

Sunrise Report

**West Virginia Association for
Marriage and Family Therapy**

**A Separate License for Marriage and Family Therapists is
Not Necessary Since the Occupation is Already Regulated
Through the Requirement of Licensing for All Professional
Counseling Occupations**



JOINT COMMITTEE ON GOVERNMENT ORGANIZATION

Senate

Edwin J. Bowman
Chair

Billy Wayne Bailey, Jr.
Vice Chair

Donna J. Boley
H. Truman Chafin
Evan H. Jenkins
Jeffrey V. Kessler
Brooks McCabe
Joseph M. Minard
Sarah M. Minear
Russ Weeks
Randy White
Robert Plymale
Steve Harrison
Charles Lanham

House of Delegates

J.D. Beane
Chair

Timothy R. Ennis
Vice Chair

Ron Walters
Minority Chair

Craig P. Blair	Dale Martin
Greg Butcher	Don Perdue
Joe C. Ferrell	Roger Romine
Cindy Frich	Patti Eagloski Schoen
Barbara Hatfield	Joe Talbott
Richard J. Iaquinta	Kenneth D. Tucker
Tim Manchin	Ron Walters
Sam J. Argento	Jack Yost
Larry W. Barker	Tim Miley
Mark Hunt	Randy Swartzmiller
	Thomas Mike Porter
	Ruth Rowan
	Charles S. Trump



OFFICE OF THE LEGISLATIVE AUDITOR

Aaron Allred
Legislative Auditor

John Sylvia
Director

Brian Armentrout
Research Manager

Gail V. Higgins, MPA
Senior Research Analyst

Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex
Charleston, West Virginia 25305
(304) 347-4890

Contents

Executive Summary	3
Background	5
Finding 1: A Separate License for Marriage and Family Therapists Is Not Necessary Since the Occupation Is Already Regulated Through the Requirement of Licensing for All Professional Counseling Occupations.....	7
 List Of Tables	
Table 1: Comparison of Surrounding States’ Regulation of Marriage and Family Therapists.....	17
 List Of Appendices	
Appendix A: Transmittal Letter to Agency.....	21
Appendix B: West Virginia Board of Examiners in Counseling Response.....	23
Appendix C: Applicant Response.....	27

Executive Summary

Finding 1: A Separate License for Marriage and Family Therapists Is Not Necessary Since the Occupation Is Already Regulated Through the Requirement of Licensing for All Professional Counseling Occupations.

Those practicing marriage and family therapy in West Virginia are regulated either as licensed professional counselors, licensed clinical social workers, licensed psychologists, or other professions that include counseling in their scope of practice.

Pursuant to WVC §30-1A-3, the West Virginia Association for Marriage and Family Therapy (WVAMFT) submitted a sunrise application proposing the licensure of marriage and family therapists (MFTs). The WVAMFT is the state's division of the American Association for Marriage and Family Therapy (AAMFT). Currently, the WVAMFT has 18 members. At present, those practicing marriage and family therapy in West Virginia are regulated either as licensed professional counselors, licensed clinical social workers, licensed psychologists, or other professions that include counseling in their scope of practice.

The sunrise application proposes that marriage and family therapy in West Virginia be declared a distinct professional practice within the mental health field and that it be licensed by an existing board. The sunrise application proposes that the Board of Examiners in Counseling (BOEC) regulate marriage and family therapists and be renamed the Board of Examiners in Counseling and Marriage and Family Therapy, and expand the number of board members from 7 to 12. The BOEC does not support licensure for MFTs because the licensing requirements suggested for MFTs do not meet the licensing requirements of the BOEC. The BOEC requires a broader experiential and educational background than what is required for a particular specialty i.e., marriage and family therapists. The Legislative Auditor agrees with the Board that creating two separate licenses creates an unnecessary administrative burden. A separate license for MFTs would create an additional Scope of Practice and Code of Ethics for the Board to administer in terms of evaluating complaints. This is unnecessary considering that the requirement for qualifying an MFT for West Virginia's LPC license is slight.

A person with an MFT license from another state may not have to have any additional courses to qualify for an LPC license in West Virginia, depending on that person's educational background. However, in some cases a person with an MFT training and credentials from another state may be required to complete additional courses to receive a West Virginia LPC license. However, the Board considers MFTs from other states on a case-by-case basis and usually such applicants are able to work under supervision while obtaining any required courses for an

LPC license. The Board has indicated that two additional courses is the most an individual has had to complete to meet the additional educational requirements of the LPC license. The requirement for additional courses also applies to other disciplines (such as psychology) when applying for an LPC license. **Since marriage and family therapy is already regulated through current licensing boards, it is the determination of the Legislative Auditor that licensing marriage and family therapy as a distinct professional practice within the mental health field is not necessary.**

Recommendation

1. *The Legislature should consider not creating a separate license for Marriage and Family Therapists.*

Background

West Virginia Code §30-1A-3 requires the Performance Evaluation and Research Division of the Legislative Auditor's Office to analyze and evaluate the application of professional and occupational groups who seek to be regulated. Applicants must submit the application to the Joint Standing Committee on Government Organization no later than the first day of December of any year. After its evaluation of an application, the Performance Evaluation and Research Division must submit a report to the Joint Committee on Government Organization no later than the first day of July following the date the application was submitted.

The report submitted to the Committee shall include evaluation and analysis as to:

- Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument;
- Whether the public needs and reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence
- Whether the public can be adequately protected by other means in a more cost effective manner.

Finding 1

A Separate License for Marriage and Family Therapists Is Not Necessary Since the Occupation Is Already Regulated Through the Requirement of Licensing for All Professional Counseling Occupations.

Introduction

At present, those practicing marriage and family therapy in West Virginia are regulated, either as licensed professional counselors.

Pursuant to WVC §30-1A-3, the West Virginia Association for Marriage and Family Therapy (WVAMFT) submitted a sunrise application proposing the licensure of marriage and family therapists (MFTs). The WVAMFT is the state's division of the American Association for Marriage and Family Therapy (AAMFT). Currently, the WVAMFT has 18 members. The United States Department of Health and Human Services defines a marriage and family therapist as normally having a masters or doctoral degree in marital and family therapy, completing at least two years of supervised clinical experience, practicing as a therapist, licensed or eligible for clinical membership in AAMFT. At present, those practicing marriage and family therapy in West Virginia are regulated, either as licensed professional counselors, licensed clinical social workers, licensed psychologists, or other professions that include counseling in their scope of practice. The sunrise application proposes that marriage and family therapy in West Virginia be declared a distinct professional practice within the mental health field and that it be licensed by an existing board. The sunrise application proposes that the Board of Examiners in Counseling (BOEC) regulate marriage and family therapists. The Applicant proposes that the BOEC be renamed the Board of Examiners in Counseling and Marriage and Family Therapy, and expand the number of board members from 7 to 12. **Since marriage and family therapy is already regulated through current licensing boards, it is the determination of the Legislative Auditor that licensing marriage and family therapy as a distinct professional practice within the mental health field is not necessary.**

Applicant Proposes Licensure of Marriage and Family Therapists

The sunrise application states the Applicant is filing for licensure “consistent with 48 other states and the District of Columbia.” The Legislative Auditor confirmed that in 48 states and the District of

Columbia, marriage and family therapists are licensed as a separate profession. Montana and West Virginia are the two states that do not currently require separate licenses for marriage and family therapists. Nationally, there are 50,000 licensed marriage and family therapists.

In West Virginia, the sunrise application must be evaluated to determine whether the occupational practice is presently in need of regulation. Many states, including the five that border West Virginia, do not use a sunrise analysis in deciding whether to license a new occupation or profession. While there could be others, the Legislative Auditor was only able to identify two states, Arizona and Texas, that use a sunrise analysis to approve new licensing. In Texas the sunrise analysis is optional, and marriage and family therapy licensure did not undergo this process. In 2002, a sunrise report in Arizona analyzed the need to require state licensure in behavioral health professions, which included marriage and family therapy. Prior to this report, behavioral health professions in Arizona were not required to be licensed. The report did not specifically assess the need for a distinct license for marriage and family therapy. Marriage and family therapy was granted a separate license along with other professions that were included in the behavioral health field.

Since the practice of marriage and family therapy is already regulated through licensure in West Virginia, the public is protected from the risk of harm.

In West Virginia, a sunrise analysis must evaluate whether the public is at risk of harm from the **unregulated practice** of a profession or occupation and whether the public needs and can benefit from an assurance of competence. Those who practice marriage and family therapy are already required to be licensed by a board that regulates their discipline. These disciplines include licensed professional counseling, social work, psychology, nursing and other related fields. Since the practice of marriage and family therapy is already regulated through licensure in West Virginia, the public is protected from the risk of harm. In order to obtain a license, all occupations that perform professional counseling must also meet and maintain standards of education and competence.

The Applicant's Argument for Regulation

1. The necessity to protect the public.

The Applicant is requesting a separate license for marriage and family therapists. The application states:

Licensure will provide the greatest level of protection for

the public by ensuring that unqualified individuals are not delivering sophisticated mental health services... .

However, in West Virginia marriage and family therapy is presently regulated through the requirement of a license by a number of boards before the practitioner engages in therapy or counseling. In response to a question in the application on how the public would be protected by the separate regulation of marriage and family therapists, the Applicant responded in the sunrise application:

Licensure of marriage and family therapists will keep unqualified individuals from advertising and delivering sophisticated mental health services to unsuspecting consumers. For professional activities in which incompetence, impairment or malfeasance raise a significant risk of harm to vulnerable members of the public, a licensing board's power to exercise peer review and take disciplinary action represents the public's best form of protection.

No argument by the applicant is given as to why the current regulations of the various licensing boards are inadequate, or how a separate license would enhance public protection.

State licensure establishes a bench mark for credentialing and ensures unqualified and impaired practitioners are kept away from the public. Licensure establishes professional standards and ethics, and ensures professionals practice within their competence. Most importantly, the state can remove a license from those individuals who pose a threat to the public. By contrast, the legal system is not designed to determine professional competence and cannot remove practice rights for those individuals who are incompetent or malicious.

The Applicant is describing the benefits that currently exist under the present licensure structure. However, no argument is given as to why the current regulations of the various licensing boards are inadequate, or how a separate license would enhance public protection.

The Applicant also concluded that emotional harm could occur from unqualified/negligent marriage and family therapy. The Legislative Auditor concurs with the general argument that unqualified marriage and family therapy can cause harm. However, in this instance the public

is already protected through the requirement of licensure by the Board of Examiners in Counseling, the Board of Social Work Examiners, the Board of Examiners of Psychologists and other licensing boards where counseling is included in the scope of practice.

The Applicant acknowledges that other licensed counseling professionals are adequately trained and would not be precluded from offering counseling in the context of marriage and family therapy.

2. Specialized training that prepares marriage and family therapists to be particularly effective in certain counseling situations. The Applicant supports this through the following statement in the application:

Family Therapists provide individual psychotherapy - like the currently licensed mental health professions of psychology, social work and counseling - but only Family Therapists are uniformly required to be trained in family therapy. As a model for mental health treatment, Marriage and Family Therapy generally views psychopathology and dysfunction from the perspective of the family system. The rationale for this perspective is that the individual experiences the symptoms of a mental or emotional disorder as part of a larger system.

There are no COAMFTE accredited programs in West Virginia.

The Legislative Auditor acknowledges that there are different types of counseling for specific situations, and that there is specialized training in marriage and family therapy. However, the Applicant acknowledges that other licensed counseling professionals are adequately trained and would not be precluded from offering counseling in the context of marriage and family therapy. **Therefore, the Applicant's argument is not an issue of enhancing public safety. Instead, the Applicant is seeking separate licensure to distinguish its specialized training,** which models mental health treatment from the perspective of the "family system," as opposed to mental health treatment from the individual perspective.

The Applicant provided information about the training that marriage and family therapists must complete. Standards for marriage and family therapists proposed for West Virginia include graduate level education (masters or above) from one of 98 educational programs that have been accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE). If the masters degree was not awarded from an accredited program, then specific courses must be approved by the American Association of Marriage and Family Therapists (AAMFT). In addition, the therapist must complete a number of hours of supervision and client contact, and pass an examination approved by

the licensing board. **There are no COAMFTE accredited programs in West Virginia, although one state university offers a masters degree with an emphasis in marriage, couples and family counseling and a certificate for post-masters professionals.**

3. Only certain professionals should be able to hold the title of Marriage and Family Therapist.

The application makes a specific statement that the profession seeks to set itself apart from other counselors by using the title Marriage and Family Therapist. This would provide the public with a reliable means to identify qualified marriage and family therapists who approach mental health treatment from a family system perspective.

Residents of West Virginia have access to marriage and family therapy.

4. Provide a means for West Virginia marriage and family therapists to be employed and deliver needed services within the state.

Since marriage and family therapists are already regulated in West Virginia, such therapists are able to be employed to deliver their services within the state. Consequently, residents of West Virginia have access to marriage and family therapy. While the Applicant provided the standards for education and the criteria for licensure of a marriage and family therapist, the public need and the public benefit from an additional, separately licensed counseling profession is not clear.

The Proposed Regulation of Marriage and Family Therapists Does Not Limit the Practice of Other Counseling Professions

Proposed legislation included in the sunrise application to license marriage and family therapists would not limit the practice of marriage and family therapy to licensed MFTs. The proposed legislation states:

Nothing in this article shall be construed to prevent qualified members of other professional groups as defined by West Virginia statute, including, but not necessarily limited to, clinical social workers, psychologists, licensed professional counselors or psychiatrists from doing or advertising work of a marriage and family therapy nature consistent with the accepted standards of their respected professions: Provided, That no person shall use a title or descrip-

The proposed legislation would not restrict volunteers, clergy, or other mental health professionals from providing counseling or therapy to individuals, couples, or families within West Virginia.

tion stating or implying that they are licensed as a marriage and family therapist.

The proposed legislation would not restrict volunteers, clergy, or other mental health professionals from providing counseling or therapy to individuals, couples, or families within West Virginia.

The definitions in the sunrise application show that marriage and family therapy considers counseling, psychotherapy and therapy as synonymous terms to mean assisting clients through the counseling relationship using a combination of principles, methods and techniques to achieve development and adjustment. In West Virginia, an existing definition for licensed professional counselors defines counseling as rendering any service involving the application of mental health counseling procedures to help in learning how to solve problems or make decisions related to careers, personal growth, marriage and family or other interpersonal or intrapersonal concerns.

Further, the scope of practice proposed for marriage and family therapists is defined by the following statement:

The Applicant provides no evidence that applying mental health treatment using other perspectives in the same situations is harmful.

[The] *“Practice of marriage and family therapy” means the rendering of professional marital and family therapy services and treatment to individuals, family groups, couples and marital pairs, singly or in groups. Marriage and family therapy includes, but is not limited to, the diagnosis and treatment, including psychotherapy, or nervous, emotional and mental disorders, whether cognitive, affective or behavioral, within the context of marital and family systems. Marital and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, marital pairs and families for the purpose of treating diagnosed nervous, emotional and mental disorders.*

The MFT scope of practice is detailed and explains further the theories and techniques used by a trained marriage and family therapist. In addition, the scope of practice for an MFT uses the common forms of mental health treatment but from the context of marital and family systems. However, the Applicant provides no evidence that applying mental health treatment using other perspectives in the same situations is harm-

ful. The application suggests that there is no harm if treatment were provided in the same situations using other perspectives.

Sixteen of the 18 members of the West Virginia Association of Marriage and Family Therapy are not precluded from practicing marriage and family therapy since they are already licensed in a related profession. Thirteen members of the WVAMFT are licensed as professional counselors, two of the members hold social work licenses and one is licensed in advanced practice nursing. Of the remaining two, one is an associate member with a mental health degree but no license, while the final member is a student and not yet eligible for licensure.

The Board of Examiners in Counseling Does Not Support MFT Licensure

The sunrise application proposes that the new MFT license be administered through reconstituting the existing BOEC by renaming it the Board of Examiners in Counseling and Marriage and Family Therapy and by expanding the Board membership from 7 to 12 members, with the 5 additional members being licensed marriage and family therapists.

The Legislative Auditor asked the present Board of Examiners in Counseling about the impact of becoming an expanded board to license marriage and family therapists (See Appendix B). The BOEC was unable to forecast additional administrative costs, but noted that the costs would be determined by the legislative requirements, including the costs of additional board members. Also, the complaint process might be prolonged. The Board of Examiners in Counseling was also asked if it supported or rejected the proposal for a separate MFT license. The BOEC's Executive Director provided the following response:

The BOEC favors rejection of the proposal for a separate license for marriage and family counselors.

WVBEC favors rejection of the proposal for a separate license for marriage and family counselors. WVBEC is of the position that West Virginians are best served by counselors who received their licensure based on what we believe are the appropriate standards in educational background now required to become licensed as a Licensed Professional Counselor (LPC). Licensing by our State requires a broader experiential and educational background than what is required for a particular specialty i.e., marriage

The Legislative Auditor agrees with the Board that creating two separate licenses creates an unnecessary administrative burden.

The LPC license requires a broader educational background compared to the narrower education of the marriage and family therapy requirements.

The Board considers MFTs from other states on a case-by-case basis and usually such applicants are able to work under supervision while obtaining any required courses for an LPC license.

and family therapists...(T)he West Virginia Board of Examiners in Counseling believe that all counselors including but not limited to marriage and family counselors, drug and alcohol counselors, rehabilitation counselors, career counselors, child and adolescent counselors, human resource counselors, and mental health counselors, should be required to continue to meet the statutory requirements of the licensed professional counselor. These professional counselors then may as their education and experience dictates choose to specialize in one or more particular areas of counseling.

The Legislative Auditor agrees with the Board that creating two separate licenses creates an unnecessary administrative burden. A separate license for MFTs would create an additional Scope of Practice and Code of Ethics for the Board to administer in terms of evaluating complaints. This is unnecessary considering that the requirement for qualifying an MFT for West Virginia's LPC license is slight. Presently, the LPC license requires a broader educational background compared to the narrower education of the marriage and family therapy requirements. A person with an MFT license from another state may not have to have any additional courses to qualify for an LPC license in West Virginia, depending on that person's educational background. However, in some cases a person moving into West Virginia with MFT training and credentials from another state may be required to complete additional courses to receive a West Virginia LPC license. However, the Board considers MFTs from other states on a case-by-case basis and usually such applicants are able to work under supervision while obtaining any required courses for an LPC license. The Board has indicated that two additional courses is the most an individual has had to complete to meet the additional educational requirements of the LPC license. The requirement for additional courses also applies to other disciplines (such as psychology) when applying for an LPC license.

The Board of Examiners in Counseling requires professional disclosure by all licensed professional counselors (LPC) (See Appendix B). This is a written statement that includes a listing of the LPC's counseling specialities. The BOEC notes that "*the purpose of professional disclosure is to provide sufficient information to aid the consumer public in making informed judgments and choices on matters that concern it.*"

Through the disclosure statement the BOEC has already created a mechanism to inform the public about specialized training, rather than issuing specialty licenses for each area of competency.

Other West Virginia licensing boards do not offer specialty licenses.

In deciding to license MFTs, none of the bordering states used a sunrise analysis to determine if the profession should be licensed.

The BOEC requires licensees not to claim or imply professional qualifications exceeding their actual qualifications. All areas of competence listed must conform to the scope of practice and rules established for LPCs. If the licensed professional counselor has specialized training in marriage counseling and family counseling, this can be noted on the disclosure form. In the sunrise application, the Applicant is requesting a separate license for marriage and family therapists which would create a specialty license for one type of therapy. However, through the disclosure statement the BOEC has already created a mechanism to inform the public about specialized training, rather than issuing specialty licenses for each area of competency.

Other West Virginia licensing boards do not offer specialty licenses. Many licensed professionals engage in diverse work following the receipt of a basic license from the State. For example, the Board of Medicine issues the same basic license to ophthalmologists, psychiatrists, anesthesiologists and surgeons. Attorneys receive a license to practice from the West Virginia Board of Law Examiners after fulfilling statutory requirements, but the State does not license specialty areas in law. Social workers, registered nurses and psychologists do not have specialty licenses although some boards may issue more than one type of license for different scopes of practice within the profession. For example, the Board of Examiners of Psychologists issues three licenses: a psychologist license, a school psychologist license (for school employees trained in school psychology) and an independent school psychologist license (for contracted employees and independent practitioners trained in school psychology who work with children). In addition, boards may also issue provisional licenses and temporary or restricted licenses.

Review of Surrounding States

The sunrise application for a separate license for marriage and family therapists in West Virginia does not limit the practice of marriage and family therapy to marriage and family therapists. The scope of practice, while detailed, is similar to behavioral health disciplines that are already licensed in the state. However, the application states that if such a license is granted, only marriage and family therapists can call themselves by the title of Marriage and Family Therapist. The five states surrounding West Virginia license marriage and family therapists separately. **In deciding to license MFTs, none of the bordering states used a sunrise analysis to determine if the profession should be licensed.** The Legislative Auditor reviewed legislation requiring MFT licensure in

these states to determine if the states limit marriage and family counseling to licensed marriage and family therapists. The review showed:

- **Pennsylvania** has a specific scope of practice for marriage and family therapists and also defines closely related fields as being social work, psychology, counseling, child development and family studies, medicine, nursing, pastoral counseling, ministry, theology, education and sociology. Pennsylvania informed the Legislative Auditor that *“State law does not prohibit practicing as a marriage and family therapist as long as the person practicing does not hold himself out as a licensed marriage and family therapist.”* There are 350 licensed marriage and family therapists regulated by the umbrella board named the Board of Social Workers, Marriage and Family Therapists and Professional Counselors.
 - **Maryland** defines the identical scope of practice for licensed professional counselors and marriage and family therapists. However, the two professions are licensed separately. There are about 200 licensed clinical marriage and family therapists regulated by the Board of Professional Counselors and Therapists.
 - **Ohio** has a separate scope of practice for MFTs while allowing the practice of marriage and family therapy by other licensed professionals. However, Ohio also places restrictions on family and marriage therapists regarding treatment without consultation of a medical doctor or psychiatrist, and the use of techniques exclusive to the practice of licensed psychologists or psychiatrists. There are 200 licensed marriage and family therapists regulated by the umbrella board named the Ohio Counselor, Social Worker and Marriage and Family Therapist Board.
 - **Kentucky** also defines the scope of practice specifically for marriage and family therapists but allows other licensed professionals to engage in marriage and family therapy. Marriage and family therapists are restricted from administering or interpreting psychological tests. Kentucky has four accredited MFT educational programs in the state and has 440 licensed marriage and family therapists regulated by the independent Board of Licensure of Marriage and Family Therapists.
- **Virginia** defines the practice of marriage and family therapy similarly to the other states while it too allows other licensed professionals to engage in marriage and family therapy. Virginia standardizes the number of

credit hours required for a degree, and the number of supervision hours required so that both licensed professional counselors and marriage and family therapists must have the same number of hours. There are 830 marriage and family therapists regulated by the umbrella board named the Virginia Board of Counselors.

While the bordering states license MFTs separately, none of them restrict other licensed practitioners from engaging in the same work.

Table 1 Comparison of Surrounding States' Regulation of Marriage and Family Therapists		
State	Type of Board	Allows the Practice of Marriage and Family Counseling by Other Licensed Profession-
Pennsylvania	Umbrella	Yes
Maryland	Umbrella	Yes
Ohio	Umbrella	Yes
Kentucky	Independent	Yes
Virginia	Umbrella	Yes

Data Source: Analysis developed from Performance Evaluation and Research Division review of surrounding states' statutes, and licensing boards' websites.

As shown above in Table 1, the five bordering states allow other licensed practitioners to engage in marriage and family therapy. In each state, these practitioners must be licensed in their primary profession. Thus, while the bordering states license MFTs separately, none of them restrict other licensed practitioners from engaging in the same work.

Most insurance providers in West Virginia do not cover marriage and family therapists separately.

Third Party Insurance Payment

According to the Applicant in the sunrise application, "A license is generally required for reimbursement by third party health care payers." Most insurance providers in West Virginia do not cover marriage and family therapists separately. The Public Employee's Insurance Agency (PEIA) does not cover marriage counseling, therefore the type of licensure of the provider does not affect coverage under the PEIA. In addition, Blue Cross and Blue Shield does not cover marriage counseling in its largest insurance contract for the State so that the type of licensure of the provider does not affect coverage. Information from the American Association of Marriage and Family Therapists (AAMFT) indicates that legislation to recognize MFTs and Licensed Professional Counselors under Medicare Part B passed the Senate in 2003 and 2005, but was dropped in conference due to lack of an equivalent provision on the House side.

The West Virginia Policy Manual for Medicaid covers services from masters level licensed social workers, counselors and psychologists. The only insurance coverage that might impact state residents is the insurance coverage provided under the military health plan, TRICARE. According to the AAMFT, behavioral health care received from a mental health counselor or licensed professional counselor requires a physician referral and supervision, while marriage and family therapists do not have this restriction. This restriction adds a level of bureaucracy to the process of receiving service, but the patient would not be denied service from a counselor holding another type of license.

The Legislative Auditor is concerned that this new license would be awarded to those with less training in some areas than is presently required by the LPC and would place a burden on the Board of having to reduce the risk of these new licensees practicing in areas that they have not received training.

Conclusion

Marriage and family therapy is already regulated in West Virginia through the requirements of licensing professional counselors, psychologists, and clinical social workers. The submitted sunrise application documents no harm to the residents of West Virginia through the application of counseling techniques that differ from the specific training of marriage and family therapists. While it is true that such specialized training exists, and may be effective in certain situations, this is not sufficient to require a separate license for persons trained in these techniques.

Although 48 states have created separate licensure for marriage and family therapists, it is possible for persons with this training to receive a license in a related discipline and to practice therapy in West Virginia. The most closely related license in West Virginia is the Licensed Professional Counselor. The educational requirements for the LPC license are broader than the narrower focus of marriage and family therapy, and consequently may require those with an MFT credential to complete additional graduate courses depending on their educational background. The proposed license for marriage and family therapists would eliminate this requirement, and marriage and family therapists could be licensed with narrower training than an LPC licence. The Legislative Auditor is concerned that this new license would be awarded to those with less training in some areas than is presently required by the LPC and would place a burden on the Board of having to reduce the risk of these new licensees practicing in areas that they have not received training. In addition, the assessment, monitoring and resolution of complaints for two separate but closely related licenses would add an unnecessary administrative burden for the existing Board of Examiners in Counseling.

The Legislative Auditor is also concerned that by conferring a title that sets apart a distinct area of counseling, the public will be led to believe that only therapists with this title can perform marriage and family counseling.

The Applicant does not demonstrate a strong case for the public benefit or need for a separate license in the behavioral health professions.

What the Applicant is seeking is the establishment of the title “Marriage and Family Therapist” rather than enhancing the protection of West Virginia consumers.

The Legislative Auditor is also concerned that by conferring a title that sets apart a distinct area of counseling, the public will be led to believe that only therapists with this title can perform marriage and family counseling. Since other licensed professionals are qualified to provide marriage and family counseling, such an implication could adversely impact them.

Furthermore, the Applicant does not demonstrate a strong case for the public benefit or need for a separate license in the behavioral health professions. There appears to be little benefit gained in terms of third party insurance for the residents of the state, and there is no enhancement in public protection since the profession is already regulated. Therefore, what the Applicant is seeking is the establishment of the title “Marriage and Family Therapist” rather than enhancing the protection of West Virginia consumers. It is not clear what the additional administrative costs would be for the Board of Examiners in Counseling if a distinct license is created. However, there would likely be some additional cost. With such a license having a minimal benefit to the public, the cost would likely outweigh the benefits. The Legislative Auditor concludes that the sunrise application submitted by the West Virginia Association for Marriage and Family Therapy seeks to primarily advance the professional interests of marriage and family therapists. Therefore, the Legislative Auditor sees no reason to recommend the creation of a separate license for marriage and family therapists.

Recommendation

1. *Legislature should consider not creating a separate license for Marriage and Family Therapists.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

April 4, 2006

Heather Hagerman, Ph.D., LCSW
Marshall University Graduate College, Beckley Center
300 Stanaford Road
Beckley, West Virginia 25801

Dear Dr. Hagerman:

This is to transmit a draft copy of the Sunrise Report concerning the licensure of Marriage and Family Therapists in the state of West Virginia. This report will be presented to the Joint Committee on Government Organization. You will be informed of the exact time and location once the information becomes available. At that time it is expected that a representative from your association be present at the meeting to orally respond to the report and answer any questions the committee may have.

We have scheduled an exit conference for Tuesday, April 11, 2006 at 10 a.m. to discuss any concerns you may have with the report. The conference will be held at our office in Room W-314 in the west wing of the Capitol. In addition, we need your written response by noon on May 3, 2006 in order for it to be included in the final report. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B: Board of Examiners in Counseling Response


West Virginia Board of
Examiners in Counseling

Post Office Box 129
Ona, West Virginia
25545

Phone:
800-520-3852
Website:
www.wvboc.org
Email:
counselingboard@msn.com

February 14, 2006

John Sylvia
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia:

The West Virginia Board of Examiners in Counseling (WVBEC) received your letter concerning a sunrise application from the West Virginia Association of Marriage and Family Therapy for licensure of Marriage and Family therapists in West Virginia. We will do our best to thoroughly answer the three questions.

1. *Has the WVAMFT contact the Board in regard to this Sunrise application?*

Response: Your recent letter was the first notification concerning the aforementioned Sunrise Application. The board invited two members of the WVAMFT to the April 22, 2005, board meeting to discuss with the Board a bill introduced by Senator McKenzie in the 2005 Legislative session. His bill regarded the licensing of marriage and family therapists here in West Virginia. Since that meeting, WVBEC has not heard from any member of the WVAMFT.

2. *Does the Board support or reject the proposal of a separate licensing for Marriage and Family Therapists?*

Response: WVBEC favors rejection of the proposal for a separate license for marriage and family therapists.

WVBEC is of the position that West Virginians are best served by counselors who received their licensure based on what we believe are the appropriate standards in educational background now required to become licensed as a Licensed Professional Counselor (LPC). Licensing by our State requires a broader experiential and educational background than what is required for a particular specialty i.e., marriage and family therapists. After researching the requirements of other licensing boards in West Virginia, we found that these boards do not license specialties. For example, the medical board licenses doctors and then if a doctor chooses to specialize then he does so but only after he is first licensed as a medical doctor. This process is also found within the field of law, nursing, psychology, and social work.

I have enclosed a copy of the Disclosure Statement as well as a copy of the Directions for the completion thereof that all LPC's must complete. As you can see, marriage and family counseling as well as the other listed counseling specialties may be listed by the LPC as an area of competence. The LPC may then only provide counseling in those areas in which his experience and training qualify him to do so.

To our knowledge, the number of marriage and family therapists that belong to their professional association of marriage and family therapists is very small and the majority of these counselors are already licensed LPC's. It is not likely that this number will appreciably increase as West Virginia's graduate institutions do not offer an accredited marriage and family therapist graduate program.

3. *If the licensure of Marriage and Family Therapists is placed with the Board, what administrative costs would this impose?*

Response: The long-term administrative costs are difficult to predict. For example, the processing of complaints will be confounded and understandably therefore be prolonged as the Board would then be required to deal with a disparate code of ethics and as of yet unknown additional legislative provisions. Hypothetically, if a counselor is licensed both as a LPC and a MFT, the reconstituted Board would then have to deal with the complainants, respondents and their respective attorneys who, may at best, be confused by the differing ethical responsibilities created. This non-cost effective situation can only create the potential for negative consequences to the citizens of West Virginia.

Finally, for the reasons stated, the West Virginia Board of Examiners in Counseling believe that all counselors including but not limited to marriage and family counselors, drug and alcohol counselors, rehabilitation counselors, career counselors, child and adolescent counselors, human resource counselors, and mental health counselors, should be required to continue to meet the statutory requirements of the licensed professional counselor. These professional counselors then may as their education and experience dictates choose to specialize in one or more particular areas of counseling.

Please contact us if you have any further questions.

Sincerely,



Jean Ann Johnson
Executive Director

Enclosures

**STATEMENT OF PROFESSIONAL DISCLOSURE
LICENSED PROFESSIONAL COUNSELOR
STATE OF WEST VIRGINIA**

Counselor's Name _____

Business Address _____

Phone Number _____ WV LPC Number _____

FORMAL PROFESSIONAL EDUCATION

Degree _____ Institution _____ Date _____

Degree _____ Institution _____ Date _____

Degree _____ Institution _____ Date _____

PROVIDING COUNSELING IN THE FOLLOWING AREAS

Note: The Board of Examiners in Counseling does not screen for qualifications in individual counseling specialties.

FEE SCHEDULE

Upon request your counselor will provide you with a copy of the Statement of Code of Ethics.

Any questions, concerns, or complaints relating to the delivery of service by the counselor listed above, may be directed to:

1-800-520-3852

WEST VIRGINIA BOARD OF EXAMINERS IN COUNSELING
At Marshall University Graduate College
Post Office Box 129
Ona, West Virginia 25545

This information is required by the Board of Examiners in Counseling which regulates all Licensed Counselors.

Appendix C: Applicant Response

John Sylvia, Director
Performance Evaluation and Research Division
West Virginia Legislature
Building 1, Room W-314
1900 Kanawha Blvd., East
Charleston, WV 25305-0610

R E C E I V E D
MAY 16 2006

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

RE: Sunrise Review for Marriage and Family Therapist Licensure

Dear Mr. Sylvia:

This letter constitutes the written response from the West Virginia Association for Marriage and Family Therapy (WVAMFT) to the draft copy of Performance Evaluation and Research Division's (PERD) report on WVAMFT's sunrise application for licensure of Marriage and Family Therapists (MFTs).

The Legislative Auditor confirmed in the report that in 48 states and the District of Columbia, Marriage and Family Therapists are licensed as a separate profession. The five states surrounding West Virginia license Marriage and Family Therapists separately and all define a specific scope of practice for MFTs.

West Virginia's failure to license Marriage and Family Therapists risks harm to the public by limiting access to care for its citizens. West Virginia ranks worst in mental health according to a report released in April by the federal Substance Abuse and Mental Health Services Administration. The survey stated that one in eight WV adults said that they had a serious mental health problem in 2004. Our suicide rate has jumped considerably, our divorce rate is one of the highest, and more people than ever have been committed to the state mental hospitals. Why would a state with such a high rate of mental health problems and a severely underserved population not license one of the five core mental health providers as recognized by the federal government?

While we appreciated the open dialogue that occurred at the exit interview on May 11, 2006, we can express only profound disappointment with the fundamentally flawed report that was prepared. We were also surprised that after spending considerable time explaining problems and misstatements in the draft to PERD staff, they actually modified the report to add more reasons why MFTs shouldn't be licensed in the state. While these are process concerns, they suggest a desire to justify a decision and not research an issue.

The irreparable failure in the PERD report is that it confuses the *practice* of family therapy with the *profession* of marriage and family therapists. WVAMFT clearly described the training and scope of practice of the profession in its application in accordance with the sunrise requirements. However, the PERD report focused the entirety of its analysis and research on who could provide the service of marriage or family therapy.

PERD acknowledges that marriage and family therapy is separately licensed in 48 states, but then concludes it is a subspecialty of counseling and other professions. To reach this

conclusion, PERD repeatedly focuses on the service of marriage and family therapy, stating "Marriage and Family Therapy is already regulated in West Virginia through the requirements of licensing professional counselors, psychologists, and clinical social workers." The essence of the PERD position is that because other mental health professions can practice marriage and family therapy under their scopes, there is no reason for an independent profession. Assuming this standard were applied uniformly in West Virginia, one can only conclude that there would never have been licensure for counselors because "counseling" is specifically identified in both the psychologist's and social worker's scopes of practice. Of course, this was not considered when PERD developed its report. I hope that the Joint Committee on Government Organization will disregard PERD's recommendation on the basis of this failure alone.

Next, the draft report states that the requirement for qualifying an MFT for West Virginia's Licensed Professional Counselor (LPC) license is slight. This could not be further from the truth when we can only recognize roughly 30 individuals who have Marriage and Family Therapy backgrounds yet are forced to practice as some other professional in this state. Idaho had only 35 clinical MFTs when that state passed their licensure law in 2000 and today has 277 licensed clinical MFTs. PERD's conclusion begs the question -- If the requirement to qualify is so slight then why have so few MFTs taken up residence in this state to help serve those that need it the most?

Further, the PERD report is replete with factual errors and misrepresentations that are used to support PERD's recommendation. Misstatements about the MFT scope of practice and sunrise requirements in bordering states are serious and were brought to the attention of the PERD staff at the exit interview; but they remain unchanged.

Finally, the draft report places a very high level of reliance on a letter provided by Ms. Jean Ann Johnson, who is the staff supporting the Board of Examiners in Counseling (BOEC). Nothing in this letter or the draft report provides any evidence that the BOEC voted to endorse this letter. Nor is there any proof that the BOEC engaged in a thorough analysis and deliberation on the MFT licensure issue or even voted to take a formal position.

Ms. Johnson raises concerns about administrative burden if a reconstituted board must handle two separate licenses and complaints against dually licensed individuals. Your agency's draft report expresses agreement with this "unnecessary administrative burden" without citing any research to verify that this is a realistic concern. By contrast, our inquiries to the Association of Marital and Family Therapy Regulatory Boards reveal that multi-profession boards which license MFTs routinely handle these issues without difficulty or burden, and in fact public protection may be enhanced. Kentucky has an independent board, but all of the other states bordering WV successfully operate under this structure.

In summary, while we appreciate PERD's effort to fulfill its role in the sunrise process, we believe this report as drafted is fundamentally flawed. Unless the report can be modified to acknowledge the profession of marriage and family therapy and to accurately

represent its unique role in this state and others, it will not be a reliable document for the Joint Committee. We hope PERD will consider our comments and revise the report to recommend licensure of MFTs in the State of West Virginia.

Thank you for your consideration.

Sincerely,



Heather Hagerman, Ph.D.

President, West Virginia Association for Marriage and Family Therapy

