinary action against a physician,
28 podiatrist, or physician assistant are public information and shall be placed into the historical
29 record.

30 (h)(1) In order to encourage voluntary participation in monitored alcohol, chemical
31 dependency, or major mental illness programs and in recognition of the fact that major mental
32 illness, alcoholism, and chemical dependency are illnesses, a physician, podiatrist, or physician
33 assistant licensed, certified, or otherwise lawfully practicing in this state or applying for a license to
34 practice in this state may enter into a voluntary agreement with the physician health program as
35 defined in §30-3D-2 of this code. The agreement between the physician, podiatrist, or physician
36 assistant and the physician health program shall include a jointly agreed upon treatment program
37 and mandatory conditions and procedures to monitor compliance with the program of recovery.

38 (2) Any voluntary agreement entered into pursuant to this subsection shall not be
39 considered a disciplinary action or order by the board, shall not be disclosed to the board, and
40 shall not be public information if:

41 (A) Such voluntary agreement is the result of the physician, podiatrist, or physician
42 assistant self-enrolling or voluntarily participating in the board-designated physician health
43 program;

44 (B) The board has not received nor filed any written complaints regarding said physician,
45 podiatrist, or physician assistant relating to an alcohol, chemical dependency, or major mental
46 illness affecting the care and treatment of patients, nor received any reports pursuant to §30-3-
47 14(b) of this code relating to an alcohol or chemical dependency impairment; and

48 (C) The physician, podiatrist, or physician assistant is in compliance with the voluntary
49 treatment program and the conditions and procedures to monitor compliance.

50 (3) If any physician, podiatrist, or physician assistant enters into a voluntary agreement
51 with the board-approved physician health program, pursuant to this subsection and then fails to
52 comply with or fulfill the terms of said agreement, the physician health program shall report the
53 noncompliance to the board within 24 hours. The board may initiate disciplinary proceedings
54 pursuant to §30-3-14(a)(1) of this code or may permit continued participation in the physician
55 health program or both.

56 (4) If the board has not instituted any disciplinary proceeding as provided for in this article,
57 any information received, maintained, or developed by the board relating to the alcohol or
58 chemical dependency impairment of any physician, podiatrist, or physician assistant and any
59 voluntary agreement made pursuant to this subsection shall be confidential and not available for
60 public information, discovery, or court subpoena, nor for introduction into evidence in any medical
61 professional liability action, or other action for damages arising out of the provision of or failure to
62 provide health care services.

63 In the board's annual report of its activities to the Legislature required under §30-3-7 of this
64 code, the board shall include information regarding the success of the voluntary agreement
65 mechanism established therein: *Provided*, That in making such report, the board shall not disclose
66 any personally identifiable information relating to any physician, podiatrist, or physician assistant
67 participating in a voluntary agreement as provided herein.

68 Notwithstanding any of the foregoing provisions, the board may cooperate with and
69 provide documentation of any voluntary agreement entered into pursuant to this subsection to
70 licensing boards in other jurisdictions of which the board has become aware and may be
71 appropriate.

72 (i) When the board receives a report submitted pursuant to the provisions of §30-3-14 of
73 this code, or when the board receives or initiates a complaint regarding the conduct of anyone

74 practicing medicine or surgery, the board shall create a separate complaint file in which the board
 75 shall maintain all documents relating to the investigation and action upon the alleged conduct. The
 76 final disposition of a complaint is public information and shall be placed in the physician, podiatrist,
 77 or physician assistant's historical record.

78 (i) (j) Any physician-patient or provider-patient privilege does not apply in any investigation
 79 or proceeding by the board, or by a medical peer review committee, or by a hospital governing
 80 board with respect to relevant hospital medical records, while any of the aforesaid are acting within
 81 the scope of their authority: *Provided*, That the disclosure of any information pursuant to this
 82 provision shall not be considered a waiver of any such privilege in any other proceeding.

§30-3-10. Licenses to practice allopathic and podiatric medicine and surgery ~~or pediatry~~.

1 (a) ~~A person seeking licensure as an allopathic physician shall apply to the board.~~

2 (b) (a) License to Practice Allopathic Medicine and Surgery. – Graduates of approved
 3 medical schools located in the United States, Canada, or Puerto Rico. The board may grant a
 4 license to practice allopathic medicine and surgery to an applicant ~~A license may be granted to an~~
 5 ~~applicant~~ who has graduated and received the degree of doctor of medicine or its equivalent from
 6 a school of medicine located within the United States, the Commonwealth of Puerto Rico, or
 7 Canada, and is approved by the ~~Liaison Committee on Medical Education~~ LCME or by the board,
 8 and who:

9 (1) Submits a complete application;

10 (2) Pays the applicable fees;

11 (3) Demonstrates to the board's satisfaction that the applicant:

12 (A) ~~Is of good moral character;~~

13 (B) (A) ~~Is physically and mentally capable of engaging in the practice of medicine and~~
 14 ~~surgery;~~

15 (C) (B) ~~Has, within 10 consecutive years, passed all component parts of the United States~~
 16 ~~Medical Licensing Examination~~ USMLE or any prior examination or examination series approved

17 by the board which relates to a national standard, is administered in the English language, and is
18 designed to ascertain an applicant's fitness to practice medicine and surgery;

19 ~~(D)~~ (C) Has successfully completed one year of approved graduate medical education;
20 and

21 ~~(i) A minimum of one year of graduate clinical training in a program is approved by the~~
22 ~~Accreditation Council for Graduate Medical Education; or~~

23 ~~(ii) A graduate medical education residency program outside of the United States and a~~
24 ~~minimum of one year of fellowship training in the United States in a clinical field related to the~~
25 ~~applicant's residency training which was completed:~~

26 ~~(I) At an institution that sponsors or operates a residency program in the same clinical field~~
27 ~~or a related clinical field approved by the Accreditation Council for Graduate Medical Education; or~~

28 ~~(II) At a time when accreditation was not available for the fellowship's clinical field and the~~
29 ~~board has determined that the training was similar to accredited training due to objective~~
30 ~~standards, including, but not limited to, the presence of other accredited programs at the~~
31 ~~sponsoring institution during the applicant's clinical training at the fellowship location; and~~

32 ~~(E)~~ (D) Meets any other criteria for licensure set forth in this article or in rules promulgated
33 by the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 *et seq.* of this
34 code.

35 ~~(e)~~ (b) License to Practice Allopathic Medicine and Surgery – International Medical
36 Graduates.

37 The board may grant a license to practice allopathic medicine and surgery to an applicant.

38 ~~A license may be granted to an applicant who has received the degree of doctor of medicine or its~~
39 ~~equivalent from a an approved school of medicine located outside of the United States, the~~
40 ~~Commonwealth of Puerto Rico, and Canada, who:~~

41 (1) Submits a complete application;

42 (2) Pays the applicable fees;

- 43 (3) Demonstrates to the board's satisfaction that the applicant:
- 44 ~~(A) Is of good moral character;~~
- 45 ~~(B) (A) Is physically and mentally capable of engaging in the practice of medicine and~~
46 ~~surgery;~~
- 47 ~~(C) (B) Has, within 10 consecutive years, passed all component parts of the United States~~
48 ~~Medical Licensing Examination USMLE or any prior examination or examination series approved~~
49 ~~by the board which relates to a national standard, is administered in the English language, and is~~
50 ~~designed to ascertain an applicant's fitness to practice medicine and surgery;~~
- 51 ~~(D) (C) Has successfully completed:~~
- 52 ~~(i) A minimum of two years of graduate clinical training approved by the Accreditation~~
53 ~~Council for Graduate Medical Education; Two years of approved graduate medical education; or~~
- 54 ~~(ii) A minimum of one year of graduate clinical training approved by the Accreditation~~
55 ~~Council for Graduate Medical Education or one year of fellowship training which comports with the~~
56 ~~requirements of subparagraph (iii) of this paragraph one year of approved graduate medical~~
57 ~~education and the applicant holds a current certification by a member board of the American Board~~
58 ~~of Medical Specialties. or;~~
- 59 ~~(iii) A graduate medical education residency program outside of the United States and a~~
60 ~~minimum of two years of fellowship training in the United States in a clinical field related to the~~
61 ~~applicant's residency training which was completed:~~
- 62 ~~(I) At an institution that sponsors or operates a residency program in the same clinical field~~
63 ~~or a related clinical field approved by the Accreditation Council for Graduate Medical Education; or~~
- 64 ~~(II) At a time when accreditation was not available for the fellowship's clinical field and the~~
65 ~~board has determined that the training was similar to accredited training due to objective~~
66 ~~standards, including, but not limited to, the presence of other accredited programs at the~~
67 ~~sponsoring institution during the applicant's clinical training at the fellowship location;~~

68 ~~(E)~~ (D) Holds a valid ECFMG ~~certificate~~ certification issued by the Educational
69 Commission for Foreign Medical Graduates or:

70 (i) Holds a full, unrestricted, and unconditional license to practice medicine and surgery
71 under the laws of another state, the District of Columbia, Canada, or the Commonwealth of Puerto
72 Rico;

73 (ii) Has been engaged in the practice of medicine on a full-time professional basis within
74 the state or jurisdiction where the applicant is fully licensed for a period of at least five years; and

75 (iii) Is not the subject of any pending disciplinary action by a medical licensing board and
76 has not been the subject of professional discipline reportable to the National Practitioner Data
77 Bank by a medical licensing board in any jurisdiction;

78 ~~(F)~~ (E) Can communicate in the English language; and

79 ~~(G)~~ (F) Meets any other criteria for licensure set forth in this article or in rules promulgated
80 by the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 *et seq.* of this
81 code.

82 (c) Administrative medicine license - Administrative medicine licensees may not practice
83 clinical medicine. The board may issue an administrative medicine license to a physician who:

84 (1) Files a complete application;

85 (2) Pays the applicable fees;

86 (3) Meets all qualifications and criteria for licensure set forth in §30-3-10(a) or (b) of this
87 code and the board's legislative rules; and

88 (4) Demonstrates competency to practice administrative medicine.

89 (d) A physician applying to renew an administrative medicine license must pay the same
90 fees and meet the same requirements for renewing an active status license, including submission
91 of certification of participation in and successful completion of a minimum of 50 hours of continuing
92 medical education satisfactory to the board during the preceding two-year period.

93 (e) The board may deny an application for an administrative medicine license and may

94 discipline an administrative medicine licensee who, after a hearing, has been adjudged by the
95 board as unqualified due to any reason set forth in §30-3-14 of this code or the board's rules and
96 pursuant to the processes set forth therein.

97 (f) The board shall propose legislative rules pursuant to the provisions of §29A-3-1 et seq.
98 of this code to implement the provisions of this section and to regulate the practice of
99 administrative medicine.

100 ~~(g) A person seeking licensure as a podiatrist shall apply to the board. A license may be~~
101 ~~granted to an applicant who: *License to practice podiatric medicine and surgery.* – The board may~~
102 ~~grant a license to practice podiatric medicine and surgery to an applicant who:~~

103 (1) Submits a complete application;

104 (2) Pays the applicable fees;

105 (3) Demonstrates to the board's satisfaction that the applicant:

106 ~~(A) Is of good moral character;~~

107 ~~(B) (A) Is physically and mentally capable of engaging in the practice of podiatric medicine~~
108 ~~and surgery;~~

109 ~~(C) (B) Has graduated and received the degree of doctor of podiatric medicine or its~~
110 ~~equivalent from a school of podiatric medicine approved by the Council of Podiatric Medical~~
111 ~~Education or by the board;~~

112 ~~(D) (C) Has, within 10 consecutive years, passed all component parts of the American~~
113 ~~Podiatric Medical Licensing Examination APMLE, or any prior examination or examination series~~
114 ~~approved by the board which relates to a national standard, is administered in the English~~
115 ~~language, and is designed to ascertain an applicant's fitness to practice podiatric medicine;~~

116 ~~(E) (D) Has successfully completed a minimum of one year of graduate clinical training in a~~
117 ~~program approved by the Council on Podiatric Medical Education or the Colleges of Podiatric~~
118 ~~Medicine. The board may consider a minimum of two years of graduate podiatric clinical training in~~
119 ~~the United States armed forces or three years' private podiatric clinical experience in lieu of this~~

120 requirement; and

121 ~~(F)~~ (E) Meets any other reasonable criteria for licensure set forth in this article or in
122 legislative rules promulgated by the board.

123 ~~(e) Notwithstanding any of the provisions of this article, the board may issue a restricted~~
124 ~~license to an applicant in extraordinary circumstances under the following conditions:~~

125 ~~(1) Upon a finding by the board that based on the applicant's exceptional education,~~
126 ~~training, and practice credentials, the applicant's practice in the state would be beneficial to the~~
127 ~~public welfare;~~

128 ~~(2) Upon a finding by the board that the applicant's education, training, and practice~~
129 ~~credentials are substantially equivalent to the requirements of licensure established in this article;~~

130 ~~(3) Upon a finding by the board that the applicant received his or her post-graduate medical~~
131 ~~training outside of the United States and its territories;~~

132 ~~(4) That the restricted license issued under extraordinary circumstances is approved by a~~
133 ~~vote of three fourths of the members of the board; and~~

134 ~~(5) That orders denying applications for a restricted license under this subsection are not~~
135 ~~appealable.~~

136 ~~(f) The board may propose rules for legislative approval in accordance with the provisions~~
137 ~~of §29A-3-1 et seq. of this code that establish and regulate the restricted license issued to an~~
138 ~~applicant in extraordinary circumstances pursuant to the provisions of this section.~~

139 ~~(g)~~ (h) Personal interviews by board members of all applicants are not required. An
140 applicant for a license may be required by the board, in its discretion, to appear for a personal
141 interview and may be required to produce original documents for review by the board.

142 ~~(h)~~ (i) All licenses to practice medicine and surgery granted prior to July 1, 2008, and valid
143 on that date shall continue in full effect for the term and under the conditions provided by law at the
144 time of the granting of the license. ~~Provided, That the provisions of subsection (d) of this section do~~
145 ~~not apply to any person legally entitled to practice chiropractic or podiatry in this state prior to June~~

146 ~~11, 1965: Provided, however, That all persons licensed to practice chiropody prior to June 11,~~
 147 ~~1965, are permitted to use the term "chiropody-podiatry" and shall have the rights, privileges, and~~
 148 ~~responsibilities of a podiatrist set out in this article.~~

149 ~~(i)~~ (j) The board shall not issue a license to a person not previously licensed in West
 150 Virginia whose license has been revoked or suspended in another state until reinstatement of his
 151 or her license in that state.

152 ~~(j)~~ (k) The board shall not issue an initial license, reinstate, or reactivate a license, to any
 153 individual whose license has been revoked, suspended, surrendered, or deactivated in another
 154 state based upon conduct which is substantially equivalent to an act of unprofessional conduct
 155 prohibited by §30-3-14(c) of this code or the board's legislative rules, until reinstatement of his or
 156 her license in that state.

157 ~~(k)~~ (l) The board need not reject a candidate for a nonmaterial technical or administrative
 158 error or omission in the application process that is unrelated to the candidate's professional
 159 qualifications as long as there is sufficient information available to the board to determine the
 160 eligibility and qualifications of the candidate for licensure.

§30-3-10b. Special license types.

1 (a) The special license types set forth in this section may be issued by the board without
 2 examination. "Without examination" means that the board shall not require an applicant to sit for
 3 the USMLE or any prior examination or examination series approved by the board to be eligible for
 4 licensure. However, "without examination" does not include failure of any step of the USMLE or
 5 any prior examination series approved by the board examination to be eligible for a license.
 6 Individuals who have failed one or more steps of an approved licensing examination are not
 7 eligible for licensure pursuant to this section until such time as the failed test attempt has been
 8 superseded by a successful exam attempt.

1 (b) *Restricted License Issued in Extraordinary Circumstances.* – A restricted license
 2 issued in extraordinary circumstances may be limited as directed by the board based upon the

3 facts and circumstances of the application. Notwithstanding any of the provisions of this article, the
4 board may, without examination, issue a restricted license to an allopathic physician applicant in
5 extraordinary circumstances who submits a complete application and pays the applicable fee
6 under the following conditions:

7 (1) Upon a finding by the board that based on the applicant's exceptional education,
8 training, and practice credentials, the applicant's practice in the state would be beneficial to the
9 public welfare;

10 (2) Upon a finding by the board that the applicant's education, training, and practice
11 credentials are substantially equivalent to the requirements of licensure established in this article;

12 (3) Upon a finding by the board that the applicant received his or her post-graduate medical
13 training outside of the United States and its territories;

14 (4) That the restricted license issued under extraordinary circumstances is approved by a
15 vote of three fourths of the members of the board; and

16 (5) That orders denying applications for a restricted license under this subsection are not
17 appealable.

18 (c) *Medical School Faculty License.* – The medical practice of a physician licensed under
19 this subsection is limited to the medical center of the medical school to where the physician holds
20 an academic faculty member appointment. A limited license issued under this section is valid for a
21 term of one year from the effective date of the faculty appointment. The board shall issue a limited
22 license to practice allopathic medicine and surgery, without examination, to an individual
23 appointed to a West Virginia medical school faculty who holds a valid license to practice medicine
24 and surgery from another state, the District of Columbia, the Commonwealth of Puerto Rico, or
25 Canada and who:

26 (1) Submits a complete application;

27 (2) Pays the applicable fees;

28 (3) Demonstrates to the board's satisfaction that the applicant:

29 (A) Is physically and mentally capable of engaging in the practice of medicine and surgery;

30 (B) Is able to communicate in English;

31 (C) Is a graduate of an international school of medicine which is approved by the LCME or
32 by the World Health Organization or by the board with the degree of doctor of medicine or its
33 equivalent;

34 (D) Has successfully completed one year of approved graduate medical education or has
35 received other training which the board determines to be substantially equivalent or in excess of
36 this requirement;

37 (E) Has not committed any act in this or any other jurisdiction which would constitute the
38 basis for disciplining a physician under §30-3-14 of this code; and

39 (F) Has been offered and has accepted a faculty appointment to teach in a medical school
40 in this state.

41 (d) A medical school faculty license issued pursuant to this section will automatically expire
42 and be void, without notice to the physician, when the physician's faculty appointment is
43 terminated. The dean of the medical school shall notify the board within five days of the
44 termination of a faculty appointment of a physician licensed pursuant to this section.

45 (e) A physician issued a medical school faculty license under this section must keep all
46 medical licenses issued by other jurisdictions in good standing and must notify the board, within 15
47 days of its occurrence, of any denial, suspension or revocation of or any limitation placed on a
48 medical license issued by another jurisdiction.

49 (f) *Summer Camp License* - The board shall process, without fee, an allopathic or podiatric
50 physician application for a license to provide services at a children's summer camp for not more
51 than one specifically designated three-week period annually. Applicants must hold unrestricted
52 medical licensure in a U.S. state, Puerto Rico or Canada and provide evidence of graduation from
53 an approved medical school. The license shall be issued for a period of the specifically designated
54 three weeks only, on an annual basis.

55 (g) The board shall investigate applicants seeking special license types set forth in this
56 section and may require a personal interview to review the applicant's qualifications and
57 professional credentials.

58 (h) The board may propose rules for legislative approval in accordance with the provisions
59 of §29A-3-1 et seq. of this code that establish and regulate the special license types set forth
60 herein, pursuant to the provisions of this section.

61 (i) A physician licensed under subsections (b) and (c) this section may apply for license
62 renewal. The board may propose rules for legislative approval in accordance with the provisions
63 of §29A-3-1 et seq. of this code that establish and regulate the renewal and continuing education
64 requirements for licenses issued pursuant to this section.

**§30-3-11. Endorsement of licenses to practice medicine and surgery and podiatry; fees;
temporary license; summer camp doctors.**

1 [Repealed.]

**§30-3-11a. Endorsement of licenses to practice medicine and surgery as medical school
faculty.**

1 [Repealed.]

**§30-3-11b. License to practice medicine and surgery at certain state veterans nursing
home facilities.**

1 [Repealed.]

§30-3-11c. Administrative medicine license.

1 [Repealed.]

ARTICLE 3H. GENETIC COUNSELORS PRACTICE ACT.

§30-3H-1. Purpose.

1 The purpose of this article is to provide for the licensure and professional discipline of
2 genetic counselors and to provide a professional environment that encourages the delivery of
3 quality genetic counseling services within this state, with reasonable skill and safety for patients

4 and other recipients of genetic counseling services. This article sets forth the requirements for
5 licensure of genetic counselors and provides for the regulation of professional discipline of genetic
6 counseling practitioners.

§30-3H-2. Definitions.

1 As used in this article:

2 "ABGC" means the American Board of Genetic Counseling, or any successor organization
3 recognized as an equivalent organization by the board.

4 "ABMG" means the American Board of Medical Genetics and Genomics, or any successor
5 organization recognized as an equivalent organization by the board.

6 "ACGC" means the Accreditation Counsel for Genetic Counseling, or any successor
7 organization recognized as an equivalent organization by the board.

8 "ACS" or "Active Candidate Status" means a status conferred by ABGC upon a person
9 who has met ABGC's requirements to take the ABGC certification examination in general genetics
10 and genetic counseling.

11 "ACS permit" means a permit issued to an individual who has attained Active Candidate
12 Status to take the ABGC certification examination in general genetics and genetic counseling
13 which authorizes the permit holder to practice genetic counseling under the supervision of a
14 qualified supervisor.

15 "ACS permittee" means a person with an ACS permit issued by the board.

16 "Board" means the West Virginia Board of Medicine established in § 30-3-1 et seq. of this
17 code.

18 "Genetic counseling" means the provision of services to individuals, couples, families, and
19 organizations by one or more appropriately licensed individuals to address physical and
20 psychological issues associated with the occurrence or risk of occurrence of a genetic disorder,
21 birth defect, or genetically influenced condition or disease in an individual or a family.

22 "Genetic counseling intern" means a student enrolled in a genetic counseling program

23 accredited by the ACGC or ABMG.

24 "Genetic counselor" means an individual who is licensed by the board to practice genetic
25 counseling.

26 "Licensed physician" means an allopathic physician or an osteopathic physician holding a
27 full, unrestricted license to practice medicine and surgery, or osteopathic medicine and surgery,
28 pursuant to §30-3-1 et seq or §30-14-1 et seq.

29 "Qualified supervisor" means any person who is a genetic counselor licensed pursuant to
30 this article or a licensed physician.

31 "Supervision" means supervision by a qualified supervisor who has the overall
32 responsibility of assessing the work of an ACS permittee, including regular meetings and chart
33 review, provided that the annual supervision contract signed by the qualified supervisor and the
34 ACS permittee is on file with both parties. Supervision does not require the qualified supervisor to
35 be present during the performance of services by an ACS permittee.

§30-3H-3. License required; and licensure exceptions.

1 (a) Effective July 1, 2026, and except as provided in subsection (b) of this section, a person
2 shall not engage, or offer to engage, in the practice of genetic counseling to patients in this state
3 without a current, valid license issued by the board.

4 (b) The licensure requirement set forth in this article does not apply to:

5 (1) Any person, such as a physician, advanced practiced registered nurse, or physician
6 assistant, who is lawfully practicing within the scope of the person's profession, is engaged in work
7 of a nature consistent with the person's training, and has a license, permit, registration,
8 certification, or other authorization to practice his or her profession in West Virginia;

9 (2) Any person employed as a genetic counselor by the federal government or an agency
10 of the federal government, if the person provides genetic counseling services exclusively under
11 the direction and control of his or her federal employer;

12 (3) Any person assisting a genetic counselor in practice under the direct, on-premises

13 supervisions of the genetic counselor;

14 (4) A genetic counseling intern, if the genetic counseling services performed by the student
15 or intern are an integral part of the student's course of study, are performed under the direct
16 supervision of a licensed genetic counselor, and the student is practicing under the designation of
17 "genetic counseling intern";

18 (5) An ACS permittee practicing under the supervision of a qualified supervisor; or

19 (6) A person who is licensed to practice genetic counseling in another state and who is
20 providing consulting services in this state on a temporary basis, as determined by the board by
21 legislative rule, if the person satisfies all of the following:

22 (A) The person is certified by the ABGC; and

23 (B) The person received authorization from the board to provide consulting services in this
24 state on a temporary basis pursuant to the process established in legislative rule.

25 (c) Effective July 1, 2026, any person who is not licensed by the board as a genetic
26 counselor may not hold himself or herself out to the public as a genetic counselor, and may not, in
27 connection with his or her name or place of business, use the terms "genetic counselor", "licensed
28 genetic counselor", or any words, letters, abbreviations or insignia indicating or implying that the
29 person holds a genetic counseling license. ACS permittees may use the term "genetic counselor,
30 Active Candidate Status" and may indicate that they hold an ACS permit.

§30-3H-4. Duties and powers of the board.

1 (a) In addition to the powers and duties of the board as set forth in §30-3-1 et seq. of this
2 code, and in conformity with this article, the board shall:

3 (1) Establish the requirements for licenses and ACS permits;

4 (2) Determine the qualifications of applicants for licenses and permits to practice genetic
5 counseling;

6 (3) Establish the procedures for submitting, approving, and rejecting applications for
7 licenses and permits, including renewal and reinstatement;

8 (4) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 et
9 seq. of this code to implement the provisions of and carry out the purposes of this article;

10 (5) Receive and initiate genetic counseling complaints, conduct investigations, convene
11 hearings, issue subpoenas for witnesses and documents and administer oaths;

12 (6) Institute proceedings in the courts of this state to enforce its subpoenas for the
13 production of witnesses and documents and its orders, and to restrain and enjoin violations of this
14 article and of any rules promulgated under it;

15 (7) Establish and certify standards for the supervision of ACS permittees;

16 (8) Establish the circumstances under which the approval of applications and the issuance
17 of licenses and permits may be delegated to the executive director; and

18 (9) Perform such other duties as are set forth in this article or otherwise provided for in this
19 code.

20 (b) The board's annual report to the Legislature shall include a statistical analysis of
21 complaints received, charges investigated, charges dismissed after investigation, the grounds for
22 each such dismissal and disciplinary proceedings and disposition.

§30-3H-5. Licensure requirements.

1 (a) The Board shall issue a genetic counseling license to an applicant who:

2 (1) Is at least 21 years of age;

3 (2) Submits an application for licensure to the board on a form approved by the board;

4 (3) Pays the applicable fee, as established in legislative rule;

5 (4) Submits satisfactory evidence to the board that he or she does not have a prior,
6 unreversed, criminal conviction for a crime that bears a rational nexus to the profession of genetic
7 counseling;

8 (5) Submits satisfactory evidence to the board that the applicant has earned a master's
9 degree from a genetic counseling training program that is accredited by the ACGC, or a
10 substantially equivalent educational program approved by the board;

- 11 (6) Provides satisfactory evidence to the board of current certification as a:
12 (A) Genetic counselor by the ABGC or ABMG; or
13 (B) Medical geneticist by the ABMG;
14 (7) Is mentally and physically able to engage safely in practice as a genetic counselor;
15 (8) Is not currently subject to any limitation, restriction, suspension, revocation, or
16 discipline concerning a genetic counselor license, certification, or registration in any jurisdiction:
17 Provided, That if the board is made aware of any problems with a genetic counselor license,
18 certification, or registration, it may elect to issue a license notwithstanding the provisions of this
19 subdivision if doing so is consistent with protecting the public; and
20 (9) Has fulfilled any other requirement specified by the board in rule for legislative approval.
21 (b) The board shall not issue an initial license, reinstate, or reactivate a license, to any
22 individual whose license has been revoked, suspended, surrendered, or deactivated in another
23 state based upon conduct which is substantially equivalent to an act of unprofessional conduct
24 prohibited by §30-3H-9 of this code or the board's legislative rules, until reinstatement of his or her
25 license in that state.
26 (c) The board shall issue a certificate of licensure to each person who is licensed under this
27 article.

§30-3H-6. ACS Permit.

- 1 (a) An ACS permit authorizes an individual who has attained Active Candidate Status with
2 the ABGC to practice genetic counseling under the supervision of a qualified supervisor and in
3 accord with the board's legislative rules regarding supervised practice.
4 (b) The Board shall issue an ACS permit to an applicant who:
5 (1) Submits an application for license to the board on a form approved by the board;
6 (2) Pays the applicable fee, as established in legislative rule;
7 (3) Provides satisfactory evidence that he or she currently holds an Active Candidate
8 Status from the ABGC; and

9 (4) Has fulfilled any other requirement specified by the board in legislative rule.

10 (c) An ACS permit granted by the board shall be valid for up to one year from the date
11 issuance, and shall expire upon the earliest of the following:

12 (1) The granting of a genetic counselor license pursuant to §30-3H-4;

13 (2) Thirty days after an ACS permittee no longer holds an Active Candidate Status with the
14 ABGC;

15 (3) Upon notice to the ACS permittee of failure of the ABGC certification exam; or

16 (4) One year after the issuance of the permit.

17 (d) An ACS permittee shall apply for and take the ABGC certification examination within 12
18 months of the issuance of an ACS permit by the board.

19 (e) The board may, in its discretion, and only once, extend an ACS permit for a limited
20 period specified by the board, if the person maintains Active Candidate Status with the ABGC and
21 has not failed the ABGC certification exam during the initial permit period.

22 (f) A person who holds an ABGC permit may only practice genetic counseling if he or she
23 has entered into a written genetic counseling supervision agreement with a qualified supervisor
24 and practices under qualified supervision at all times. The board shall promulgate rules for
25 legislative approval governing direct supervision of a person holding an ACS permit.

26 (g) The board shall issue a certificate to each person who is approved for supervised
27 genetic counseling practice under this article.

§30-3H-7. License expiration, renewal, reinstatement of expired licenses and continuing education.

1 (a) A license issued by the board shall expire on June 30 of odd-numbered years unless
2 sooner suspended, revoked, or surrendered.

3 (b) A licensee shall renew by submitting:

4 (1) A complete renewal application;

5 (2) The renewal fee;

6 (3) Evidence that the renewal applicant is currently certified as a genetic counselor by the
7 ABGC or ABMG or as a medical geneticist by the ABMG; and

8 (4) Evidence that the renewal candidate has completed 30 hours of continuing education
9 as approved by the board within the preceding two-year period.

10 (c) If a licensee fails to timely renew his or her license, then the license automatically
11 expires.

12 (d) A person who applies for initial licensure shall be exempt from the continuing education
13 requirements for the biennial renewal period following initial licensure.

14 (e) The board may waive all or a portion of the continuing education requirement for
15 biennial renewal for a licensee who shows to the satisfaction of the board that the licensee was
16 unable to complete the requirements due to serious illness, military services, or other
17 demonstrated hardship.

18 (f) Continuing education programs and providers shall be approved by the board in
19 accordance with standards and criteria established in legislative rule, along with criteria and
20 process for seeking a waiver of the continuing education requirement due to illness, military
21 service, or demonstrated hardship.

22 (g) If a license automatically expires and reinstatement is sought within one year of the
23 automatic expiration, then an applicant shall submit:

24 (1) A complete reinstatement application;

25 (2) The applicable fees as set forth in legislative rule;

26 (3) Evidence that the reinstatement applicant is currently certified as a genetic counselor
27 by the ABGC or ABMG or as a medical geneticist by the ABMG; and

28 (4) Evidence that the reinstatement applicant has completed all applicable continuing
29 education requirements for the biennial renewal period preceding the reinstatement application.

30 (h) If a license automatically expires and more than one year has passed since the
31 automatic expiration, then the individual shall apply for a new license.

§30-3H-8. Scope of practice.

1 (a) A genetic counselor's scope of practice includes the following:

2 (1) Obtaining and evaluating individual patient and patient family member medical histories
3 to determine the genetic risk for genetic or medical conditions and diseases in a patient, his or her
4 offspring, and other family members;

5 (2) Discussing with a patient and the patient's family the features, natural history, means of
6 diagnosis, genetic and environmental factors, and management of risk factors for genetic or
7 medical conditions and diseases.

8 (3) Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic
9 studies as appropriate for genetic assessment, consistent with practice-based competencies
10 provided by ACGC;

11 (4) Integrating genetic laboratory test results and other diagnostic studies with personal
12 and family medical history to assess and communicate risk factors for genetic or medical
13 conditions and diseases.

14 (5) Explaining to a patient and the patient's family the clinical implications of genetic
15 laboratory tests and other diagnostic studies and their results;

16 (6) Evaluating the patient's or family's responses to the condition or risk of recurrence and
17 providing patient-centered counseling and anticipatory guidance;

18 (7) Identifying and utilizing community resources that provide medical, educational,
19 financial, and psychosocial support and advocacy; and

20 (8) Providing written documentation of medical, genetic, and counseling information to
21 patients, their families, and health care professionals;

22 (b) Genetic counseling does not include diagnosis or treatment and when, in the course of
23 providing genetic counseling services to a client, a genetic counselor finds any indication of a
24 disease or condition that requires diagnosis and treatment, the genetic counselor shall refer the
25 client to a licensed physician or appropriate licensed health care provider.

26 (c) A genetic counselor may provide telehealth services. The board shall promulgate a rule
27 for legislative approval establishing the standard of care for the provision of genetic counseling via
28 telehealth.

29 (d) Nothing in this article shall be construed to permit a genetic counselor to diagnose, test,
30 or treat any disease or condition.

31 (e) In the course of his or her professional practice, a genetic counselor may not
32 recommend that an expectant mother obtain an elective abortion.

33 (f) Notwithstanding any other provision of this code to the contrary, and to the degree
34 permitted by federal law, genetic counselors shall be considered providers and shall not be
35 reimbursed at rates lower than other providers who render similar genetic counseling services by
36 health insurers as well as health plans operated or paid for by the state.

§30-3H-9. Disciplinary proceedings and actions; prohibited practice.

1 (a) The board may receive or initiate complaints, conduct investigations, and conduct
2 hearings to determine whether a violation of this article or any rule has occurred.

3 (b) All hearings and procedures related to denial of a license, and all complaints,
4 investigations, hearings, and procedures regarding a genetic counselor license and/or an ACS
5 permit and the discipline accorded thereto, shall be in accordance with the processes and
6 procedures set forth in §30-3-1 et seq. and the board's rules.

7 (c) Information received by the board pursuant to an investigation is confidential and not
8 subject to discovery in any civil action.

9 (d) The board may deny an application for a license or other authorization to practice
10 genetic counseling in this state and may discipline a genetic counselor or ACS permittee
11 otherwise lawfully practicing in this state who, after a hearing, has been adjudged by the board as
12 unqualified due to any of the following reasons:

13 (1) Made a material misstatement in an application for a license, or for license renewal or
14 reinstatement, or knowingly presented or caused to be made or presented any false, fraudulent, or

15 forged statement, writing, certificate, diploma, or other document relating to an application for
16 licensure;

17 (2) Interfered with an investigation or disciplinary proceeding by using threats, harassment,
18 or intentional misrepresentation of facts;

19 (3) Been convicted of an offense the circumstance of which bear a rational nexus to the
20 practice of genetic counseling;

21 (4) Been adjudicated mentally incompetent by a court;

22 (5) Developed a physical or mental disability or other condition that presents a danger in
23 continuing to practice genetic counseling to patients, the public, or other health care personnel,

24 (6) Practiced or assisted in the practice of genetic counseling while the individual's ability to
25 practice was impaired by alcohol or other drugs or the individual was otherwise mentally or
26 physically unable to practice with reasonable skill and safety to patients, the public, or other health
27 care personnel;

28 (7) Knowingly made or caused to be made or aided or abetted in the making of a false
29 statement in any document executed in connection with the practice of genetic counseling;

30 (8) Advertised in a manner that is false, deceptive, or misleading;

31 (9) Aided, assisted, or abetted the unlawful practice of genetic counseling;

32 (10) Willfully violated a confidential communication;

33 (11) Performed the services of a genetic counselor in an unprofessional, incompetent, or
34 grossly or chronically negligent manner;

35 (12) Been removed, suspended, expelled, or placed on probation by any health care
36 facility or professional society for unprofessional conduct, incompetence, negligence, or violation
37 of any provision of the code of ethics set forth in the board's legislative rules;

38 (13) Exceeded the scope of practice for which the genetic counselor is licensed or
39 permitted to practice by the board;

40 (14) Engaged in unprofessional or unethical conduct in violation of the code of ethics

41 established by rule for legislative approval;

42 (15) Engaged in conduct while practicing genetic counseling that evidences a lack of
43 knowledge or ability to apply professional principles or skills;

44 (16) Violated this article or any rule promulgated hereunder;

45 (17) Violated any term of probation or other discipline imposed by the board; or

46 (18) Failed to complete the required number of hours of approved continuing education.

47 (e) Whenever it finds any person unqualified because of any of the grounds set forth in
48 §30-3H-7(b) of this code, the board may enter an order imposing one or more of the following:

49 (1) Deny his or her application;

50 (2) Administer a public reprimand;

51 (3) Suspend, limit, or restrict his or her authorization to practice for up to five years;

52 (4) Revoke his or her license or other authorization to practice genetic counseling for any
53 period of time that the board may find to be reasonable and necessary according to evidence
54 presented in a hearing before the board or its designee;

55 (5) Require him or her to submit to care, counseling, or treatment designated by the board
56 as a condition for initial or continued licensure or renewal of licensure or other authorization to
57 practice genetic counseling;

58 (6) Require him or her to participate in a program of education prescribed by the board;

59 (7) Require him or her to practice under the supervision of a qualified supervisor
60 designated or approved by the board for a specified period of time; and

61 (8) Assess a civil fine of no more than \$10,000.

62 (f) The board shall automatically terminate the license of a genetic counselor who has
63 failed to maintain certification with the ABGC or ABMG or whose certification with either certifying
64 board has been revoked.

65 (g) A genetic counselor may voluntarily surrender his or her license to the board, which
66 may refuse to accept the surrender if the board has received allegations of unprofessional conduct

67 against the genetic counselor. The board may negotiate stipulations in consideration for accepting
68 the surrender of the license.

69 (h) The board may restore a license that has been voluntarily surrendered under this
70 section on such terms and conditions as it considers appropriate.

71 (i) The board may report final disciplinary action taken against a genetic counselor to any
72 national database that includes information about disciplinary action taken against health care
73 professionals;

74 (j) The board may share any information it receives pursuant to an investigation, including
75 patient records and patient record information, with law-enforcement agencies, other licensing
76 boards, and other governmental agencies that are prosecuting, adjudicating, or investigating
77 alleged violations of statutes or administrative rules. An agency or board that receives the
78 information shall comply with the same requirements regarding confidentiality as those with which
79 the board must comply.

§30-3H-10. Injunctive relief.

1 If the board has any reason to believe that any person is violating this article or any rule
2 promulgated under this article, and in addition to the complaint, investigation, and hearing
3 processes set forth herein and in §30-3-1 et seq. of this code, the board or the Attorney General
4 may bring action in the name and on behalf of the board to enjoin the person from the violation and
5 seek any other remedies available.

§30-3H-11. Health care facility reporting requirements.

1 (a) A health care facility shall report, in writing, to the board within 60 days after the
2 completion of the facility's formal disciplinary procedure or after the commencement and
3 conclusion of any resulting legal action against a licensee.

4 (b) The report shall include:

5 (1) The name of the genetic counselor practicing in the facility whose ability to practice as a
6 genetic counselor was revoked, restricted, reduced, or terminated for any cause including

7 resignation;

8 (2) All pertinent information relating to the action; and

9 (3) The formal disciplinary action taken against the genetic counselor by the facility relating
10 to professional ethics, professional incompetence, professional malpractice, or drug or alcohol
11 abuse.

12 (c) A health care facility does not need to report temporary suspensions for failure to
13 maintain records on a timely basis or for related, minor administrative matters.

§30-3H-12. Unlawful act and penalty.

1 It is unlawful for any genetic counselor or ACS permittee to represent to any person that he
2 or she is a licensed physician. A person who violates this section is guilty of a felony and, upon
3 conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more
4 than two years, or be fined not more than \$2,000, or both fined and imprisoned.

1

NOTE: The purpose of this bill generally relates to professionals to be licensed by the West Virginia Board of Medicine.

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