

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 2525**

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

7
8 [Passed March 8, 2011; in effect from passage.]
9

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

1 disciplinary actions; providing procedures for investigation
2 of complaints; providing for judicial review and appeals of
3 decisions; setting forth hearing and notice requirements;
4 providing for civil causes of action; and providing criminal
5 penalties.

6 *Be it enacted by the Legislature of West Virginia:*

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8 be repealed; that §30-30-1, §30-30-2, §30-30-3, §30-30-4, §30-30-5,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

16 **ARTICLE 30. SOCIAL WORKERS.**

17 **§30-30-1. Unlawful acts.**

18 (a) It is unlawful for any person to practice or offer to
19 practice social work in this state without a license or permit
20 issued under this article, or advertise or use any title or
21 description tending to convey the impression that the person is a
22 social worker, unless the person has been licensed or permitted
23 under this article, and the license or permit has not expired, been
24 suspended or revoked.

25 (b) No business entity, except through a licensee, may render
26 any service or engage in any activity which if rendered or engaged

1 in by an individual, would constitute the practices regulated under
2 this article.

3 **§30-30-2. General provisions.**

4 The practices regulated under this article and the Board of
5 Social Work are subject to article one of this chapter, this
6 article, and any rules promulgated hereunder.

7 **§30-30-3. Definitions.**

8 As used in this article:

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

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

12 (3) "Business entity" means any firm, partnership,
13 association, company, corporation, limited partnership, limited
14 liability company or other entity providing social work services.

15 (4) "Code of Ethics" means the Code of Ethics of the National
16 Association of Social Workers.

17 (5) "General Supervision" means the supervising social worker
18 provides instructions and oversight for services and is easily
19 accessible.

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

22 (7) "License" means a license issued under this article. A
23 license does not mean a provisional license issued under this
24 article.

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

1 under this article.

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

4 (10) "Permittee" means a person holding a permit issued under
5 this article.

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

10 **§30-30-4. Board of Social Work.**

11 (a) The State Board of Social Work Examiners is continued. On
12 July 1, 2011, the State Board of Social Work Examiners is renamed
13 the Board of Social Work. The members of the board in office on
14 July 1, 2011, shall, unless sooner removed, continue to serve until
15 their respective terms expire and until their successors have been
16 appointed and qualified.

17 (b) The board shall consist of the following seven members who
18 are appointed by the Governor with the advice and consent of the
19 Senate:

20 (1) One independent clinical social worker;

21 (2) Two certified social workers;

22 (3) One graduate social worker;

23 (4) Two social workers; and

24 (5) One citizen member.

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

26 (d) Each licensed member of the board, at the time of his or

1 her appointment, must have held a license in this state for at
2 least five years;

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

5 (f) A member may not serve more than two consecutive full
6 terms. A member having served two consecutive full terms may not
7 be appointed for one year after completion of his or her second
8 full term. A member may continue to serve until a successor has
9 been appointed and has qualified.

10 (g) A vacancy on the board shall be filled by appointment by
11 the Governor for the unexpired term of the member whose office
12 shall be vacant and the appointment shall be made within sixty days
13 of the vacancy.

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

16 (i) Any member of the board immediately and automatically
17 forfeits his or her membership if his or her license to practice is
18 suspended or revoked by the board, is convicted of a felony under
19 the laws of any jurisdiction, or becomes a nonresident of this
20 state.

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

23 (k) Each member of the board is entitled to compensation and
24 expense reimbursement in accordance with article one of this
25 chapter.

26 (l) A majority of the members of the board constitutes a

1 quorum.

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

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

9 **§30-30-5. Powers and duties of the board.**

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

13 (b) The board shall:

14 (1) Hold meetings;

15 (2) Establish requirements for licenses and permits;

16 (3) Establish procedures for submitting, approving and
17 rejecting applications for licenses and permits;

18 (4) Determine the qualifications of an applicant for licenses
19 and permits;

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

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

25 (7) Maintain an office, and hire, discharge, establish the job
26 requirements and fix the compensation of employees, investigators

1 and contracted employees necessary to enforce this article;

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

4 (9) Conduct disciplinary hearings of persons regulated by the
5 board;

6 (10) Determine disciplinary action and issue orders;

7 (11) Institute appropriate legal action for the enforcement of
8 this article;

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

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

13 (14) Establish the continuing education requirements for
14 licensees;

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

17 (16) Establish a fee schedule;

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

20 (18) Take all other actions necessary and proper to implement
21 this article.

22 (c) The board may:

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

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

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

3 **§30-30-6. Rulemaking.**

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

7 (1) Additional standards and requirements for licenses and
8 permits;

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

11 (3) Educational and experience requirements;

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

13 (5) Procedures for the issuance and renewal of licenses and
14 permits;

15 (6) A fee schedule;

16 (7) Continuing education requirements for licensees;

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

21 (9) Baccalaureate degrees related to social work;

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

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

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

3 (13) Requirements for inactive or revoked licenses and
4 permits; and

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

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

10 **§30-30-7. Fees; special revenue account; administrative fines.**

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

13 (b) All fees and other moneys, except administrative fines,
14 received by the board shall be deposited in a separate special
15 revenue fund in the State Treasury designated the "Board of Social
16 Work Fund", which is continued. The fund is used by the board for
17 the administration of this article. Except as may be provided in
18 article one of this chapter, the board retains the amount in the
19 special revenue account from year to year. No compensation or
20 expense incurred under this article is a charge against the General
21 Revenue Fund.

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

25 **§30-30-8. License to practice as an independent clinical social**
26 **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 social
7 work accredited by the council on social work education that
8 included a concentration of clinically oriented course work as
9 defined by the board;

10 (5) Have completed a supervised clinical field placement at
11 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 years
14 in full-time employment, or three thousand hours under the
15 supervision of an independent clinical social worker, or clinical
16 supervision that is found by the board to be equivalent;

17 (7) Have passed an examination approved by the board;

18 (8) Have satisfied the board that he or she merits the public
19 trust by providing the board with three letters of recommendation
20 from persons not related to the applicant

21 (9) Not be an alcohol or drug abuser, as these terms are
22 defined in section eleven, article one-a, chapter twenty-seven of
23 this code: *Provided*, That an applicant in an active recovery
24 process, which may, in the discretion of the board, be evidenced by
25 participation in an acknowledged substance abuse treatment and/or
26 recovery program may be considered;

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

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

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

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

11 A clinical social worker may:

12 (1) Perform all duties within the scope of practice of a
13 licensed certified social worker, licensed graduate social worker,
14 and licensed social worker.

15 (2) Apply social work theory, methods, assessment, ethics and
16 the professional use of self to the diagnosis, treatment and
17 prevention of psychological dysfunction, disability or impairment,
18 including emotional and mental disorders and developmental
19 disabilities.

20 (3) Clinical social work practice is based on knowledge of one
21 or more theories of biological, psychological and social
22 development, normal human behavior, psychopathology, the causes and
23 effects of physical illness and disability, unconscious motivation,
24 interpersonal relationships, family dynamics, environmental stress,
25 social systems and cultural diversity with particular attention to
26 the person existing as a combination of biological, psychological

1 and social elements in his or her environment.

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

5 (5) Clinical social work services consist of assessment,
6 diagnosis, treatment, including psychotherapy and counseling,
7 client-centered advocacy, consultation and evaluation. The process
8 of clinical social work is undertaken within the objectives of the
9 social work profession and the principles and values of its code of
10 ethics.

11 **§30-30-10. License to practice as a certified social worker.**

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

14 (1) Submit an application to the board;

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

16 (3) Be of good moral character;

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

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

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

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

26 (8) Not be an alcohol or drug abuser, as these terms are

1 defined in section eleven, article one-a, chapter twenty-seven of
2 this code: *Provided*, That an applicant in an active recovery
3 process, which may, in the discretion of the board, be evidenced by
4 participation in an acknowledged substance abuse treatment and/or
5 recovery program may be considered;

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

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

13 (11) Meet other additional requirements as established by the
14 board.

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

17 (1) Obtained a master's degree from a school of social work
18 accredited by the council on social work education that included a
19 concentration of clinically oriented course work as defined by the
20 board;

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

24 (3) Has contracted, in writing, with a licensed clinical
25 social worker who shall assume responsibility for and supervise the
26 certified social worker's practice as directed by the board by

1 promulgation of legislative rules;

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

5 (c) A certified social worker may not practice clinical social
6 work until his or her contract has been approved by the board, and
7 shall cease the practice of clinical social work immediately upon
8 the termination of the contract. At the termination of the
9 contract, the certified social worker shall apply for licensure as
10 a licensed clinical social worker or request an extension of the
11 contract from the board.

12 **§30-30-11. Scope of practice for a licensed certified social**
13 **worker.**

14 A licensed certified social worker may:

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

17 (2) Apply social work theory and methods to the diagnosis,
18 treatment and prevention of psychological dysfunction, disability
19 or impairment, including emotional and mental disorders and
20 developmental disabilities; and

21 (3) Determine behavioral health diagnosis, using diagnostic
22 taxonomies commonly accepted across disciplines among behavioral
23 health professionals.

24 **§30-30-12. License to practice as a licensed graduate social**
25 **worker.**

26 (a) To be eligible for a license to practice as a graduate

1 social worker, the applicant must:

2 (1) Submit an application to the board;

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

4 (3) Be of good moral character;

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) A graduate social worker may not practice clinical social
16 work until this contract has been approved by the board, and shall
17 cease the practice of clinical social work immediately upon the
18 termination of the contract. At the termination of the contract,
19 the graduate social worker shall apply for licensure as a licensed
20 independent clinical social worker or request an extension of the
21 contract from the board.

22 **§30-30-13. Scope of practice for a licensed graduate social**
23 **worker.**

24 A licensed graduate social worker may perform all duties
25 within the scope of practice of a licensed social worker and
26 provisional social worker as well as:

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

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

8 **§30-30-14. License to practice as a social worker.**

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

11 (1) Submit an application to the board;

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

13 (3) Be of good moral character;

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

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

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

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

26 (8) Not have been convicted of a felony in any jurisdiction

1 within five years preceding the date of application for license
2 which conviction remains unreversed;

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

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

8 **§30-30-15. Scope of Practice for a Social Worker.**

9 (a) A licensed social worker may perform all duties within the
10 scope of practice of a provisional social worker as well as:

11 (1) Apply social work theory, knowledge, methods, ethics and
12 the professional use of self in social work practice including
13 assessment, planning, intervention, counseling, evaluation, and
14 case management supervision;

15 (2) Provide social advocacy activities, designed to influence
16 social service systems and social policies in the direction of
17 reduced disparities in social and distributive justice, especially
18 for at risk and socially or economically disadvantaged populations;

19 (3) Community organization activities, designed to assist
20 client systems at the community level to achieve desirable social
21 or policy change toward goals of enhanced civic functioning and
22 improved environmental responsiveness to client quality of life
23 issues;

24 (4) Administration and program development, designed to
25 develop, structure and, oversee social service systems at the
26 organizational level; and

1 (5) Training activities, designed to assist clients or client
2 systems with skill development deemed desirable to restore or
3 enhance social functioning or adaptation; or, to assist less
4 experienced social workers with professional skill development.

5 (b) A licensed social worker with a baccalaureate degree or
6 master's degree in social work from a program accredited by the
7 council on social work education and two years of experience, may
8 supervise a provisionally licensed social worker.

9 **§30-30-16. Provisional License to practice as a social worker.**

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

12 (1) Submit an application to the board;

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

14 (3) Be of good moral character;

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

17 (5) Have obtained regular supervised employment, or the
18 reasonable promise of regular supervised employment contingent upon
19 receiving a provisional license, in a critical social work
20 workforce shortage position, area or setting requiring a social
21 work license; Provided, that such employment shall not as an
22 independent practitioner, contracted employee, sole proprietor,
23 consultant, or other nonregular employment;

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

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

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

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

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

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

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

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

24 (3) Complete continuing education as required by legislative
25 rule; and

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

1 (c) A provisionally licensed social worker or a person
2 previously licensed as a provisionally licensed social worker may
3 not reapply for licensure through this process if the process is
4 not completed.

5 **§30-30-17. Scope of practice for a provisionally licensed social**
6 **worker.**

7 A provisionally licensed social worker may perform all of the
8 following functions and social work services under supervision:

9 (1) Multi-dimensional assessment of client or client system
10 strengths and problems with functioning or psychosocial adaptation,
11 not including formal mental health diagnosis.

12 (2) Service planning and contracting with clients or clients
13 systems to outline proposed interventive strategies for clients or
14 client systems in order to restore or enhance social, psychosocial,
15 or biopsychosocial functioning;

16 (3) Implementing service plans and problem solving
17 methodologies to restore or enhance social, psychosocial or
18 biosychosocial functioning of clients or client systems;

19 (4) Supportive and palliative counseling activities, designed
20 to offer comfort and social encouragement to clients or client
21 systems, not including psychotherapy;

22 (5) Preventive strategies such as psychoeducation and
23 consciousness raising for at-risk systems or populations, designed
24 to forestall difficulties with functioning and psychosocial
25 adaptation;

26 (6) Case management activities designed to assist clients or

1 client systems with gaining access to needed resources and services
2 and to assist with coordination of services in situations where
3 multiple providers may be involved with client care;

4 (7) Information and referral services; and

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

7 **§30-30-18. Exemptions from this article.**

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

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

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

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

22 (4) Activities and services of a student, intern, or resident
23 in social work pursuing a course of study at an accredited
24 university or college or working in a generally recognized training
25 center if the activities and services constitute a part of the
26 supervised course of study; and

1 (5) Pending disposition of the application for a license,
2 activities and services by a person who has recently become a
3 resident of this state, has applied for a license within ninety
4 days of taking up residency in this state, and is licensed to
5 perform the activities and services in the state of former
6 residence.

7 **§30-30-19. Renewal of license.**

8 (a) All licenses are effective on the date of issuance from
9 the board and shall expire in twenty-four months and the number of
10 days remaining in the month after the date the license was issued.

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

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

16 (d) The board may deny an application for renewal for any
17 reason which would justify the denial of an original application
18 for a license.

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

22 **§30-30-20. Delinquent and expired license requirements.**

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

26 (b) The fee for a person on delinquent status shall increase

1 at a rate, determined by the board, for each month or fraction
2 thereof that the renewal fee is not paid, up to a maximum of
3 thirty-six months.

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

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

12 **§30-30-21. Inactive license requirements.**

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

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

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

21 **§30-30-22. Temporary permit to practice social work.**

22 (a) Upon completion of the application and payment of the
23 nonrefundable fees, the board may issue a temporary permit, for a
24 period not to exceed six months, to an applicant to practice in
25 this state, if the applicant has completed the educational
26 requirements set out in this article, pending the examination and

1 who works under a supervising social worker with the scope of the
2 supervision to be defined by legislative rule. The applicant may
3 renew the permit if the licensee receives a failing score on the
4 examination.

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

7 **§30-30-23. Display of license.**

8 (a) The board shall prescribe the form for a license and
9 permit, and may issue a duplicate license or permit upon payment of
10 a fee.

11 (b) Any person regulated by the article shall conspicuously
12 display his or her license or permit at his or her principal
13 business location.

14 **§30-30-24. Privileged communications.**

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

19 (1) In the course of formally reporting, conferring or
20 consulting with administrative superiors, colleagues or consultants
21 who share professional responsibility, in which instance all
22 recipients of such information are similarly bound to regard the
23 communication as privileged;

24 (2) With the written consent of the person who provided the
25 information;

26 (3) In case of death or disability, with the written consent

1 of a personal representative, other person authorized to sue, or
2 the beneficiary of an insurance policy on the person's life, health
3 or physical condition;

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

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

11 (b) When the person is a minor and the information acquired by
12 the licensee indicates the minor was the victim of or witness to a
13 crime, the licensee may be required to testify in any judicial
14 proceedings in which the commission of that crime is the subject of
15 inquiry and when the court determines that the interests of the
16 minor in having the information held privileged are outweighed by
17 the requirements of justice.

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

23 (d) Nothing shall be construed to prohibit a licensee from
24 voluntarily testifying in court hearings concerning matters of
25 adoption, child abuse, child neglect or other matters pertaining to
26 children, elderly, and physically and mentally impaired adults,

1 except as prohibited under the applicable state and federal laws.

2 **§30-30-25. Actions to enjoin violations.**

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

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

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

17 **§30-30-26. Complaints; investigations; due process procedure;**
18 **grounds for disciplinary action.**

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

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

26 (c) After reviewing any information obtained through an

1 investigation, the board shall determine if probable cause exists
2 that the licensee or permittee has violated subsection (g) of this
3 section or rules promulgated pursuant to this article.

4 (d) Upon a finding that probable cause exists that the
5 licensee or permittee has violated subsection (g) of this section
6 or rules promulgated pursuant to this article, the board may enter
7 into a consent decree or hold a hearing for the suspension or
8 revocation of the license or permit or the imposition of sanctions
9 against the licensee or permittee. Any hearing shall be held in
10 accordance with this article.

11 (e) Any member of the board or the administrator of the board
12 may issue subpoenas and subpoenas duces tecum to obtain testimony
13 and documents to aid in the investigation of allegations against
14 any person regulated by the article.

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

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

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

25 (2) Being convicted of a felony or other crime involving moral
26 turpitude;

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

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

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

9 (6) Aiding or abetting unlicensed practice; or

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

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

15 (1) Reprimand;

16 (2) Probation;

17 (3) Restrictions;

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

20 (5) Mandatory attendance at continuing education seminars or
21 other training;

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

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

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

1 **§30-30-27. Procedures for hearing; right of appeal.**

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

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

6 (c) If the hearing is conducted by an administrative law
7 judge, at the conclusion of a hearing he or she shall prepare a
8 proposed written order containing findings of fact and conclusions
9 of law. The proposed order may contain proposed disciplinary
10 actions if the board so directs. The board may accept, reject or
11 modify the decision of the 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 and
14 issue subpoenas and subpoenas duces tecum.

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

20 **§30-30-28. Judicial review.**

21 Any licensee or permittee adversely affected by a decision of
22 the board entered after a hearing may obtain judicial review of the
23 decision in accordance with section four, article five, chapter
24 twenty-nine-a of this code, and may appeal any ruling resulting
25 from judicial review in accordance with article six, chapter
26 twenty-nine-a of this code.

1 **§30-30-29. Criminal proceedings; penalties.**

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

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