

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 350

FISCAL NOTE

BY SENATOR BLAIR

[Introduced February 20, 2017; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §30-31-3, §30-31-6 and §30-31-11 of the Code of West Virginia,
 2 1931, as amended, all relating to licenses, temporary permits and exemptions from
 3 licensure for professional counselors, marriage and family therapists.

Be it enacted by the Legislature of West Virginia:

1 That §30-31-3, §30-31-6 and §30-31-11 of the Code of West Virginia, 1931, as amended,
 2 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;

- 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.

§30-31-11. Persons exempted from licensure.

- 1 (a) The following activities are exempt from the provisions of this article:
- 2 (1) Teaching, lecturing or engaging in research in professional counseling or marriage and
- 3 family therapy so long as such activities do not otherwise involve the practice of professional
- 4 counseling or marriage and family therapy directly affecting the welfare of the person counseled;
- 5 (2) The official duties of persons employed as professional counselors or marriage and
- 6 family therapists by the State of West Virginia or any of its departments, agencies, divisions,
- 7 bureaus or political subdivisions, counties, county boards of education, regional education service
- 8 agencies, municipalities or any other facilities or programs established, supported or funded, in

9 whole or in part, by the governmental entity;

10 (3) The official duties of persons employed as professional counselors or marriage and
11 family therapists by any department, agency, division or bureau of the United States of America;

12 (4) The official duties of persons serving as professional counselors or marriage and family
13 therapists, whether as volunteers or for compensation or other personal gain, in any public or
14 private nonprofit corporations, organizations, associations or charities;

15 (5) The official duties of persons serving as professional counselors or marriage and family
16 therapists, whether as volunteers or for compensation or other personal gain, in any for-profit
17 organizations, organizations, associations or charities: *Provided, That* the person shall apply for
18 licensure with the board and elect for a temporary permit to utilize during the application process
19 until a provisional license can be obtained. The permittee shall be supervised by an approved
20 licensed professional supervisor while practicing under the temporary permit. Supervision hours
21 completed under the temporary permit do not count as supervised professional experience as
22 required for licensure under sections eight and nine of this article. The temporary permit shall be
23 valid for a period of six months. If the permittee receives a failing score on the required
24 examination, the applicant may apply for a one-time renewal for a period not to exceed six months.
25 The temporary permit may be revoked by a majority vote of the board;

26 ~~(5)~~ (6) The official duties of persons who are employed by a licensed professional
27 counselor or licensed marriage and family therapist, whose duties are supervised by a licensed
28 professional counselor or licensed marriage and family therapists and who represent themselves
29 by the title provisionally licensed counselor or provisionally licensed marriage and family therapist,
30 and do not represent themselves as licensed professional counselors or licensed marriage and
31 family therapists as defined in this article;

32 ~~(6)~~ (7) The activities of a student of professional counseling or marriage and family therapy
33 which are part of the prescribed course of study at an accredited educational institution and are
34 supervised by a licensed professional counselor, licensed marriage and family therapist or by a

35 teacher, instructor or professor of counseling or marriage and family therapy acting within the
36 official duties or scope of activities exempted by this section; or

37 ~~(7)~~ (8) The activities and services of qualified members of other recognized professions
38 such as physicians, psychologists, psychoanalysts, social workers, lawyers, clergy, nurses or
39 teachers performing counseling or marriage and family therapy consistent with the laws of this
40 state, their training and any code of ethics of their professions so long as such persons do not
41 represent themselves as licensed professional counselors or licensed marriage and family
42 therapists as defined by section three of this article.

43 (b) Nothing in the article requires licensing of the following persons pursuant to this article:

44 (1) A school counselor who holds a school counseling certificate issued by the West
45 Virginia Department of Education and who is engaged in counseling solely within the scope of his
46 or her employment with the department, a county board of education or a regional education
47 service agency; or

48 (2) A nonresident professional counselor or marriage and family therapist who holds a
49 license or other authorization to engage in the practice of professional counseling or marriage
50 and family therapy issued by another state, the qualifications for which in the opinion of the board
51 are at least as stringent as those provided in section eight and section nine of this article, and
52 who renders counseling services in this state for no more than thirty days in any calendar year.

53 (c) Nothing in this article permits a licensed professional counselor or licensed marriage
54 and family therapist to administer or prescribe drugs or otherwise engage in the practice of
55 medicine as defined in articles three and fourteen of chapter thirty of this code.

NOTE: The purpose of this bill is to allow certain 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.