WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

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
ENROLLED

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.

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

1. Issue, renew, deny, suspend or revoke licenses to engage in the practice of counseling and place a licensed counselor on probation in accordance with the provisions of this article and, in accordance with the administrative procedures hereinafter provided, may review, affirm,
reverse, vacate or modify its order with respect to any such
denial, suspension or revocation;

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

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

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

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

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

(E) A reasonable and appropriate schedule of fees;

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

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

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

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

(7) Take any other actions as may be reasonably
necessary to effectuate the provisions of this article; and
(8) Accept gifts, grants and donations from any source for the purposes of or incidental to this article.

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

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

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

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

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

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

(B) If the applicant has been convicted of a felony or a crime involving moral turpitude, it is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensed professional counselor as may be established by the production of: (i) Documentary evidence including a copy of the relevant release or discharge order, evidence showing compliance with all conditions of probation or parole, evidence showing that at least one year has elapsed since release or discharge without subsequent conviction, and letters of reference from three persons who have been in contact with the applicant since his or her release or discharge; and (ii) Any collateral evidence and testimony
as may be requested by the board which shows the nature and seriousness of the crime, the circumstances relative to the crime or crimes committed and any mitigating circumstances or social conditions surrounding the crime or crimes and any other evidence necessary for the board to judge present fitness for licensure or whether licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

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

(4) Have earned a master's degree in an accredited counseling program or in a field closely related to an accredited counseling program as determined by the board, or have received training equivalent to such degree as may be determined by the board, and have at least two years of supervised professional experience in counseling of such a nature as shall be designated by the board, including at least one year's experience after earning an aforementioned master’s degree or equivalent; or have earned a doctorate degree in an accredited counseling program or in a field closely related to an accredited counseling program as determined by the board, or have received training equivalent to such degree as may be determined by the board, and have at least one year of supervised professional experience in counseling of such a nature as shall be designated by the board after earning an aforementioned doctorate degree or equivalent; and

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

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

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

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

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

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

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

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

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

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

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

(b) Every license to engage in the practice of counseling must be renewed biennially during the month of July. To renew a license, a licensed professional counselor must submit an application for renewal to the secretary of the board on such forms as the board may prescribe and pay to the board a renewal fee as established
by the board. Any license which is not so renewed shall automatically lapse. Any license which has lapsed may be renewed within two years of its expiration date by payment to the board of the appropriate renewal fee for each period or part thereof during which the license was not renewed.

(c) Each application to renew a license shall contain or be accompanied by evidence of continued professional development in the practice of counseling as determined by the board by rule promulgated in accordance with the provisions of chapter twenty-nine-a of this code and any such other reasonable information as the board may consider appropriate.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

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

[Signature]
Governor