WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

House Bill No. 4060
(By Delegates Douglas, Varner, Kuhn, Perdue, Angotti, Stainaker and Willison)

Passed February 15, 2000
In Effect Ninety Days from Passage
AN ACT to amend and reenact section three, article ten, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section five-b; to amend and reenact section eighteen, article three, chapter thirty of said code; to amend and reenact section three, article thirteen-a of said chapter; and to amend and reenact section three, article thirty of said chapter, all relating to establishing a sunset review process for regulatory boards.

Be it enacted by the Legislature of West Virginia:

That section three, article ten, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five-b; that section eighteen, article three, chapter thirty of said code be amended and reenacted; that section three, article thirteen-a of said chapter be amended and reenacted; and that section three, article thirty of said chapter be amended and reenacted, all to read as follows:
CHAPTER 4. THE LEGISLATURE.

ARTICLE 10. THE WEST VIRGINIA SUNSET LAW.

§4-10-3. Definitions.

As used in this article, unless the context clearly indicates a different meaning:

(1) “Agency” means any bureau, department, division, commission, agency, committee, office, board, authority, subdivision, program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution, survey, position, coalition or other entity, however designated, in the state of West Virginia.

(2) “Committee” means the joint committee on government operations, hereinafter continued, to perform duties under this article.

(3) “Full performance evaluation” means to determine for an agency whether or not the agency is operating in an efficient and effective manner and to determine whether or not there is a demonstrable need for the continuation of the agency, pursuant to the provisions of section ten of this article. References in this code to performance audit or full performance audit shall be taken as and shall mean full performance evaluation.

(4) “Preliminary performance review” means to determine for an agency whether or not the agency is performing in an efficient and effective manner and to determine whether or not there is a demonstrable need for the continuation of the agency pursuant to the provisions of section eleven of this article.

(5) “Compliance monitoring and further inquiry update” means to determine for an agency whether or not the agency has
complied with recommendations contained in a completed full
performance evaluation or a completed preliminary perfor-
mance review conducted pursuant to this article and that further
inquiry into the operation of the agency may be conducted
pursuant to the provisions of sections ten-a and eleven-a of this
article.

(6) “Regulatory board evaluation” means to determine for
a board whether or not the board is necessary for the protection
of public health and safety and whether or not the board is
operating in compliance with the policies and provisions of
chapter thirty of this code and other applicable laws and rules.
A regulatory board evaluation may be based on reported data
which is not independently verified.

§4-10-5b. Termination of boards created to regulate professions
and occupations.

(a) The legislative auditor shall evaluate each board created
under chapter thirty of this code to regulate professions and
occupations, at least once every twelve years. The evaluation
shall assess whether the board complies with the policies and
provisions of chapter thirty of this code and other applicable
laws and rules, whether the board follows a disciplinary
procedure which observes due process rights and protects the
public interest, and whether the public interest requires that the
board be continued.

(b) The following boards shall be terminated on the date
indicated, but no board may be terminated under this section
unless a regulatory board evaluation has been conducted upon
the board:

(1) On the first day of July, two thousand one: Board of
accountancy; board of architects; massage therapy licensure
board; board of licensed dieticians; board of medicine.
(2) On the first day of July, two thousand two: Board for respiratory care; board of examiners for speech language pathology and audiology; board of examiners for registered practical nurses; board of examiners for licensed practical nurses.

(3) On the first day of July, two thousand three: Board of pharmacy; board of dental examiners; board of osteopathy.

(4) On the first day of July, two thousand four: Board of examiners of land surveyors; board of landscape architects; board of registration for foresters.

(5) On the first day of July, two thousand five: Board of social work examiners; board of veterinary medicine; acupuncture board.

(6) On the first day of July, two thousand six: Board of examiners in counseling; board of examiners of psychologists.

(7) On the first day of July, two thousand seven: Board of registration for sanitarians; board of embalmers and funeral directors; board of optometry.

(8) On the first day of July, two thousand eight: Nursing home administrators board; board of hearing aid dealers; board of barbers and cosmetologists.

(9) On the first day of July, two thousand nine: Board of physical therapy; board of chiropractic examiners; board of occupational therapy.

(10) On the first day of July, two thousand ten: Professional firefighters board; board of registration for professional engineers; radiologic technology board of examiners.
CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-18. Continuation of board.

The board of medicine shall continue to exist until the first day of July, two thousand, pursuant to the provisions of article ten, chapter four of this code, to allow for the completion of a regulatory board evaluation by the joint committee on government operations.

ARTICLE 13A. LAND SURVEYORS.

§30-13A-3. Board of examiners of land surveyors created; appointment, terms, removal, etc., of members; officers; meetings; quorum; compensation and expenses.

(a) There is hereby created the state board of examiners of land surveyors which shall be composed of three members appointed by the governor by and with the advice and consent of the Senate. Each member shall have been actively engaged in the practice of land surveying for at least ten years and shall be the holder of a license under the provisions of this article.

(b) The members of the board shall be appointed for overlapping terms of three years each ending on the thirtieth day of June, and until their respective successors have been appointed and qualified. Members may be reappointed for any number of terms. Before entering upon the performance of his duties, each member shall take and subscribe to the oath required by section five, article IV of the constitution of this state. Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office shall be vacant and such appointment shall be made within sixty days of the occurrence of such vacancy. Any member may be removed
by the governor in case of incompetency, neglect of duty, gross
immorality or malfeasance in office.

(c) The board shall elect from its membership a chairman
and secretary-treasurer. A majority of the members of the board
shall constitute a quorum and meetings shall be held at the call
of the chairman or upon the written request of two members at
such time and place as designated in such call or request, and,
in any event, the board shall meet at least once annually to
conduct the examination hereinafter provided for and to transact
such other business as may come before it.

(d) Members shall be paid such reasonable compensation
as the board may from time to time determine, and in addition
may be reimbursed for all reasonable and necessary expenses
actually incurred in the performance of their duties, which
compensation and expenses shall be paid in accordance with the
provisions of subsection (b), section four of this article.

(e) After having conducted a regulatory board evaluation
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 examiners
of land surveyors should be continued and reestablished.
Accordingly, notwithstanding the provisions of section four of
said article, the board of examiners of land surveyors shall
continue to exist until the first day of July, two thousand four.

ARTICLE 30. SOCIAL WORKERS.

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

8  (2) One member shall be an independent clinical social
9  worker, two members shall be certified social workers, one
10  member shall be a graduate social worker and two members
11  shall be social workers. All such members must be licensed
12  under the provisions of this article in accordance with their
13  respective titles. In addition, there shall be one member of the
14  board chosen from the general public: Provided, That those
15  members who are appointed by the governor to serve as the first
16  board after the effective date of this article shall be persons
17  eligible for the licensing required under this article: Provided,
18  however, That the member from the general public shall never
19  be required to 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 ninety
22  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 first
25  board to serve after the effective date of this article shall serve
26  a term of two years, three of them shall serve a term of three
27  years and the remaining three shall serve a term of four years;
28  and

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

34  For the purpose of accepting nominations for the replace-
35  ment of a member, the governor shall cause a notice of the
36  vacancy to be published at least thirty days prior to an an-
nouncement of the replacement member, as a Class I-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 management of the board shall be established in regulations 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 by legislative rule, pursuant to the provisions of chapter twenty-nine-a of this code, which schedule may include fees for the initial examination, license fee, 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 by legislative rule, pursuant to the provisions of chapter twenty-nine-a of this code, 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 require-
(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 indicators, 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 administrative clerical support staff.

(f) After having conducted a regulatory board evaluation through its joint committee on government operations, pursuant to 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, notwithstanding the provisions of said article, the board of social work examiners shall continue to exist until the first day of July, two thousand five.
That 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.

In 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 day of , 2000.

[Signature]
Governor