

1 **H. B. 2525**

2  
3 (By Delegates Morgan, Stephens, Hatfield,  
4 Martin, Staggers, Swartzmiller and C. Miller)

5 [Introduced January 17, 2011; referred to the  
6 Committee on Government Organization then the Judiciary.]

7  
8 **FISCAL**  
9 **NOTE**

10 A BILL 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

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

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

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 9 be repealed; that §30-30-1, §30-30-2, §30-30-3, §30-30-4, §30-30-5,  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

17 **ARTICLE 30. SOCIAL WORKERS.**

18 **§30-30-1. Unlawful acts.**

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

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

5 (c) A student currently participating in an approved social  
6 work program under this article while completing an internship,  
7 externship, or other social work experience requirements for his or  
8 her social work program are exempt from licensure.

9 **§30-30-2. General provisions.**

10 The practices regulated under this article and the Board of  
11 Social Work are subject to article one of this chapter, this  
12 article, and any rules promulgated hereunder.

13 **§30-30-3. Definitions.**

14 As used in this article:

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

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

18 (3) "Business entity" means any firm, partnership, association,  
19 company, corporation, limited partnership, limited liability company  
20 or other entity providing social work services.

21 (4) "Code of Ethics" means the Code of Ethics of the National  
22 Association of Social Workers.

23 (5) "General Supervision" means the supervising social worker  
24 provides instructions and oversight for services and is easily  
25 accessible.

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

3       (7) "License" means a license issued under this article. A  
4 license does not mean a provisional license issued under this  
5 article.

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

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

11       (10) "Permittee" means a person holding a permit issued under  
12 this article.

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

17 **§30-30-4. Board of Social Work.**

18       (a) The State Board of Social Work Examiners is continued. On  
19 July 1, 2011, the State Board of Social Work Examiners is renamed  
20 the Board of Social Work. The members of the board in office on  
21 July 1, 2011, shall, unless sooner removed, continue to serve until  
22 their respective terms expire and until their successors have been  
23 appointed and qualified.

24       (b) The board shall consist of the following seven members:

25       (1) One independent clinical social worker;

1       (2) Two certified social workers;

2       (3) One graduate social worker;

3       (4) Two social workers; and

4       (5) One citizen member.

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

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

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

11       (f) A member may not serve more than two consecutive full  
12 terms. A member having served two consecutive full terms may not  
13 be appointed for one year after completion of his or her second full  
14 term. A member may continue to serve until a successor has been  
15 appointed and has qualified.

16       (g) A vacancy on the board shall be filled by appointment by  
17 the Governor for the unexpired term of the member whose office shall  
18 be vacant and the appointment shall be made within sixty days of the  
19 vacancy.

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

22       (i) Any member of the board immediately and automatically  
23 forfeits his or her membership if his or her license to practice is  
24 suspended or revoked by the board, is convicted of a felony under  
25 the laws of any jurisdiction, or becomes a nonresident of this

1 state.

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

4 (k) Each member of the board is entitled to compensation and  
5 expense reimbursement in accordance with article one of this  
6 chapter.

7 (l) A majority of the members of the board constitutes a  
8 quorum.

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

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

16 **§30-30-5. Powers and duties of the board.**

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

20 (b) The board shall:

21 (1) Hold meetings;

22 (2) Establish requirements for licenses and permits;

23 (3) Establish procedures for submitting, approving and  
24 rejecting applications for licenses and permits;

25 (4) Determine the qualifications of an applicant for licenses

1 and permits;

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

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

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

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

12 (9) Conduct disciplinary hearings of persons regulated by the  
13 board;

14 (10) Determine disciplinary action and issue orders;

15 (11) Institute appropriate legal action for the enforcement of  
16 this article;

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

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

21 (14) Establish the continuing education requirements for  
22 licensees;

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

25 (16) Establish a fee schedule;

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

3       (18) Take all other actions necessary and proper to implement  
4 this article.

5       (c) The board may:

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

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

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

12 **§30-30-6. Rulemaking.**

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

16       (1) Additional standards and requirements for licenses and  
17 permits;

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

20       (3) Educational and experience requirements;

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

22       (5) Procedures for the issuance and renewal of licenses and  
23 permits;

24       (6) A fee schedule;

25       (7) Continuing education requirements for licensees;



1       (8) Qualifications for supervisors; providing type of required  
2 supervision; requirements that shall be included within a  
3 supervisory plan; and detailed periodic documentation and successful  
4 completion of required ;

5       (9) Baccalaureate degrees related to social work;

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

8       (11) Establishing credentialing guidelines identifying advanced  
9 social work practice in existing and emerging specializations,  
10 skills and settings;

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

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

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

16       (b) All of the board's rules in effect on January 1, 2011,  
17 shall remain in effect until they are amended or rescinded, and  
18 references to former enactments of this article are interpreted to  
19 be consistent with this article.

20 **§30-30-7. Fees; special revenue account; administrative fines.**

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

23       (b) All fees and other moneys, except administrative fines,  
24 received by the board shall be deposited in a separate special  
25 revenue fund in the State Treasury designated the "Board of Social

1 Work Fund", which is continued. The fund is used by the board for  
2 the administration of this article. Except as may be provided in  
3 article one of this chapter, the board retains the amount in the  
4 special revenue account from year to year. No compensation or  
5 expense incurred under this article is a charge against the General  
6 Revenue Fund.

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

10 **§30-30-8. License to practice as an independent clinical social**  
11 **worker.**

12 To be eligible for a license to practice as an independent  
13 clinical 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 that  
19 included a concentration of clinically oriented course work as  
20 defined by the board;

21 (5) Have 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 (6) Have practiced clinical social work for at least two years  
25 in full-time employment, or three thousand hours under the

1 supervision of an independent clinical social worker, or clinical  
2 supervision that is found by the board to be equivalent;

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

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

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

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

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

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

21 **§30-30-9. Scope of practice for an independent clinical social**  
22 **worker.**

23 A clinical social worker may:

24 (1) Perform all duties within the scope of practice of a  
25 licensed certified social worker, licensed graduate social worker,

1 and licensed social worker.

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

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

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

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

24 **§30-30-10. License to practice as a certified social worker.**

25 (a) To be eligible for a license to practice as certified

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 practiced social work for at least two-years

8 post-master's experience in full-time employment or earned three

9 thousand hours of post-masters social work experience;

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

11 (7) Have satisfied the board that he or she merits the public

12 trust by providing the board with three letters of recommendation

13 from persons not related to the applicant;

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

15 defined in section eleven, article one-a, chapter twenty-seven of

16 this code: *Provided*, That an applicant in an active recovery

17 process, which may, in the discretion of the board, be evidenced by

18 participation in an acknowledged substance abuse treatment and/or

19 recovery program may be considered;

20 (9) Not have been convicted of a felony in any jurisdiction

21 within five years preceding the date of application for license

22 which conviction remains unreversed;

23 (10) Not have been convicted of a misdemeanor or felony in any

24 jurisdiction if the offense for which he or she was convicted

25 related to the practice of social work, which conviction remains

1 unreversed; and

2 (11) Meet other additional requirements as established by the  
3 board.

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

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

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

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

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

20 (c) A certified social worker may not practice clinical social  
21 work until his or her contract has been approved by the board, and  
22 shall cease the practice of clinical social work immediately upon  
23 the termination of the contract. At the termination of the  
24 contract, the certified social worker shall apply for licensure as  
25 a licensed clinical social worker or request an extension of the

1 contract from the board.

2 **§30-30-11. Scope of practice for a licensed certified social**  
3 **worker.**

4 A licensed certified social worker may:

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

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

11 (3) Determine behavioral health diagnosis, using diagnostic  
12 taxonomies commonly accepted across disciplines among behavioral  
13 health professionals.

14 **§30-30-12. License to practice as a licensed graduate social**  
15 **worker.**

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

18 (1) Submit an application to the board;

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

20 (3) Be of good moral character;

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

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

24 (6) Have satisfied the board that he or she merits the public

1 trust by providing the board with three letters of recommendation  
2 from persons not related to the applicant;

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

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

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

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

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

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

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



1       (3) Has contracted, in writing, with a licensed clinical social  
2 worker who shall assume responsibility for and supervise the  
3 certified social worker's practice as directed by the board by  
4 promulgation of legislative rules.

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

8       (c) A graduate social worker may not practice clinical social  
9 work until this contract has been approved by the board, and shall  
10 cease the practice of clinical social work immediately upon the  
11 termination of the contract. At the termination of the contract, the  
12 graduate social worker shall apply for licensure as a licensed  
13 independent clinical social worker or request an extension of the  
14 contract from the board.

15 **§30-30-13. Scope of practice for a licensed graduate social worker.**

16       A licensed graduate social worker may perform all duties within  
17 the scope of practice of a licensed social worker and provisional  
18 social worker as well as:

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

22       (2) Conduct clinical or psychotherapeutic services, under the  
23 clinical supervision of another experienced and credentialed  
24 behavioral health professional, including individual, family and  
25 group methodologies.

1 **§30-30-14. License to practice as a social worker.**

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

4 (1) Submit an application to the board;

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

6 (3) Be of good moral character;

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

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

10 (6) Have satisfied the board that he or she merits the public  
11 trust by providing the board with three letters of recommendation  
12 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 of  
15 this code: *Provided*, That an applicant in an active recovery  
16 process, which may, in the discretion of the board, be evidenced by  
17 participation in an acknowledged substance abuse treatment and/or  
18 recovery program may be considered;

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

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

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

2 **§30-30-15. Scope of Practice for a Social Worker.**

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

5 (1) Apply social work theory, knowledge, methods, ethics and  
6 the professional use of self in social work practice including  
7 assessment, planning, intervention, counseling, evaluation, and case  
8 management supervision.

9 (2) Provide social advocacy activities, designed to influence  
10 social service systems and social policies in the direction of  
11 reduced disparities in social and distributive justice, especially  
12 for at risk and socially or economically disadvantaged populations.

13 (3) Community organization activities, designed to assist  
14 client systems at the community level to achieve desirable social  
15 or policy change toward goals of enhanced civic functioning and  
16 improved environmental responsiveness to client quality of life  
17 issues.

18 (4) Administration and program development, designed to  
19 develop, structure and, oversee social service systems at the  
20 organizational level.

21 (5) Training activities, designed to assist clients or client  
22 systems with skill development deemed desirable to restore or  
23 enhance social functioning or adaptation; or, to assist less  
24 experienced social workers with professional skill development.

25 (b) A licensed social worker with a baccalaureate degree or

1 master's degree in social work from a program accredited by the  
2 council on social work education and two years of experience, may  
3 supervise a provisionally licensed social worker.

4 **§30-30-16. Provisional License to practice as a social worker.**

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

7 (1) Submit an application to the board;

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

9 (3) Be of good moral character;

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

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

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

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

1 participation in an acknowledged substance abuse treatment and/or  
2 recovery program may be considered;

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

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

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

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

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

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

20 (3) Complete continuing education as required by legislative  
21 rule; and

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

23 (c) A provisionally licensed social worker or a person  
24 previously licensed as a provisionally licensed social worker may  
25 not reapply for licensure through this process if the process is not

1 completed.

2 **§30-30-17. Scope of practice for a provisionally licensed social**  
3 **worker.**

4 (a) A provisionally licensed social worker may perform all of  
5 the following functions and social work services under supervision:

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

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

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

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

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

23 (6) Case management activities designed to assist clients or  
24 client systems with gaining access to needed resources and services  
25 and to assist with coordination of services in situations where

1 multiple providers may be involved with client care.

2 (7) Information and referral services.

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

5 **§30-30-18. Exemptions from this article.**

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

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

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

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

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

25 (5) Pending disposition of the application for a license,

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

5 **§30-30-19. Renewal of license.**

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

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

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

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

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

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

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

24 (b) The fee for a person on delinquent status shall increase  
25 at a rate, determined by the board, for each month or fraction



1 thereof that the renewal fee is not paid, up to a maximum of  
2 thirty-six months.

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

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

11 **§30-30-21. Inactive license requirements.**

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

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

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

20 **§30-30-22. Temporary permit to practice social work.**

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

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

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

6 **§30-30-23. Display of license.**

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

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

13 **§30-30-24. Privileged communications.**

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

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

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

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

1 of a personal representative, other person authorized to sue, or the  
2 beneficiary of an insurance policy on the person's life, health or  
3 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 serious  
8 threat to the public safety; or

9 (5) When the person waives the privilege by bringing any public  
10 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 accord  
22 with the 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

1 children, elderly, and physically and mentally impaired adults,  
2 except as prohibited under the applicable state and federal laws.

3 **§30-30-25. Actions to enjoin violations.**

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

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

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

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

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

25 (b) Upon initiation or receipt of the complaint, the board

1 shall provide a copy of the complaint to the licensee or permittee.

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

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

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

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

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

25 (1) Obtaining a license or permit by fraud, misrepresentation

1 or concealment of material facts;

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

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

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

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

12 (6) Aiding or abetting unlicensed practice; or

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

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

18 (1) Reprimand;

19 (2) Probation;

20 (3) Restrictions;

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

23 (5) Mandatory attendance at continuing education seminars or  
24 other training;

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

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

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

5 **§30-30-27. Procedures for hearing; right of appeal.**

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

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

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

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

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

24 **§30-30-28. Judicial review.**

25       Any licensee or permittee adversely affected by a decision of

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

6 **§30-30-29. Criminal proceedings; penalties.**

7 (a) When, as a result of an investigation under this article  
8 or otherwise, the board has reason to believe that a licensee or  
9 permittee has committed a criminal offense under this article, the  
10 board may bring its information to the attention of an appropriate  
11 law-enforcement official.

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

NOTE: The purpose of this bill concerns the practice of social work. The bill prohibits the practice of social work without a license. The bill defines terms. The bill provides for board composition. The bill sets forth the powers and duties of the board. The bill clarifies rulemaking authority. The bill also continues a special revenue account. The bill establishes license requirements. Further, the bill provides licensure for persons licensed in another state and establishes renewal requirements. The bill sets forth permit requirements and grounds for disciplinary actions. The bill allows specific disciplinary actions, provides procedures for investigation of complaints and establishes hearing and notice requirements. The bill provides judicial review and appeals of decisions and provides for civil causes of action. The bill also establishes criminal penalties.



§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 have been completely rewritten; therefore, they have been completely underscored.

§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 are new; therefore, they have been completely underscored.