

No. 337

RECEIVED
MAR 23 1 58 PM '84
OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984



ENROLLED

SENATE BILL NO. 337

(By Mr COOK, MR. BOEHNER, et al.)



PASSED MARCH 9, 1984

In Effect July 1, 1984 - Passage



ENROLLED

Senate Bill No. 337

(BY MR. COOK, MR. BOETTNER, MR. NELSON AND MS. CHACE)

[Passed March 9, 1984; to take effect July 1, 1984.]

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirty, relating to the licensing of social workers; purpose; definitions; examining board created; powers and duties; license required; prohibited practices; criminal penalties; license classification; qualifications; exemptions; grounds for disciplinary proceedings; temporary permit; renewal of license; display of license; fees; contributions; privileged communications; open meetings provision; and program termination.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirty, to read as follows:

ARTICLE 30. SOCIAL WORKERS.

§30-30-1. Purpose.

- 1 The Legislature finds that the profession of social work
- 2 profoundly affects the lives of the people of this state.
- 3 The profession of social work exists to provide humane
- 4 and effective social services to individuals, families, groups,
- 5 communities and society in order that social functioning
- 6 may be enhanced and the quality of life improved.
- 7 Social workers are involved with individuals who are
- 8 hurt, vulnerable and having difficulty in areas of their lives

9 which are extremely sensitive. Failure to help these
10 individuals, whether through incompetence or
11 irresponsibility, is a serious matter. These individual
12 citizens have the potential to be greatly harmed by the
13 services of ill-prepared and incapable persons acting as
14 social workers. The economic burden of social services
15 which do not give effective aid is a serious social problem.

16 It is the purpose of this article to protect the public by
17 setting standards of qualification, education, training and
18 experience for those who seek to engage in the practice of
19 social work and to promote high standards of professional
20 performance for those engaged in the profession of social
21 work.

§30-30-2. Definitions.

1 (a) "Board" means the state board of social work
2 examiners established by this article.

3 (b) "Social work" means the profession that provides
4 the formal knowledge base, theoretical concepts, specific
5 functional skills and essential social values which are used
6 to implement society's mandate to provide safe, effective
7 and constructive social services through the professional
8 activities of helping individuals, groups or communities
9 enhance or restore their capacity for social functioning, and
10 preventing or controlling social problems and altering
11 societal conditions as a means toward enabling people to
12 attain their maximum potential.

13 (c) "Social worker" means a person who represents
14 himself or herself to the public by the title "social worker,"
15 and, under this title offers to render or renders services
16 involving the application of principles, methods and
17 procedures of the profession of social work to individuals,
18 families, corporations or the public for financial
19 compensation: *Provided*, That social workers as defined by
20 this article, does not mean any person who may voluntarily
21 serve in an advisory capacity in situations dealing with
22 social and family matters while not holding himself or
23 herself out to the public as a social worker.

24 (d) "Social work practice" means the professional
25 application of social work values, principles and techniques
26 to one or more of the following ends: Enhancing the
27 developmental, problem-solving and coping capacities of

28 people; promoting the effective and humane operations of
29 systems that provide resources and services to people;
30 linking people with systems that provide them with
31 resources, services and opportunities; contributing to the
32 development and improvement of social policy; engaging in
33 research related to these ends and principles; and
34 organizations or agencies engaged in such practice. Such
35 social work interventions are provided to individuals,
36 families, small groups, organizations, neighborhoods and
37 communities. The practice of social work is guided by
38 knowledge of social resources, social systems, human
39 behavior and social, economic and cultural institutions and
40 the interaction of all such factors.

§30-30-3. Board of social work examiners.

1 (a) For the purpose of carrying out the provisions of this
2 article, there is hereby created a West Virginia board of
3 social work examiners, consisting of seven members who
4 shall be appointed by the governor, subject to the following
5 requirements:

6 (1) No person may be excluded from serving on the
7 board by reason of race, sex or national origin;

8 (2) Two members shall be certified social workers; two
9 members shall be graduate social workers and two
10 members shall be social workers. All such members must be
11 licensed under the provisions of this article in accordance
12 with their respective titles. In addition, there shall be one
13 member of the board chosen from the general public:
14 *Provided*, That those members who are appointed by the
15 governor to serve as the first board after the effective date of
16 this article shall be persons eligible for the licensing
17 required under this article: *Provided, however*, That the
18 member from the general public shall never be required to
19 be eligible for licensing;

20 (3) The members of the first board to serve after the
21 effective date of this article shall be appointed within
22 ninety days thereof;

23 (4) The term of office for each member of the board shall
24 be three years: *Provided*, That one of the members of the
25 first board to serve after the effective date of this article
26 shall serve a term of two years; three of them shall serve a
27 term of three years and the remaining three shall serve a

28 term of four years: *Provided, however,* That no member
29 shall serve more than four consecutive years; and

30 (5) The governor shall, whenever there is a vacancy on
31 the board due to circumstances other than the expiration of
32 the term of a member, appoint another member with the
33 same qualifications as the member who has vacated to serve
34 the duration of the unexpired term.

35 For the purpose of accepting nominations for the
36 replacement of a member, the governor shall cause a notice
37 of the vacancy to be published at least thirty days prior to an
38 announcement of the replacement member, as a Class I-0
39 legal advertisement, in accordance with the provisions of
40 section two, article three, chapter fifty-nine of this code.
41 The publication area shall be statewide.

42 If the governor fails to make an appointment in ninety
43 days after the expiration of any term, the board shall make
44 the necessary appointment. Each member shall hold office
45 until the expiration of the term for which such member is
46 appointed and until a successor shall have been duly
47 appointed and qualified.

48 (b) Any members of the board may be removed from
49 office for cause, in accordance with procedures set forth in
50 this code for the removal of public officials from office.

51 (c) Members of the board shall receive appropriate
52 compensation, not to exceed the amount specified for
53 attendance of similar board meetings as provided elsewhere
54 in this code, for attending meetings of the board. In addition
55 to such compensation, each member of the board shall be
56 reimbursed out of moneys appropriated for such purposes,
57 reasonable expenses and all sums which he or she
58 necessarily shall expend in the discharge of his or her duties
59 as a member of the board, not to exceed the prevailing rate
60 paid to employees of the state: *Provided,* That such
61 compensation and such expenses shall not exceed the
62 amount received by the board from licensing fees and
63 penalties imposed under subsection (e)(4) of this section.

64 (d) The board shall hold an annual election for the
65 purpose of electing a chairman, vice chairman and
66 secretary. The requirements for meetings and management
67 of the board shall be established in regulations
68 promulgated by the board as required by this article.

69 (e) In addition to the duties set forth in other provisions
70 of this article, the board shall:

71 (1) Recommend to the Legislature any proposed
72 modifications to this article;

73 (2) Report to county prosecutors any suspected
74 violations of this article: *Provided*, That no report shall be
75 made until the board has given the suspected violator
76 ninety days written notice of the suspected violation and
77 the violator has, within such ninety day period, been
78 afforded an opportunity to respond to the board with
79 respect to the allegation;

80 (3) Publish an annual report listing the names and
81 addresses of all persons who have been licensed in
82 accordance with the provisions of this article as a certified
83 social worker, graduate social worker or social worker;

84 (4) Establish a fee schedule for the initial examination,
85 license fee and the annual license renewal; and

86 (5) Establish standards and requirements for
87 continuing education. In establishing these requirements
88 the board shall consult with professional groups and
89 organizations representing all levels of practice provided
90 for in this article and the board shall consider recognized
91 staff development programs, continuing education
92 programs offered by colleges and universities having social
93 work programs approved or accredited by the council on
94 social work education, and continuing education programs
95 offered by recognized state and national social work bodies:
96 *Provided*, That such standards and requirements for
97 continuing education shall not be construed to alter or
98 effect in any way the standards and requirements for
99 licensing as set forth elsewhere in this article;

100 (6) Conduct its proceedings in accordance with
101 provisions of article nine-a, chapter six of this code.

§30-30-4. License required; penalties; exceptions.

1 (a) After twenty-four months have passed from the
2 effective date of this article, no person may represent that
3 he or she is a social worker by using such titles as certified
4 social worker, graduate social worker, social worker or any
5 other title that includes a facsimile of such words unless he
6 or she is duly licensed under the provisions of this article or
7 specifically exempted hereunder; nor may any person
8 represent himself or herself to be a certified social worker,
9 graduate social worker or other type of social worker by

10 adding the letters CSW, GSW, SW or any other letters,
11 words or insignia which induce or tend to induce the belief
12 that the person is qualified to engage in the practice of
13 social work unless the person is licensed in accordance with
14 the provisions of this article.

15 (b) After twenty-four months have passed from the
16 effective date of this article, no person may engage in the
17 private, independent practice of social work unless he or
18 she is already licensed under this article.

19 (c) Any person violating the provisions of subsections
20 (a) or (b) of this section is guilty of a misdemeanor, and,
21 upon conviction thereof, shall be fined not more than five
22 hundred dollars, or imprisoned in the county jail for a term
23 not to exceed one year, or both fined and imprisoned.

24 (d) Nothing in this article shall be construed to prevent
25 duly licensed physicians, surgeons, psychologists,
26 attorneys, members of the clergy or any other professional
27 from working within the standards and ethics of their
28 respective professions and fulfilling their professional
29 responsibilities: *Provided*, That no such professional may
30 represent to the public, either by title or training, that he or
31 she is engaged in the practice of social work: *Provided*,
32 *however*, That any student enrolled in a recognized
33 program of study leading to a social work degree may
34 practice only under the supervision of a social worker duly
35 licensed in accordance with the provisions of this article.

36 Nothing in this article shall be construed to prevent any
37 person from volunteering his or her services in a manner as
38 defined in section two (c) of this article.

§30-30-5. License classification; qualification.

1 The board shall issue a license as a certified social worker,
2 graduate social worker or social worker.

3 (a) The board shall issue a license as a certified social
4 worker to an applicant who:

5 (1) Has a doctorate or master's degree from a school of
6 social work accredited by the council on social work
7 education;

8 (2) Has completed a minimum of two years experience
9 in the practice of social work after having received a
10 master's degree in social work;

11 (3) Has received certification by the academy of

12 certified social workers or has passed an examination
13 approved by the board for certification purposes;

14 (4) Has satisfied the board that he or she merits the
15 public trust, as evidenced by three letters of
16 recommendation from persons not related to the applicant
17 and a sworn statement from the applicant indicating he or
18 she has never been convicted of a felony involving moral
19 turpitude; and

20 (5) In lieu of the foregoing requirements, any person
21 who has been continuously employed for seven years as a
22 social worker under the supervision of any certified social
23 worker; has satisfactorily completed fifty-six hours of
24 graduate social work study as accredited by the council on
25 social work education; has passed an examination
26 approved by the board for certification purposes; and has
27 satisfied the board that he or she merits the public trust, as
28 evidenced by three letters of recommendation from persons
29 not related to the applicant and a sworn statement from the
30 applicant indicating that he or she has never been convicted
31 of a felony involving moral turpitude, may be licensed by
32 the board as a certified social worker: *Provided*, That the
33 board may exempt any applicant for licensing from specific
34 hours of social work curriculum where the applicant has
35 demonstrated to the satisfaction of the board a proficient
36 knowledge of the subject matter contained in the particular
37 course of social work curriculum to be exempted.

38 (b) The board shall issue a license as a graduate social
39 worker to an applicant who:

40 (1) Has a master's degree in social work from a school of
41 social work accredited by the council on social work
42 education;

43 (2) Has passed an examination approved by the board;

44 (3) Has satisfied the board that he or she merits the
45 public trust, as evidenced by three letters of
46 recommendation from persons not related to the applicant
47 and a sworn statement from the applicant indicating he or
48 she has never been convicted of a felony involving moral
49 turpitude; and

50 (4) In lieu of the foregoing requirements, any person
51 who has been continuously employed for five years as an
52 apprentice social worker under the supervision of any
53 certified social worker; has satisfactorily completed forty-

54 five graduate hours of social work study as accredited by
55 the council on social work education; has passed an
56 examination approved by the board; and has satisfied the
57 board that he or she merits the public trust, as evidenced by
58 three letters of recommendation from persons not related to
59 the applicant and a sworn statement from the applicant
60 indicating he or she has never been convicted of a felony
61 involving moral turpitude, may be licensed by the board as
62 a graduate social worker: *Provided*, That the board may
63 exempt any applicant for licensing from specific hours of
64 social work curriculum where the applicant has
65 demonstrated to the satisfaction of the board a proficient
66 knowledge of the subject matter contained in the particular
67 course of social work curriculum to be exempted.

68 (c) The board shall issue a license as a social worker to
69 an applicant who:

70 (1) Has a baccalaureate degree in social work from a
71 program accredited by the council on social work
72 education;

73 (2) Has passed an examination approved by the board;

74 (3) Has satisfied the board that he or she merits the
75 public trust, as evidenced by three letters of
76 recommendation by persons not related to the applicant
77 and a sworn statement from the applicant indicating he or
78 she has never been convicted of a felony involving moral
79 turpitude; and

80 (4) In lieu of the foregoing requirements, any person
81 who has been continuously employed for four years as a
82 social worker under the supervision of any certified social
83 worker; has satisfactorily completed thirty-six hours of
84 social work study as accredited by the council on social
85 work education; has passed an examination approved by
86 the board; and has satisfied the board that he or she merits
87 the public trust, as evidenced by three letters of
88 recommendation from persons not related to the applicant
89 and a sworn statement from the applicant indicating he or
90 she has never been convicted of a felony involving moral
91 turpitude, may be licensed by the board as a social worker:
92 *Provided*, That the board may exempt any applicant for
93 licensing from specific hours of social work curriculum
94 where the applicant has demonstrated to the satisfaction of
95 the board a proficient knowledge of the subject matter

96 contained in the particular course of social work
97 curriculum to be exempted.

§30-30-6. Exemptions from requirements.

1 (a) From the effective date of this article to twenty-four
2 months hence, an applicant shall be exempt from the
3 education and examination requirements for licensure as a
4 certified social worker, as required by this section and
5 section four of this article, if he or she satisfies the board
6 that he or she holds a doctorate or master's degree in social
7 work, or a doctorate or master's degree in a field related to
8 social work, and that he or she has been engaged, for at least
9 two years of the five years immediately preceding the date
10 of the license application, in the practice for which the
11 examination would otherwise be required, then the
12 applicant shall become so licensed without additional
13 educational and examination requirements.

14 (b) From the effective date of this article to twenty-four
15 months hence, an applicant shall be exempt from the
16 education and examination requirements for licensure as a
17 social worker, as required by this section and section four of
18 this article, if he or she satisfies the board that he or she has
19 been actively engaged, for at least two years of the five years
20 immediately preceding the date of the license application,
21 in the practice for which the examination would otherwise
22 be required, then the applicant shall become so licensed
23 without additional educational and examination
24 requirements.

25 (c) An applicant shall be exempted from the
26 requirement of any examination provided herein if:

27 (1) The applicant satisfies the board that he or she is
28 licensed under the laws of a state or territory of the United
29 States that impose substantially the same requirements as
30 this article; or

31 (2) The applicant has taken and passed an examination
32 similar to that for which exemption hereunder is sought,
33 pursuant to the laws of a state or territory of the United
34 States.

35 (d) All social workers employed by county boards of
36 education shall not be subject to the licensing requirements
37 of this article, but shall continue to be certified by the state
38 board of education.

§30-30-7. Grounds for disciplinary proceedings.

1 (a) The board may refuse to issue or renew a license, or
2 may suspend or revoke an existing license. The
3 determination shall be made after a hearing and an
4 opportunity to be heard has been afforded the applicant or
5 licensee. The determination may be made by the board upon
6 proof that the person has engaged in unprofessional
7 conduct within the last five years, including, but not limited
8 to, the following:

9 (1) Has been convicted of a felony;

10 (2) Is unable to perform the functions of his or her
11 licensed title by reason of mental or physical illness or some
12 other infirmity or impairment;

13 (3) Has been grossly negligent or exhibited
14 unprofessional or unethical conduct in the practice of social
15 work;

16 (4) Has assisted or participated with a person not
17 licensed under this article in the false representation that
18 the person is licensed;

19 (5) Has failed to obtain a license renewal after
20 expiration or revocation of same but has continued to
21 represent that he or she is duly licensed hereunder;

22 (6) Has been found guilty by the board of unprofessional
23 conduct in accordance with the rules and regulations
24 promulgated by the board;

25 (7) Has obtained or attempted to obtain a license or
26 renewal thereof by bribery or false representations;

27 (8) Has knowingly made a false statement in connection
28 with any application required under this article; or

29 (9) Has knowingly made a false statement on any form
30 or written statement submitted to the board.

31 (b) Although the board has the authority to refuse to
32 issue or renew, or to revoke or suspend a license, the
33 intention of this article is not to prohibit the practice of
34 social work by competent and qualified individuals, but
35 rather the intention is to protect the general public from the
36 unprofessional practice of social work.

§30-30-8. Disciplinary proceedings.

1 All hearings with respect to any disciplinary action shall
2 be conducted by the board and any decisions shall be made

3 upon a majority vote of the board members. All hearings
4 shall be stenographically recorded. The applicant or
5 licensee shall be given twenty days notice of the hearing
6 date and the issue pending before the board. This notice
7 shall be by registered mail, return receipt requested, or by
8 personal service. For purposes of the hearing, the applicant
9 or licensee shall be afforded: (1) The right to representation
10 by legal counsel; (2) the rights to cross examine witnesses;
11 and (3) the right to present evidence in his or her behalf,
12 including the right to call witnesses and present
13 documentary evidence. For purposes of the hearing the
14 board has the power to subpoena witnesses and
15 documentation. The applicant or licensee may apply to the
16 board for the issuance of a subpoena to secure the
17 attendance of a witness or to secure any documentary
18 evidence for the hearing. The board shall notify the
19 applicant or licensee of its decision within a reasonable
20 time after the hearing. The decision shall be in writing and
21 shall be forwarded to the applicant or licensee by registered
22 mail, return receipt requested.

23 Any party adversely affected by the final determination
24 of the board shall be entitled to judicial review in
25 accordance with articles five and six, chapter twenty-nine-
26 a of this code.

§30-30-9. Temporary permit to practice social work.

1 The board shall promulgate rules and regulations to
2 provide for the issuance of a temporary permit to practice
3 social work to individuals eligible for a license under the
4 provisions of this article. After the temporary permit has
5 been issued, it shall expire within sixty days from the date
6 of the next examination scheduled by the board for the type
7 of license sought by the applicant: *Provided*, That the
8 provisions of this section shall not apply to those persons
9 who shall automatically be licensed on the effective date of
10 this article as provided in section six of this article.

§30-30-10. Renewal of license; display of license.

1 All licenses are effective on the date of issuance from the
2 board and shall expire in twenty-four months and the
3 number of days remaining in the month after the date the
4 license was issued. A license may be renewed upon payment

5 of the renewal fee set by the board and upon execution of a
6 sworn statement on a form provided by the board indicating
7 the license has not been revoked and is not currently
8 suspended. At the time of renewal, each applicant shall
9 submit satisfactory evidence that he or she has completed
10 the continuing educational requirements as specified by the
11 board during the tenure of his or her license: *Provided*, That
12 the board may waive these requirements upon a showing
13 that the applicant suffered from a prolonged illness during
14 the license period or upon proof of other extenuating
15 circumstances which hindered the completion of the
16 requirement: *Provided, however*, That no waiver may be
17 granted in succession.

18 The application for renewal of a license must be made
19 within sixty days after a license has expired or within sixty
20 days of a termination or suspension period.

§30-30-11. Fees; contributions.

1 All fees shall be established and published by the board of
2 examiners. All fees collected under this article are not
3 refundable and shall be deposited in an operating fund of
4 the board, created in the state treasury. The fund shall be a
5 revolving fund from which all operation and
6 administration expenses of the board shall be paid.

7 The board may accept contributions and bequests from
8 individuals, organizations and corporations. These funds
9 shall be deposited by the board into the operating fund
10 heretofore created.

§30-30-12. Privileged communications.

1 (a) No person licensed under this statute or an employee
2 of the licensee may disclose any confidential information he
3 or she may have acquired from persons consulting him or
4 her in his or her professional capacity except:

5 (1) With the written consent of the person or persons, or
6 in the case of death or disability, of his or her personal
7 representative, other person authorized to sue or the
8 beneficiary of an insurance policy on his or her life, health
9 or physical condition;

10 (2) When a communication reveals the contemplation of
11 a crime or harmful act;

12 (3) When the person waives the privilege by initiating

13 formal charges against the certified social worker, graduate
14 social worker or social worker;

15 (4) When the person is a minor under the laws of this
16 state and the information acquired by the certified social
17 worker, graduate social worker or social worker indicates
18 that the minor has been the victim or subject of a crime, and
19 the certified social worker, graduate social worker or social
20 worker may be required to testify fully in any examination,
21 trial or other proceeding in which the commission of a crime
22 is the subject of inquiry; or

23 (5) Where otherwise required by law.

24 (b) Nothing in this section shall be construed, however,
25 to prohibit any board licensee from testifying in juvenile
26 proceedings concerning matters of adoption, child abuse,
27 child neglect or other matters pertaining to the welfare of
28 children.

§30-30-13. Termination of program by law.

1 This board and the provisions provided in this article
2 shall be terminated on the first day of July, one thousand
3 nine hundred eighty-six, unless review of its functions shall
4 be undertaken pursuant to the provisions of sections nine,
5 ten and eleven, article ten, chapter four of this code.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1984.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within... *is approved* this the *30*
day of *March*, 1984.

[Handwritten Signature]
.....
Governor

RECEIVED

81 APR 4 12:05

OFFICE
SECY. OF STATE