

HB 2525 (veto)

FILED

2011 MAR 18 PM 3:41

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2525**

(By Delegates Morgan, Stephens, Hatfield,
Martin, Staggers, Swartzmiller and C. Miller)



Passed March 8, 2011

In Effect From Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2525

(BY DELEGATES MORGAN, STEPHENS, HATFIELD,
MARTIN, STAGGERS, SWARTZMILLER AND C. MILLER)

[Passed March 8, 2011; in effect from passage.]

AN ACT to repeal §30-30-8a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-30-1, §30-30-2, §30-30-3, §30-30-4, §30-30-5, §30-30-6, §30-30-7, §30-30-8, §30-30-9, §30-30-10, §30-30-11 and §30-30-12 of said code; and to amend said code by adding thereto seventeen new sections, designated §30-30-13, §30-30-14, §30-30-15, §30-30-16, §30-30-17, §30-30-18, §30-30-19, §30-30-20, §30-30-21, §30-30-22, §30-30-23, §30-30-24, §30-30-25, §30-30-26, §30-30-27, §30-30-28 and §30-30-29, all relating to the practice of social work; prohibiting the practice of social work without a license; defining terms; providing for board composition; setting forth the powers and duties of the board; clarifying rulemaking authority; continuing a special revenue account; establishing license requirements; providing for licensure for persons licensed in another state; establishing renewal requirements; providing permit requirements; setting forth grounds for disciplinary

actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §30-30-8a of the Code of West Virginia, 1931, as amended, be repealed; that §30-30-1, §30-30-2, §30-30-3, §30-30-4, §30-30-5, §30-30-6, §30-30-7, §30-30-8, §30-30-9, §30-30-10, §30-30-11 and §30-30-12 of said code be amended and reenacted; and that said code be amended by adding thereto seventeen new sections, designated §30-30-13, §30-30-14, §30-30-15, §30-30-16, §30-30-17, §30-30-18, §30-30-19, §30-30-20, §30-30-21, §30-30-22, §30-30-23, §30-30-24, §30-30-25, §30-30-26, §30-30-27, §30-30-28 and §30-30-29, all to read as follows:

ARTICLE 30. SOCIAL WORKERS.

§30-30-1. Unlawful acts.

1 (a) It is unlawful for any person to practice or offer to
2 practice social work in this state without a license or permit
3 issued under this article, or advertise or use any title or
4 description tending to convey the impression that the person
5 is a social worker, unless the person has been licensed or
6 permitted under this article, and the license or permit has not
7 expired, been suspended or revoked.

8 (b) No business entity, except through a licensee, may
9 render any service or engage in any activity which if rendered
10 or engaged in by an individual, would constitute the practices
11 regulated under this article.

§30-30-2. General provisions.

1 The practices regulated under this article and the Board
2 of Social Work are subject to article one of this chapter, this
3 article, and any rules promulgated hereunder.

§30-30-3. Definitions.

1 As used in this article:

2 (1) "Applicant" means any person making application for
3 a license or a permit under this article.

4 (2) "Board" means the Board of Social Work.

5 (3) "Business entity" means any firm, partnership,
6 association, company, corporation, limited partnership,
7 limited liability company or other entity providing social
8 work services.

9 (4) "Code of Ethics" means the Code of Ethics of the
10 National Association of Social Workers.

11 (5) "General Supervision" means the supervising social
12 worker provides instructions and oversight for services and
13 is easily accessible.

14 (6) "Indirect supervision" means the performance of an
15 action after instruction from a supervising social worker.

16 (7) "License" means a license issued under this article.
17 A license does not mean a provisional license issued under
18 this article.

19 (8) "Licensee" means a person holding a license under
20 this article. A licensee does not mean a person provisionally
21 licensed under this article.

22 (9) "Permit" means a temporary permit to practice social
23 work issued by the board.

24 (10) "Permittee" means a person holding a permit issued
25 under this article.

26 (11) "Supervising social worker" means a social worker,
27 who meets the requirements of this article, who assumes
28 responsibility for the professional care given by a person
29 authorized by this article to work under his or her general or
30 indirect supervision.

§30-30-4. Board of Social Work.

1 (a) The State Board of Social Work Examiners is
2 continued. On July 1, 2011, the State Board of Social Work
3 Examiners is renamed the Board of Social Work. The
4 members of the board in office on July 1, 2011, shall, unless
5 sooner removed, continue to serve until their respective terms
6 expire and until their successors have been appointed and
7 qualified.

8 (b) The board shall consist of the following seven
9 members who are appointed by the Governor with the advice
10 and consent of the Senate:

11 (1) One independent clinical social worker;

12 (2) Two certified social workers;

13 (3) One graduate social worker;

14 (4) Two social workers; and

15 (5) One citizen member.

16 (c) The terms shall be for five years.

17 (d) Each licensed member of the board, at the time of his
18 or her appointment, must have held a license in this state for
19 at least five years;

20 (e) Each member of the board must be a resident of this
21 state during the appointment term.

22 (f) A member may not serve more than two consecutive
23 full terms. A member having served two consecutive full
24 terms may not be appointed for one year after completion of
25 his or her second full term. A member may continue to serve
26 until a successor has been appointed and has qualified.

27 (g) A vacancy on the board shall be filled by appointment
28 by the Governor for the unexpired term of the member whose
29 office shall be vacant and the appointment shall be made
30 within sixty days of the vacancy.

31 (h) The Governor may remove any member from the
32 board for neglect of duty, incompetency or official
33 misconduct.

34 (i) Any member of the board immediately and
35 automatically forfeits his or her membership if his or her
36 license to practice is suspended or revoked by the board, is
37 convicted of a felony under the laws of any jurisdiction, or
38 becomes a nonresident of this state.

39 (j) The board shall elect annually one of its members as
40 chairperson who serves at the will of the board.

41 (k) Each member of the board is entitled to compensation
42 and expense reimbursement in accordance with article one of
43 this chapter.

44 (l) A majority of the members of the board constitutes a
45 quorum.

46 (m) The board shall hold at least two meetings annually.
47 Other meetings may be held at the call of the chairperson or
48 upon the written request of four members, at the time and
49 place as designated in the call or request.

50 (n) Prior to commencing his or her duties as a member of
51 the board, each member shall take and subscribe to the oath
52 required by section five, article four of the Constitution of
53 this state.

§30-30-5. Powers and duties of the board.

1 (a) The board has all the powers and duties set forth in
2 this article, by rule, in article one of this chapter and
3 elsewhere in law.

4 (b) The board shall:

5 (1) Hold meetings;

6 (2) Establish requirements for licenses and permits;

7 (3) Establish procedures for submitting, approving and
8 rejecting applications for licenses and permits;

9 (4) Determine the qualifications of an applicant for
10 licenses and permits;

11 (5) Maintain records of the examinations the board or a
12 third party administers, including the number of persons
13 taking the examinations and the pass and fail rate;

14 (6) Hire, discharge, establish the job requirements and fix
15 the compensation of the executive director;

16 (7) Maintain an office, and hire, discharge, establish the
17 job requirements and fix the compensation of employees,
18 investigators and contracted employees necessary to enforce
19 this article;

20 (8) Investigate alleged violations of this article,
21 legislative rules, orders and final decisions of the board;

22 (9) Conduct disciplinary hearings of persons regulated by
23 the board;

24 (10) Determine disciplinary action and issue orders;

25 (11) Institute appropriate legal action for the enforcement
26 of this article;

27 (12) Maintain an accurate registry of names and
28 addresses of all persons regulated by the board;

29 (13) Keep accurate and complete records of its
30 proceedings, and certify the same as may be necessary and
31 appropriate;

32 (14) Establish the continuing education requirements for
33 licensees;

34 (15) Issue, renew, combine, deny, suspend, revoke or
35 reinstate licenses and permits;

36 (16) Establish a fee schedule;

37 (17) Propose rules in accordance with article three,
38 chapter twenty-nine-a of this code to implement this article;
39 and

40 (18) Take all other actions necessary and proper to
41 implement this article.

42 (c) The board may:

43 (1) Contract with third parties to administer the
44 examinations required under this article;

45 (2) Sue and be sued in its official name as an agency of
46 this state; and

47 (3) Confer with the Attorney General or his or her
48 assistant in connection with legal matters and questions.

§30-30-6. Rulemaking.

1 (a) The board shall propose rules for legislative approval,
2 in accordance with article three, chapter twenty-nine-a of this
3 code, to implement this article, including:

4 (1) Additional standards and requirements for licenses
5 and permits;

6 (2) Requirements for third parties to prepare and/or
7 administer examinations and reexaminations;

8 (3) Educational and experience requirements;

9 (4) Standards for approval of courses and curriculum;

10 (5) Procedures for the issuance and renewal of licenses
11 and permits;

12 (6) A fee schedule;

13 (7) Continuing education requirements for licensees;

14 (8) Qualifications for supervisors; providing type of
15 required supervision; requirements that shall be included
16 within a supervisory plan; and detailed periodic
17 documentation and successful completion of supervision
18 required;

19 (9) Baccalaureate degrees related to social work;

20 (10) Establish critical social work workforce shortage
21 positions, setting, areas or fields of practice;

22 (11) Establishing credentialing guidelines identifying
23 advanced social work practice in existing and emerging
24 specializations, skills and settings;

25 (12) The procedures for denying, suspending, revoking,
26 reinstating or limiting the practice of licensees and permittees;

27 (13) Requirements for inactive or revoked licenses and
28 permits; and

29 (14) Any other rules necessary to implement this article.

30 (b) All of the board's rules in effect on January 1, 2011,
31 shall remain in effect until they are amended or repealed, and
32 references to former enactments of this article are interpreted
33 to be consistent with this article.

§30-30-7. Fees; special revenue account; administrative fines.

1 (a) All fees in effect, shall remain in effect until they are
2 amended or repealed by legislative rule or statute.

3 (b) All fees and other moneys, except administrative
4 fines, received by the board shall be deposited in a separate
5 special revenue fund in the State Treasury designated the
6 "Board of Social Work Fund", which is continued. The fund
7 is used by the board for the administration of this article.
8 Except as may be provided in article one of this chapter, the
9 board retains the amount in the special revenue account from
10 year to year. No compensation or expense incurred under
11 this article is a charge against the General Revenue Fund.

12 (c) Any amount received as fines, imposed pursuant to
13 this article, shall be deposited into the General Revenue Fund
14 of the State Treasury.

**§30-30-8. License to practice as an independent clinical social
worker.**

- 1 To be eligible for a license to practice as an independent
2 clinical social worker, the applicant must:
- 3 (1) Submit an application to the board;
- 4 (2) Be at least eighteen years of age;
- 5 (3) Be of good moral character;
- 6 (4) Have obtained a master's degree from a school of
7 social work accredited by the council on social work
8 education that included a concentration of clinically oriented
9 course work as defined by the board;
- 10 (5) Have completed a supervised clinical field placement
11 at the graduate level, or post-master's clinical training that is
12 found by the board to be equivalent;
- 13 (6) Have practiced clinical social work for at least two
14 years in full-time employment, or three thousand hours under
15 the supervision of an independent clinical social worker, or
16 clinical supervision that is found by the board to be
17 equivalent;
- 18 (7) Have passed an examination approved by the board;
- 19 (8) Have satisfied the board that he or she merits the
20 public trust by providing the board with three letters of
21 recommendation from persons not related to the applicant;
- 22 (9) Not be an alcohol or drug abuser, as these terms are
23 defined in section eleven, article one-a, chapter twenty-seven
24 of this code: *Provided*, That an applicant in an active
25 recovery process, which may, in the discretion of the board,
26 be evidenced by participation in an acknowledged substance
27 abuse treatment and/or recovery program may be considered;

28 (10) Not have been convicted of a felony in any
29 jurisdiction within five years preceding the date of
30 application for license which conviction remains unreversed;

31 (11) Not have been convicted of a misdemeanor or felony
32 in any jurisdiction if the offense for which he or she was
33 convicted related to the practice of social work, which
34 conviction remains unreversed; and

35 (12) Meet any other requirements established by the
36 board.

**§30-30-9. Scope of practice for an independent clinical social
worker.**

1 A clinical social worker may:

2 (1) Perform all duties within the scope of practice of a
3 licensed certified social worker, licensed graduate social
4 worker, and licensed social worker.

5 (2) Apply social work theory, methods, assessment,
6 ethics and the professional use of self to the diagnosis,
7 treatment and prevention of psychological dysfunction,
8 disability or impairment, including emotional and mental
9 disorders and developmental disabilities.

10 (3) Clinical social work practice is based on knowledge
11 of one or more theories of biological, psychological and
12 social development, normal human behavior,
13 psychopathology, the causes and effects of physical illness
14 and disability, unconscious motivation, interpersonal
15 relationships, family dynamics, environmental stress, social
16 systems and cultural diversity with particular attention to the
17 person existing as a combination of biological, psychological
18 and social elements in his or her environment.

19 (4) Clinical social work includes interventions directed to
20 interpersonal interactions, intrapsychic dynamics and
21 life-support and management issues.

22 (5) Clinical social work services consist of assessment,
23 diagnosis, treatment, including psychotherapy and
24 counseling, client-centered advocacy, consultation and
25 evaluation. The process of clinical social work is undertaken
26 within the objectives of the social work profession and the
27 principles and values of its code of ethics.

§30-30-10. License to practice as a certified social worker.

1 (a) To be eligible for a license to practice as certified
2 social worker, the applicant must:

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have obtained a master's degree from a school of
7 social work accredited by the council on social work
8 education;

9 (5) Have practiced social work for at least two-years
10 post-master's experience in full-time employment or earned
11 three thousand hours of post-masters social work experience;

12 (6) Have passed an examination approved by the board;

13 (7) Have satisfied the board that he or she merits the
14 public trust by providing the board with three letters of
15 recommendation from persons not related to the applicant;

16 (8) Not be an alcohol or drug abuser, as these terms are
17 defined in section eleven, article one-a, chapter twenty-seven

18 of this code: *Provided*, That an applicant in an active
19 recovery process, which may, in the discretion of the board,
20 be evidenced by participation in an acknowledged substance
21 abuse treatment and/or recovery program may be considered;

22 (9) Not have been convicted of a felony in any
23 jurisdiction within five years preceding the date of
24 application for license which conviction remains unreversed;

25 (10) Not have been convicted of a misdemeanor or felony
26 in any jurisdiction if the offense for which he or she was
27 convicted related to the practice of social work, which
28 conviction remains unreversed; and

29 (11) Meet other additional requirements as established by
30 the board.

31 (b) A certified social worker may engage in the practice
32 of clinical social work, if that certified social worker has:

33 (1) Obtained a master's degree from a school of social
34 work accredited by the council on social work education that
35 included a concentration of clinically oriented course work as
36 defined by the board;

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

40 (3) Has contracted, in writing, with a licensed clinical
41 social worker who shall assume responsibility for and
42 supervise the certified social worker's practice as directed by
43 the board by promulgation of legislative rules;

44 (4) Is an employee of an institution or organization in
45 which the certified social worker has no direct or indirect
46 interest other than employment.

47 (c) A certified social worker may not practice clinical
48 social work until his or her contract has been approved by the
49 board, and shall cease the practice of clinical social work
50 immediately upon the termination of the contract. At the
51 termination of the contract, the certified social worker shall
52 apply for licensure as a licensed clinical social worker or
53 request an extension of the contract from the board.

§30-30-11. Scope of practice for a licensed certified social worker.

1 A licensed certified social worker may:

2 (1) Perform all duties within the scope of practice of a
3 licensed graduate social worker and licensed social worker;

4 (2) Apply social work theory and methods to the
5 diagnosis, treatment and prevention of psychological
6 dysfunction, disability or impairment, including emotional
7 and mental disorders and developmental disabilities; and

8 (3) Determine behavioral health diagnosis, using
9 diagnostic taxonomies commonly accepted across disciplines
10 among behavioral health professionals.

§30-30-12. License to practice as a licensed graduate social worker.

1 (a) To be eligible for a license to practice as a graduate
2 social worker, the applicant must:

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have obtained a master's degree from a school of
7 social work accredited by the council on social work
8 education.

9 (5) Have passed an examination approved by the board;

10 (6) Have satisfied the board that he or she merits the
11 public trust by providing the board with three letters of
12 recommendation from persons not related to the applicant;

13 (7) Not be an alcohol or drug abuser, as these terms are
14 defined in section eleven, article one-a, chapter twenty-seven
15 of this code: *Provided*, That an applicant in an active
16 recovery process, which may, in the discretion of the board,
17 be evidenced by participation in an acknowledged substance
18 abuse treatment and/or recovery program may be considered;

19 (8) Not have been convicted of a felony in any
20 jurisdiction within five years preceding the date of
21 application for license which conviction remains unreversed;

22 (9) Not have been convicted of a misdemeanor or felony
23 in any jurisdiction if the offense for which he or she was
24 convicted related to the practice of social work, which
25 conviction remains unreversed; and

26 (10) Meet any other requirements established by the
27 board.

28 (b) A licensed graduate social worker may engage in the
29 practice of clinical social work, if he or she has:

30 (1) Obtained a master's degree from a school of social
31 work accredited by the council on social work education that
32 included a concentration of clinically oriented course work as
33 defined by the board;

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

37 (3) Has contracted, in writing, with a licensed clinical
38 social worker who shall assume responsibility for and
39 supervise the certified social worker's practice as directed by
40 the board by promulgation of legislative rules;

41 (4) Be employed by an institution or organization in
42 which the graduate social worker has no direct or indirect
43 interest other than employment.

44 (c) A graduate social worker may not practice clinical
45 social work until this contract has been approved by the
46 board, and shall cease the practice of clinical social work
47 immediately upon the termination of the contract. At the
48 termination of the contract, the graduate social worker shall
49 apply for licensure as a licensed independent clinical social
50 worker or request an extension of the contract from the
51 board.

**§30-30-13. Scope of practice for a licensed graduate social
worker.**

1 A licensed graduate social worker may perform all duties
2 within the scope of practice of a licensed social worker and
3 provisional social worker as well as:

4 (1) Appropriately conduct social work education,
5 formally teaching social work theory and methodology to
6 bachelor's and master's level social work students.

7 (2) Conduct clinical or psychotherapeutic services, under
8 the clinical supervision of another experienced and
9 credentialed behavioral health professional, including
10 individual, family and group methodologies.

§30-30-14. License to practice as a social worker.

1 To be eligible for a license to practice as a social worker,
2 the applicant must:

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have a baccalaureate degree in social work from a
7 program accredited by the council on social work education;

8 (5) Have passed an examination approved by the board;

9 (6) Have satisfied the board that he or she merits the
10 public trust by providing the board with three letters of
11 recommendation from persons not related to the applicant;

12 (7) Not be an alcohol or drug abuser, as these terms are
13 defined in section eleven, article one-a, chapter twenty-seven
14 of this code: *Provided*, That an applicant in an active
15 recovery process, which may, in the discretion of the board,
16 be evidenced by participation in an acknowledged substance
17 abuse treatment and/or recovery program may be considered;

18 (8) Not have been convicted of a felony in any
19 jurisdiction within five years preceding the date of
20 application for license which conviction remains unreversed;

21 (9) Not have been convicted of a misdemeanor or felony
22 in any jurisdiction if the offense for which he or she was
23 convicted related to the practice of social work, which
24 conviction remains unreversed; and

25 (10) Meet any other requirements established by the
26 board.

§30-30-15. Scope of Practice for a Social Worker.

- 1 (a) A licensed social worker may perform all duties
2 within the scope of practice of a provisional social worker as
3 well as:
- 4 (1) Apply social work theory, knowledge, methods, ethics
5 and the professional use of self in social work practice
6 including assessment, planning, intervention, counseling,
7 evaluation, and case management supervision;
- 8 (2) Provide social advocacy activities, designed to
9 influence social service systems and social policies in the
10 direction of reduced disparities in social and distributive
11 justice, especially for at risk and socially or economically
12 disadvantaged populations;
- 13 (3) Community organization activities, designed to assist
14 client systems at the community level to achieve desirable
15 social or policy change toward goals of enhanced civic
16 functioning and improved environmental responsiveness to
17 client quality of life issues;
- 18 (4) Administration and program development, designed
19 to develop, structure and, oversee social service systems at
20 the organizational level; and
- 21 (5) Training activities, designed to assist clients or client
22 systems with skill development deemed desirable to restore
23 or enhance social functioning or adaptation; or, to assist less
24 experienced social workers with professional skill
25 development.

26 (b) A licensed social worker with a baccalaureate degree
27 or master's degree in social work from a program accredited
28 by the council on social work education and two years of
29 experience, may supervise a provisionally licensed social
30 worker.

§30-30-16. Provisional License to practice as a social worker.

1 (a) To be eligible for a provisional license to practice as
2 a social worker, the applicant must:

3 (1) Submit an application to the board;

4 (2) Be at least eighteen years of age;

5 (3) Be of good moral character;

6 (4) Have a baccalaureate degree in a related field, as
7 provided by legislative rule;

8 (5) Have obtained regular supervised employment, or the
9 reasonable promise of regular supervised employment
10 contingent upon receiving a provisional license, in a critical
11 social work workforce shortage position, area or setting
12 requiring a social work license; Provided, that such
13 employment shall not be as an independent practitioner,
14 contracted employee, sole proprietor, consultant, or other
15 nonregular employment;

16 (6) Have satisfied the board that he or she merits the
17 public trust by providing the board with three letters of
18 recommendation from persons not related to the applicant;

19 (7) Not be an alcohol or drug abuser, as these terms are
20 defined in section eleven, article one-a, chapter twenty-seven
21 of this code: *Provided*, That an applicant in an active
22 recovery process, which may, in the discretion of the board,

23 be evidenced by participation in an acknowledged substance
24 abuse treatment and/or recovery program may be considered;

25 (8) Not have been convicted of a felony in any
26 jurisdiction within five years preceding the date of
27 application for license which conviction remains unreversed;

28 (9) Not have been convicted of a misdemeanor or felony
29 in any jurisdiction if the offense for which he or she was
30 convicted related to the practice of social work, which
31 conviction remains unreversed; and

32 (10) Meet any other requirements established by the
33 board.

34 (b) A provisionally licensed social worker may become
35 a licensed social worker, by completing the following:

36 (1) Be continuously employed for four years as a social
37 worker and supervised. The board shall promulgate by
38 legislative rule the supervision requirements;

39 (2) Complete twelve credit hours of core social work
40 study from a program accredited by the council on social
41 work education, as defined by legislative rule, within the
42 four-year provisional license period;

43 (3) Complete continuing education as required by
44 legislative rule; and

45 (4) Pass an examination approved by the board.

46 (c) A provisionally licensed social worker or a person
47 previously licensed as a provisionally licensed social worker
48 may not reapply for licensure through this process if the
49 process is not completed.

§30-30-17. Scope of practice for a provisionally licensed social worker.

1 A provisionally licensed social worker may perform all
2 of the following functions and social work services under
3 supervision:

4 (1) Multi-dimensional assessment of client or client
5 system strengths and problems with functioning or
6 psychosocial adaptation, not including formal mental health
7 diagnosis.

8 (2) Service planning and contracting with clients or
9 clients systems to outline proposed interventive strategies for
10 clients or client systems in order to restore or enhance social,
11 psychosocial, or biopsychosocial functioning;

12 (3) Implementing service plans and problem solving
13 methodologies to restore or enhance social, psychosocial or
14 biopsychosocial functioning of clients or client systems;

15 (4) Supportive and palliative counseling activities,
16 designed to offer comfort and social encouragement to clients
17 or client systems, not including psychotherapy;

18 (5) Preventive strategies such as psychoeducation and
19 consciousness raising for at-risk systems or populations,
20 designed to forestall difficulties with functioning and
21 psychosocial adaptation;

22 (6) Case management activities designed to assist clients
23 or client systems with gaining access to needed resources and
24 services and to assist with coordination of services in
25 situations where multiple providers may be involved with
26 client care;

27 (7) Information and referral services; and

28 (8) Personal practice assessment designed to assess and
29 document outcomes and effectiveness of one's practice.

§30-30-18. Exemptions from this article.

1 The following persons are exempt from licensure, unless
2 specifically stated in writing by the employer:

3 (1) A person employed as the director or administrative
4 head of a social service agency or division, or applicants for
5 employment to be licensed;

6 (2) Licensed or qualified members of other professions,
7 such as physicians, psychologists, lawyers, counselors,
8 clergy, educators, or the general public engaged in social
9 work-like activities, from doing social work consistent with
10 their training if they do not hold themselves out to the public
11 by a title or description incorporating the words "licensed
12 social worker" or "licensed clinical social worker" or a
13 variation thereof;

14 (3) An employer from performing social work-like
15 activities performed solely for the benefit of employees;

16 (4) Activities and services of a student, intern, or resident
17 in social work pursuing a course of study at an accredited
18 university or college or working in a generally recognized
19 training center if the activities and services constitute a part
20 of the supervised course of study; and

21 (5) Pending disposition of the application for a license,
22 activities and services by a person who has recently become
23 a resident of this state, has applied for a license within ninety
24 days of taking up residency in this state, and is licensed to
25 perform the activities and services in the state of former
26 residence.

§30-30-19. Renewal of license.

1 (a) All licenses are effective on the date of issuance from
2 the 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.

5 (b) The board shall charge a fee for each renewal of a
6 license and shall charge a late fee for any renewal not paid by
7 the due date.

8 (c) The board shall require as a condition of renewal that
9 each licensee complete continuing education.

10 (d) The board may deny an application for renewal for
11 any reason which would justify the denial of an original
12 application for a license.

13 (e) A provisional licensee shall provide all information
14 and document progress in completing all requirements for the
15 board to renew his or her provisional license.

§30-30-20. Delinquent and expired license requirements.

1 (a) If a license is not renewed when due, then the board
2 shall automatically place the licensee on delinquent status.
3 A licensee on delinquent status may not practice social work
4 in this state.

5 (b) The fee for a person on delinquent status shall
6 increase at a rate, determined by the board, for each month or
7 fraction thereof that the renewal fee is not paid, up to a
8 maximum of thirty-six months.

9 (c) Within thirty-six months of being placed on
10 delinquent status, if a licensee wants to return to active
11 practice, he or she must complete all the continuing education
12 requirements and pay all the applicable fees as set by rule.

13 (d) After thirty-six months of being placed on delinquent
14 status, a license is automatically placed on expired status and
15 cannot be renewed. A person whose license has expired must
16 reapply for a new license.

§30-30-21. Inactive license requirements.

1 (a) A licensee who does not want to continue an active
2 practice must submit an application and the applicable fee to
3 be granted inactive status.

4 (b) A person granted inactive status is not subject to the
5 payment of any fee and may not practice social work in this
6 state.

7 (c) When the person wants to return to the practice of
8 social work, the person shall submit an application for
9 renewal along with all applicable fees as set by rule.

§30-30-22. Temporary permit to practice social work.

1 (a) Upon completion of the application and payment of
2 the nonrefundable fees, the board may issue a temporary
3 permit, for a period not to exceed six months, to an applicant
4 to practice in this state, if the applicant has completed the
5 educational requirements set out in this article, pending the
6 examination and who works under a supervising social
7 worker with the scope of the supervision to be defined by
8 legislative rule. The applicant may renew the permit if the
9 licensee receives a failing score on the examination.

10 (b) A temporary permit may be revoked by a majority
11 vote of the board.

§30-30-23. Display of license.

1 (a) The board shall prescribe the form for a license and
2 permit, and may issue a duplicate license or permit upon
3 payment of a fee.

4 (b) Any person regulated by the article shall
5 conspicuously display his or her license or permit at his or
6 her principal business location.

§30-30-24. Privileged communications.

1 (a) A licensee may not disclose any information acquired
2 provided by a client or from persons consulting the licensee
3 in a professional capacity, except that which may be
4 voluntarily disclosed under these following circumstances:

5 (1) In the course of formally reporting, conferring or
6 consulting with administrative superiors, colleagues or
7 consultants who share professional responsibility, in which
8 instance all recipients of such information are similarly
9 bound to regard the communication as privileged;

10 (2) With the written consent of the person who provided
11 the information;

12 (3) In case of death or disability, with the written consent
13 of a personal representative, other person authorized to sue,
14 or the beneficiary of an insurance policy on the person's life,
15 health or physical condition;

16 (4) When a communication reveals the intended
17 commission of a crime or harmful act and such disclosure is
18 judged necessary by the social worker to protect any person
19 from a clear, imminent risk of serious mental or physical
20 harm or injury, or to forestall a serious threat to the public
21 safety; or

22 (5) When the person waives the privilege by bringing any
23 public charges against the licensee.

24 (b) When the person is a minor and the information
25 acquired by the licensee indicates the minor was the victim
26 of or witness to a crime, the licensee may be required to
27 testify in any judicial proceedings in which the commission
28 of that crime is the subject of inquiry and when the court
29 determines that the interests of the minor in having the
30 information held privileged are outweighed by the
31 requirements of justice.

32 (c) Any person having access to records or anyone who
33 participates in providing social work services or who, in
34 providing any human services, is supervised by a licensee, is
35 similarly bound to regard all information and
36 communications as privileged in accord with this section.

37 (d) Nothing shall be construed to prohibit a licensee from
38 voluntarily testifying in court hearings concerning matters of
39 adoption, child abuse, child neglect or other matters
40 pertaining to children, elderly, and physically and mentally
41 impaired adults, except as prohibited under the applicable
42 state and federal laws.

§30-30-25. Actions to enjoin violations.

1 (a) If the board obtains information that any person has
2 engaged in, is engaging in or is about to engage in any act
3 which constitutes or will constitute a violation of this article,
4 the rules promulgated pursuant to this article, or a final order
5 or decision of the board, it may issue a notice to the person to
6 cease and desist in engaging in the act and/or apply to the
7 circuit court in the county of the alleged violation for an
8 order enjoining the act.

9 (b) The circuit courts of this state may issue a temporary
10 injunction pending a decision on the merits, and may issue a
11 permanent injunction based on its findings in the case.

12 (c) The judgment of the circuit court on an application
13 permitted by this section is final unless reversed, vacated or
14 modified on appeal to the West Virginia Supreme Court of
15 Appeals.

**§30-30-26. Complaints; investigations; due process procedure;
grounds for disciplinary action.**

1 (a) The board may upon its own motion based on credible
2 information, and shall upon the written complaint of any
3 person, cause an investigation to be made to determine
4 whether grounds exist for disciplinary action under this
5 article or the legislative rules promulgated pursuant to this
6 article.

7 (b) Upon initiation or receipt of the complaint, the board
8 shall provide a copy of the complaint to the licensee or
9 permittee.

10 (c) After reviewing any information obtained through an
11 investigation, the board shall determine if probable cause
12 exists that the licensee or permittee has violated subsection
13 (g) of this section or rules promulgated pursuant to this
14 article.

15 (d) Upon a finding that probable cause exists that the
16 licensee or permittee has violated subsection (g) of this
17 section or rules promulgated pursuant to this article, the
18 board may enter into a consent decree or hold a hearing for
19 the suspension or revocation of the license or permit or the
20 imposition of sanctions against the licensee or permittee.
21 Any hearing shall be held in accordance with this article.

22 (e) Any member of the board or the administrator of the
23 board may issue subpoenas and subpoenas duces tecum to
24 obtain testimony and documents to aid in the investigation of
25 allegations against any person regulated by the article.

26 (f) Any member of the board or its administrator may
27 sign a consent decree or other legal document on behalf of
28 the board.

29 (g) The board may, after notice and opportunity for
30 hearing, deny or refuse to renew, suspend, restrict or revoke
31 the license or permit of, or impose probationary conditions
32 upon or take disciplinary action against, any licensee or
33 permittee for any of the following reasons once a violation
34 has been proven by a preponderance of the evidence:

35 (1) Obtaining a license or permit by fraud,
36 misrepresentation or concealment of material facts;

37 (2) Being convicted of a felony or other crime involving
38 moral turpitude;

39 (3) Being guilty of unprofessional conduct which placed
40 the public at risk, as defined by legislative rule of the board;

41 (4) Intentional violation of a lawful order or legislative
42 rule of the board;

43 (5) Having had a license or other authorization revoked
44 or suspended, other disciplinary action taken, or an
45 application for licensure or other authorization revoked or
46 suspended by the proper authorities of another jurisdiction;

47 (6) Aiding or abetting unlicensed practice; or

48 (7) Engaging in an act while acting in a professional
49 capacity which has endangered or is likely to endanger the
50 health, welfare or safety of the public.

51 (h) For the purposes of subsection (g) of this section,
52 effective July 1, 2011, disciplinary action may include:

53 (1) Reprimand;

54 (2) Probation;

55 (3) Restrictions;

56 (4) Administrative fine, not to exceed \$1,000 per day per
57 violation;

58 (5) Mandatory attendance at continuing education
59 seminars or other training;

60 (6) Practicing under supervision or other restriction; or

61 (7) Requiring the licensee or permittee to report to the
62 board for periodic interviews for a specified period of time.

63 (i) In addition to any other sanction imposed, the board
64 may require a licensee or permittee to pay the costs of the
65 proceeding.

§30-30-27. Procedures for hearing; right of appeal.

1 (a) Hearings are governed by section eight, article one of
2 this chapter.

3 (b) The board may conduct the hearing or elect to have an
4 administrative law judge conduct the hearing.

5 (c) If the hearing is conducted by an administrative law
6 judge, at the conclusion of a hearing he or she shall prepare
7 a proposed written order containing findings of fact and
8 conclusions of law. The proposed order may contain
9 proposed disciplinary actions if the board so directs. The

10 board may accept, reject or modify the decision of the
11 administrative law judge.

12 (d) Any member or the administrator of the board has the
13 authority to administer oaths, examine any person under oath
14 and issue subpoenas and subpoenas duces tecum.

15 (e) If, after a hearing, the board determines the licensee
16 or permittee has violated this article or the board's rules, a
17 formal written decision shall be prepared which contains
18 findings of fact, conclusions of law and a specific description
19 of the disciplinary actions imposed.

§30-30-28. Judicial review.

1 Any licensee or permittee adversely affected by a
2 decision of the board entered after a hearing may obtain
3 judicial review of the decision in accordance with section
4 four, article five, chapter twenty-nine-a of this code, and may
5 appeal any ruling resulting from judicial review in
6 accordance with article six, chapter twenty-nine-a of this
7 code.

§30-30-29. Criminal proceedings; penalties.

1 (a) When, as a result of an investigation under this article
2 or otherwise, the board has reason to believe that a licensee
3 or permittee has committed a criminal offense under this
4 article, the board may bring its information to the attention of
5 an appropriate law-enforcement official.

6 (b) A person violating section one of this article is guilty
7 of a misdemeanor and, upon conviction thereof, shall be
8 fined not less than \$100 nor more than \$5,000 or confined in
9 jail not more than six months, or both fined and confined.

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

Michael T. Ford
Chairman, House Committee

Paul J. Nease
Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Bryan D. Sif
Clerk of the House of Delegates

Daniel Holmes
Clerk of the Senate

Robert B. ...
Speaker of the House of Delegates

Jeff K...
Acting President of the Senate

The within disapproved this the 18th
day of March, 2011.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 18 2011

Time 110 Am