

# WEST VIRGINIA LEGISLATURE

## *Performance Evaluation and Research Division*

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John Sylvia  
Director

January 8, 2021

The Honorable Mark R. Maynard  
Room 217W, Bldg. 1  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

The Honorable Brandon Steele  
Room 213E, Bldg. 1  
1900 Kanawha Blvd. E.,  
Charleston, WV 25305

Dear Chairmen:

This letter-report is in response to Senate Bill 559, passed on March 9, 2015, which requests a performance audit of the provisional license to practice as a social worker and the application process by which a provisional licensee may become a licensed social worker. Provisional licenses are issued to those with related degrees and those with unrelated degrees who work for the Department of Health and Human Resources. The licensees have gone through a variety of educational requirements over the years and in order to adequately address the request, a review of those changes is required.

### **The Board of Social Work Examiners and the Department of Health and Human Resources Have Worked Together Since 1986.**

In July 1984, the West Virginia Legislature created Chapter 30, Section 30, establishing licensure laws for those individuals practicing social work in the state of West Virginia. By July 1986, according to the Board, due to a fear of a shortage of qualified workers, the West Virginia Department of Health and Human Resources (DHHR) lobbied the Legislature to allow for temporary licensure of individuals with related degrees as part of the initial law. Temporary licenses were granted to those individuals with related degrees, which were defined by legislative rule as psychology, sociology, counseling, rehabilitation, correctional counseling, public policy, public administration, and human resources. Those who fell into this category had four years to

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*Joint Committee on Government and Finance*

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fulfill continuing education and supervision hours prior to taking the board-required exam for full licensure.

According to a 2009 Call-to-Action report by the Charleston Chapter of the National Association of Social Workers, *“The original intent of temporary licensure was for the temporary licensed social workers to attain the continuing education, supervision and necessary experience within a period of four years. While the intent was good the outcome did not match. Many individuals who received the temporary license never attained the fully licensed stature. Many temporary licensed individuals failed to meet the necessary continuing education and supervision hours. Some individuals would wait until late in their four-year period to take the exam and fail.”*

The Call-to-Action report indicated that due to the problems with the temporary license, in 1998 the West Virginia State Legislature convened a working group consisting of DHHR, social work employers, the National Association of Social Workers, the Board of Social Work Examiners, and the social work schools to create a revised rule concerning temporary license. This change in rule that was enacted on July 1, 2000 set off a number of instances over the years in which bills were passed that altered educational requirements, continuing education requirements or both for temporary licensees.

## **Legislation Over the Years Has Altered the Education Requirements for the DHHR Social Worker**

The state code and legislative rule pertaining to the qualifications for a social work license have been altered over the years. As previously noted, the Board allowed for a temporary license to be issued for those individuals with related degrees up until 1998. However, a rule change altered the ability for an individual with a related degree after July 1, 2000 to be issued a temporary license. After that date, an applicant was required to have either a Bachelor's or Master's degree in social work to be eligible for a board-issued social work license. **However, this change in rule was the first to designate that the DHHR was an exception and was able to hire individuals as temporary licensees without a social work degree or a related degree, which was different from the original legislative rule effective 1986, which required a related degree for those in DHHR.**

The licensure change in 1998 was made with good intentions but as before fell short of its original goal. According to the 2009 call to action report, *“While the change was ensuring that only individuals with formal social work educations are receiving full licensure the number of candidates has fallen drastically.”* However, during the same time the DHHR was hiring individuals with a range of degrees which included education degrees to communication degrees, as well as utilizing contracted workers who had to be licensed with a degree in social work. The dilemma, according to the Board at that time, was the private childcare welfare agencies that had youth service workers housed within DHHR, under contract, who were required to have a degree in social work. As these individuals left the rural areas, those private agencies were *“...unable to fill vacant positions, particularly in rural counties and at the same time subject to being out of compliance with contract obligations from DHHR.”*

The issue of DHHR losing the contracted youth service workers in rural areas and the fact the Board was having a loss of applicants brought about another change in 2011. According to the Board, *"The Board opted to revisit all of provisional licensure(formally called temporary licensure at that time) and initiated a study work group called the Dialogue Group to study the issue and make recommendations."* The resulting recommendations from the dialogue group created one provisional licensure process *"...for both the private sector and DHHR, added an academic credentialing component to provisional licensure, eliminating some of the degrees for provisional licensure with agreement of DHHR, and ensuring that the coursework be available online."*

The resulting change in code in 2011 and legislative rule in 2013 allowed for an individual to be placed in a provisional status with a related degree, with 4 years to complete 40 hours of continuing education and 12 hours of core social work study from an approved program accredited by the council on social work education to be able to sit for the national exam. **This rule change affected DHHR by requiring new hires to at least have a degree in a related field, instead of an unrelated field, and the new hires were to complete the appropriate education requirement within four years to be able to sit for the national exam.** However, according to the Board, DHHR soon began to create the conversation *"...that the social work licensure was a barrier to hiring."* The conversations eventually led to another change in state code and thus legislative rule, which was hoped to address the shortage of DHHR hires especially in rural areas.

### **Senate Bill 559 Passed in 2015 Allowed for a DHHR Social Worker to Be Eligible to Sit for a National Exam After Four Years.**

During the 2015 regular session, according to the Board, legislation was presented by DHHR to exempt its employees from social work licensure on the argument that social work licensure was a barrier to the hiring process, as the pool of applicants in related degrees was insufficient to meet the hiring needs for critical positions with DHHR. Senate Bill 559, passed March 9, 2015, kept the pathway to licensure the same for a provisional licensee within the Board with a related degree, it continued language regarding an applicant with a related degree to be hired as a DHHR restricted-provisional licensee. However, new language was added allowing an applicant with any baccalaureate degree to be hired within DHHR as a restricted-provisional licensee with a non-related degree, and it added language that those within DHHR with either a related and unrelated degree *"may become a licensed social worker by completing the following..."* be continuously employed for four years as a social worker and supervised, completed the required continuing education, and complete the four-year training program designed by DHHR.

While the language of the bill was such, the Board reported they, *"...envisioned that those with a related degree/Provisional license would continue that path to licensure. However, shortly after the bill was passed, the Department sent a memo to its staff advising them that they were no longer requiring coursework for a Provisional License. This memo resulted in substantial confusion as the Board had not yet had the opportunity to file emergency rules as required in the Legislation. Moreover, the training program was not yet developed beyond the first year."*

This was the first time in 29 years, that legislation had been passed that allowed for an individual restricted to work within DHHR, without a related degree, to be eligible to sit for the national exam if training requirements and 40 continuing education hours within four years were met. However, the structure of the language is a “*may*” provision, ultimately leaving discretion to the Board as to whether to allow the DHHR restricted-provisional related degree and DHHR restricted-provisional non-related degree licensee to be allowed to sit for the exam.

West Virginia is not unique in granting licensure to those with degrees in other fields as 10 other states (Kentucky, Louisiana, Maine, Massachusetts, New Jersey, Utah, Wisconsin, Michigan, Ohio, and South Dakota) have an alternative pathway for applicants to obtain licensure without a social work degree. To be eligible to take a national exam, the 10 states require either a Bachelor of Arts, Bachelor of Science, Associates degree or in the case of Massachusetts, a high school diploma after the required number of supervised hours have been met.

The bill not only allowed for a pathway to licensure for the DHHR restricted-provisional related degree licensee and DHHR restricted-provisional non-related degree licensee, but the educational requirement of 12 core hours of social work education from an accredited program for the board-issued provisional licensee with a related degree, was replaced with a training program to be designed by DHHR. While allowing DHHR to hire those with an unrelated degree increased its numbers of employees, the pathway to social work licensure for the DHHR restricted provisional licensee caused concern among the Board. According to the Board, *“The Board and the Bureau for Children and Families have worked together for the past 3 years to resolve the issue of how the restricted license would convert after 4 years. The Board has always been reluctant to issue a full license to individuals who did not take the academic course work within the context that the Bureau’s training plan was not complete; additionally, training vs academic coursework are not synonymous concepts. As SB 559 was seen as a means to stabilize the DHHR workforce, it was unclear why the conversion process would readily provide an exit card for staff.”*

The training program designed by DHHR was a year in the making and did not get started until July 1, 2016. Therefore, the Board sent a May 30, 2019 memo out to those who began between June 1, 2015 to June 30, 2016 to report that they would be granted an extension until June 30, 2020. As stated in the memo, *“During the next year, you should continue to meet with your licensing supervisor. You should also complete your training program within the Department.”* According to DHHR, there were 48 individuals who had the opportunity to complete the program by June 30, 2020. Of the 48 individuals, 18 completed 100 percent of the training plan, 11 of those have an unrelated degree, 2 have a social work degree and 5 have a related degree. This is of importance, as another bill was recently passed that affects both the DHHR restricted-provisional related degree licensee and the DHHR restricted-provisional non-related degree licensees and their attempt to become a licensed social worker.

### **Senate Bill 312 Passed in 2020 Has Eliminated the Restricted Provisional DHHR Social Worker.**

Senate Bill 312, which passed March 5, 2020, eliminated the DHHR restricted-provisional unrelated degree social worker on the effective date of the bill which is June 3, 2020. It allows

those with unrelated degrees who opted to take the department-provided courses until June 30, 2022 “...to convert his or her license to a social work license or provisional license under this section. If the individual cannot or desires not to complete this process, he or she shall be eligible for registration as provided in 30-30-30 of this code.” Registration or the registry will be kept by the Board, and the individual will be registered as a service worker for the Bureau for Children and Families of DHHR.

Therefore, for an individual with an unrelated degree, who has went through the training program provided by DHHR, if they choose to convert to a board-issued social work license or provisional license, they are required to obtain a social work degree or a related degree by June 30, 2022 to do so, otherwise they will be eligible for registration on the effective date of the bill. It should be noted that beginning July 2021, only those with a degree in social work are eligible to take the national exam. Those employed by DHHR as restricted-provisional licensees with a related degree that utilized the training program can either obtain a social work degree or complete **12 credit hours of core social work study to be considered a board-issued provisional licensee by June 30, 2022.**

The Board attempted to summarize the bill by stating, “Individuals who currently have a related degree and a restricted license will have two years to take the coursework and sit for the exam, and those without a related degree have two years to qualify for a Provisional license by getting a related degree. The Bureau was insistent on the latter. Individuals can seek placement on the registry immediately as well. Individuals who are hired after July 1 have the option of seeking a Provisional License if he/she has a related degree or can request placement on the registry. Individuals who do not have a degree related to social work will be placed on the registry; however, should the individual seek and obtain an MSW, he/she will convert to a regular license upon successful passage of the exam.”

It is the Legislative Auditor’s opinion that given that both those individuals with related and unrelated degrees began a process that could have eventually, if the individual chose to, lead to becoming eligible to sit for the national exam, and being sent a memo a year earlier informing them the Board was granting them a year extension and to continue until June 30, 2020, only to nullify it on June 3, 2020 seems unfair. As stated by the Board, “The intent was not to have those folks with unrelated degrees sit for the exam unless they obtain the requirements of a related degree.” However, the Board has reported that it “...may request a waiver allowing individuals to sit for the Associates exam (the Bachelor’s exam with a lower threshold) but does not believe that given the wide variation of degrees hired by DHHR (from those considered related to social work), it will be able to legitimately structure a waiver to include everyone.”

PERD also requested a legal opinion to clarify the intent of Senate Bill 312. When asked to report on if those within DHHR who have completed the training program should be eligible to sit for the national exam, the opinion stated, “I do not interpret SB 312 as eliminating all provisional licenses altogether – I believe that those individuals who have completed the DHHR training by June 30, 2020 are still eligible to sit for the national exam.” The opinion also goes on to report, “To be more specific, 30-30-16(a) addresses eligibility for provisional licenses (i.e., submitting an application, etc.), and SB 312 amends that subsection to eliminate the DHHR

*unrelated degree proviso. That repealed proviso describes individuals “seeking employment” – thus, I interpret this as precluding individuals from seeking the provisional unrelated degree license after the effective date of the bill. It should not affect those who have already obtained the provisional license and have completed or were on track to complete the DHHR training by June 30, 2020.”*

As previously mentioned a variety of states allow an alternative pathway to licensure. For example, when the Association of Social Work Boards (ASWB) was asked to verify if Massachusetts allows individuals with high school diplomas to sit for the Bachelor’s exam after the required number of supervised hours, the ASWB replied, *“Yes they do. But after 2021 this will not be permitted per ASWB Exam Policy. MA is expected to be changing their licensing framework.”* When asked if the other states previously mentioned allow for applicants to have degrees other than social work, and those degrees be in any BA or BS program to sit for the national exam, the ASWB replied, *“Yes, but again, after 2021 this will no longer be permitted per ASWB Exam Policy and we are actively engaged with affected members to change their policies.”*

Obviously, states vary in the requirements for individuals to sit for the national exam, and while the language of the senate bill and code contains a may provision, **it is the Legislative Auditor’s opinion that the legislative intent was to allow those provisional licensees who completed all the requirements to be eligible to sit for the exam. Therefore it is the Legislative Auditor’s opinion that those individuals who have completed the four-year training program designed by DHHR should be eligible to take the national exam within their college education level either by the effective date of the bill or by June 30, 2020.**

I hope this addresses your inquiry into the Board of Social Work and a review of the application process for a provisional licensee to practice as a social worker and the application process by which a provisional licensee may become a licensed social worker. If we can be of further assistance, please let us know.

Sincerely,

*John Sylvia*

John Sylvia

# WEST VIRGINIA BOARD OF SOCIAL WORK

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January 5, 2021

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Executive Director

**Kate Carter, LSW**  
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Dear Mr. Sylvia:

Thank you for the opportunity to respond to the letter report on the Provisional License Process.

With respect to the recommendation that individuals with a restricted license be allowed to sit for the exam, while we do not fully agree, we will nonetheless comply with your recommendation. It is our understanding that this recommendation applies to those 18 individuals who completed the Department's training by June 30, 2020.

Having said that, the Board does not agree with any portrayal of "unfairness" or the expectation those individuals had about testing and license conversions upon completion of the training

Beginning with filing of emergency rules, the Bureau for Children and Families encouraged the rules be written to not require testing of those with a restricted license. This documentation is on the Secretary of State's website for emergency rules filed May 26, 2015 in 25CSR1:

*3 .3 .3. a Restricted provisional licensee may renew their license certificate without making application to convert their license and must continue to maintain all requirements for restricted licensure including quarterly supervision with a qualified supervisor. Renewal periods are for a two-year period.*

The Legislative Rule Making Committee appropriately requested that the Board modify the above cited rule on the grounds it was not consistent with Code. Ironically, it is primarily for that reason the Board voted on December 17, 2020 to comply with the Auditor's recommendation to concede on that issue.

At the beginning of this process, the Board of Social Work was hopeful that a timelier solution legislatively would have been reached. The Board has consistently been clear that the Department's training program and academic coursework in social work were not the same, and therefore had misgivings about allowing individuals without the academic coursework to seek an LSW and work elsewhere, which is what successful testing permits. Moreover, the Board saw this as steps backward rather than forward, as the report so aptly conveyed in the history of provisional licensure.

Email: [Admin@wvsocialworkboard.org](mailto:Admin@wvsocialworkboard.org)

The reasons for including academic coursework in 2011 -the core or foundation classes of social work as a requirement for provisional licensure were three-fold. The Board envisioned that this would enhance individuals' commitment and identity to the social work profession, thereby increasing retention while better preparing provisional licensees to sit for the Bachelor's social work exam.

While we sought a solution that would permit license conversion within the Department for restricted licensure, there were missteps along the way. Beginning with resultant problems associated with the memo from the DHHR in June 2016 (advising employees that they were no longer requiring coursework for Provisional Licensees), the Board has tried to navigate conflicting messaging, changes in leadership and partners within Bureau in finding an acceptable solution while trying to maintain a minimum standard of competence for provisional licensure for both the private and public sectors.

On two separate occasions, February 22, 2016 and on April 12, 2017, the Board advised those with provisional licensees within the Bureau for Children and Families that they had the opportunity to apply for a restricted license. Both emails clearly stated 'This license allows you to substitute the Department's 4-year training in lieu of the required coursework; however, *it is not portable outside the agency.*' This memo was sent following discussions with management within the Bureau, and I only add this to address any misconception that testing and license portability outside the Bureau were an expectation of restricted license.

However, as a result of those memorandums, a number of individuals within the Department opted to continue their provisional license, take the required coursework and test at the end of 4 years. They had an expectation as well, so one may also conclude it is somewhat "unfair" that the Board reverse course and allow others to convert a license who did not take the required coursework.

I want to convey my appreciation to Mr. Brandon Burton and the flexibility and patience he extended during this audit. This audit began at the beginning of the pandemic under less-than-ideal circumstances, and his professionalism, thoroughness and desire to fully understand a complex history and issue is very much appreciated

As there was information shared with Mr. Burton that the Board is not privy to, specifically the 18 individuals who completed all of the Department's four-year training, the Board respectfully requests that information be shared immediately so that we may contact the affected individuals. As noted in the report, there is only a limited time these individuals may test and as test availability is longer due to COVID-19, we will need to contact these individuals immediately.

Again, thank you for the opportunity to respond and if you or the Joint Committee on Government Organization have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Vickie James', is written over a light blue circular stamp.

Vickie James  
Executive Director