WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1993

ENROLLED

SENATE BILL NO. 416

(By Senator Lucett)

PASSED April 9, 1993
In Effect 90 Days from Passage
AN ACT to amend and reenact sections two, three, four, five and twelve, article thirty, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section eight-a, all relating to social workers; providing for the licensure of independent clinical social workers; defining clinical social work practice; adding an independent clinical social worker to the board of social work examiners; reducing the number of certified social workers on the board from two to one; changing compensation of the board; clarifying certain fee schedules of the board; requiring the board to establish standards and requirements for the practice of social work; requirements for issuance of a license for independent clinical social work; including independent clinical social workers in provisions related to privileged communication; and requiring reporting of certain actions and behavior of licensees.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five and twelve, article thirty, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended,
be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section eight-a, all to read as follows:

ARTICLE 30. SOCIAL WORKERS.

§30-30-2. Definitions.

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

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

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

(d) "Social work practice" means the professional application of social work values, principles and techniques to one or more of the following ends: Enhancing the developmental, problem-solving and coping capacities of people; promoting the effective and humane operations of systems that provide resources and services to people; linking people with systems that provide them with resources, services and opportunities; contributing to the development
and improvement of social policy; engaging in research related to these ends and principles; and organizations or agencies engaged in such practice. Such social work interventions are provided to individuals, families, small groups, organizations, neighborhoods and communities. The practice of social work is guided by knowledge of social resources, social systems, human behavior and social, economic and cultural institutions and the interaction of all such factors.

(e) "Clinical social work practice" means the professional application of social work theory and methods to the diagnosis, treatment and prevention of psychological dysfunction, disability, or impairment, including emotional and mental disorders and developmental disabilities. Clinical social work practice is based on knowledge of one or more theories of biological, psychological and social development, normal human behavior, psychopathology, the causes and effects of physical illness and disability, unconscious motivation, interpersonal relationships, family dynamics, environmental stress, social systems and cultural diversity with particular attention to the person existing as a combination of biological, psychological, and social elements in his or her environment. Clinical social work includes interventions directed to interpersonal interactions, intrapsychic dynamics and life-support and management issues. Clinical social work services consist of assessment, diagnosis, treatment, including psychotherapy and counseling, client-centered advocacy, consultation and evaluation. The process of clinical social work is undertaken within the objectives of the social work profession and the principles and values of its code of ethics.

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

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

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

(2) One member shall be an independent clinical social worker, two members shall be certified social workers, one member shall be a graduate social worker and two members shall be social workers. All such members must be licensed under the provisions of this article in accordance with their respective titles. In addition, there shall be one member of the board chosen from the general public: Provided, That those members who are appointed by the governor to serve as the first board after the effective date of this article shall be persons eligible for the licensing required under this article: Provided, however, That the member from the general public shall never be required to be eligible for licensing;

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

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

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

For the purpose of accepting nominations for the replacement of a member, the governor shall cause a notice of the vacancy to be published at least thirty days prior to an announcement of the replacement member, as a Class 1-0 legal advertisement, in accordance with the provisions of section two, article three, chapter fifty-nine of this code. The publication area shall be statewide.
If the governor fails to make appointment in ninety
days after expiration of any term, the board shall
make the necessary appointment. Each member shall
hold office until the expiration of the term for which
such member is appointed and until a successor shall
have been duly appointed and qualified.

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

(c) The board shall pay each member the same
compensation as is paid to members of the Legislature
for their interim duties as recommended by the
citizens legislative compensation commission and
authorized by law for each day or portion thereof
engaged in the discharge of official duties and shall
reimburse each member for actual and necessary
expenses incurred in the discharge of official duties:
Provided, That such compensation and such expenses
shall not exceed the amount received by the board
from licensing fees and penalties imposed under
subdivision (4), subsection (e) of this section.

(d) The board shall hold an annual election for the
purpose of electing a chairman, vice chairman and
secretary. The requirements for meetings and man-
agement of the board shall be established in regula-
tions promulgated by the board as required by this
article.

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

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

(2) Report to county prosecutors any suspected
violations of this article: Provided, That no report shall
be made until the board has given the suspected
violator ninety days written notice of the suspected
violation and the violator has, within such ninety-day
period, been afforded an opportunity to respond to the
board with respect to the allegation;
(3) Publish an annual report and a roster listing the names and addresses of all persons who have been licensed in accordance with the provisions of this article as an independent clinical social worker, certified social worker, graduate social worker or social worker;

(4) Establish a fee schedule for the initial examination, license fee, the annual license renewal, license replacement, reciprocal license, license classification change, continuing education provider approval and monitoring, mailing lists and requests for information and reports; fees for requests for information and reports shall not be greater than the cost of personnel, time and supplies incurred by the board and shall not be applied to the annual report;

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

(6) Establish standards and requirements for the practice of social work and the differentiation of qualifications, education, training, experience, supervision, responsibilities, rights, duties, and privileges at the independent clinical social worker, certified social worker, graduate social worker, and social worker license levels. In establishing these standards and requirements the board shall consult with professional groups and organizations representing all levels of practice provided for in this article. Standards and requirements may include, but are not limited to,
practice standards, practice parameters, quality indica-
tors, minimal standards of acceptance, advanced
training and certification, and continuing education:
Provided, That such standards and requirements for
practice may not be construed to alter or affect in any
way the standards and requirements for licensing as
set forth elsewhere in this article;
(7) Conduct its proceedings in accordance with
provisions of article nine-a, chapter six of this code;
and
(8) Employ, direct and define the duties of an
administrative clerical support staff person.
After having conducted a performance and fiscal
audit through its joint committee on government
operations, pursuant to section nine, article ten,
chapter four of this code, the Legislature hereby finds
and declares that the board of social work examiners
be continued and reestablished. Accordingly, notwith-
standing the provisions of section four of said article,
the social work board of examiners shall continue to
exist until the first day of July, one thousand nine
hundred ninety-five.
§30-30-4. License required; penalties; exceptions.
(a) After twenty-four months have passed from the
effective date of this article, no person may represent
that he or she is a social worker by using such titles
as independent clinical social worker, certified social
worker, graduate social worker, social worker or any
other title that includes a facsimile of such words
unless he or she is duly licensed under the provisions
of this article or specifically exempted hereunder; nor
may any person represent himself or herself to be a
certified social worker, graduate social worker or other
type of social worker by adding the letters ICSW,
CSW, GSW, SW or any other letters, words or insignia
which induce or tend to induce the belief that the
person is qualified to engage in the practice of social
work unless the person is licensed in accordance with
the provisions of this article.
(b) After twenty-four months have passed from the effective date of this article, no person may engage in the private, independent practice of social work unless he or she is already licensed under this article.

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

(d) Nothing in this article shall be construed to prevent duly licensed physicians, surgeons, psychologists, attorneys, members of the clergy or any other professional from working within the standards and ethics of their respective professions and fulfilling their professional responsibilities: Provided, That no such professional may represent to the public, either by title or training, that he or she is engaged in the practice of social work: Provided, however, That any student enrolled in a recognized program of study leading to a social work degree may practice only under the supervision of a social worker duly licensed in accordance with the provisions of this article. Nothing in this article shall be construed to prevent any person from volunteering his or her services in a manner as defined in subsection (c), section two of this article.

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

The board shall issue a license as an independent clinical social worker, certified social worker, graduate social worker or social worker.

(a) The board shall issue a license as an independent clinical social worker to an applicant who:

(1) Has a doctorate or master’s degree from a school of social work accredited by the council on social work education that included a concentration of clinically oriented course work as defined by the board; and

(2) Has completed a supervised clinical field placement at the graduate level, or post-master’s clinical
training that is found by the board to be equivalent;

(3) Has practiced clinical social work for at least two years in full-time employment, or three thousand hours under the supervision of an independent clinical social worker, or clinical supervision that is found by the board to be equivalent; and

(4) Has passed an examination approved by the board for certification purposes; or

(5) Has received certification as a “diplomat in clinical social work” by the national association of social workers, or as a “board certified diplomat in clinical social work” by the American board of examiners in clinical social work; and

(6) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude.

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

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

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

(3) Has received certification by the academy of certified social workers or has passed an examination approved by the board for certification purposes;

(4) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude; and

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

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

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

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

(3) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude; and

(4) In lieu of the foregoing requirements, any person who has been continuously employed for five years as an apprentice social worker under the supervision of any certified social worker; has satisfactorily completed forty-five graduate hours of social work study as accredited by the council on social work education; has passed an examination approved by the board; and has satisfied the board that he or she merits the public
trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude, may be licensed by the board as a graduate social worker: *Provided, That*

the board may exempt any applicant for licensing from specific hours of social work curriculum where the applicant has demonstrated to the satisfaction of the board a proficient knowledge of the subject matter contained in the particular course of social work curriculum to be exempted.

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

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

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

(3) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation by persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude; and

(4) In lieu of the foregoing requirements, any person who has been continuously employed for four years as a social worker under the supervision of any certified social worker; has satisfactorily completed thirty-six hours of social work study as accredited by the council on social work education; has passed an examination approved by the board; and has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude, may be licensed by the board as a social worker: *Provided, That* the board may exempt any applicant for licensing from specific hours of social
work curriculum where the applicant has demonstrated to the satisfaction of the board a proficient knowledge of the subject matter contained in the particular course of social work curriculum to be exempted.

§30-30-8a. Reporting unethical conduct and unlicensed practice.

1 A person who has knowledge of any conduct constituting grounds for disciplinary action relating to licensure or the unlicensed practice of the profession of social work under this article may report the violation to the board.

2 Institutions, professional societies, licensed professionals, insurers authorized to sell insurance within this state, and courts in this state shall report to the board any of the following actions taken by the agency, institution, organization, professional society, insurer, court administrator, judge or other court of competent jurisdiction:

3 (a) Revocation, suspension, restriction or other condition a licensee's privilege to practice or treat patients or clients, or as part of the organization, or any other disciplinary action for conduct that might constitute grounds for disciplinary action;

4 (b) Termination, revocation, or suspension of membership or any other disciplinary action taken against a licensee;

5 (c) Conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by any licensee, including conduct that the licensee may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services;

6 (d) Malpractice settlements or awards made by an insurer to a plaintiff where the settlement or award involved a licensee or unlicensed practitioner claiming to be a social worker; and

7 (e) Judgments or other determinations of the court that adjudges or includes a finding that a licensee is
mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances acts, or guilty of an abuse or fraud under Medicare or Medicaid, or that appoints a guardian of the licensee, or commits a licensee to involuntary treatment, probation or prison.

Any person, official, society, licensed professional, insurer or institution participating in good faith in any act permitted or required by this section is immune from any civil or criminal liability that otherwise might result by reason of the action or actions.

§30-30-12. Privileged communications.

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

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

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

(3) When the person waives the privilege by initiating formal charges against the independent clinical social worker, certified social worker, graduate social worker or social worker;

(4) When the person is a minor under the laws of this state and the information acquired by the independent clinical social worker, certified social worker, graduate social worker or social worker indicates that the minor has been the victim or subject of a crime, and the independent clinical social worker, certified social worker, graduate social worker or social worker may be required to testify fully in any examination, trial or other proceeding in which the commission of a crime is the subject of inquiry; or
(5) Where otherwise required by law.

(b) Nothing in this section shall be construed, however, to prohibit any board licensee from testifying in juvenile proceedings concerning matters of adoption, child abuse, child neglect or other matters pertaining to the welfare of children.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Donald E. R. Wetzel
Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 12th day of May, 1993.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/23/43
Time 9:00 AM