



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Social Work Examiners TITLE-SERIES: 25-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: Qualifications for the Profession of Social Work

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

30-30-6

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

30-1-26

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

HB 2024 requires that certain Chapter 30 Boards prepare an emergency rule for the regulation of telehealth and a registration process for the provision of interstate telehealth services.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

0

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

0

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

0

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
<b>Personal Services</b>	0	0	0
<b>Current Expenses</b>	0	0	0
<b>Repairs and Alterations</b>	0	0	
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There should be no impact on expenses and may reduce the revenue of the Board as currently out of state practitioners are fully licensed and pay the cost of licensure fees. The Board anticipates reducing the cost of registration by 25-30%

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Vickie L James--By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 25  
LEGISLATIVE RULE  
BOARD OF SOCIAL WORK

SERIES 1  
QUALIFICATIONS FOR THE PROFESSION OF SOCIAL WORK

**§25-1-1. General.**

1.1. Scope. -- This rule specifies the qualifications, and responsibilities for licensing as a social worker and alternative license candidates.

1.2. Authority. -- W. Va. Code §30-30-6.

1.3. Filing Date. -- ~~May 12, 2020~~

1.4. Effective Date. -- ~~July 1, 2020~~.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon July 1, 2030.

**§25-1-2. Definitions.**

2.1. "Board" means the West Virginia Board of Social Work.

2.2. "Clinical supervisor" means a licensed independent and skilled clinical social worker who assists a less advanced practitioner to form a clinical social work identity, and to develop the knowledge, and skills necessary to practice effectively.

2.3. "Clinical social work supervision" is a process which facilitates critical reflection of actions, processes, persona and the context of direct practice social work. It is a collaborative, interactional and structured process in which a supervisor assists and directs the practice and development of the supervisees who engage in the practice of helping people overcome disruptions in functioning through individual, group or family psychotherapeutic interventions.

2.4. "Emeritus status" means a social work license held by an individual formally recognized by the Board to have over twenty (20) years of social work practice and who is retired from the active practice of the profession of social work.

2.5. "Examination" means an examination approved by the Board for certification purposes, developed and administrated by the Association of Social Work Boards.

2.6. "Inactive status" means a social work license that is formally recognized after the receipt and approval of an application to be inactive. During this time the licensee is barred from the practice of social work during which he or she is exempt from continuing education provisions.

2.7. "Interstate Telehealth Services" means the provision of telehealth services to a patient located in WV by a licensed social worker in any other state or commonwealth of the United States.

2.8. "Registration" means an authorization to practice social work under WV Code §30-30-8 et seq for the limited purpose of providing interstate social work services via telehealth.

2.9 "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include internet questionnaires, e-mail messages, or facsimile transmissions.

2.7-10. "Temporary social work permit" means a six-month certificate granted by the Board to an applicant qualified by education with an earned bachelor or master's degree in social work accredited by the Council on Social Work Education and who has not yet demonstrated passage of an examination required by the Board.

2.8-11. "Provisional license" means a restricted license certificate granted to an applicant qualified through alternative education or training provisions of W.Va. Code §30-30-16 (c) and specified within this Rule. A provisional social worker is not a licensed social worker and may not use any initials suggesting he or she is an LSW, LGSW, LCSW, or LICSW.

2.9-12. "Provisional licensing "Supervisor" means a qualified licensed social worker, certified social worker, or independent clinical social worker who has agreed to provide supervision to a provisional licensee to assist in the integration of social work skills, values, knowledge, and ethical considerations gained through continuing social work education programs and through the social work practice experience and who will evaluate progress towards satisfaction of coursework and other provisions during the four-year period of continuous employment.

**§25-1-3. Qualifications for License.**

3.1. An applicant qualified under the provisions of W.Va. Code §30-30-1 et. seq. may receive a social work license from the Board as a social worker, graduate social worker, certified social worker, or independent clinical social worker, or apply for an inactive or emeritus status license. A provisional licensee is not eligible for a temporary social work permit, inactive or emeritus status license.

3.1.1. A licensed social worker may apply to place their license on inactive status by making a formal application to the Board. Upon receiving the approval of the Board, the inactive licensee shall not perform the duties of a social worker and is exempt in earning continuing education during this period.

3.1.1.a. A licensee may remove a license from inactive status and return to active practice by formally requesting and receiving the approval of the Board. The applicant shall provide a sworn statement indicating that he or she has never been convicted of a felony, has not engaged in behavior which constitutes professional misconduct, and intends to meet all requirements to maintain the license following activation

3.1.2. A licensed social worker may receive an emeritus status license by making a formal application to the Board and providing documentation twenty (20) years of social work practice experience and retirement from the active practice of social work. An emeritus licensee is not required to comply with the continuing social work education requirements. Upon receipt of the Board's approval in writing, an emeritus status licensee may engage in the active practice of the profession of social work, including supervision, for up to twenty (20) hours per week.

3.2. An applicant may receive a temporary social work permit by making a formal application and receiving the approval of the Board. An eligible applicant for a temporary permit may include:

3.2.1. A candidate who has earned either an undergraduate or graduate social work degree from a college or university accredited by the Council on Social Work Education that has not yet passed an examination approved by the Board;

3.2.2. A candidate enrolled in their final semester of either an undergraduate or graduate social work program from a college or university accredited by the Council on Social Work Education provided that the social work program director provides a written statement to the Board that the applicant is expected to matriculate.

3.2.2.a. Once an applicant has received a Temporary Permit from the Board, the applicant may register for and take the examination at any point during that six-month permit period.

3.2.2.b The degree candidate may not receive a social work license until an official college transcript is provided to the Board indicating that the undergraduate or graduate social work degree is conferred, and all other requirements for licensure are met.

3.3. An applicant may learn if he or she is eligible for a provisional license by completing an application provided by the Board. To meet the educational requirement for a provisional license, an applicant shall have earned a four-year academic degree from a recognized, academically accredited college in a field related to social work. Related fields include sociology, psychology, counseling, criminal justice or other related fields as determined by the Board. The Board shall send an invoice for the provisional license certificate only after it has determined an applicant's eligibility and received written evidence of qualified supervision and employment in a critical social work workforce shortage position, area or setting requiring a social work license.

~~3.3.1. An individual seeking employment with the Department of Health and Human Resources may be eligible for a provisional license with a baccalaureate degree in fields other than social work or social work related fields. Those individuals granted a Provisional License outside the scope of 3.3 shall be restricted to practice social work only for the West Virginia Department of Health and Human Resources.~~

~~3.3.1.a. Application for those individuals employed by the West Virginia Department of Health and Human Resources shall occur after the West Virginia Department of Health and Human Resources notifies the Board of its intent to hire an individual for a social work position with a Provisional License and pursuant to satisfying the education requirement through completion of the social work training program with the West Virginia Department of Health and Human Resources. The individual must submit an application for eligibility and licensure upon forms prescribed by the Board.~~

~~3.3.1.b. This does not negate the provisions of subsection 3.3.8.a. and the Department's obligation to make reasonable efforts to fill vacant positions with degreed social workers.~~

3.3.2. Prior to the issuance of eligibility to pursue a provisional license, an applicant shall submit to the Board:

3.3.2. a. An official transcript showing the applicant completed a four-year academic degree from a recognized, academically accredited college in a field related to social work as determined by the Board, or if employed by the West Virginia Department of Health and Human Resources, in accordance with the personnel classification for those positions requiring a social work license;

3.3.2.b. Documentation showing the applicant has met the requirements set forth in W.Va. Code §30-30-16.

3.3.3. Prior to the issuance of a provisional license to perform social work within the legal scope of practice the applicant must submit a provisional license agreement on a form provided by the board. Along with the agreement, the applicant must submit evidence of full-time social work employment under a provisional license supervisor.

3.3.4. Upon approval of the provisional license agreement contract and when other provisions have been met, the Board will issue a provisional license certificate for a two-year period. The provisional licensee must meet all provisions and requirements as set forth in W. Va. Code §30-30-16 and within this article 3.3. or 3.3.1 If all guidelines are met, the provisional licensee will renew his/her provisional license for a final two-year period.

3.3.5. As defined in W.Va. Code §30-30-16(b)(2) a Provisional licensee must complete twelve credit hours of core social work study from a program accredited by the council on social work education (CSWE), specifically post Bachelor classes in conjunction with the school, within the four-year provisional license period. Successful completion means receiving a passing grade.

3.3.5. a. Exceptions to the core social work course requirements apply when:

3.3.5.a.1 A provisional licensee is enrolled in a CSWE accredited Bachelor or Master of Social Work Program;

~~3.3.5.a.2 A Provisional License is approved to satisfy the educational requirement with training provided by the Department of Health and Human Resources. The Department of Health and Human Resources must annually certify to the WV Board of Social Work that the individual has complied fully with the training requirements as set forth in legislative rule.~~

3.3.6. The provisional licensee will be responsible for earning an additional twenty (20) hours of Board approved continuing social work education per two years. Up to ten (10) of the twenty (20) hours may be earned through Board approved online education hours.

3.3.7. A provisional licensee must provide a sworn statement to the Board annually to indicate he or she is complying with all requirements to maintain the provisional license, required social work continuing education, quarterly face to face supervision sessions, and documentation, by way of school transcript, of the required social work courses taken.

3.3.8. Prior to conversion of a provisional license to a formal license as a social worker, the provisional licensee must provide final documentation that all requirements, as outlined in W.Va. Code §30-30-16 and in section 3.3 of this rule have been met. The provisional licensee shall show documented proof that he or she has:

3.3.8.a. Pass an examination approved by the Board;

3.3.8.b Completed and has documentation of four years of continuous, supervised employment in the field of social work in the form of an official letter from the employer(s) during the tenure of the provisional license;

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3.3.8.c. Has documentation by way of a college transcript that the provisional licensee has met the requirements of attendance and passage of twelve (12) hours of core social work classes through a CSWE approved social work program;

3.3.8. d. Provide documentation that the provisional licensee has earned continuing social work education contact hours totaling at least twenty (20) hours every two years.

3.3.9. An employer or prospective employer shall make application to the Board for approval to hire provisional licensees. The application shall include:

3.3.9.a. Written documentation that a reasonable effort to recruit and hire a licensed social worker, graduate social worker, certified social worker or independent clinical social worker was made prior to submitting an application to employ a provisional licensee and;

3.3.9.b. Written evidence of the critical need to hire the provisional applicant.

3.3.10. A provisional licensing supervisor of a provisional licensee shall annually provide the Board a statement of whether the provisional licensee has satisfactorily performed the duties of a social worker while under the supervision of the supervisor.

3.3.11. An employer is responsible for reporting the resignation or termination of any provisionally licensed employee within no more than thirty (30) days of the action.

3.3.12. A provisional licensing supervisor may be a licensed social worker, licensed graduate social worker, licensed certified social worker or licensed independent clinical social worker licensed in good standing in the State of West Virginia, provided that the licensed social worker:

3.3.12.a. Has made application and received Board approval to become a provisional licensing supervisor;

3.3.12.b. Has earned a council on social work education accredited Bachelor of Social Work or Master of Social Work degree and has completed two years post graduate social work experience;

3.3.12.c. Shall provide a resume with application that documents continuous employment in the social work field for no less than two years;

3.3.12.d. Is of good moral character documented by three letters of professional recommendations to be included in the application;

3.3.12.e. Has not been a subject of disciplinary action from the WV Board of Social Work or any other licensing jurisdiction in any state and;

3.3.12.f. Shall provide any further documentation that may be required from the Board.

3.3.13. The supervisor of a provisional licensee shall provide annually a sworn statement to the Board indicating:

3.3.13.a. The supervisor has engaged in face-to-face supervision with a provisional one time every three months following license issue and whenever make-up sessions are held; and



3.3.13.b. The provisional licensee has satisfactorily performed the duties of a social worker while under his or her supervision.

3.3.14. A seasoned supervisor may supervise no more than fifteen (15) provisional licensees unless a written waiver has been granted by the Board allowing the supervisor to exceed this number. An LSW licensing supervisor that is new to this privilege shall limit the number of persons to five (5) until determined otherwise by the Board.

3.4. An applicant may make up to four (4) attempts to pass the examination recognized by the Board. An applicant who fails to pass the examination after four (4) attempts shall petition the Board in writing prior to attempting the examination thereafter. The Board may approve, approve with conditions, or deny a petition.

3.5. The Board may require the applicant to submit recent professional references, or similar documentation of continuing eligibility, prior to removing a license from inactive status after a period of two or more years.

3.6. As set forth in W.Va. Code §30-30-8, a licensed independent clinical social worker may apply social work theory, methods, assessment, ethics and the professional use of self to the diagnosis, treatment and prevention of psychological dysfunction, disability or impairment, including emotional and mental disorders and developmental disabilities.

3.6.1. To be approved by the board to serve as a clinical supervisor, a West Virginia licensed independent clinical social worker, or a licensed clinical social worker from another jurisdiction, shall:

3.6.1.a. Have completed no less than two years of clinical practice since the initial issuance of the clinical license;

3.6.1.b. Completed an application to supervise on forms prescribed by the Board;

3.6.1.c. Completed a minimum of 6 hours of Board approved clinical supervision training on supervisory practices and methods for clinical social workers; clinical supervisors who have supervised within two years of the effective date of this rule are not required to complete pre-service training;

3.6.1.d. Submit a clinical supervision contract which identifies the clinical supervisor and the person being supervised and sets forth the respective duties of employment. Clinical supervision shall not be initiated until the contract has been approved by the Board. A clinical supervisor from another jurisdiction shall provide evidence of having a current, valid clinical social work license in good standing; and

3.6.1.e. Maintain records of supervision, initialed by both parties, of each face-to-face session, for 100 hours, over the course of no less than two years of full-time employment or 3,000 hours of full or part time employment. An applicant should have at least one hour of supervision for each thirty (30) hours of supervised practice. At least 50% of supervision must be an individual setting and not in a group format. Face to face supervision via HIPPA compliant electronic media is acceptable.

3.6.2. The Board will approve the content of clinical supervisor training. Training may be face to face or online. Providers who wish to develop training to meet these requirements will submit applications to the Continuing Education Committee of the Board on forms prescribed by the Board.

**§25-1-4. Consideration of Prior Criminal Convictions in Initial Licensure Determination.**

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4.1. The board may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the practice of social work. In determining whether a criminal conviction bears a rational nexus to a social work, the board shall consider at a minimum:

4.1.1. The nature and seriousness of the crime for which the individual was convicted;

4.1.2. The passage of time since the commission of the crime;

4.1.3. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of a licensed social work; and

4.1.4. Any evidence of rehabilitation or treatment undertaken by the individual.

4.2. Notwithstanding any other provision of the W. Va. Code to the contrary, if an applicant has been denied licensure because of a prior criminal conviction, the board shall permit the applicant to apply for initial licensure if:

4.2.1. A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

4.2.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

4.2.3. The conviction was not for an offense of a violent or sexual nature: *Provided*, that a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the board on a case-by-case basis.

4.3. An individual with a criminal record who has not previously applied for licensure may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license.

4.3.1. The petition shall be submitted on an application form prescribed by the board and shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction, the date of the release from incarceration if applicable, and the specific nature of the conviction. Where the records are sealed, the applicant shall sign a waiver authorizing the board to access the criminal records of the applicant in order for the board to make the eligibility determination.

4.3.2. The applicant may submit with the petition for licensure eligibility evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice social work.

4.3.3. The board shall provide the determination within 60 days of receiving the petition and the applicable fee from the applicant.

### **§25-1-5 Telehealth Services**

5.1. All social workers providing social work or therapy via telehealth to persons residing and located in West Virginia shall be licensed or registered by the West Virginia Board of Social Work.

5.1.1. A licensee shall only provide telehealth services in accordance with the respective scope of practice commensurate with his/her level of licensure.

5.1.2. Clinical social work services provided by individuals outside of the state may only be provided by a practitioner licensed at the clinical level.

5.2. All licensees of the Board providing telehealth services to clients outside the state of West Virginia shall comply with the laws and rules of that jurisdiction.

5.3. Prior to the provision of telehealth services, the social worker shall be responsible for becoming competent in the technology and skills required in telehealth, including methods in which such practice can be safely and appropriately conducted.

5.3.1. The social worker shall maintain current competence in the use of telehealth and technology through relevant continuing education or consultation.

5.4. Prior to the provision of service, the social worker should follow agency protocols or develop and follow a procedure to:

5.4.1. Verify the identification and location of the client at the beginning of each session

5.4.2. Obtain informed consent specific to telehealth services using appropriate language understandable to the client

5.4.3. Safeguard the client's confidentiality and prevent access to data by unauthorized persons through encryption or other means;

5.4.4. Notify clients in the event of a data breach

5.4.5. Establish safety protocols to be used in the case of an emergency, including contact information of emergency services at the client's location

5.4.6. Obtain or confirm an alternative method of contacting the client in case of a technological failure

5.5 The practitioner-client relationship is established at the time informed consent is obtained.

5.6. Social workers providing telehealth shall abide by the NASW Code of Ethics as if providing in person services but should be particularly attentive to the provisions relating to electronic social work services.

5.7. The social worker shall use telehealth only where it is appropriate for the client, and decisions regarding the use of telehealth shall be made individually.

5.7.1. The client's current mental and emotional status and technological capabilities should be considered during intake to determine the client's appropriateness for telehealth.

**§25-1-6. Interstate Registration as a Telehealth Provider**

6.1. To be eligible for registration as an interstate telehealth social worker, the registrant shall:

6.1.1. Submit a registration application to the Board on a form approved by the Board;

6.1.2. Pay the appropriate registration fee as required in W. Va. Code §30-30-10 et seq

6.1.3. Hold license(s) in good standing in all states in which he/she is currently licensed, and shall not currently be under investigation or subject to an administrative complaint.

6.1.4. Registration as an out-of-state telehealth practitioner should occur prior to the provision of services.

6.2. The registration of an out-of-state telehealth social worker shall expire biennially on the anniversary date of registration. Notice will be provided no less than 90 days prior to expiration.

6.3. A registrant requesting renewal of a registration shall:

6.3.1. Provide evidence of completion of approved social work continuing education as prescribed by the Board.

6.3.2. Pay the registration renewal fees.

6.4. The Standard of Care for the Provision of Telehealth Services by registrants under this Rule.

6.4.1. The standard of care shall require the registrants to follow the scope of practice stated in W. Va. Code §30-30-9, §30-30-11, §30-30-13, and §30-30-15.

6.4.2. A registration issued pursuant to this rule does not authorize a social worker to practice from a physical location within this state without first obtaining licensure by the Board of Social Work.

6.4.3. A social worker who registers to provide telehealth services pursuant to this rule shall immediately notify the Board of any disciplinary action or restrictions placed on the individual's license to practice in any state or jurisdiction.

6.4.4. Interstate registrants shall comply with W. Va. Code §30-30-1 et seq. and the legislative rules promulgated by the Board of Social Work. Failure to comply will be grounds for disciplinary action under W. Va. Code §30-30-24, et seq to W. Va. Code §30-30-30.

6.5. A person currently licensed by the Board of Social Work is not subject to registration under this rule, but shall practice telehealth in accordance with W. Va. Code §30-30-1 et seq. and the legislative rules promulgated by the Board of Social Work.

#### **§25-1-~~5~~.7. Responsibilities of Licensees**

§ 7.1. A licensee, provisional licensee, permittee shall notify the Board within thirty (30) days of any change of his or her legal name, primary address, telephone number or similar change of location or status, and, if required by the Board, of any change of supervisor or employer.

§7.2. A licensee, provisional licensee, or permittee shall notify the Board within thirty (30) days of witnessing what may constitute, in his or her best judgment, professional misconduct by another licensed social worker.

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5.7.3. A licensee, provisional licensee, or permittee shall abide by the provisions of the Code of Ethics of the National Association of Social Workers, which became effective on January 1, 1997 and revised effective January 1, 2018.

5.7.4. Allegations of professional misconduct occurring prior to January 1, 1997 are judged against the version of the Code of Ethics in effect at the time of the alleged or proven professional misconduct.

5.7.5. A licensee, or provisional licensee shall make application for a license, renewal of a license, or similar service on forms provided by the Board.

5.7.6. A licensee, provisional licensee, permittee or prospective licensee, provisional licensee or permittee shall pay the appropriate fee as a condition of their application for license, renewal or other similar service.

5.7.7. At the time of renewal of a license, or provisional license, a licensee shall provide to the Board:

5.7.7.1. Written evidence of completion of mandatory continuing social work education or training during the tenure of the license as specified in this rule; and

5.7.7.2. A sworn statement, on a license renewal application provided by the Board, that the license has not been revoked or suspended by another state licensing agency, or by a licensing agency in another state or territory of the United States, and whether or not he or she has been convicted of a felony or misdemeanor since the granting, or last renewal of, the license.

5.7.8. No license, provisional license, permit or certificate of license granted or issued to an individual by the Board under the provisions of W.Va. Code §30-30-1, et. seq. may be assigned to any other individual.