

H. B.

(By Delegates/Senators)

[Committee on Government Organization]

(January, 2012)

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to repeal §30-21-7a, §30-21-7b, §30-21-7c, §30-21-7d, §30-21-7e and §30-21-8a, of the Code of West Virginia, 1931, as amended; to amend and reenact §30-21-1, §30-21-2, §30-21-3, §30-21-4, §30-21-5, §30-21-6, §30-21-7, §30-21-8, §30-21-9, §30-21-10, §30-21-11, §30-21-12, §30-21-13, §30-21-14 and §30-21-15, of said code; and to amend said code by adding thereto ten new sections, designated §30-21-16, §30-21-17, §30-21-18, §30-21-19, §30-21-20, §30-21-21, all relating to the practice of psychology; prohibiting the practice of psychology without a license; providing other applicable sections; defining terms; continuing and renaming board; providing for board composition, appointments, qualifications, terms of office, filling of vacancies and holding meetings; providing for compensation and reimbursement for board members; setting forth the powers and duties of the board; clarifying

1 rulemaking authority; continuing a special revenue account;  
2 establishing license requirements; setting forth scopes of  
3 practices; providing for licensure for persons licensed in  
4 another state; establishing licensure renewal requirements;  
5 establishing delinquent, expired and inactive license  
6 requirements; providing temporary permit requirements;  
7 requiring license to be displayed; providing for privileged  
8 communications and exceptions; providing the board may issue  
9 notices to cease and desist; providing that circuit courts  
10 may issue injunctions; setting forth grounds for  
11 disciplinary actions; allowing for specific disciplinary  
12 actions; providing procedures for the investigation of  
13 complaints; providing for judicial review and appeals of  
14 decisions; setting forth hearing and notice requirements;  
15 providing for civil causes of action; and providing for  
16 criminal penalties.

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

18 *That §30-21-7a, §30-21-7b, §30-21-7c, §30-21-7d, §30-21-7e*  
19 *and §30-21-8a, of the Code of West Virginia, 1931, as amended, be*  
20 *repealed; that §30-21-1, §30-21-2, §30-21-3, §30-21-4, §30-21-5,*  
21 *§30-21-6, §30-21-7, §30-21-8, §30-21-9, §30-21-10, §30-21-11,*  
22 *§30-21-12, §30-21-13, §30-21-14, §30-21-15, of said code be*

1 amended and reenacted; and that said code be amended by adding  
2 thereto ten new sections, designated §30-21-16, §30-21-17, §30-  
3 21-18, §30-21-19, §30-21-20, §30-21-21, §30-21-22, §30-21-23 and  
4 §30-21-24; all to read as follows:

5 **ARTICLE 21. PSYCHOLOGISTS.**

6 **§30-21-1. Unlawful acts.**

7 (a) It is unlawful for any person to practice or offer to  
8 practice psychology or school psychology in this state without a  
9 license or permit issued under the provisions of this article, or  
10 to advertise or use any title or description tending to convey  
11 the impression that the person is a psychologist unless the  
12 person has been licensed or permitted under the provisions of  
13 this article, and the license or permit has not expired, been  
14 suspended or revoked.

15 (b) No business entity, except through a licensee, may  
16 render any service or engage in any activity that if rendered or  
17 engaged in by an individual, would constitute the practices  
18 licensed under the provisions of this article.

19 (c) Nothing in this article shall be construed as permitting  
20 the administering or prescribing of drugs or as infringing upon  
21 the practice of medicine and surgery.

22 (d) A person who is not licensed under this article may not

1 characterize himself or herself as a "Psychologist" or use other  
2 terms implying the same. Professionals who teach, conduct  
3 research, or perform other academic duties, may use the title  
4 "psychologist" with clarification. The title may be used by  
5 unlicensed professionals who, at a minimum, meet the educational  
6 requirements of this article and who are employed by institutions  
7 of higher learning to teach and conduct research in the  
8 discipline of psychology. Such individuals shall use the title  
9 "academic psychologist", "research psychologist", or  
10 "experimental psychologist" in conjunction with their duties.

11 (e) Nothing in this article shall be construed to prevent  
12 the teaching of psychology, or the conduct of psychological  
13 research, provided that such teaching or research does not  
14 involve the delivery or supervision of psychological services,  
15 without regard to the source or extent of payment for services  
16 rendered. Nothing in this article shall prevent the provision of  
17 expert testimony by such an individual provided that the  
18 appropriate clarifying title is used and the individual  
19 specifically discloses to the involved parties, including the  
20 court or adjudicative body, that he or she is not a "licensed  
21 psychologist".

22 (f) Nothing in this article shall be construed to limit the

1 authority of the West Virginia Department of Education to  
2 credential individuals to provide psychoeducational services in  
3 the public schools as long as individuals so credentialed are  
4 limited to practice within settings under the authority and  
5 purview of the state education agency. Such individuals may use  
6 the title "school psychologist" but must be employees of public  
7 schools and not independent contractors providing psychological  
8 services to educational settings.

9 **§30-21-2. General provisions.**

10 The practices licensed under the provisions of this article  
11 and the West Virginia Board of Psychology are subject to the  
12 provisions of article one of this chapter, the provisions of this  
13 article, and any rules promulgated hereunder.

14 **§30-21-3. Definitions.**

15 As used in this article:

16 (1) "Academic Psychologist" means unlicensed professionals  
17 who, at a minimum, meet the educational requirements of this  
18 article and who are employed by institutions of higher learning  
19 to teach or conduct research in the discipline of psychology. The  
20 titles "academic psychologist", "research psychologist", or  
21 "experimental psychologist" are considered equivalent.

22 (2) "Applicant" means a person making application for a

1 license or a temporary permit under the provisions of this  
2 article.

3 (3) "Board" means the West Virginia Board of Psychology.

4 (4) "Business entity" means any firm, partnership,  
5 association, company, corporation, limited partnership, limited  
6 liability company or other entity providing psychological  
7 services.

8 (5) "Client/Patient" means a direct recipient of psychological  
9 services within the context of a professional relationship  
10 including a child, adolescent, adult couple, family group,  
11 organization, community or other populations or other entities  
12 receiving psychological services. In some circumstances (e.g. an  
13 evaluation that is court-ordered, requested by an attorney, an  
14 agency, or other administrative body), the client or patient may  
15 be the individual or entity requesting the psychological service  
16 and not necessarily the recipient of those services. **Provided**  
17 **that** in the case of individuals with legal guardians, including  
18 minors and legally incompetent adults, the legal guardian shall  
19 be the client for decision-making purposes, except the individual  
20 receiving services shall be the client or patient for:

21 (A) Issues directly affecting the physical or emotional safety  
22 of the individual, such as sexual or other exploitative dual

1 relationships, or

2 (B) Issues specifically reserved to the individuals, and  
3 agreed to by the guardian prior to rendering of services, such as  
4 confidential communication in a therapy relationship.

5 (6)"Expanded Scope of Practice" means those specific areas  
6 of determined competence that are added to the Scope of Practice  
7 with Board approval, via Board defined procedure, after the  
8 individual has been duly licensed by the Board.

9 (7) "Licensed school psychologist, Level I" means a person  
10 licensed by the Board to practice school psychology on school  
11 board property as a school board employee or contractee;

12 (8) "Licensed school psychologist, Level II independent  
13 practitioner " means a person licensed by the Board to provide  
14 school psychology services to an individual or the public on  
15 school board or non-school board property, as a school board  
16 employee or contractee.

17 (9) "Licensee" means a person holding a license issued under  
18 the provisions of this article.

19 (10) "Permit" or "temporary permit" means a temporary permit  
20 issued under the provisions of this article.

21 (11) "Permittee" means any person holding a temporary permit  
22 issued pursuant to the provisions of this article.

1           (12) "Practice of psychology" means the observation,  
2 description, analysis, evaluation, interpretation, prediction,  
3 and modification of human behavior by the application of  
4 psychological principles, methods, and procedures, on a client  
5 or patient, regardless of whether payment is received for  
6 services rendered, for the purpose of, and includes, but is not  
7 limited to,

8           (A) Preventing, eliminating, evaluating, assessing or  
9 predicting symptomatic, maladaptive, or undesired behavior;

10           (B) Evaluating and assessing or facilitating the enhancement  
11 of individual, group or organizational effectiveness, including  
12 personal effectiveness, adaptive behavior, interpersonal  
13 relationships, work and life adjustment, health, and individual,  
14 group or organizational performance; or

15           (C) Assisting in legal decision-making.

16           (D) Psychological testing evaluation or assessment of  
17 personal characteristics, such as intelligence, personality,  
18 cognitive, physical, or emotional abilities; skills; interests;  
19 aptitudes; and neuropsychological functioning;

20           (E) Psychoanalysis, counseling psychotherapy, hypnosis,  
21 biofeedback, cognitive therapy, cognitive behavior therapy,  
22 behavior analysis and behavior therapy;

1           (F) Diagnosis, treatment, and management of mental and  
2 emotional disorder or disability, substance use disorders,  
3 disorders of habit or conduct, as well as of the psychological  
4 aspects of physical illness, accident, injury, or disability;

5           (G) Psychoeducational evaluation, therapy, and remediation;

6           (H) Consultation with other psychologists, physicians, other  
7 healthcare professionals, client or patients regarding all  
8 available treatment options, including medication, with respect  
9 to provision of care for a specific client or patient;

10           (I) Provision of direct services to individuals or groups  
11 for the purpose of enhancing individual and thereby  
12 organizational effectiveness, using psychological principles,  
13 methods or procedures to assess and evaluate individuals on  
14 personal characteristics for individual development or behavior  
15 change or for making decisions about the individual, such as  
16 selection; and

17           (J) The supervision of any of the above.

18           (13) "Psychologist" means a person licensed by the Board to  
19 practice psychology.

20           (14)"Practice of school psychology" means the rendering or  
21 offering to render to an individual or to the public, regardless  
22 of whether payment is received for services rendered, school

1 psychological services as defined herein whether rendered to  
2 individuals, families, groups, systems, or organizations.

3 (15) "School Psychology Services" means the activities  
4 school psychologists may engage in to promote mental health and  
5 to facilitate the education of school age children, which  
6 include, but are not limited to, the following:

7 (A) Consultation, which includes collaboration with  
8 individuals and groups of school personnel, parents, families and  
9 representatives of community agencies;

10 (B) Psychological and psychoeducational assessment, which  
11 includes the gathering, interpreting and communicating of  
12 information derived from the assessment process which relates to  
13 learning and behavior;

14 (C) Intervention, which includes individual and group  
15 counseling, behavioral intervention and crisis intervention;

16 (D) Education, which includes parent training, school in-  
17 service and community education;

18 (E) Facilitation, which includes assisting in developing  
19 useful communication between diverse groups of people separated  
20 by institutional, bureaucratic, educational or other barriers;

21 (F) Research, which includes designing, reporting and  
22 utilizing the results of research of a psychological nature;

1           (G) Program planning and evaluation, which includes program  
2 development, program implementation, program evaluation and  
3 problem solving for organizational decision making;

4           (H) Supervision, which includes the supervision of student  
5 intern school psychologists, other school psychologists and  
6 personnel contracted to provide either psychological or  
7 psychoeducational assessment data;

8           (I) Provided that for the purpose of this article, the term  
9 "practice of school psychology" shall not include the activities  
10 of clinical counseling, child, industrial, health, and other  
11 types of psychology which the board determines to be outside the  
12 scope of school psychology activities;

13           (13) "Psychology" means the science involving the  
14 principles, methods and procedures of understanding, predicting  
15 and influencing behavior; the principles pertaining to learning,  
16 perception, motivation, thinking, emotions and interpersonal  
17 relationships; the methods and procedures of interviewing and  
18 counseling; the methods and procedures of psychotherapy, meaning  
19 the use of learning, conditioning methods and emotional  
20 reactions, in a professional relationship, to assist a person or  
21 persons to modify feelings, attitudes and behavior, which are  
22 intellectually, socially or emotionally maladjustive or

1 ineffectual; the constructing, administering and interpreting of  
2 tests of intelligence, special abilities, aptitudes, interests,  
3 attitudes, personality characteristics, emotions and motivation;  
4 the psychological evaluation, prevention and improvements of  
5 adjustment problems of individuals and groups; and the resolution  
6 of interpersonal and social conflicts.

7 (14) "School board" means a West Virginia County School  
8 Board, the West Virginia Department of Education, or a Regional  
9 Educational Service Agency.

10 (15) "School board employee" means a person who provides  
11 services for the school board and is reimbursed via a salary and  
12 benefits and who has met the educational requirements under the  
13 state law and regulations of the West Virginia Board of Education  
14 to be certified or otherwise empowered by the State  
15 Superintendent of Schools to provide school psychological  
16 services for school boards.

17 (16) "School board contractee" means a person who provides  
18 services for one or more school boards and is reimbursed on a per  
19 evaluation, per unit of service, or some other contract basis.

20 (17) "School psychologist" means a person who provides  
21 school psychological services to the public and in so doing  
22 claims to have the knowledge, training, expertise and ethical

1 standards necessary to engage in such practice.

2 (18) "Scope of Practice" means the areas of professional  
3 competence in which the licensee may practice as determined by  
4 the Board.

5 (19) "Supervised Work Experience" means professional  
6 experience in the license required duties and activities defined  
7 in this article. Supervised Work Experience is supervised by a  
8 licensed psychologist Board qualified in the scope being  
9 practiced.

10 (20) "Supervisee" means a person in the supervision track  
11 for permanent licensure who having met all the board's  
12 educational requirements to be eligible for licensure is in the  
13 process of completing the post graduate degree supervised work  
14 experience requirement under the supervision of a licensed  
15 psychologist.

16 **§30-21-4. Board of Psychology.**

17 (a) The Board of Examiners of Psychologists is continued.  
18 On July 1, 2012, West Virginia Board of Examiners of  
19 Psychologists is renamed the West Virginia Board of Psychology.  
20 The members of the board in office on July 1, 2011, shall, unless  
21 sooner removed, continue to serve until their respective terms  
22 expire and until their successors have been appointed and

1 qualified.

2 (b) The board shall consist of the following seven members  
3 who are appointed by the Governor with the advice and consent of  
4 the Senate:

5 (1) 5 licensed psychologists at least one of which is a  
6 licensed school psychologist. Psychologist members must have a  
7 valid license to practice psychology in West Virginia of at  
8 least 5 years duration at the time of his or her appointment and  
9 have adequate knowledge and experience in the practice of  
10 psychology as evidenced by at least five years of service in the  
11 practice of psychology. Psychologist members are to have no  
12 history of suspended, revoked, or sanctioned license or  
13 reprimand by this or any jurisdictional Board.

14 (2) 2 citizen members.

15 (c) The term shall be for four years.

16 (d) Members of the Board must be a U.S. citizen and a  
17 resident of the State of West Virginia for at least 5 years  
18 immediately preceding, his or her appointment.

19 (e) Each member must be free of conflict of interest, or  
20 the appearance of such conflict, with his or her duties as a  
21 member of the Board.

22 (f) Whenever possible, Board members shall reflect

1 diversity in scope of practice and geographic representation of  
2 the state.

3 (g) A member may not serve more than two full terms. For  
4 this purpose, a full term means that the member is appointed  
5 prior to December 31<sup>st</sup> of the year their term is scheduled to  
6 begin. A member having served what was considered to be two full  
7 terms at the time of their service, consecutive or not, is not  
8 eligible for additional terms. A member may continue to serve  
9 until a successor has been appointed and has qualified.

10 (h) A vacancy on the board shall be filled by appointment by  
11 the Governor for the unexpired term of the member whose office  
12 shall be vacant and the appointment shall be made within sixty  
13 days of the vacancy.

14 (i) The Governor may remove any member from the board for  
15 neglect of duty, incompetency or official misconduct.

16 (j) Any member of the board immediately and automatically  
17 forfeits his or her membership if his or her license to practice  
18 is suspended or revoked by the board, is convicted of a felony  
19 under the laws of any jurisdiction, or becomes a nonresident of  
20 this state.

21 (k) The board annually shall elect from its membership a  
22 president and secretary who shall serve at the will and pleasure

1 of the board.

2 (l) Each member of the board is entitled to compensation and  
3 expense reimbursement in accordance with article one of this  
4 chapter.

5 (m) A majority of the members of the board constitutes a  
6 quorum.

7 (n) The board shall hold at least two meetings annually.  
8 Other meetings may be held at the call of the president or upon  
9 the written request of four members, at the time and place as  
10 designated in the call or request.

11 (o) Prior to commencing his or her duties as a member of the  
12 board, each member shall take and subscribe to the oath required  
13 by section five, article four of the Constitution of this state.

14 **§30-21-5. Powers and duties of the board.**

15 (a) The board has all the powers and duties set forth in  
16 this article, by rule, in article one of this chapter and  
17 elsewhere in law.

18 (b) The board shall:

19 (1) Hold meetings;

20 (2) Establish requirements for licenses and permits;

21 (3) Establish procedures for submitting, approving and  
22 rejecting applications for licenses and permits;

1           (4) Determine the qualifications of an applicant for  
2 licenses and permits;

3           (5) Examine applicants and determine their eligibility for a  
4 license or permit to engage in the practice of psychology or  
5 school psychology;

6           (6) Prepare, conduct and grade, or adopt, apt and proper  
7 written and oral examinations of applicants for a license and  
8 determine the satisfactory pass point thereon;

9           (7) Promulgate reasonable rules and regulations for  
10 implementing the provisions of this article and the powers and  
11 duties conferred upon the board, including, but not limited to,  
12 reasonable rules and regulations establishing standards to insure  
13 the proper supervision of all persons working under the direct  
14 and regular supervision of a licensee under the provisions of  
15 this article;

16           (8) Maintain records of the examinations the board or a  
17 third party administers, including the number of persons taking  
18 the examinations and the pass and fail rate;

19           (9) Maintain an office, and hire, discharge, establish the  
20 job requirements and fix the compensation of full-time, part-time  
21 or contracted professional, clerical or other personnel, which  
22 may include an executive director, investigators and contracted

1 employees, necessary to enforce this article;

2 (10) Investigate alleged violations of this article,  
3 legislative rules, orders and final decisions of the board;

4 (11) Conduct disciplinary hearings of persons regulated by  
5 the board;

6 (12) Determine and take disciplinary action and issue  
7 orders;

8 (13) Institute appropriate legal action for the enforcement  
9 of this article;

10 (14) Maintain an accurate registry of names and addresses of  
11 all persons regulated by the board;

12 (15) Keep accurate and complete records of its proceedings,  
13 and certify the same as may be necessary and appropriate;

14 (16) Establish the continuing education requirements for all  
15 persons regulated by the board;

16 (17) Issue, renew, combine, deny, suspend, place on  
17 probation, revoke or reinstate licenses and permits;

18 (18) Establish a fee schedule;

19 (19) Propose rules in accordance with article three, chapter  
20 twenty-nine-a of this code to implement this article; and

21 (20) Take all other actions necessary and proper to  
22 implement this article.

1        (c) The board may:

2        (1) Contract with third parties to administer the  
3 examinations required under this article;

4        (2) Sue and be sued in its official name as an agency of  
5 this state; and

6        (3) Confer with the Attorney General or his or her assistant  
7 in connection with legal matters and questions.

8 **§30-21-6. Rulemaking.**

9        (a) The board shall propose rules for legislative approval,  
10 in accordance with article three, chapter twenty-nine-a of this  
11 code, to implement this article, including:

12        (1) Additional standards and requirements for licenses and  
13 permits;

14        (2) Requirements for third parties to prepare and/or  
15 administer examinations and reexaminations;

16        (3) Educational and experience requirements;

17        (4) Standards for approval of courses and curriculum;

18        (5) Procedures for the issuance and renewal of licenses and  
19 permits;

20        (6) A fee schedule;

21        (7) Continuing education requirements;

22        (8) The procedures for denying, suspending, revoking,

1 reinstating or limiting the practice of licensees and permittees;

2 (9) Requirements for inactive or revoked licenses and  
3 permits; and

4 (10) Any other rules necessary to implement this article.

5 (b) All of the board's rules in effect on January 1, 2012,  
6 shall remain in effect until they are amended or rescinded, and  
7 references to former enactments of this article are interpreted  
8 to be consistent with this article.

9 **§30-21-7. Fees; special revenue account; administrative fines.**

10 (a) All fees and other moneys, except administrative fines,  
11 received by the board shall be deposited in a separate special  
12 revenue fund in the State Treasury designated, "the Board of  
13 Examiners of Psychologists Fund", which is continued and renamed  
14 "the Board of Psychology Fund." The fund is used by the board for  
15 the administration of this article. Except as may be provided in  
16 article one of this chapter, the board retains the amount in the  
17 special revenue account from year to year. No compensation or  
18 expense incurred under this article is a charge against the  
19 General Revenue Fund.

20 (b) Any amounts received as fines pursuant to this article  
21 shall be deposited into the General Revenue Fund of the State  
22 Treasury.

1 **§30-21-8. License to practice psychology.**

2 To be eligible for a license to practice psychology, the  
3 applicant must:

4 (1) Submit an application to the board;

5 (2) Be at least twenty-one years of age;

6 (3) Be of good moral character;

7 (4) Pay the appropriate fee;

8 (5) Be a holder of a doctor of philosophy degree or its  
9 equivalent, or a master's degree, in psychology, from an  
10 accredited institution of higher learning, with adequate course  
11 study at such institution in psychology, the adequacy of any such  
12 course study to be determined by the board;

13 (6) (A) Have supervised work experience in the practice of  
14 psychology;

15 (i) A doctoral degree applicant must complete two years of  
16 supervised work experience. For those with a board approved  
17 doctoral degree, completion of a board approved one year full  
18 time internship program may count as one of the two years of  
19 supervised work experience, and the remaining one year shall be  
20 post degree supervised work experience in the practice of  
21 psychology.

22 (ii) A master's degree applicant must complete five years of

1 supervised work experience in the practice of psychology.

2 (B) All supervised work experience must be acceptable to the  
3 board and comply with the specific purpose of this article,  
4 primary of which is ensuring the public safety through licensure,  
5 which requires education combined with rigorous supervised work  
6 experience prior to licensure.

7 (7)Have passed the examination(s) prescribed by the board  
8 covering the basic subject matter of psychology and psychological  
9 skills and techniques;

10 (8) Not be an alcohol or drug abuser, as these terms are  
11 defined in section eleven, article one-a, chapter twenty-seven of  
12 this code: Provided, That an applicant in an active recovery  
13 process, which may, in the discretion of the board, be evidenced  
14 by participation in an acknowledged substance abuse treatment  
15 and/or recovery program may be considered;

16 (9) Not have been convicted of a felony or crime involving  
17 moral turpitude in this or any jurisdiction;

18 (10) Not have been convicted of a misdemeanor or felony in  
19 any jurisdiction if the offense for which he or she was convicted  
20 related to the practice of psychology, which conviction remains  
21 unreversed; and

22 (11) Meet other requirements established by legislative rule

1 by the board.

2 (b) A person who is licensed as a psychologist in West  
3 Virginia at the time of the effective date of this section shall  
4 be determined to have met all requirements for licensure under  
5 this article and shall be eligible for renewal of licensure in  
6 accordance with the provisions of this article.

7 **§30-21-9. Scope of practice.**

8 (a) The licensee's scope of practice shall be determined  
9 upon examination for licensure. The board's basic requirements  
10 for acceptable education and supervised work experience having  
11 been met, the individual shall identify and provide evidence of  
12 his areas of competence. When expanding his or her scope of  
13 practice beyond those areas specifically identified and approved  
14 by the board at the time of licensure, a licensee shall obtain  
15 additional training and supervision in the intended area of  
16 expansion. The Board shall determine and document reasonable  
17 requirements for the additional training and supervision as  
18 needed. The Board may further require an oral or written  
19 examination, or both, prior to the licensee initiating  
20 independent practice in the new scope.

21 (b) Areas of specialization are the same as areas of  
22 expanded scope. The Board requirements for licensure are primary  
23 and cannot be circumvented.

1           (c) The Board is the authority on the practice of  
2 psychology and school psychology and the scope of practice for  
3 licensees and no other entity shall define or prohibit the  
4 practice of psychology or school psychology in West Virginia. The  
5 duties of determining a person's initial and continuing  
6 qualifications, competence and fitness to practice and enforcing  
7 this article, the laws and rules that pertain to the practice of  
8 psychology and school psychology are hereby delegated to the  
9 board.

10           (d) A person represents himself or herself to be a  
11 "psychologist" if that person uses any title or description of  
12 services incorporating the words, whole or in part, psychology,  
13 psychological, or psychologist, or if he or she uses any term  
14 that implies that he or she possesses expert qualifications in  
15 any area of psychology or if that person offers or renders to  
16 individuals, groups of individuals or corporate entities or other  
17 organizations, services defined as the practice of psychology in  
18 this article. Exceptions are limited to those in section one.

19 **§30-21-10. License to practice as a school psychologist, Level**

20 **I.**

21           (a) To be eligible for a license to practice as a school  
22 psychologist, the applicant shall:

23           (1) Submit an application to the board;

1 (2) Be at least twenty-one years of age;

2 (3) Be of good moral character;

3 (4) Pay the appropriate fee;

4 (5) Obtain a valid certificate of school psychology granted  
5 by the state superintendent of schools, have obtained a  
6 certificate of advanced study in school psychology and obtained a  
7 doctoral or master's degree in school psychology from a board  
8 approved institution of higher education, or have received  
9 equivalent training as determined by the board;

10 (6)(A) Have supervised work experience in the practice of  
11 school psychology;

12 (i) A doctoral degree applicant must complete two years of  
13 supervised work experience. For those with a board approved  
14 doctoral degree, completion of a board approved one year full  
15 time internship program may count as one of the two years of  
16 supervised work experience, and the remaining one year shall be  
17 post degree supervised work experience in the practice of school  
18 psychology.

19 (ii) A master's degree applicant must complete at least  
20 three academic years of supervised work experience in the  
21 practice of school psychology which includes a one year post  
22 degree internship or externship towards completion of the  
23 requirements for a certificate of advanced study in school

1 psychology or similar designation approved by the board:  
2 Provided, that Supervisors shall provide a minimum of one hour of  
3 individual supervision per twenty hours of the Supervisee's work,  
4 with a minimum of one hour per week regardless of hours spent in  
5 practice.

6 (7) Pass a standardized national examination in school  
7 psychology from the National Association of School Psychologists  
8 or other similar organizations and approved as a standardized  
9 testing vehicle for school psychologists by the board;

10 (8) Pass an oral examination conducted by the board; and

11 (9) Not have been convicted of a felony or crime involving  
12 moral turpitude in this or any jurisdiction.

13 (10) Not have been convicted of a misdemeanor or felony in  
14 any jurisdiction if the offense for which he or she was convicted  
15 related to the practice of psychology or school psychology, which  
16 conviction remains unreversed; and

17 (11) Meet other requirements established by legislative rule  
18 by the board.

19 (b) A person who is licensed as a school psychologist in  
20 West Virginia at the time of the effective date of this section  
21 shall be determined to have met all requirements for licensure  
22 under this article and shall be eligible for renewal of licensure  
23 in accordance with the provisions of this article.

1 **§30-21-11. License to practice as a school psychologist, Level**  
2 **II independent practitioner.**

3 (a) An applicant shall meet all the minimum requirements for  
4 eligibility as a licensed school psychologist Level I as  
5 established in section ten;

6 (b) Complete an additional two years of board approved  
7 supervision by a licensed school psychologist Level II; and

8 (c) Pass an oral examination conducted by the board.

9 **§30-21-12. Graduate students, interns, and supervisees;**  
10 **assistants and technicians**

11 (a) Students and supervised psychologists may engage in the  
12 practice of psychology under the direct supervision of a  
13 licensee provided they are:

14 1) a matriculated graduate student whose activities  
15 constitute a part of the course of study for a graduate degree in  
16 psychology at an institution of higher learning;

17 (2) an unlicensed individual in the supervision track  
18 pursuing post graduate degree training or experience in the  
19 practice of psychology while under the Board approved supervision  
20 of a licensee.

21 (b) Persons set out in 1. and 2. of this Section and their  
22 supervisors are subject to the rules, regulations, standards of  
23 practice, codes of ethics and any other guidelines adopted by the

1 Board, as well as disciplinary action by the Board.

2 (c)Nothing in this Article shall be construed to prevent  
3 persons set out in 1. and 2. of this section from engaging in the  
4 activities defined as the practice psychology, provided that such  
5 persons shall not represent themselves by the title  
6 "psychologist". Such persons shall use the relevant terms  
7 "student", "psychological intern", or "supervised psychologist,"  
8 provided that such persons perform their activities under the  
9 supervision and responsibility of a licensed psychologist in  
10 accordance with the rules promulgated by the Board.

11 (d) Furthermore, with proper documentation and board  
12 approval, an assistant or technician, properly trained and  
13 educated based on board determined standards, may perform limited  
14 and appropriate duties under the direct and regular supervision  
15 of a licensee.

16 (e) Denial of licensure terminates this authorization.

17 **§30-21-13. Renewal of license.**

18 (a) A license to practice psychology shall be valid for a  
19 period of two years from the date issued and may be renewed for a  
20 period of two years without examination upon application for  
21 renewal on a form prescribed by the board and payment to the  
22 board of renewal fees to be set by the board by legislative rule.

23 (b) The license to practice school psychology shall be valid

1 for a period of three years from the date issued and may be  
2 renewed for a period of three years without examination upon  
3 application for renewal on a form prescribed by the board and  
4 payment to the board of a renewal fees to be set by the Board by  
5 legislative rule.

6 (c) The board shall charge a fee for each renewal of a  
7 license and may charge a late fee for any renewal not paid by the  
8 due date.

9 (d) The board shall require as a condition of renewal that  
10 each licensee complete continuing education.

11 (e) The board may deny an application for renewal for any  
12 reason which would justify the denial of an original application  
13 for a license.

14 **§30-21-14. Delinquent and expired license requirements.**

15 (a) If a license is not renewed when due, then the board  
16 shall automatically place the licensee on delinquent status. A  
17 licensee on delinquent status may not practice in this state.

18 (b) The fee for a person on delinquent status shall increase  
19 at a rate, determined by the board, for each month or fraction  
20 thereof that the renewal fee is not paid, up to a maximum of  
21 thirty-six months.

22 (c) Within thirty-six months of being placed on delinquent  
23 status, if a licensee wants to return to active practice, he or

1 she must complete all the continuing education requirements and  
2 pay all the applicable fees as set by rule.

3 (d) After thirty-six months of being placed on delinquent  
4 status, a license is automatically placed on expired status and  
5 cannot be renewed. A person whose license has expired must  
6 reapply for a new license.

7 **§30-30-15. Inactive license requirements.**

8 (a) A licensee who does not want to continue an active  
9 practice shall submit an application and any applicable fee to be  
10 granted inactive status.

11 (b) Once granted inactive status, a person is not subject to  
12 the payment of any fee and may not practice in this state.

13 (c) When the person wants to return to practice, the person  
14 shall submit an application for renewal along with all applicable  
15 fees as set by rule.

16 (d) When inactive status has been of more than 5 years  
17 duration, during which time the individual has not been  
18 practicing as a licensed psychologist in any Board recognized  
19 jurisdiction, an oral examination shall be required prior to  
20 reactivation of the license.

21 **§30-21-16. Temporary permit to practice psychology.**

22 (a) Upon proper application, the board may issue until  
23

1 examination at the next available board meeting a temporary  
2 permit to engage in the practice of psychology in this state to  
3 an applicant of good moral character who meets the provisions of  
4 this article and who holds a valid license to practice psychology  
5 in another jurisdiction, if the applicant demonstrates that he or  
6 she:

7 (1) Holds a license or other authorization to practice  
8 psychology in another state which requirements are substantially  
9 equivalent to those required in this state. The board may enter  
10 into agreements for reciprocal licensing with other jurisdictions  
11 having substantially similar requirements for licensure;

12 (2) Does not have charges pending against his or her license  
13 or other authorization to practice, and has never had a license  
14 or other authorization to practice revoked or otherwise  
15 sanctioned;

16 (3) Has not previously failed an examination for  
17 professional licensure in this state;

18 (4) Has paid the applicable fee;

19 (5) Has passed the EPPP or other examination prescribed by  
20 the board; and

21 (6) Has fulfilled any other requirement specified by the  
22 board.

23 (b) The board shall interview and examine an applicant for

1 licensing under this section. If the permittee fails to pass the  
2 examination, the temporary permit expires immediately.

3 (c) An applicant under this subsection may only be issued  
4 one temporary permit. Upon the expiration of a temporary permit,  
5 a person may not practice psychology until he or she is fully  
6 licensed under the provisions of this article. In no event may a  
7 permittee practice on a temporary permit beyond a period of 180  
8 consecutive days.

9 (d) A temporary permittee under this section shall work under  
10 the supervision of a licensee. Provided, however, That no such  
11 license or temporary permit shall be required for a psychologist who  
12 is not a resident of this state, who is the holder of a license or  
13 certificate to engage in the practice of psychology issued by a  
14 state with licensing or certification requirements determined by the  
15 board to be at least as great as those provided in this article, who  
16 has no regular place of practice in this state and who engages in  
17 the practice of psychology in this state for a period of not more  
18 than ten days in any calendar year.

19 **§30-21-17. Other licensed professionals**

20 Nothing in this Article shall be construed to prevent  
21 members of other recognized professions that are licensed and  
22 regulated under the laws of this state from rendering services  
23 consistent with their professional education, training and code

1 of ethics, provided that they do not represent themselves to be  
2 psychologists.

3 **§30-21-18. Display of license.**

4 (a) The board shall prescribe the form for a license and  
5 permit, and may issue a duplicate license or permit upon payment  
6 of a fee.

7 (b) Any person regulated by the article shall conspicuously  
8 display his or her license or permit at his or her principal  
9 place of practice.

10 **§30-21-19. Privileged communications.**

11 (a) A licensee may not disclose any information provided by  
12 a client or from persons consulting the licensee in a  
13 professional capacity, except that which may be voluntarily  
14 disclosed under the following circumstances:

15 (1) In the course of formally reporting, conferring or  
16 consulting with administrative superiors, colleagues or  
17 consultants who share professional responsibility, in which  
18 instance all recipients of such information are similarly bound  
19 to regard the communication as privileged;

20 (2) With the written consent of the person who provided the  
21 information;

22 (3) In case of death or disability, with the written consent  
23 of a personal representative, other person authorized to sue, or

1 the beneficiary of an insurance policy on the person's life,  
2 health or physical condition;

3 (4) When a communication reveals the intended commission of  
4 a crime or harmful act and such disclosure is judged necessary by  
5 the psychologist to protect any person from a clear, imminent  
6 risk of serious mental or physical harm or injury, or to  
7 forestall a serious threat to the public safety; or

8 (5) When the person waives the privilege by bringing any  
9 public charges against the licensee.

10 (b) When the person is a minor and the information acquired  
11 by the licensee indicates the minor was the victim of or witness  
12 to a crime, the licensee may be required to testify in any  
13 judicial proceedings in which the commission of that crime is the  
14 subject of inquiry and when the court determines that the  
15 interests of the minor in having the information held privileged  
16 are outweighed by the requirements of justice.

17 (c) Any person having access to records or anyone who  
18 participates in providing services or who, in providing any human  
19 services, is supervised by a licensee, is similarly bound to  
20 regard all information and communications as privileged in accord  
21 with the section.

22 (d) Nothing shall be construed to prohibit a licensee from  
23 testifying in court hearings concerning matters of adoption,

1 child abuse, child neglect or other matters pertaining to  
2 children, elderly, and physically and mentally impaired adults,  
3 except as prohibited under the applicable state and federal laws.

4 **§30-21-20. Actions to enjoin violations.**

5 (a) If the board obtains information that a person has  
6 engaged in, is engaging in or is about to engage in any act which  
7 constitutes or will constitute a violation of this article, the  
8 rules promulgated pursuant to this article, or a final order or  
9 decision of the board, it may issue a notice to the person to  
10 cease and desist in engaging in the act and/or apply to the  
11 circuit court in the county of the alleged violation for an order  
12 enjoining the act.

13 (b) The circuit courts of this state may issue a temporary  
14 injunction pending a decision on the merits, and may issue a  
15 permanent injunction based on its findings in the case.

16 (c) The judgment of the circuit court on an application  
17 permitted by this section is final unless reversed, vacated or  
18 modified on appeal to the West Virginia Supreme Court of Appeals.

19 **§30-21-21. Complaints; investigations; due process procedure;**  
20 **grounds for disciplinary action.**

21 (a) The board may upon its own motion based on credible  
22 information, and shall upon the written complaint of a person,  
23 cause an investigation to be made to determine whether grounds

1 exist for disciplinary action under this article or the  
2 legislative rules promulgated pursuant to this article.

3 (b) Upon initiation or receipt of the complaint, the board  
4 shall provide a copy of the complaint to the licensee or  
5 permittee.

6 (c) After reviewing any information obtained through an  
7 investigation, the board shall determine if probable cause exists  
8 that the licensee or permittee has violated subsection (g) of  
9 this section or rules promulgated pursuant to this article.

10 (d) Upon a finding that probable cause exists that the  
11 licensee or permittee has violated subsection (g) of this section  
12 or rules promulgated pursuant to this article, the board may  
13 enter into a consent decree or hold a hearing for the suspension  
14 or revocation of the license or permit or the imposition of  
15 sanctions against the licensee or permittee. Any hearing shall  
16 be held in accordance with this article.

17 (e) The board president or its administrator may issue  
18 subpoenas and subpoenas duces tecum to obtain testimony and  
19 documents to aid in the investigation of allegations against any  
20 person regulated by the article.

21 (f) The board president or its administrator may sign a  
22 consent decree or other legal document on behalf of the board.

23 (g) The board may, after notice and opportunity for hearing,

1 deny or refuse to renew, suspend, restrict or revoke the license  
2 or permit of, or impose probationary conditions upon or take  
3 disciplinary action against, any licensee or permittee for any of  
4 the following reasons once a violation has been proven by a  
5 preponderance of the evidence:

6 (1) Obtaining a license or permit by fraud,  
7 misrepresentation or concealment of material facts;

8 (2) Being convicted of a felony or other crime involving  
9 moral turpitude in this or any jurisdiction;

10 (3) Committing unprofessional conduct which placed the  
11 public at risk;

12 (4) Intentional violation of a lawful order or legislative  
13 rule of the board;

14 (5) Having had a license or other authorization revoked or  
15 suspended, other disciplinary action taken, or an application for  
16 licensure or other authorization revoked or suspended by the  
17 proper authorities of another jurisdiction;

18 (6) Exceeding their scope of practice of psychology;

19 (7) Engaging in false and deceptive advertising;

20 (8) Aiding or abetting unlicensed practice; or

21 (9) Engaging in an act while acting in a professional capacity  
22 which has endangered or is likely to endanger the health, welfare  
23 or safety of the public.

1        (h) For the purposes of subsection (g) of this section,  
2 effective July 1, 2012, disciplinary action may include:

3        (1) Reprimand;

4        (2) Probation;

5        (3) Restrictions;

6        (4) Administrative fine, not to exceed \$1,000 per day per  
7 violation;

8        (5) Mandatory attendance at continuing education seminars or  
9 other training;

10       (6) Practicing under supervision or other restriction; or

11       (7) Requiring the licensee or permittee to report to the  
12 board for periodic interviews for a specified period of time; or

13       (8) Other corrective action deemed necessary and appropriate  
14 by the board;

15       (i) In addition to any other sanction imposed, the board  
16 may require a licensee or permittee to pay the costs of the  
17 proceedings.

18       (j) The board may temporarily suspend a license or permit  
19 without a hearing while instituting proceedings for a hearing  
20 under this section if the board possesses evidence that the  
21 psychologist's continuation in practice may constitute an  
22 immediate danger to the public.

23       (k) A licensee or permittee may surrender his or her

1 licensee when such person is charged with unethical conduct and  
2 upon receipt of that charge the licensee decides to surrender  
3 the license. The surrender and acceptance by the board shall  
4 constitute acknowledgment by the psychologist of guilt as  
5 charged and is considered a public and reportable disciplinary  
6 action. Such surrender shall not rescind the jurisdiction of the  
7 board to proceed to formal adjudication of the matter.

8 (1) The board shall also suspend or revoke any license or  
9 temporary permit if it finds the existence of any grounds that  
10 would justify the denial of an application for such license or  
11 temporary permit if application were then being made for it.

12 **§30-21-22. Procedures for hearing.**

13 (a) Hearings are governed by section eight, article one of  
14 this chapter.

15 (b) The board may conduct the hearing or elect to have an  
16 administrative law judge who is a licensed attorney in the state  
17 of West Virginia conduct the hearing.

18 (c) If the hearing is conducted by an administrative law  
19 judge, at the conclusion of a hearing he or she shall prepare a  
20 proposed written order containing findings of fact and  
21 conclusions of law. The proposed order may contain proposed  
22 disciplinary actions if the board so directs. The board may  
23 accept, reject or modify the decision of the administrative law

1 judge.

2 (d) Any member or the administrator of the board has the  
3 authority to administer oaths, examine any person under oath and  
4 issue subpoenas and subpoenas duces tecum.

5 (e) If, after a hearing, the board determines the licensee  
6 or permittee has violated this article or the board's rules, a  
7 formal written decision shall be prepared which contains findings  
8 of fact, conclusions of law and a specific description of the  
9 disciplinary actions imposed.

10 **§30-21-23. Judicial review; right of appeal.**

11 A licensee or permittee adversely affected by a decision of  
12 the board entered after a hearing may obtain judicial review of  
13 the decision in accordance with section four, article five,  
14 chapter twenty-nine-a of this code, and may appeal any ruling  
15 resulting from judicial review in accordance with article six,  
16 chapter twenty-nine-a of this code.

17 **§30-21-24. Penalties.**

18 (a) When, as a result of an investigation under this article  
19 or otherwise, the board has reason to believe that a licensee or  
20 permittee has committed a criminal offense under this article,  
21 the board shall bring its information to the attention of an  
22 appropriate law-enforcement official.

23 (b) A person violating this article is guilty of a

1 misdemeanor and, upon conviction thereof, shall be fined not less  
2 than \$100 nor more than \$5,000 or confined in jail not more than  
3 six months, or both fined and confined.

4 **§30-21-25. Severability.**

5 If any provision of this article or the application thereof to  
6 any person or circumstance is held unconstitutional or invalid,  
7 such unconstitutionality or invalidity shall not affect other  
8 provisions or applications of the article, and to this end the  
9 provisions of this article are declared to be severable.

10 **§30-21-26. Single act evidence of practice.**

11 In any action brought or in any proceeding initiated under this  
12 article, evidence of the commission of a single act prohibited by  
13 this article is sufficient to justify a penalty, injunction,  
14 restraining order or conviction without evidence of a general  
15 course of conduct.

16