

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



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House Bill No. 4618

(By Mr. Speaker, Mr. Kiss, and Delegates Leach,
Miller, Compton, Michael, Douglas and Pettit)



Passed March 14, 1998

In Effect Ninety Days from Passage



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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

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H. B. 4618

(BY MR. SPEAKER, MR. KISS, AND DELEGATES LEACH,
MILLER, COMPTON, MICHAEL, DOUGLAS AND PETTIT)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact sections five, seven and eight, article thirty-one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the board of examiners in counseling; authorizing the board to establish a schedule of fees by legislative rule.

Be it enacted by the Legislature of West Virginia:

That sections five, seven and eight, article thirty-one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-5. Powers and duties of board; disposition of board funds.

1 (a) In addition to the duties set forth elsewhere in this
2 article, the board shall:

3 (1) Issue, renew, deny, suspend or revoke licenses to
4 engage in the practice of counseling and place a licensed
5 counselor on probation in accordance with the provisions
6 of this article and, in accordance with the administrative
7 procedures hereinafter provided, may review, affirm,

8 reverse, vacate or modify its order with respect to any such
9 denial, suspension or revocation;

10 (2) Promulgate reasonable rules pursuant to article
11 three, chapter twenty-nine-a of this code, implementing
12 the provisions of this article and the powers and duties
13 conferred upon the board hereby including, but not
14 limited to, rules setting forth:

15 (A) Any and all specific master's and doctoral degree
16 programs considered to be equivalent to a master's or
17 doctoral degree program in counseling for purposes of
18 licensure under subdivision (4), subsection (a), section
19 seven of this article;

20 (B) The nature of supervised professional experience
21 approved by the board for the purposes of licensure under
22 subdivision (4), subsection (a), section seven of this article;

23 (C) A code of ethics for licensed counselors patterned
24 after the codes of ethics of related professional groups;

25 (D) Forms for license applications and license renewal
26 applications; and

27 (E) A reasonable and appropriate schedule of fees;

28 (3) Keep accurate and complete records of its
29 proceedings, certify the same as may be appropriate and
30 submit an annual report to the governor and the
31 Legislature in such form as the governor may require;

32 (4) Adopt an official seal to be affixed to all licenses
33 issued by the board;

34 (5) Appoint an examiner to determine the eligibility
35 of applicants for a license to engage in the practice of
36 counseling;

37 (6) Employ, direct, discharge and define the duties of
38 any and all professional, clerical or other personnel
39 necessary to effectuate the provisions of this article;

40 (7) Take any other actions as may be reasonably
41 necessary to effectuate the provisions of this article; and

42 (8) Accept gifts, grants and donations from any source
43 for the purposes of or incidental to this article.

44 (b) All moneys paid to the board shall be accepted by
45 a person designated by the board and deposited by him or
46 her with the treasurer of the state and credited to an
47 account to be known as the "Board of Examiners in
48 Counseling Fund." The compensation and expenses of
49 members of the board and all other costs and expenses
50 incurred by the board in the administration of this article
51 shall be paid from the fund, and no part of the state's
52 general revenue fund may be expended for such purpose.

§30-31-7. Qualifications of applicants for license; application fee.

1 (a) To be eligible for a license to engage in the
2 practice of counseling, an applicant must:

3 (1) Be a legal resident of the state of West Virginia;

4 (2) Satisfy the board that he or she is of good moral
5 character and merits the public trust, as evidenced:

6 (A) If the applicant has never been convicted of a
7 felony or a crime involving moral turpitude, by submitting
8 letters of recommendation from three persons not related
9 to the applicant and a sworn statement from the applicant
10 stating that he or she has never been convicted of a felony
11 or a crime involving moral turpitude; or

12 (B) If the applicant has been convicted of a felony or
13 a crime involving moral turpitude, it is a rebuttable
14 presumption that the applicant is unfit for licensure unless
15 he or she submits competent evidence of sufficient
16 rehabilitation and present fitness to perform the duties of a
17 licensed professional counselor as may be established by
18 the production of: (i) Documentary evidence including a
19 copy of the relevant release or discharge order, evidence
20 showing compliance with all conditions of probation or
21 parole, evidence showing that at least one year has elapsed
22 since release or discharge without subsequent conviction,
23 and letters of reference from three persons who have been
24 in contact with the applicant since his or her release or
25 discharge; and (ii) Any collateral evidence and testimony

26 as may be requested by the board which shows the nature
27 and seriousness of the crime, the circumstances relative to
28 the crime or crimes committed and any mitigating
29 circumstances or social conditions surrounding the crime
30 or crimes and any other evidence necessary for the board
31 to judge present fitness for licensure or whether licensure
32 will enhance the likelihood that the applicant will commit
33 the same or similar offenses;

34 (3) Not be an alcohol or drug abuser as these terms
35 are defined in section eleven, article one-a, chapter twenty-
36 seven of this code;

37 (4) Have earned a master's degree in an accredited
38 counseling program or in a field closely related to an
39 accredited counseling program as determined by the
40 board, or have received training equivalent to such degree
41 as may be determined by the board, and have at least two
42 years of supervised professional experience in counseling
43 of such a nature as shall be designated by the board,
44 including at least one year's experience after earning an
45 aforementioned master's degree or equivalent; or have
46 earned a doctorate degree in an accredited counseling
47 program or in a field closely related to an accredited
48 counseling program as determined by the board, or have
49 received training equivalent to such degree as may be
50 determined by the board, and have at least one year of
51 supervised professional experience in counseling of such a
52 nature as shall be designated by the board after earning an
53 aforementioned doctorate degree or equivalent; and

54 (5) Have passed a standardized national certification
55 examination in counseling approved by the board.

56 (b) The following persons are eligible for a license to
57 engage in the practice of counseling without having
58 passed a standardized national certification examination in
59 counseling:

60 (1) Any person who meets the qualifications set forth
61 in subdivisions (1) through (4), subsection (a) of this
62 section, and who makes an application to the board for a
63 license before the first day of July, one thousand nine
64 hundred eighty-seven;

65 (2) Any person who:

66 (A) Is a resident of or employed in this state on the
67 effective date of this article;

68 (B) Makes an application for a license within twelve
69 months after the date all initial appointees to the board
70 commence serving their terms;

71 (C) Meets the qualifications set forth in subdivisions
72 (1) through (3), subsection (a) of this section; and

73 (D) Was in the practice of counseling for two years of
74 the five calendar years next preceding the effective date of
75 this article; or

76 (3) Any person who holds a license or certificate to
77 engage in the practice of counseling issued by any other
78 state, the qualifications for which license or certificate are
79 determined by the board to be at least as great as those
80 provided in this article.

81 (c) Every applicant must submit an application for a
82 license to practice counseling to the secretary of the board
83 in such manner, on such forms and containing such
84 information as the board may prescribe and pay to the
85 board a nonrefundable application fee as established by
86 the board.

**§30-31-8. Issuance of license; renewal of license; renewal
fee; information required in application for re-
newal.**

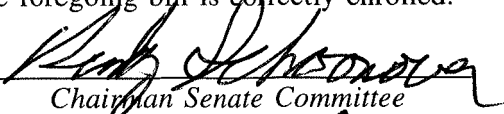
1 (a) Whenever the board finds that an applicant meets
2 all of the qualifications of this article for a license to
3 engage in the practice of counseling, it shall forthwith
4 issue a license to the applicant. The board shall deny a
5 license to any applicant who does not meet all of the
6 qualifications.

7 (b) Every license to engage in the practice of
8 counseling must be renewed biennially during the month
9 of July. To renew a license, a licensed professional
10 counselor must submit an application for renewal to the
11 secretary of the board on such forms as the board may
12 prescribe and pay to the board a renewal fee as established

13 by the board. Any license which is not so renewed shall
14 automatically lapse. Any license which has lapsed may be
15 renewed within two years of its expiration date by
16 payment to the board of the appropriate renewal fee for
17 each period or part thereof during which the license was
18 not renewed.

19 (c) Each application to renew a license shall contain or
20 be accompanied by evidence of continued professional
21 development in the practice of counseling as determined
22 by the board by rule promulgated in accordance with the
23 provisions of chapter twenty-nine-a of this code and any
24 such other reasonable information as the board may
25 consider appropriate.

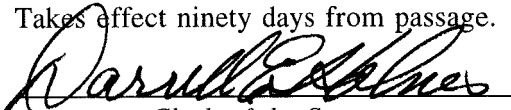
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

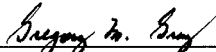

Chairman Senate Committee


Chairman House Committee

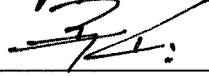
Originating in the House.

Takes effect ninety days from passage.

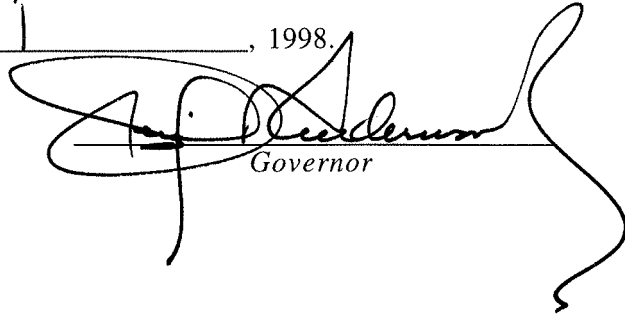

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 1st
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 2:51 pm