Committee Substitute

for

Senate Bill 350

SENATOR BLAIR, original sponsor

[Passed April 4, 2017; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

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Senate Bill 350

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[Passed April 4, 2017; in effect 90 days from passage]
AN ACT to amend and reenact §30-31-3, §30-31-6, §30-31-8 and §30-31-9 of the Code of West Virginia, 1931, as amended, all relating to licenses and temporary permits for licensure for professional counselors and marriage and family therapists.

Be it enacted by the Legislature of West Virginia:

That §30-31-3, §30-31-6, §30-31-8 and §30-31-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-3. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) "Applicant" means a person making an application for a license or renewal under the provisions of this article.

(b) "Board" means the West Virginia Board of Examiners in Counseling.

(c) "Clinical counseling procedures" means an approach to counseling that emphasizes the counselor's role in systematically assisting clients through all of the following including, but are not limited to, observing, assessing and analyzing background and current information; utilizing assessment techniques useful in appraising aptitudes, abilities, achievements, interests or attitudes; diagnosing; and developing a treatment plan. The goal of these procedures is the prevention or elimination of symptomatic, maladaptive or undesired behavior, cognitions or emotions in order to integrate a wellness, preventative, pathology and multicultural model of human behavior to assist an individual, couple, family, group of individuals, organization, institution or community to achieve mental, emotional, physical, social, moral, educational, spiritual, vocational or career development and adjustment through the life span of the individual, couple, family, group of individuals, organization, institution or community.

(d) "Licensed professional counselor" means a person licensed under the provisions of this article to practice professional counseling.
(e) "Licensee" means a person holding a license issued under the provisions of this article.

(f) "Licensed marriage and family therapist" means a person licensed under the provisions of this article to practice marriage and family therapy.

(g) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, specifically within the context of marriage and family systems, that involve the professional application of theories and techniques to individuals, couples and families, singly or in groups.

(h) "Permit" means a temporary permit to practice professional counseling or marriage and family therapy issued by the board under the provisions of this article.

(i) "Permittee" means a person holding a temporary permit under the provisions of this article.

(j) "Professional counseling" means the assessment, diagnosis, treatment and prevention of mental, emotional or addiction disorders through the application of clinical counseling procedures. Professional counseling includes the use of psychotherapy, assessment instruments, counseling, consultation, treatment planning and supervision in the delivery of services to individuals, couples, families and groups.

§30-31-6. Rulemaking.

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

(1) Standards and requirements for licenses to practice professional counseling and marriage and family therapy;

(2) Procedures for examinations and reexaminations;

(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(4) Educational and experience requirements;
(5) The passing grade on the examination;
(6) Standards for approval of courses;
(7) Procedures for the issuance and renewal of a license or permit;
(8) A fee schedule;
(9) Continuing education requirements for licensees;
(10) The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee;
(11) Requirements to reinstate a revoked license;
(12) Specific master's and doctoral degree programs considered to be equivalent to a master's or doctoral degree program required under this article;
(13) The nature of supervised professional experience approved by the board for the purposes of licensure of this article;
(14) A code of ethics; and
(15) Any other rules necessary to effectuate the provisions of this article.

(b) All of the board's rules in effect on July 1, 2009, shall remain in effect until they are amended or repealed and references to provisions of former enactments of this article are interpreted to mean provisions of this article.

§30-31-8. Requirements for license to practice counseling.

(a) To be eligible for a license to practice professional counseling, an applicant must:

(1) Be of good moral character;
(2) Be at least eighteen years of age;
(3) Be a citizen of the United States or be eligible for employment in the United States;
(4) Pay the applicable fee;
(5)(A)(i) 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
(ii) Have at least two years of supervised professional experience in counseling of such a nature as is designated by the board after earning a master's degree or equivalent; or

(B)(i) 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

(ii) Have at least one year of supervised professional experience in counseling of such a nature as is designated by the board after earning a doctorate degree or equivalent;

(6) Have passed a standardized national certification examination in counseling approved by the board;

(7) Not have been convicted of a felony or crime involving moral turpitude under the laws of any jurisdiction:

(A) If the applicant has never been convicted of a felony or a crime involving moral turpitude, the applicant shall submit 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;

(8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article
one-a, chapter twenty-seven of this code: Provided, That an applicant who has had at least two
continuous years of uninterrupted sobriety in an active recovery process, which may, in the
discretion of the board, be evidenced by participation in a twelve-step program or other similar
group or process, may be considered; and

(9) Has fulfilled any other requirement specified by the board.

(b) A person who holds a license or other authorization to practice counseling issued by
another state, the qualifications for which license or other authorization are determined by the
board to be at least substantially equivalent to the license requirements in this article, is eligible
for licensure.

(c) A person seeking licensure under the provisions of this section shall submit an
application on a form prescribed by the board and pay all applicable fees. A person applying for
licensure may elect for a temporary permit to utilize during the application process while the
applicant takes the required examination. The temporary permit shall be valid for a period not to
exceed six months and may not be renewed. The fee for the temporary permit is $50. The
permittee shall be supervised by an approved licensed professional supervisor while practicing
under the temporary permit. Supervision hours completed under the temporary permit count as
supervised professional experience as required for licensure under this section. The supervision
requirements are the same as required with a provisional license as defined in section six of this
article. The temporary permit may be revoked at any time by a majority vote of the board.

(d) A person who has been continually licensed under this article since 1987, pursuant to
prior enactments permitting waiver of certain examination and other requirements, is eligible for
renewal under the provisions of this article.
(e) A license to practice professional counseling issued by the board prior to July 1, 2009, shall for all purposes be considered a license issued under this article: Provided, That a person holding a license issued prior to July 1, 2009, must renew the license pursuant to the provisions of this article.

§30-31-9. Requirements for a license to practice marriage and family therapy.

(a) To be eligible for a license to practice marriage and family therapy, an applicant must:

1. Be of good moral character;
2. Be at least eighteen years of age;
3. Be a citizen of the United States or be eligible for employment in the United States;
4. Pay the applicable fee;

5. (A)(i) Have earned a master's degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the Council for Accreditation of Counseling and Related Education Programs, or a comparable accrediting body as approved by the board, or in a field closely related to an accredited marriage and family therapy program as determined by the board, or have received training equivalent to such degree as may be determined by the board; and

(ii) Have at least two years of supervised professional experience in marriage and family therapy of such a nature as is designated by the board after earning a master's degree or equivalent; or

(B)(i) Have earned a doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the Council for Accreditation of Counseling and Related Education Programs, or a comparable accrediting body as approved by the board, or in a field closely related to an accredited marriage and family therapy program as determined by the board, or have received training equivalent to such degree as may be determined by the board; and
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(ii) Have at least one year of supervised professional experience in marriage and family therapy of such a nature as is designated by the board after earning a doctorate degree or equivalent;

(6) Have passed a standardized national certification examination in marriage and family therapy as approved by the board;

(7) Not have been convicted of a felony or crime involving moral turpitude under the laws of any jurisdiction:

(A) If the applicant has never been convicted of a felony or a crime involving moral turpitude, the applicant shall submit 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 person licensed to practice marriage and family therapy 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;
(8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: Provided, That an applicant who has had at least two continuous years of uninterrupted sobriety in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a twelve-step program or other similar group or process, may be considered; and

(9) Has fulfilled any other requirement specified by the board.

(b) A person who holds a license or other authorization to practice marriage and family therapy issued by another state, the qualifications for which license or other authorization are determined by the board to be at least substantially equivalent to the license requirements in this article, is eligible for licensure.

(c) A person seeking licensure under the provisions of this section shall submit an application on a form prescribed by the board and pay all applicable fees. A person applying for licensure may elect for a temporary permit to utilize during the application process while the applicant takes the required examination. The temporary permit shall be valid for a period not to exceed six months and may not be renewed. The fee for the temporary permit is $50. The permittee shall be supervised by an approved licensed professional supervisor while practicing under the temporary permit. Supervision hours completed under the temporary permit count as supervised professional experience as required for licensure under this section. The supervision requirements are the same as required with a provisional license as defined in section six of this article. The temporary permit may be revoked at any time by a majority vote of the board.

(d) A person who is licensed for five years as of July 1, 2010, and has substantially similar qualifications as required by subdivisions (1), (2), (3), (4), (5)(A)(i) or (5)(B)(i), (7) and (8), subsection (a) of this section is eligible for a license to practice marriage and family therapy until July 1, 2012, and is eligible for renewal under section ten of this article.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 18th Day of April, 2017.

Governor