

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 484

By: Cain

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 1250.1, 1251, 1253, 1254, 1255, 1261.1, 1261.4, 1261.5, 1261.6, 1262, 1263, 1267, 1270 and 1272, which relate to the Social Worker's Licensing Act; modifying definitions and defining terms; modifying application of certain provisions; updating references; modifying qualifications for Board membership; deleting Board authority to appoint specified personnel; providing for responsibility, duties, powers and authority of Board; establishing qualifications for Board members; deleting obsolete language; providing for reappointment to Board; modifying term of appointment; modifying criteria for removal from Board; authorizing Board to hire employees; making language gender neutral; providing for election of certain Board officers; providing for duties of Board members; establishing terms for Board officers; deleting specified Board procedures, meeting schedules, and duties; providing for Board meeting schedule; requiring compliance with certain acts; specifying need and basis for a quorum; providing for Board responsibilities and additional powers and duties; requiring social workers to report certain information to Board; establishing deadline for such reports; providing for certain immunity for reports submitted in good faith; establishing requirements for licensure; modifying accreditation body; establishing qualifications for certain licensure types; mandating license renewal, establishing renewal requirements, requiring Board to promulgate rules regarding renewal and establishing procedures for renewal after expiration date; establishing requirements for transfer of license and limiting type of license which may be transferred; modifying name of certain license type; modifying procedures for obtaining certain license under specified conditions; deleting specified fees for temporary license; providing for replacement of provisional license; providing for revocation of license under certain conditions and for reapplication; broadening application of prohibition relating to disclosure; broadening application of certain licensure provision; deleting certain fee amounts; providing for use of certain titles and abbreviations; establishing grounds for certain Board actions; authorizing Board to defer action under specified conditions; establishing conditions for deferral; providing procedures for disqualification under

certain conditions; authorizing Board to require licensee to enter into specified agreement; establishing conditions for Board approval to resume practice; requiring consent to release of information; providing for stay of license suspension or revocation; requiring specified report by social worker; providing immunity from liability under specified circumstances; providing certain licensees with right to petition Board; authorizing Board to issue certain orders and specifying contents; construing provisions of law; subjecting certain Board decisions to judicial review; requiring return of license under certain conditions; broadening application of revocation provision and procedures; clarifying language and broadening application of penalty provision; deleting specified fine amounts; providing penalty; making certain practices unlawful; making certain practices subject to regulation; providing for construction of limit on practice; providing certain exemption from licensure; providing for temporary suspension of license without hearing; requiring notice and hearing; specifying period for notice; providing for construction of limit on practice for specified titles; repealing 59 O.S. 2001, Sections 1256, 1261.3, 1266, 1269, 1271 and 1272.1, which relate to powers and duties of Board, licensure and denial of licensure of certain persons, reinstatement, Board authority to request injunction, and disclosure of information; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1250.1, is amended to read as follows:

Section 1250.1 As used in ~~this act~~ the Social Worker's Licensing Act:

1. "Approved provider of continuing education" means an individual, group, professional association, school, institution, organization, or agency approved by the Board to conduct educational programs;

2. "Approved social work program" means a school of social work or a social work educational program that has been approved by the Board;

3. "Board" means the State Board of Licensed Social Workers, which shall also be known as the State Board of Social Work;

~~2.~~ 4. "Board approved clinical supervisor" means a licensed clinical social worker who has met the qualifications determined by the Board for supervision in a clinical setting;

5. "Board approved supervisor" means a licensed social worker who has met the qualifications determined by the Board for licensure as a supervisor;

6. "Case management" means a method to plan, provide, evaluate, and monitor services from a variety of resources on behalf of and in collaboration with a client;

7. "Client" means the individual, couple, family, group, organization, or community that seeks or receives social work services;

8. "Clinical supervision" means an interactional professional relationship between a supervisor and a social worker that provides evaluation and direction over the supervisee's practice of clinical social work and promotes continued development of the social worker's knowledge, skills, and abilities to engage in the practice of clinical social work in an ethical and competent manner;

9. "Consultation" means a problem solving process in which expertise is offered to an individual, couple, family, group, organization or community;

10. "Continuing education" means education and training which are oriented to maintain, improve or enhance the practice of social work;

11. "Continuing education contact hour" means a sixty-minute clock hour of instruction, not including breaks or meals;

12. "Conviction" means conviction of a crime by a court of competent jurisdiction including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a plea of nolo contendere, or a guilty plea;

13. Counseling" means a method used by social workers to assist individuals, couples, families and groups in learning how to solve

problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns;

14. "Examination" means a standardized test or examination of social work knowledge, skills and abilities which have been approved by the Board;

15. "Independent practice" means the practice of social work outside of an organized setting, such as a social, medical, or governmental agency, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for services provided;

16. "Licensed clinical social worker" means a person duly licensed to practice clinical social work under this act;

17. "Licensed masters social worker" means a person duly licensed to practice social work who holds a master's degree in social work;

18. "Licensed social work associate" means a person duly licensed to practice social work who holds a baccalaureate degree in social work;

19. "Licensee" means a person duly licensed under this act;

20. "Practice of social work" means the professional activity of helping individuals, groups or communities enhance or restore their capacity for physical, social and economic functioning and the professional application of social work values, principles and techniques in areas such as clinical social work, social service administration, social planning, social work consultation and social work research to one or more of the following ends: Helping people obtain tangible services; counseling with individuals, families and groups; helping communities or groups provide or improve social and health services; and participating in relevant social action. The practice of social work requires knowledge of human development and behavior; of social economic and cultural institutions and forces;

and of the interaction of all of these factors. Social work practice includes the teaching of relevant subject matter and of conducting research into problems of human behavior and conflict. Except as otherwise provided in this act, reference to the "practice of social work" shall be the practice of a person licensed under this act; and

~~3.~~ 21. "Private practice of social work" means the practice of clinical social work by an individual who is wholly or in part self-employed and who is responsible for such individual's own practice and professional procedures assumes responsibility for the nature and quality of the services provided to the client in exchange for direct payment or third-party reimbursement, rather than a salaried employee of an organization or institution;

22. "Psychotherapy" means the use of treatment methods utilizing a specialized, formal interaction between a clinical social worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained and sustained to understand unconscious processes, intrapersonal, interpersonal, and psychosocial dynamics, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions and addictions; and

23. "Supervision" means the professional relationship between a supervisor and a social worker that provides evaluation and direction over the services provided by the social worker and promotes continued development of the social worker's knowledge, skills and abilities to provide social work services in an ethical and competent manner.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 1251, is amended to read as follows:

Section 1251. A. In order to safeguard the welfare of the people of the State of Oklahoma, no person shall engage in the practice of social work for compensation or hold himself or herself forth as performing the services of a social worker unless he or she

is licensed as ~~a licensed social worker or licensed social work associate in this state~~ under the Social Worker's Licensing Act, nor may any person participate in the delivery of social work service unless under the supervision of a person licensed under these provisions, and no person may use any title, abbreviation, sign, card or device incorporating the words "social worker" or a derivative thereof unless such person has been duly licensed under the provisions of this law.

B. Nothing contained herein shall be construed to prevent qualified persons from doing work within the standards and ethics of their respective professions. Provided, that such persons shall not hold themselves out to the public by any title or description of services as being engaged in the practice of social work.

C. Employees of agencies of the state shall be exempt from the requirements of this act as to the performance of their duties as state employees or health care facilities or employees of health care facilities licensed by the state.

D. 1. As a requirement for licensure, a license obtained pursuant to the Social Worker's Licensing Act shall be posted in a conspicuous place where the services of the social worker obtaining such license are rendered.

2. Information regarding the procedure for reporting any unethical or illegal practices pursuant to the Social Worker's Licensing Act shall be made available to the public by the social worker or employer of such social worker, as applicable, in the location where services of the social worker are rendered.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 1253, is amended to read as follows:

Section 1253. A. There is hereby re-created, to continue until July 1, 2006, in accordance with the provisions of the Oklahoma Sunset Law, ~~Section 3901 et seq. of Title 74 of the Oklahoma~~

~~Statutes,~~ the State Board of Licensed Social Workers, consisting of seven (7) members.

B. Three of the members of the Board shall be licensed social workers or licensed clinical social workers licensed pursuant to the provisions of the Social Worker's Licensing Act, ~~Section 1250 et seq. of this title.~~ Two other members shall be licensed as either social work associates or master's social workers. One member shall be the president of the Oklahoma Chapter of the National Association of Social Workers. The remaining member of the Board shall be selected from and shall represent the general public. ~~The Board shall appoint an executive secretary who shall perform the day-to-day duties of the Board and serve at a reasonable compensation.~~

C. Responsibility for enforcement of the provisions of this act is hereby vested in the State Board of Social Work. The Board shall have all of the duties, powers and authority specifically granted by, or necessary for, the enforcement of this act as well as other duties, powers and authority it may be granted by applicable law.

D. 1. Each member of the Board appointed as a social worker shall:

- a. be a resident of this state,
- b. be licensed in good standing to engage in the practice of social work in this state,
- c. at the time of appointment, have been actively engaged in the practice of social work for at least one (1) year out of the last five (5) years, and
- d. have at least three (3) years of experience in the practice of social work.

2. Each member of the Board appointed to represent the general public shall be a resident of this state who has attained the age of majority and shall not be, nor shall ever have been, a social work licensee, or the spouse of a social work licensee, or a person who

has ever had any material financial interest in the provision of social work services or has engaged in any activity directly related to the practice of social work.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 1254, is amended to read as follows:

Section 1254. A. The members of the ~~first~~ State Board of Licensed Social Workers shall be appointed by the Governor, with the advice and consent of the Senate. ~~Those persons presently serving on that Board formerly known as the Board of Registration, now State Board of Licensed Social Workers, shall continue to serve until the expiration of their terms. Thereafter, at~~ When a vacancy on the Board occurs or at the expiration of the term of each a member, the Governor shall appoint, with the advice and consent of the Senate, the member's successor for a term of ~~three (3)~~ five (5) years ~~from the date of appointment after July 1, 1981.~~ Members may serve more than two (2) terms, but shall be limited to serving no more than two (2) consecutive terms. Vacancies on the Board shall be filled in a like manner for the balance of any unexpired term. Each member shall serve until a successor is appointed and qualified.

B. Members of the Board may be removed from office ~~for cause,~~ pursuant to the procedures set forth in the Administrative Procedures Act, upon one or more of the following grounds:

1. The refusal or inability for any reason of a Board member to perform the duties of a Board member in an efficient, responsible and professional manner;

2. The misuse of office by a Board member for pecuniary or material gain or for personal advantage for the Board member or another;

3. Violation by any Board member of the laws governing the practice of social work; or

4. Conviction of a felony shown by a certified copy of the record of the court of conviction.

C. Members of the Board shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses as provided in the State Travel Reimbursement Act. ~~The records, equipment, staff and monies on deposit with the State Treasurer's Office belonging to the Board of Registration of Social Workers shall be transferred to the newly formed State Board of Licensed Social Workers, and any monies belonging to the Board of Registration of Social Workers shall be transferred to the Licensed Social Workers' Revolving Fund.~~

D. The Board may employ persons in such positions or capacities as it deems necessary to conduct Board business and to fulfill the Board's responsibilities as defined in the Social Worker's Licensing Act.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 1255, is amended to read as follows:

Section 1255. A. The State Board of Licensed Social Workers shall annually elect from its membership a ~~chairman~~ chair and a ~~vice-chairman~~ vice-chair and such other officers as it deems appropriate and necessary to conduct its business. The chair shall preside at all meetings of the Board. Each additional officer elected by the Board shall perform those duties customarily associated with the position and such other duties assigned by the Board. Officers elected by the Board shall serve terms of one (1) year and shall serve no more than three (3) consecutive full terms in each office to which the Board member is elected.

~~Meetings may be called by the chairman, or upon written request of three members of the Board. Four members of the Board shall constitute a quorum. The Board shall meet the first Tuesday of January and July of each year. However, the Board shall meet as often as necessary. At its annual January meeting, the Board shall appoint the executive secretary.~~

~~B. The executive secretary, with the advice and consent of the Board, shall have the following powers and duties:~~

~~1. Record the minutes of all proceedings of the Board and keep such financial records as are necessary;~~

~~2. Keep an updated register of all persons and their addresses who are licensed under these provisions;~~

~~3. Upon recommendation of the Board, institute such civil or criminal proceedings as the Board determines necessary or appropriate;~~

~~4. Assist in administering examinations for applicants as approved by the Board;~~

~~5. Enforce rules and regulations for professional conduct of licensed social workers prescribed by the Board; and~~

~~6. Perform such other duties as the Board may prescribe that are necessary to the daily operation of the affairs of the Board.~~

B. 1. The Board shall meet at least once every three (3) months to transact its business and may meet at such additional times as the Board may determine.

2. The Board shall meet in accordance with the Oklahoma Open Meeting Act.

3. A majority of the members of the Board shall constitute a quorum for the conduct of Board business. All actions of the Board shall be by a majority of the quorum present.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1256.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Licensed Social Workers shall be responsible for the control and regulation of the practice of social work in this state and shall conduct its business in accordance with the Administrative Procedures Act. The Board's authority includes, but is not limited to, the following:

1. The licensing by examination or by reciprocity of applicants who are qualified to engage in the practice of social work under the provisions of this act;

2. The renewal of licenses to engage in the practice of social work;

3. The establishment and enforcement of compliance with professional standards of practice and rules of conduct of social workers engaged in the practice of social work;

4. The determination and issuance of standards for recognition and approval of degree programs of schools and colleges of social work whose graduates may be eligible for licensure in this state, and the specification and enforcement of requirements for practical training;

5. The investigation of any activities related to the practice or unauthorized practice of social work. In conducting such investigations, the Board shall have the power to subpoena and to bring before it any person and to take testimony either orally or by deposition, or both, in the same manner as prescribed in civil cases in the courts of this state. Any member of the Board, hearing officer, or administrative law judge shall have power to administer oaths to witnesses at any hearing which the Board is authorized to conduct. Following such investigation, the Board may suspend, revoke or restrict licenses to engage in the practice of social work;

6. With probable cause that an applicant or licensee has engaged in conduct prohibited by this act or a rule promulgated by the Board, the issuance of a request that the applicant or licensee submit to a mental or physical examination or chemical dependency evaluation. If the applicant or licensee refuses to submit to the examination or evaluation, the Board shall issue an order requiring the licensee or applicant to show cause why he or she will not submit to the examination and shall schedule a hearing on the order

within thirty (30) days after notice is served on the applicant or licensee by personal service or certified mail. At the hearing, the applicant or licensee and the applicant or licensee's attorney are entitled to present any testimony to show why the applicant or licensee should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the applicant or licensee to submit to the examination or withdrawing the request for the examination. The license in question may be suspended until the results of the examination are received and reviewed by the Board;

7. The collection of professional demographic data;

8. The issuance of licenses of all persons engaged in the practice of social work;

9. The inspection of any licensed person, at all reasonable hours, for the purpose of determining if any provisions of the laws governing the practice of social work are being violated. The Board, its officers, inspectors, and representatives shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to the practice of social work;

10. The promulgation of such rules as may be deemed necessary by the Board for the proper administration and enforcement of this act in accordance with the Administrative Procedures Act;

11. The administration of examinations for licensure pursuant to the following:

- a. any examination for licensure required under this act shall be given by the Board at least two times during each year. The Board shall determine the content and subject matter of each examination and the place, time, and date of administration of the examination, and

- b. the examination shall be prepared to measure the competence of the applicant to engage in the relevant practice of social work. The Board may employ, cooperate, and contract with any organization or consultant in the preparation, administration and grading of an examination, but shall retain the sole discretion and responsibility for determining which applicants have successfully passed such an examination;

12. The establishment of such requirements for supervised practice or any other experiential program necessary to qualify an applicant for any licensure examination under this act, including determination of the qualifications of supervisors used in supervision programs;

13. The acquisition of a membership in such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of social work for the protection of the health and welfare of the public or whose activities assist and facilitate the work of the Board;

14. The establishment of a "Bill of Rights" for clients concerning the services a client may expect in regard to social work services; and

15. In addition to the fees specifically provided for in this act, the establishment of fees including, but not limited to, the following:

- a. issuance of duplicate certificates or identification cards,
- b. copies of any documents,
- c. certification of documents, and
- d. issuance of licenses by reciprocity.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1256.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A social worker shall report to the State Board of Licensed Social Workers information on the following conduct by an applicant or a licensee:

1. Sexual contact or sexual conduct with a client or a former client, only when the client consents to the report;
2. Failure to report information as required by law;
3. Impairment in the ability to practice by reason of illness, use of alcohol, drugs, or other chemicals, or as a result of any mental or physical condition;
4. Improper or fraudulent billing practices;
5. Fraud in the licensure application process or any other false statements made to the Board;
6. Conviction of any felony or crime reasonably related to the practice of social work; or
7. A violation of a Board order.

B. Social Workers shall report to the Board information on any other conduct by an applicant or a licensee that constitutes grounds for disciplinary action under this act or the rules of the Board when the social worker reasonably believes that the client's functioning has been affected negatively by the conduct.

C. An applicant or licensee shall report to the Board any personal action that would otherwise require a report to be made to the Board pursuant to this act.

D. Reports required by this section must be submitted not later than thirty (30) days after the occurrence of the reportable event or knowledge by the person reporting the occurrence. The Board may adopt such rules as are necessary to assure prompt and accurate reporting.

E. Any person, social worker, business, or organization is immune from civil liability or criminal prosecution for submitting in good faith a report under this section.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 1261.1, is amended to read as follows:

Section 1261.1 A. To obtain a license under this act, an applicant shall:

1. Submit a written application in a form prescribed by the Board;

2. Have attained the age of majority;

3. Be of good moral character;

4. Have graduated and received a degree in social work from an approved social work program;

5. Have completed any necessary post graduate experience and supervision in the practice of social work; and

6. Have passed the necessary examination and paid all fees required by the Board.

B. Upon certification by ~~the executive secretary to~~ the Board, the Board shall authorize the issuance of licenses to persons who qualify as follows:

1. As a licensed social work associate who has a baccalaureate degree in social work from an institution with a program accredited by ~~the Council of Social Work Education~~ an approved social work program and has two (2) years of post graduate experience in the practice of social work under professional supervision of a person licensed under these provisions, and passed the examination provided for under these provisions or who has a doctoral or master's degree in social work from an institution with a program accredited by the Council of Social Work Education and has passed the examination provided for under these provisions; ~~and~~

2. As a licensed master's social worker who has a master's degree in social work from an institution with a program accredited

by an approved social work program and has passed the examination provided for under this act;

3. As a licensed social worker who has a ~~doctoral or~~ master's degree in social work from an institution with a program accredited by ~~the Council of Social Work Education,~~ an approved social work program and has two (2) years of post graduate experience in the practice of social work under professional supervision of a person licensed under those provisions, and who has passed the examination provided for under the provisions of the Social Worker's Licensing Act; and

4. As a licensed social worker who has a master's degree in social work from an institution with a program accredited by an approved social work program and has two (2) years of post graduate experience in the practice of clinical social work under professional supervision of a person licensed by this act, and who has passed the examination provided for under this act.

~~B.~~ C. No person may engage in the private, independent practice of social work unless he or she:

1. Is licensed under this act as a licensed social worker;

2. Has had two (2) years of graduate supervised experience certified by the Board in the method to be offered in private practice and met the requirements set by the Board; and

3. ~~After January 1, 1983, shall continue~~ Continues to meet continuing education requirements set by the Board.

Certification by the Board that such person be licensed to engage in private independent practice shall be noted by an appropriate special designation to be placed on the licensed social worker's license. The Board shall designate such specialties as it deems proper for special certification.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1261.1a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Licensees shall be required to renew their license at such time and in such manner established by the State Board of Licensed Social Workers by rule, including the form of application and payment of the applicable renewal fee. Under no circumstances shall the renewal period exceed two (2) years.

B. As a requirement for license renewal, each licensee shall provide evidence satisfactory to the Board that such licensee has annually completed at least sixteen (16) hours of a program of continuing education as prescribed by the Board.

C. The Board shall also provide procedures by rule to ensure that license renewal candidates maintain the qualifications to practice social work, as set forth in this act.

D. If a social worker fails to make application to the Board for renewal of a license within a period of ninety (90) days after the expiration of the license, such person must reapply as an initial applicant for licensure and pass the current licensure examination; however, a person who has been licensed under the laws of this state and the license has expired, but who has continually practiced social work in another state under a license issued by the authority of such state, may renew the license upon completion of the continuing education requirements set forth by the Board and payment of the designated fee.

SECTION 10. AMENDATORY 59 O.S. 2001, Section 1261.4, is amended to read as follows:

Section 1261.4 A. Any person who becomes a resident of this state and who is or has been, immediately preceding ~~his~~ the person's residency in this state, licensed to practice social work by another state which grants a like privilege of reciprocity and who meets the educational and work experience qualifications for licensure in this state may, upon payment of the necessary fee and submission of documentation as required by the Board, be licensed under the provisions of the Social Worker's Licensing Act.

B. In cases where reciprocity does not exist the Oklahoma State Board of Licensed Social Workers may endorse the actions of another state licensing board upon receipt of information by that board documenting that the applicant has met the educational and supervisory requirements of the Oklahoma State Board in another state, and has passed the same examination or a more stringent examination than that used by the Oklahoma State Board of Licensed Social Workers.

C. 1. For a social worker currently licensed in another jurisdiction to obtain a license as a social worker by reciprocity in this state, an applicant shall:

- a. submit a written application in the form prescribed by the Board,
- b. have attained the age of majority,
- c. be of good moral character,
- d. have a social work degree at the designation for which the applicant is seeking licensure,
- e. possess, at the time of initial licensure as a social worker, any qualifications necessary, as determined by the Board, to have been eligible for licensure at that time in this state,
- f. present to the Board a passing score on the designated licensure examination,
- g. present to the Board proof that the transferring social work license is current and in good standing,
- h. present to the Board proof that any social work or any other professional license or other credential granted to the applicant by any other state has not been suspended, revoked, or otherwise restricted for any reason except nonrenewal or for the failure to obtain the required continuing education credits in any

jurisdiction where the applicant is or has been licensed, and

i. pay the fees specified by the Board.

2. Applicants for license transfer under this section shall only be eligible for licensure at the equivalent designation recognized in the currently licensed jurisdiction.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 1261.5, is amended to read as follows:

Section 1261.5 Upon certification by the ~~executive secretary,~~ the State Board of Licensed Social Workers, the Board shall authorize the issuance of ~~temporary~~ provisional licenses to persons who ~~qualify as follows:~~

~~1. Persons who have met all qualifications for licensure under provisions of the Social Worker's Licensing Act, except passage of the required examination, and must wait for completion of the next semiannual examination.~~ Such persons shall, upon payment of the necessary fee and submission of documentation as required by the Board, be issued a provisional license under subject to the following provisions:

~~a. 1. If a person subsequently fails the examination, upon receipt and recording of the person's examination score by the Board, the person's provisional license will automatically be revoked,~~

~~b. such persons shall take~~ person may retake the next semiannual license examination, and every ninety (90) days until the person passes, or until one (1) year from the date of issuance of the provisional license;

~~c. no person may be granted a provisional license more than once; and~~

~~2. The Board shall establish and collect fees for temporary licenses, not to exceed Seventy five Dollars (\$75.00). At the end of the period for which a provisional license is issued, the~~

~~provisional license shall be surrendered to the executive secretary of the Board~~ Upon receipt and recording of a person's passing score by the Board, the provisional license will be replaced by a permanent license; and

3. Upon a person's failure to pass the examination within one (1) year from the date the provisional license was issued, that license will be automatically revoked. The person may reapply to the Board and submit the necessary fee to obtain a new provisional license.

SECTION 12. AMENDATORY 59 O.S. 2001, Section 1261.6, is amended to read as follows:

Section 1261.6 No person licensed under the provisions of the Social Worker's Licensing Act or secretary, stenographer or clerk of such a licensed person or anyone who participates in delivery of social work services or anyone working under supervision of a person licensed under these provisions may disclose any information acquired from persons consulting the licensed social worker in his or her professional capacity or be compelled to disclose such information.

The confidential relations and communications between a ~~licensed social worker or a licensed social work associate~~ person licensed under this act and the client are placed on the same basis as provided by law for those between an attorney and client. Nothing in the Social Worker's Licensing Act shall be construed to require such privileged communication to be disclosed except:

1. With the written consent of the client, or in the case of death or disability, of his or her personal representative, other person authorized to sue, or the beneficiary of any insurance policy on his or her life, health or physical condition;

2. That no information shall be treated as privileged and there shall be no privilege created by this act as to any information acquired by a person licensed under ~~these provisions~~ this act or a

secretary, stenographer or clerk of such a licensed person or anyone who participates in delivery of social work services or anyone working under the supervision of such a licensed person when such information pertains to criminal acts or violations of any law;

3. When the person is a child under the age of eighteen (18) years and the information acquired by the licensed person indicated that the child was the victim or subject of a crime, the licensed person may be required to testify fully in relation thereto upon any examination, trial or other proceeding in which the commission of such a crime is a subject of inquiry; or

4. When the person waives the privilege by bringing charges against the licensed person.

Nothing in this act shall be construed to prohibit any licensed person from testifying in court hearings concerning matters of adoption, child abuse, child neglect, or matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.

SECTION 13. AMENDATORY 59 O.S. 2001, Section 1262, is amended to read as follows:

Section 1262. The applicant shall receive a license when the State Board of Licensed Social Workers has determined that the applicant meets the requirements for licensure, and the Board shall provide the applicant with a license or other suitable device to identify ~~him~~ the person to the public as ~~a licensed social worker or licensed social work associate~~ a person licensed under this act.

SECTION 14. AMENDATORY 59 O.S. 2001, Section 1263, is amended to read as follows:

Section 1263. A. 1. The fee for licensure shall be determined by ~~regulations set~~ rules promulgated by the State Board of ~~Licensure, but shall not exceed Seventy-five Dollars (\$75.00)~~ Licensed Social Workers. The license shall expire after one (1)

year, and the renewal fee for such license shall also be established by ~~regulations set~~ rules promulgated by the Board, ~~but shall not exceed Fifty Dollars (\$50.00).~~

2. The Board shall ~~establish~~ promulgate rules and ~~regulations~~ for reinstatement of lapsed licenses and specialty certifications, and ~~fees~~ required fees.

3. The Board shall establish fees for examinations ~~which shall consist of the cost and administration of the examination, but shall not exceed One Hundred Twenty-five Dollars (\$125.00).~~

B. There is hereby created in the State Treasury a revolving fund for the State Board of Licensed Social Workers, to be designated the "Licensed Social Workers' Revolving Fund". ~~Said~~ The fund shall consist of monies received by the Board under statutory authority and such monies accruing to the credit of the fund may be expended by the Board for the purpose of carrying out the provisions of this act. The fund shall be administered in accordance with standard revolving fund procedures. The Board shall pay into the General Revenue Fund of the state ten percent (10%) of the gross fees so collected and received as provided for in Section 211 of Title 62 of the Oklahoma Statutes.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1264.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any person who has received a license as a licensed clinical social worker shall have the right to use the title, Licensed Clinical Social Worker, and the abbreviation, LCSW. No other person shall assume such title, use such abbreviation, or any word or letters, signs, figures or devices to indicate that the person using the same is a licensed social worker.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1264.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any person who has received a license as a licensed master's social worker shall have the right to use the title, Licensed Master's Social Worker, and the abbreviation, LMSW. No other person shall assume such title, use such abbreviation, or any word or letters, signs, figures or devices to indicate that the person using the same is a licensed social worker.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1266.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Licensed Social Workers may refuse to issue or renew the license of, or may suspend, revoke, censure, reprimand, restrict or limit the license of, or fine, any person pursuant to the Administrative Procedures Act or the procedures set forth in this act upon one or more of the following grounds as determined by the Board:

1. Unprofessional conduct as determined by the Board;
2. Practicing outside the scope of practice authorized by this act;
3. Conduct which violates any of the provisions of this act or rules adopted pursuant to this act;
4. Incapacity or impairment that prevents a licensee from engaging in the practice of social work with reasonable skill, competence, and safety to the public;
5. Conviction of a felony;
6. Any act involving moral turpitude or gross immorality;
7. Violations of the laws of this state, or rules pertaining thereto, or of laws, rules and regulations of any other state, or of the federal government pertaining to any aspect of the practice of social work;
8. Misrepresentation of a material fact by an applicant or licensee in securing or attempting to secure the issuance or renewal of a license, or in statements regarding the applicant or licensee's

skills or the efficiency or value of any treatment provided or to be provided, or using any false, fraudulent, or deceptive statement connected with the practice or social work including, but not limited to, false or misleading advertising;

9. Fraud by a licensee in connection with the practice of social work including engaging in improper or fraudulent billing practices or violating Medicare and Medicaid laws or state medical assistance laws;

10. Engaging or aiding and abetting an individual to engage in the practice of social work without a license, or falsely using the title of social worker;

11. Failing to comply with any stipulation or agreement involving probation or settlement of any disciplinary matter with the Board or with any order entered by the Board;

12. Being found by the Board to be in violation of any of the provisions of this act or rules adopted pursuant to this act;

13. Conduct which violates the security of any licensure examination materials;

14. Being the subject of the revocation, suspension, surrender or other disciplinary sanction of a social worker or related license or of other adverse action related to a social worker or related license in another jurisdiction or country including the failure to report such adverse action to the Board; or

15. Being adjudicated by a court of competent jurisdiction, within or without this state, as incapacitated, mentally incompetent, chemically dependent, mentally ill and dangerous to the public, or a psychopathic personality.

B. 1. The Board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the Board, agreeing not to practice social work and to enter an approved treatment and monitoring program in accordance with this section; provided, however, that this section shall not apply to a

licensee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to a felonious act prohibited by Oklahoma law or a conviction relating to a controlled substance in a court of law of the United States or any other jurisdiction or a conviction related to sexual misconduct.

2. A licensee who is physically or mentally impaired due to mental illness or addiction to drugs or alcohol may qualify as an impaired social worker and have disciplinary action deferred and ultimately waived subject to the following conditions:

- a. the Board is satisfied that such action will not endanger the public,
- b. the licensee enters into an agreement with the Board for a treatment and monitoring plan approved by the Board,
- c. the licensee progresses satisfactorily in such treatment and monitoring program, and
- d. the licensee complies with all terms of the agreement and all other applicable terms of this section.

3. Failure to enter such agreement or to comply with the terms and make satisfactory progress in the treatment and monitoring program shall disqualify the licensee from the provisions of this section and the Board may activate an immediate investigation and disciplinary proceeding. Upon completion of the rehabilitation program in accordance with the agreement signed by the Board, the licensee may apply for permission to resume the practice of social work upon such conditions as the Board determines necessary.

4. The Board may require a licensee to enter into an agreement, pursuant to this subsection, which includes, but is not limited to, the following provisions:

- a. the licensee agrees that the license shall be suspended or revoked indefinitely under this section,

- b. the licensee agrees to enroll in a treatment and monitoring program approved by the Board,
- c. the licensee agrees that failure to satisfactorily progress in such treatment and monitoring program shall be reported to the Board by the treating professional who shall be immune from any liability for such reporting made in good faith, and
- d. the licensee consents to the reports of the treating physician or professional of the approved treatment and monitoring program to the Board on the progress of licensee at such intervals as the Board deems necessary.

5. The ability of an impaired social worker to practice shall only be restored and charges dismissed when the Board is satisfied by the reports it has received from the approved treatment program that the licensee can resume practice without danger to the public.

6. The impaired licensee shall consent, in accordance with applicable law, to the release of any treatment information to the Board from anyone within the approved treatment program.

7. The impaired licensee who has enrolled in an approved treatment and monitoring program and entered into an agreement with the Board in accordance with this subsection shall have his or her license suspended or revoked but enforcement of this suspension or revocation shall be stayed by the length of time the licensee remains in the program and makes satisfactory progress, complies with the terms of the agreement, and adheres to any limitations on the practice imposed by the Board to protect the public. The licensee may petition the Board for reinstatement pursuant to subsection D of this section. Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment and monitoring program shall disqualify the licensee from

the provisions of this section and the Board shall activate an immediate investigation and disciplinary proceedings.

C. Any social worker who has substantial evidence that a licensee has an active addiction for which the licensee is not receiving treatment under a program approved by the Board pursuant to an agreement entered into under this section, is diverting a controlled substance, or is mentally or physically incompetent to carry out the duties of the license, shall make or cause to be made a report to the Board. Any person who makes a report pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such reports. Failure to provide such a report within a reasonable time from receipt of knowledge may be considered grounds for disciplinary action against the licensee.

D. Any person whose license to practice social work in this state has been suspended or restricted pursuant to this act, whether voluntarily or by action of the Board, shall have the right to petition the Board for reinstatement of such license. Such a petition shall be made in writing and in the form prescribed by the Board. Upon investigation and hearing, the Board may grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications. The Board may also require such person to pass an examination or examinations for reentry into the practice of social work.

E. The Board may issue a cease and desist order to stop an individual from engaging in an unauthorized practice or violating or threatening to violate a statute, rule, or order which the Board has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the individual's right to request a hearing under the Administrative

Procedures Act. Nothing herein shall be construed as barring criminal prosecutions for violations of this act.

F. All final decisions by the Board shall be subject to judicial review pursuant to the Administrative Procedures Act.

G. Any individual whose license to practice social work is revoked, suspended, or not renewed shall return such license to the offices of the Board within ten (10) days after notice of such action.

SECTION 18. AMENDATORY 59 O.S. 2001, Section 1267, is amended to read as follows:

Section 1267. No license or specialty certification shall be suspended or revoked until notice is served upon the ~~licensed social worker or the licensed social work associate~~ person licensed under the Social Worker's Licensing Act and a hearing is held before the State Board of Licensed Social Workers. The notice shall be served by registered mail and shall state the time and place of the hearing and shall set forth the ground or grounds constituting the charges against the ~~licensed social worker or licensed social work associate~~ person licensed under this act. The licensed ~~social worker or licensed social work associate~~ person is entitled to be heard in his or her defense either in person or by counsel and may produce testimony and may testify in his or her own behalf. A record of the hearing shall be taken and preserved. The record shall contain the notice; all papers, documents and data filed in the proceedings and all statements of the Board pertinent thereto; the testimony and exhibits; and the findings of fact and orders of the Board in writing. The State of Oklahoma shall be a party in the prosecution of all such actions and hearings before the Board pertaining to the suspension or revocation of a license or specialty certification, and the Attorney General, or one of ~~his~~ the Attorney General's assistants, is authorized and directed to appear in behalf thereof. The hearing may be adjourned from time to time. If the licensed

~~social worker or the licensed social work associate~~ person fails or refuses to appear, the Board may proceed to hear and determine the charges in his or her absence. If the licensed ~~social worker or licensed social work associate~~ person pleads guilty, or if upon hearing of the charges a majority of the Board finds them true, the Board may enter an order suspending or revoking the license or specialty certification.

SECTION 19. AMENDATORY 59 O.S. 2001, Section 1270, is amended to read as follows:

Section 1270. A. It shall be a misdemeanor for any person to:

~~(1) use~~ 1. Use in connection with his or her name any designation tending to imply that he or she is ~~a licensed social worker or licensed social work associate~~ under the Social Worker's Licensing Act unless he or she is duly and respectively licensed under the provisions of this ~~law~~ act;

~~(2) use~~ 2. Use in connection with his or her name any designation tending to imply that he or she is licensed under the provisions of this ~~law~~ act during the time his or her license shall be suspended or revoked; or

~~(3) otherwise~~ 3. Otherwise violate any of the provisions of this ~~law~~ act. ~~All such misdemeanors shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).~~

B. 1. Except as otherwise provided, it shall be unlawful for any individual to engage in the practice of social work unless duly licensed under this act.

2. Except as otherwise provided, it shall be unlawful for any individual to engage in the practice of Clinical Social Work unless duly licensed as a Clinical Social Worker under this act.

3. No individual shall offer social work services or use the designation social worker, licensed social work associate, licensed master's social worker, licensed social worker, licensed clinical

social worker or the initials LSWA, LMSW, LSW, or LCSW or any other designation indicating licensure status or hold themselves out as licensed to practice social work unless duly licensed.

4. The provision of social work services to an individual in this state, through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation.

5. Any individual who, after hearing, is found by the State Board of Licensed Social Workers to have unlawfully engaged in the practice of social work or to have violated other provisions of this act shall be subject to a fine to be imposed by the Board not to exceed Five Hundred Dollars (\$500.00) for each offense. Each violation of this act or Board rules pertaining to unlawful practice of social work shall also constitute a misdemeanor.

6. Nothing in this act shall be construed to prevent members of other professions from performing functions for which they are duly licensed; provided, however, such professionals shall not hold themselves out or refer to themselves by any title or description stating or implying that they are engaged in the practice of social work or that they are licensed to engage in the practice of social work.

7. Students currently participating in an approved social work program are exempt from licensure under this act when enrolled in or participating in an internship, externship, or other social work experience requirements for such programs.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1271.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any provisions of the Administrative Procedures Act, the State Board of Licensed Social Workers may, without a hearing, temporarily suspend a license for not more than sixty (60) days if the Board finds that a person licensed under the Social

Worker's Licensing Act has violated a law or rule that the Board is empowered to enforce, and if continued practice by the licensed person would create an imminent risk of harm to the public. The suspension shall take effect upon written notice to the licensed person specifying the statute or rule violated. At the time it issues the suspension notice, the Board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedures Act within thirty (30) days and shall provide the licensed person with notice of the date of hearing.

SECTION 21. AMENDATORY 59 O.S. 2001, Section 1272, is amended to read as follows:

Section 1272. A. No provision of ~~this law~~ the Social Worker's Licensing Act shall be construed as prohibiting any person, whether or not ~~he~~ that person may be licensed under the provisions of this law act, and who is in fact a member of the Academy of Certified Social Workers, from continuing to use the title, Member, Academy of Certified Social Workers, and the abbreviation, ACSW.

B. No provision of this act shall be construed as prohibiting any person, whether or not that person may be licensed under the provisions of this act, and who is in fact credentialed as a Qualified Clinical Social Worker, from continuing to use the title, Qualified Clinical Social Worker, and the abbreviation, QCSW.

C. No provision of this act shall be construed as prohibiting any person, whether or not that person may be licensed under the provisions of this act, and who is in fact credentialed as a Diplomat in Clinical Social Work, from continuing to use the title, Diplomat in Clinical Social Work, and the abbreviation, DCSW.

SECTION 22. REPEALER 59 O.S. 2001, Sections 1256, 1261.3, 1266, 1269, 1271 and 1272.1, are hereby repealed.

SECTION 23. This act shall become effective November 1, 2003.

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