

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 350

BY SENATOR BLAIR

[Originating in the Committee on Government

Organization; reported on March 8, 2017]

1 A BILL to amend and reenact §30-31-3, §30-31-6, §30-31-8 and §30-31-9 of the Code of West
2 Virginia, 1931, as amended, all relating to licenses and temporary permits for licensure for
3 professional counselors and marriage and family therapists.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-3. Definitions.

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

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

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

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

17 (d) "Licensed professional counselor" means a person licensed under the provisions of
18 this article to practice professional counseling.

19 (e) "Licensee" means a person holding a license issued under the provisions of this article.

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

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

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

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

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

§30-31-6. Rulemaking.

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

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

6 (2) Procedures for examinations and reexaminations;

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

9 (4) Educational and experience requirements;

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- 10 (5) The passing grade on the examination;
- 11 (6) Standards for approval of courses;
- 12 (7) Procedures for the issuance and renewal of a license or permit;
- 13 (8) A fee schedule;
- 14 (9) Continuing education requirements for licensees;
- 15 (10) The procedures for denying, suspending, revoking, reinstating or limiting the practice
- 16 of a licensee;
- 17 (11) Requirements to reinstate a revoked license;
- 18 (12) Specific master's and doctoral degree programs considered to be equivalent to a
- 19 master's or doctoral degree program required under this article;
- 20 (13) The nature of supervised professional experience approved by the board for the
- 21 purposes of licensure of this article;
- 22 (14) A code of ethics; and
- 23 (15) Any other rules necessary to effectuate the provisions of this article.
- 24 (b) All of the board's rules in effect on July 1, 2009, shall remain in effect until they are
- 25 amended or repealed and references to provisions of former enactments of this article are
- 26 interpreted to mean provisions of this article.

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

- 27 (a) To be eligible for a license to practice professional counseling, an applicant must:
- 28 (1) Be of good moral character;
- 29 (2) Be at least eighteen years of age;
- 30 (3) Be a citizen of the United States or be eligible for employment in the United States;
- 31 (4) Pay the applicable fee;
- 32 (5)(A)(i) Have earned a master's degree in an accredited counseling program or in a field
- 33 closely related to an accredited counseling program as determined by the board or have received

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34 training equivalent to such degree as may be determined by the board; and

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

37 (B)(i) Have earned a doctorate degree in an accredited counseling program or in a field
38 closely related to an accredited counseling program as determined by the board or have received
39 training equivalent to such degree as may be determined by the board; and

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

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

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

46 (A) If the applicant has never been convicted of a felony or a crime involving moral
47 turpitude, the applicant shall submit letters of recommendation from three persons not related to
48 the applicant and a sworn statement from the applicant stating that he or she has never been
49 convicted of a felony or a crime involving moral turpitude; or

50 (B) If the applicant has been convicted of a felony or a crime involving moral turpitude, it
51 is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits
52 competent evidence of sufficient rehabilitation and present fitness to perform the duties of a
53 licensed professional counselor as may be established by the production of:

54 (i) Documentary evidence including a copy of the relevant release or discharge order,
55 evidence showing compliance with all conditions of probation or parole, evidence showing that at
56 least one year has elapsed since release or discharge without subsequent conviction, and letters
57 of reference from three persons who have been in contact with the applicant since his or her
58 release or discharge; and

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59 (ii) Any collateral evidence and testimony as may be requested by the board which shows
60 the nature and seriousness of the crime, the circumstances relative to the crime or crimes
61 committed and any mitigating circumstances or social conditions surrounding the crime or crimes
62 and any other evidence necessary for the board to judge present fitness for licensure or whether
63 licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

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

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

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

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

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84 (d) A person who has been continually licensed under this article since 1987, pursuant to
85 prior enactments permitting waiver of certain examination and other requirements, is eligible for
86 renewal under the provisions of this article.

87 (e) A license to practice professional counseling issued by the board prior to July 1, 2009,
88 shall for all purposes be considered a license issued under this article: *Provided*, That a person
89 holding a license issued prior to July 1, 2009, must renew the license pursuant to the provisions
90 of this article.

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

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

92 (1) Be of good moral character;

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

94 (3) Be a citizen of the United States or be eligible for employment in the United States;

95 (4) Pay the applicable fee;

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

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

105 (B)(i) Have earned a doctorate degree in marriage and family therapy from a program
106 accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the
107 Council for Accreditation of Counseling and Related Education Programs, or a comparable

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108 accrediting body as approved by the board, or in a field closely related to an accredited marriage
109 and family therapy program as determined by the board, or have received training equivalent to
110 such degree as may be determined by the board; and

111 (ii) Have at least one year of supervised professional experience in marriage and family
112 therapy of such a nature as is designated by the board after earning a doctorate degree or
113 equivalent;

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

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

118 (A) If the applicant has never been convicted of a felony or a crime involving moral
119 turpitude, the applicant shall submit letters of recommendation from three persons not related to
120 the applicant and a sworn statement from the applicant stating that he or she has never been
121 convicted of a felony or a crime involving moral turpitude; or

122 (B) If the applicant has been convicted of a felony or a crime involving moral turpitude, it
123 is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits
124 competent evidence of sufficient rehabilitation and present fitness to perform the duties of a
125 person licensed to practice marriage and family therapy as may be established by the production
126 of:

127 (i) Documentary evidence including a copy of the relevant release or discharge order,
128 evidence showing compliance with all conditions of probation or parole, evidence showing that at
129 least one year has elapsed since release or discharge without subsequent conviction, and letters
130 of reference from three persons who have been in contact with the applicant since his or her
131 release or discharge; and

132 (ii) Any collateral evidence and testimony as may be requested by the board which shows

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133 the nature and seriousness of the crime, the circumstances relative to the crime or crimes
134 committed and any mitigating circumstances or social conditions surrounding the crime or crimes,
135 and any other evidence necessary for the board to judge present fitness for licensure or whether
136 licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

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

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

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

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

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157 (d) A person who is licensed for five years as of July 1, 2010, and has substantially similar
158 qualifications as required by subdivisions (1), (2), (3), (4), (5)(A)(i) or (5)(B)(i), (7) and (8),
159 subsection (a) of this section is eligible for a license to practice marriage and family therapy until
160 July 1, 2012, and is eligible for renewal under section ten of this article.

NOTE: The purpose of this bill is to allow licensed professional counselor and marriage and family therapist applicants to be issued a temporary permit so the applicant can practice during the application and testing process.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.