STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 7 By: Sparks

AS INTRODUCED

An Act relating to social work; amending 59 O.S. 2011, Section 1251, which relates to licenses; narrowing scope of certain exemption; amending 59 O.S. 2011, Section 1266.1, which relates to suspension and revocation of licenses; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, 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 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~~ the Social Worker's Licensing 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. This exemption shall not apply to persons licensed by the Board of Licensed Social Workers, regardless of their employment.

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 2. AMENDATORY 59 O.S. 2011, Section 1266.1, is amended to read as follows:

Section 1266.1. 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 the Social Worker's Licensing 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~~ the Social Worker's Licensing Act;

3. Conduct which violates any of the provisions of the Social Worker's Licensing Act or rules adopted pursuant to the Social Worker's Licensing 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 or a plea of guilty or nolo contendere to a felony in a court of competent jurisdiction of any state or federal court of the United States if the acts involved would have constituted a felony under the laws of this state;

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 the Social Worker's Licensing Act or rules adopted pursuant to the Social Worker's Licensing 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 issued by this state, 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 the Social Worker's Licensing 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 the Social Worker's Licensing 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 3. This act shall become effective November 1, 2015.

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