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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED

SENATE BILL NO. 416

(By Senator Lucht)

PASSED April 9, 1993

In Effect 9 days from Passage

E N R O L L E D

Senate Bill No. 416

(BY SENATOR LUCHT)

[Passed April 9, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three, four, five and twelve, article thirty, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section eight-a, all relating to social workers; providing for the licensure of independent clinical social workers; defining clinical social work practice; adding an independent clinical social worker to the board of social work examiners; reducing the number of certified social workers on the board from two to one; changing compensation of the board; clarifying certain fee schedules of the board; requiring the board to establish standards and requirements for the practice of social work; requirements for issuance of a license for independent clinical social work; including independent clinical social workers in provisions related to privileged communication; and requiring reporting of certain actions and behavior of licensees.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five and twelve, article thirty, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section eight-a, all to read as follows:

ARTICLE 30. SOCIAL WORKERS.

§30-30-2. Definitions.

1 (a) "Board" means the state board of social work
2 examiners established by this article.

3 (b) "Social work" means the profession that provides
4 the formal knowledge base, theoretical concepts,
5 specific functional skills and essential social values
6 which are used to implement society's mandate to
7 provide safe, effective and constructive social services
8 through the professional activities of helping individ-
9 uals, groups or communities enhance or restore their
10 capacity for social functioning, and preventing or
11 controlling social problems and altering societal condi-
12 tions as a means towards enabling people to attain
13 their maximum potential.

14 (c) "Social worker" means a person who represents
15 himself or herself to the public by the title "social
16 worker," and under this title offers to render or
17 renders services involving the application of princi-
18 ples, methods and procedures of the profession of
19 social work to individuals, families, corporations or the
20 public for financial compensation: *Provided*, That
21 social workers as defined by this article, does not mean
22 any person who may voluntarily serve in an advisory
23 capacity in situations dealing with social and family
24 matters while not holding himself or herself out to the
25 public as a social worker.

26 (d) "Social work practice" means the professional
27 application of social work values, principles and
28 techniques to one or more of the following ends:
29 Enhancing the developmental, problem-solving and
30 coping capacities of people; promoting the effective
31 and humane operations of systems that provide
32 resources and services to people; linking people with
33 systems that provide them with resources, services
34 and opportunities; contributing to the development

35 and improvement of social policy; engaging in research
36 related to these ends and principles; and organizations
37 or agencies engaged in such practice. Such social work
38 interventions are provided to individuals, families,
39 small groups, organizations, neighborhoods and com-
40 munities. The practice of social work is guided by
41 knowledge of social resources, social systems, human
42 behavior and social, economic and cultural institutions
43 and the interaction of all such factors.

44 (e) "Clinical social work practice" means the profes-
45 sional application of social work theory and methods to
46 the diagnosis, treatment and prevention of psycholog-
47 ical dysfunction, disability, or impairment, including
48 emotional and mental disorders and developmental
49 disabilities. Clinical social work practice is based on
50 knowledge of one or more theories of biological,
51 psychological and social development, normal human
52 behavior, psychopathology, the causes and effects of
53 physical illness and disability, unconscious motivation,
54 interpersonal relationships, family dynamics, environ-
55 mental stress, social systems and cultural diversity
56 with particular attention to the person existing as a
57 combination of biological, psychological, and social
58 elements in his or her environment. Clinical social
59 work includes interventions directed to interpersonal
60 interactions, intrapsychic dynamics and life-support
61 and management issues. Clinical social work services
62 consist of assessment, diagnosis, treatment, including
63 psychotherapy and counseling, client-centered advoca-
64 cy, consultation and evaluation. The process of clinical
65 social work is undertaken within the objectives of the
66 social work profession and the principles and values of
67 its code of ethics.

§30-30-3. Board of social work examiners.

1 (a) For the purpose of carrying out the provisions of
2 this article, there is hereby created a West Virginia
3 board of social work examiners, consisting of seven
4 members who shall be appointed by the governor,
5 subject to the following requirements:

6 (1) No person may be excluded from serving on the

7 board by reason of race, sex or national origin;

8 (2) One member shall be an independent clinical
9 social worker, two members shall be certified social
10 workers, one member shall be a graduate social
11 worker and two members shall be social workers. All
12 such members must be licensed under the provisions
13 of this article in accordance with their respective
14 titles. In addition, there shall be one member of the
15 board chosen from the general public: *Provided*, That
16 those members who are appointed by the governor to
17 serve as the first board after the effective date of this
18 article shall be persons eligible for the licensing
19 required under this article: *Provided, however*, That
20 the member from the general public shall never be
21 required to be eligible for licensing;

22 (3) The members of the first board to serve after the
23 effective date of this article shall be appointed within
24 ninety days thereof;

25 (4) The term of office for each member of the board
26 shall be three years: *Provided*, That one of the
27 members of the first board to serve after the effective
28 date of this article shall serve a term of two years,
29 three of them shall serve a term of three years and
30 the remaining three shall serve a term of four years;
31 and

32 (5) The governor shall, whenever there is a vacancy
33 on the board due to circumstances other than the
34 expiration of the term of a member, appoint another
35 member with the same qualifications as the member
36 who has vacated to serve the duration of the unex-
37 pired term.

38 For the purpose of accepting nominations for the
39 replacement of a member, the governor shall cause a
40 notice of the vacancy to be published at least thirty
41 days prior to an announcement of the replacement
42 member, as a Class I-0 legal advertisement, in accor-
43 dance with the provisions of section two, article three,
44 chapter fifty-nine of this code. The publication area
45 shall be statewide.

46 If the governor fails to make appointment in ninety
47 days after expiration of any term, the board shall
48 make the necessary appointment. Each member shall
49 hold office until the expiration of the term for which
50 such member is appointed and until a successor shall
51 have been duly appointed and qualified.

52 (b) Any members of the board may be removed
53 from office for cause, in accordance with procedures
54 set forth in this code for the removal of public officials
55 from office.

56 (c) The board shall pay each member the same
57 compensation as is paid to members of the Legislature
58 for their interim duties as recommended by the
59 citizens legislative compensation commission and
60 authorized by law for each day or portion thereof
61 engaged in the discharge of official duties and shall
62 reimburse each member for actual and necessary
63 expenses incurred in the discharge of official duties:
64 *Provided*, That such compensation and such expenses
65 shall not exceed the amount received by the board
66 from licensing fees and penalties imposed under
67 subdivision (4), subsection (e) of this section.

68 (d) The board shall hold an annual election for the
69 purpose of electing a chairman, vice chairman and
70 secretary. The requirements for meetings and man-
71 agement of the board shall be established in regula-
72 tions promulgated by the board as required by this
73 article.

74 (e) In addition to the duties set forth in other
75 provisions of this article, the board shall:

76 (1) Recommend to the Legislature any proposed
77 modifications to this article;

78 (2) Report to county prosecutors any suspected
79 violations of this article: *Provided*, That no report shall
80 be made until the board has given the suspected
81 violator ninety days written notice of the suspected
82 violation and the violator has, within such ninety-day
83 period, been afforded an opportunity to respond to the
84 board with respect to the allegation;

85 (3) Publish an annual report and a roster listing the
86 names and addresses of all persons who have been
87 licensed in accordance with the provisions of this
88 article as an independent clinical social worker,
89 certified social worker, graduate social worker or
90 social worker;

91 (4) Establish a fee schedule for the initial examina-
92 tion, license fee, the annual license renewal, license
93 replacement, reciprocal license, license classification
94 change, continuing education provider approval and
95 monitoring, mailing lists and requests for information
96 and reports; fees for requests for information and
97 reports shall not be greater than the cost of personnel,
98 time and supplies incurred by the board and shall not
99 be applied to the annual report;

100 (5) Establish standards and requirements for con-
101 tinuing education. In establishing these requirements
102 the board shall consult with professional groups and
103 organizations representing all levels of practice provid-
104 ed for in this article and the board shall consider
105 recognized staff development programs, continuing
106 education programs offered by colleges and universi-
107 ties having social work programs approved or accredit-
108 ed by the council on social work education, and
109 continuing education programs offered by recognized
110 state and national social work bodies: *Provided*, That
111 such standards and requirements for continuing
112 education shall not be construed to alter or affect in
113 any way the standards and requirements for licensing
114 as set forth elsewhere in this article;

115 (6) Establish standards and requirements for the
116 practice of social work and the differentiation of
117 qualifications, education, training, experience, supervi-
118 sion, responsibilities, rights, duties, and privileges at
119 the independent clinical social worker, certified social
120 worker, graduate social worker, and social worker
121 license levels. In establishing these standards and
122 requirements the board shall consult with professional
123 groups and organizations representing all levels of
124 practice provided for in this article. Standards and
125 requirements may include, but are not limited to,

126 practice standards, practice parameters, quality indica-
127 tors, minimal standards of acceptance, advanced
128 training and certification, and continuing education:
129 *Provided*, That such standards and requirements for
130 practice may not be construed to alter or affect in any
131 way the standards and requirements for licensing as
132 set forth elsewhere in this article;

133 (7) Conduct its proceedings in accordance with
134 provisions of article nine-a, chapter six of this code;
135 and

136 (8) Employ, direct and define the duties of an
137 administrative clerical support staff person.

138 After having conducted a performance and fiscal
139 audit through its joint committee on government
140 operations, pursuant to section nine, article ten,
141 chapter four of this code, the Legislature hereby finds
142 and declares that the board of social work examiners
143 be continued and reestablished. Accordingly, notwith-
144 standing the provisions of section four of said article,
145 the social work board of examiners shall continue to
146 exist until the first day of July, one thousand nine
147 hundred ninety-five.

§30-30-4. License required; penalties; exceptions.

1 (a) After twenty-four months have passed from the
2 effective date of this article, no person may represent
3 that he or she is a social worker by using such titles
4 as independent clinical social worker, certified social
5 worker, graduate social worker, social worker or any
6 other title that includes a facsimile of such words
7 unless he or she is duly licensed under the provisions
8 of this article or specifically exempted hereunder; nor
9 may any person represent himself or herself to be a
10 certified social worker, graduate social worker or other
11 type of social worker by adding the letters ICSW,
12 CSW, GSW, SW or any other letters, words or insignia
13 which induce or tend to induce the belief that the
14 person is qualified to engage in the practice of social
15 work unless the person is licensed in accordance with
16 the provisions of this article.

17 (b) After twenty-four months have passed from the
18 effective date of this article, no person may engage in
19 the private, independent practice of social work unless
20 he or she is already licensed under this article.

21 (c) Any person violating the provisions of subsection
22 (a) or (b) of this section is guilty of a misdemeanor,
23 and, upon conviction thereof, shall be fined not more
24 than five hundred dollars, or imprisoned in the county
25 jail for a term not to exceed one year, or both fined
26 and imprisoned.

27 (d) Nothing in this article shall be construed to
28 prevent duly licensed physicians, surgeons, psycholo-
29 gists, attorneys, members of the clergy or any other
30 professional from working within the standards and
31 ethics of their respective professions and fulfilling
32 their professional responsibilities: *Provided*, That no
33 such professional may represent to the public, either
34 by title or training, that he or she is engaged in the
35 practice of social work: *Provided, however*, That any
36 student enrolled in a recognized program of study
37 leading to a social work degree may practice only
38 under the supervision of a social worker duly licensed
39 in accordance with the provisions of this article.
40 Nothing in this article shall be construed to prevent
41 any person from volunteering his or her services in a
42 manner as defined in subsection (c), section two of this
43 article.

§30-30-5. License classification; qualification.

1 The board shall issue a license as an independent
2 clinical social worker, certified social worker, graduate
3 social worker or social worker.

4 (a) The board shall issue a license as an independent
5 clinical social worker to an applicant who:

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

10 (2) Has completed a supervised clinical field place-
11 ment at the graduate level, or post-master's clinical

12 training that is found by the board to be equivalent;

13 (3) Has practiced clinical social work for at least two
14 years in full-time employment, or three thousand
15 hours under the supervision of an independent clinical
16 social worker, or clinical supervision that is found by
17 the board to be equivalent; and

18 (4) Has passed an examination approved by the
19 board for certification purposes; or

20 (5) Has received certification as a "diplomat in
21 clinical social work" by the national association of
22 social workers, or as a "board certified diplomat in
23 clinical social work" by the American board of exam-
24 iners in clinical social work; and

25 (6) Has satisfied the board that he or she merits the
26 public trust by providing the board with three letters
27 of recommendation from persons not related to the
28 applicant and a sworn statement from the applicant
29 indicating he or she has never been convicted of a
30 felony involving moral turpitude.

31 (b) The board shall issue a license as a certified
32 social worker to an applicant who:

33 (1) Has a doctorate or master's degree from a school
34 of social work accredited by the council on social work
35 education;

36 (2) Has completed a minimum of two years experi-
37 ence in the practice of social work after having
38 received a master's degree in social work;

39 (3) Has received certification by the academy of
40 certified social workers or has passed an examination
41 approved by the board for certification purposes;

42 (4) Has satisfied the board that he or she merits the
43 public trust by providing the board with three letters
44 of recommendation from persons not related to the
45 applicant and a sworn statement from the applicant
46 indicating he or she has never been convicted of a
47 felony involving moral turpitude; and

48 (5) In lieu of the foregoing requirements, any person

49 who has been continuously employed for seven years
50 as a social worker under the supervision of any
51 certified social worker; has satisfactorily completed
52 fifty-six hours of graduate social work study as accredited
53 by the council on social work education; has
54 passed an examination approved by the board for
55 certification purposes; and has satisfied the board that
56 he or she merits the public trust by providing the
57 board with three letters of recommendation from
58 persons not related to the applicant and a sworn
59 statement from the applicant indicating that he or she
60 has never been convicted of a felony involving moral
61 turpitude, may be licensed by the board as a certified
62 social worker: *Provided*, That the board may exempt
63 any applicant for licensing from specific hours of social
64 work curriculum where the applicant has demonstrated
65 to the satisfaction of the board a proficient knowledge
66 of the subject matter contained in the particular
67 course of social work curriculum to be exempted.

68 (c) The board shall issue a license as a graduate
69 social worker to an applicant who: —

70 (1) Has a master's degree in social work from a
71 school of social work accredited by the council on
72 social work education;

73 (2) Has passed an examination approved by the
74 board;

75 (3) Has satisfied the board that he or she merits the
76 public trust by providing the board with three letters
77 of recommendation from persons not related to the
78 applicant and a sworn statement from the applicant
79 indicating he or she has never been convicted of a
80 felony involving moral turpitude; and

81 (4) In lieu of the foregoing requirements, any person
82 who has been continuously employed for five years as
83 an apprentice social worker under the supervision of
84 any certified social worker; has satisfactorily completed
85 forty-five graduate hours of social work study as
86 accredited by the council on social work education; has
87 passed an examination approved by the board; and has
88 satisfied the board that he or she merits the public

89 trust by providing the board with three letters of
90 recommendation from persons not related to the
91 applicant and a sworn statement from the applicant
92 indicating he or she has never been convicted of a
93 felony involving moral turpitude, may be licensed by
94 the board as a graduate social worker: *Provided*, That
95 the board may exempt any applicant for licensing
96 from specific hours of social work curriculum where
97 the applicant has demonstrated to the satisfaction of
98 the board a proficient knowledge of the subject matter
99 contained in the particular course of social work
100 curriculum to be exempted.

101 (d) The board shall issue a license as a social worker
102 to an applicant who:

103 (1) Has a baccalaureate degree in social work from
104 a program accredited by the council on social work
105 education;

106 (2) Has passed an examination approved by the
107 board;

108 (3) Has satisfied the board that he or she merits the
109 public trust by providing the board with three letters
110 of recommendation by persons not related to the
111 applicant and a sworn statement from the applicant
112 indicating he or she has never been convicted of a
113 felony involving moral turpitude; and

114 (4) In lieu of the foregoing requirements, any person
115 who has been continuously employed for four years as
116 a social worker under the supervision of any certified
117 social worker; has satisfactorily completed thirty-six
118 hours of social work study as accredited by the council
119 on social work education; has passed an examination
120 approved by the board; and has satisfied the board that
121 he or she merits the public trust by providing the
122 board with three letters of recommendation from
123 persons not related to the applicant and a sworn
124 statement from the applicant indicating he or she has
125 never been convicted of a felony involving moral
126 turpitude, may be licensed by the board as a social
127 worker: *Provided*, That the board may exempt any
128 applicant for licensing from specific hours of social

129 work curriculum where the applicant has demonstra-
130 ted to the satisfaction of the board a proficient knowl-
131 edge of the subject matter contained in the particular
132 course of social work curriculum to be exempted.

§30-30-8a. Reporting unethical conduct and unlicensed practice.

1 A person who has knowledge of any conduct consti-
2 tuting grounds for disciplinary action relating to
3 licensure or the unlicensed practice of the profession
4 of social work under this article may report the
5 violation to the board.

6 Institutions, professional societies, licensed profes-
7 sionals, insurers authorized to sell insurance within
8 this state, and courts in this state shall report to the
9 board any of the following actions taken by the
10 agency, institution, organization, professional society,
11 insurer, court administrator, judge or other court of
12 competent jurisdiction:

13 (a) Revocation, suspension, restriction or other
14 condition a licensee's privilege to practice or treat
15 patients or clients, or as part of the organization, or
16 any other disciplinary action for conduct that might
17 constitute grounds for disciplinary action;

18 (b) Termination, revocation, or suspension of mem-
19 bership or any other disciplinary action taken against
20 a licensee;

21 (c) Conduct that the licensed health professional
22 reasonably believes constitutes grounds for disciplin-
23 ary action under this chapter by any licensee, includ-
24 ing conduct that the licensee may be medically incom-
25 petent, or may be medically or physically unable to
26 engage safely in the provision of services;

27 (d) Malpractice settlements or awards made by an
28 insurer to a plaintiff where the settlement or award
29 involved a licensee or unlicensed practitioner claiming
30 to be a social worker; and

31 (e) Judgments or other determinations of the court
32 that adjudges or includes a finding that a licensee is

33 mentally ill, mentally incompetent, guilty of a felony,
34 guilty of a violation of federal or state narcotics laws
35 or controlled substances acts, or guilty of an abuse or
36 fraud under Medicare or Medicaid, or that appoints a
37 guardian of the licensee, or commits a licensee to
38 involuntary treatment, probation or prison.

39 Any person, official, society, licensed professional,
40 insurer or institution participating in good faith in any
41 act permitted or required by this section is immune
42 from any civil or criminal liability that otherwise
43 might result by reason of the action or actions.

§30-30-12. Privileged communications.

1 (a) No person licensed under this statute or an
2 employee of the licensee may disclose any confidential
3 information he or she may have acquired from per-
4 sons consulting him or her in his or her professional
5 capacity except:

6 (1) With the written consent of the person or
7 persons, or in the case of death or disability, of his or
8 her personal representative, other person authorized
9 to sue or the beneficiary of an insurance policy on his
10 or her life, health or physical condition;

11 (2) When a communication reveals the contempla-
12 tion of a crime or harmful act;

13 (3) When the person waives the privilege by initiat-
14 ing formal charges against the independent clinical
15 social worker, certified social worker, graduate social
16 worker or social worker;

17 (4) When the person is a minor under the laws of
18 this state and the information acquired by the inde-
19 pendent clinical social worker, certified social worker,
20 graduate social worker or social worker indicates that
21 the minor has been the victim or subject of a crime,
22 and the independent clinical social worker, certified
23 social worker, graduate social worker or social worker
24 may be required to testify fully in any examination,
25 trial or other proceeding in which the commission of
26 a crime is the subject of inquiry; or

27 (5) Where otherwise required by law.

28 (b) Nothing in this section shall be construed,
29 however, to prohibit any board licensee from testify-
30 ing in juvenile proceedings concerning matters of
31 adoption, child abuse, child neglect or other matters
32 pertaining to the welfare of children.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

David E. Adams
.....
Clerk of the Senate

Donald W. Nease
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is approved* this the *12th*
May
day of 1993.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/23/93

Time 9:10 AM